

CAN LOCAL GOVERNMENTS BE EFFECTIVE? CASE STUDIES OF POST-  
INDEPENDENCE GHANA

By

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Philosophy.

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CAN LOCAL GOVERNMENTS BE EFFECTIVE? CASE STUDIES OF POST-  
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## **Abstract**

Many African nations use both statutory and customary laws in governing their countries. This suggests an apparent mix of formal and informal rules. For example, the 1992 Constitution of Ghana did not abrogate customary law, but protects chieftaincy, a corollary of customary law. The situation becomes even more complicated within a democratizing country attempting to decentralize and allow for greater local autonomy. It also creates a struggle for space between state and chieftaincy, which naturally ensues in areas that may intentionally not be codified, such as succession rules and traditional land management. This fray has sometimes sparked violent disagreements and conflicts, with a likely spillover into national politics. These conflicts can compromise effective local government if they are not successfully resolved. Without formal laws that provide mechanisms to combine formal and informal rules, the customary laws will always be parallel with the formal rules rather than a mix. I placed Ghana within the larger context of sub-Saharan Africa to investigate this notion of parallel operation of formal and informal rules. From interviewing 55 key elites, and through opinions of 60 focus group discussants that I sampled over three districts (counties) in Ghana, I show that it is only when there is a high level of government interference and a low level of acceptance of institutional bargaining that violent conflicts emerge requiring successful conflict resolution strategies. This necessitates a refinement of the existing theory that contends that conflict occurs when there is an interpenetration of formal and informal rules. Parallel operation of formal rules comes about in chief selection process when state actors and institutions (formal) marginalize the traditional process (informal). This is a result of lack of a history of institutional bargaining and no mediation processes. It appears formal rules are differentially accepted by local political and traditional elites, more so in traditional land management than succession rules. The parallelism

seen in formal and informal rules is potently expressed in dual systems of governance, where the chieftaincy institution is strong, and “Little Man politics” – mimicry of “Big Man” politics at the local level is prevalent in local government.

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## Acronyms

AAK	Abura-Asebu-Kwamankese district
ADR	Alternate dispute resolution
AFRC	Armed Forces Revolutionary Council
AM	Assembly member
BNI	Bureau for National Investigation
CCMA	Cape Coast Metropolitan (Municipal) Assembly
CLS	Customary Land Secretariat
CPP	Convention People's Party
DA	District Assembly
DCE	District Chief Executive
DISEC	District Security Committee (Council)
DSI	Dispute settlement institution
Exco	Executive Committee
GNA	Ghana News Agency
IDS	Institute for Development Studies
KEEA	Komenda-Edina-Eguafo-Abrem district
KMA	Kumasi Metropolitan Assembly
KPC	Kumasi Planning Committee
LAP	Land Administration Project
LI	Legislative instrument
MCE	Metro (Municipal) Chief Executive
MP	Member of Parliament
NCCE	National Commission for Civic Education
NDC	National Democratic Congress
NGO	Non governmental organization
NLC	National Liberation Council
NPP	National Patriotic Party
PM	Presiding member
PNDC	Provincial National Defence Council
PNP	People's National Party
PP	Progress party
RCC	Regional Coordinating Council
REGSEC	Regional Security Committee (Council)
TMA	Tamale Metropolitan (Municipal) Assembly
TOR	Tema Oil Refinery
UCC	University of Cape Coast
UP	United Party
VRA	Volta River Authority

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## CHAPTER ONE – RATIONALE OF STUDY

### 1.1 Introduction

The constitutions of post-independence<sup>1</sup> Ghana use both statutory and customary laws in governing the country. This suggests an apparent mix of formal and informal rules. Further, there are intentional exclusions or protections of customary law in the constitutions. Since no system can provide a rule covering every contingency, omissions that are inadvertent or deliberate can occur (King 1982). Intentional omissions normally apply to specific contentious areas such as land and local authority. Moreover, the omission may also be formal laws that *integrate* customary laws into the legal system and not just protect traditional practices. Without formal laws that provide mechanisms to combine formal and informal rules, the customary laws will always be parallel with the formal rules rather than a mix. For example, both the 1957 and 1992 constitutions did not abrogate customary law. Instead they protect chieftaincy, a corollary of customary law. This situation becomes even more complicated within a democratizing country attempting to decentralize and allow for greater local autonomy. Consequently, chieftaincy, together with uncodified customary laws, operates simultaneously with local government implementing a decentralization process, at the local level. This creates a struggle for space between state and chieftaincy that naturally ensues in two mutually exclusive but sometimes interlinked areas that were intentionally not codified – succession rules and traditional land management. This fray has sometimes sparked violent disagreements and conflicts in Ghana.

As of May 2010, there were 232 reported chieftaincy disputes filed at the research office of the Ministry for Chieftaincy and Culture (Fieldwork 2010). This reflects a clash of formal and

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<sup>1</sup> I use the term as a synonym for post-colonial societies, but to indicate a significant break with colonial matters, ushering in a new environment that begins with independence in countries.

informal rules. In the wake of increasing chieftaincy disputes, we need to examine the dynamics of institutional designs in post-independence societies that have evolved to affect confrontations that escalate into violent conflicts (e.g., MacGaffey 2006, Staniland 1973). Consequently, I want to address this question, “What levels of interaction between formal and informal rules allow for effective local government while implementing a decentralization process as in post-independence Ghana?” Ultimately, I argue that for local governments to be effective, we need successful resolution mechanisms in Ghana and probably, generally, in Africa because conflicts between formal and informal rules not only have the potential to escalate into violence at local levels, but could also spill over into national politics compromising development service delivery.

One clear example of this type of conflict between formal and informal rules is the succession of a chief in the Dagomba kingdom. In March 2002, the chief (king) of the Dagomba kingdom in Ghana’s Northern region (province), Ya Na Yakubu Andani II, was brutally murdered. This was a result of a protracted chieftaincy crisis on succession rules between two rival clans – the Andani and Abudu gates<sup>2</sup> – as well as the interference of local and central state officials, which is a legacy of British colonial rule in the form of diarchy. Levels of central government interference in this case have implications for conflict with regard to whether formal rules are accepted or not. Yet this interaction occurs in other regions of Ghana without bloodshed such as the Asante kingdom<sup>3</sup> in Ashanti region, and the Fanti traditional area, previously the most important kingdom of colonial Ghana (the Gold Coast) in Central region. The king’s death led to tensions and speculations within the larger political arena. Four years of

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<sup>2</sup> Gates refer to the different houses within a royal family in parts of Ghana, particularly in the north. Gates may sometimes be synonymous with clans, but not always.

<sup>3</sup> There are four other kingdoms located in the northern part of Ghana – Gonja, Mamprusi, Bimbilla and Nanumba.

uncertainty and possible genocide in the Northern region followed this murder, complicated by the dispute between the two large clans on how best to choose a regent to the slain king. Until this latter issue was resolved, the king could not be laid to rest. He was finally buried in April 2006. Yet, there was, and is still, an uneasy tension in the country for two reasons. First, the perpetrators of the regicide had not been apprehended despite a committee of inquiry set up by the previous government to unravel the murder until the current government did so quite recently in 2010 (*Daily Guide* 07.08.10). Complicity of government seems to overshadow justice. Second, the apparent resolution of the dispute, which allowed the murdered king to be buried, appears not to have been properly broached since there is uncertainty as to whether the history of the traditions of the Dagomba people were taken into account. This is because the customs of the Dagomba people regarding the burial of their king were not properly adhered to. Certain customary norms were compromised to allow the burial of the king, in the hope that a peaceful resolution to the crisis could be effected. However, this hope has been dashed through the uncompromising positions of the two clans in the aftermath of the burial.

Another recurring conflict arising from interference of state officials concerns land disputes. The customary sector, especially chiefs, regarded as the highest customary authority, control eighty percent of land with only ten percent reserved for public development by government in Ghana (Odotei and Awedoba 2006, Antwi and Adams 2003, Kasanga and Kotey 2001). There was a very high incidence of disputes surrounding both customary land and land vested in the state (notably in urban areas) during colonialism and these disputes continued after independence (Quan *et al* 2008). In the post-independence era, this conflict boils down to control of land revenues because there is no formal recognition of traditional authorities and land owning families' land management responsibilities in the constitution or national legal system.

This creates a tension between informal rules that are locally accepted, but not nationally recognized. This tension between the state and traditional authorities is seen, for instance, in the work of Kasanga and Kotey where they identify that despite the abundance of land in the Northern region (a region largely representing the Dagomba kingdom), land disputes, litigation and related problems continue to arise from legislative interventions, making the region very prone to conflict. The key point in these two settings on succession rules and traditional land management is that chiefs, who are the local heads of their traditional areas, are not only contending with internal power struggles, but they are also facing intimidating intrusions from the very establishment that seeks to protect them.

For the purposes of this dissertation, I define formal rules as a system that promotes civil, economic and political liberties of citizens; these liberties embody state institutions reflected in written documents. I define informal rules as all the uncodified (deliberately and inadvertently omitted) customs, traditions, norms and customary laws associated with chieftaincy; my focus here is on succession rules and traditional land management. Decentralization is a system of government where the center disperses power to sub-national bodies as an incentive to involve local people in the identification of their needs, using both formal and informal rules as defined above, to bring them closer to participatory democracy. This concept of decentralization operating as really intended in my definition is what the literature captures as devolution in unitary political systems. Through constitutional amendments, such countries devolving are essentially attempting to portray characteristics of federalism such as territorial representation, empowerment of territory based actors, as well as power redistribution among others. Effective local government refers to the successful resolution of conflicts arising in the relationship



between local formal and informal rules resulting from their differing goals without violence, permitting effective local state capacity and delivery of political goods.

I suggest that in conflict prone provinces and districts with dual systems of authority, formal and informal rules *may operate parallel to each other* rather than a mix. This parallel versus a fusion of rules and institutions ought to be seriously considered in the (re)design of a state's constitution as a means to reduce persistent conflicts that have the potential to escalate into violence at local levels, with a likely spillover into national politics. This will preempt the various committees of enquiry set up by governments on ad hoc bases to deal with such conflicts. In the process, effective local government is compromised as happens in Ghana. Rather, there should be an evaluation on how best to bring about a convergence of formal and informal rules in dualistic societies to promote environments conducive for effective governance. This is especially important in countries that allow customary law to operate side by side with statutory law, and yet implement quasi federal governance without amending the laws or considering dynamics between the formal and informal rules. What is needed in dual systems for effective local government is a variant of 'hybrid governance' (mix of formal and informal rules), rather than a 'clash of rationalities' (the parallel), which some scholars suggest should exist between state (formal) and traditional (informal) actors (e.g., Myers 2011, Trefon 2009, Watson 2003, 2007).

Most regions in Ghana have a harmonious mix of formal and informal rules because regional elites and citizens invariably accept the formal national rules. Slight deviations from this congruous mix may exist in these regions, but this apparent accord appears to be absent in the Dagomba kingdom. Conflict over rules persists here because of the unique history of the region and lack of institutional development. Literature on Dagomba kingdom has focused on

the interaction between local tradition, central politics, and the concept of social pluralism (e.g., MacGaffey 2006, Staniland 1973). Institutionalization of informal rules requires adaptation and flexibility of the formal rules by both regional chiefs and national leadership. I take the position that post-independence governments in Ghana have failed to address the issue of the Dagomba kingdom in the Northern region and other parts of northern Ghana as an institutional problem<sup>4</sup>. For instance, consecutive governments, democratic or military, have fallen into the trap of following the prevailing discourse about the Dagomba conflict as yet another intra- or inter-ethnic conflict. Such discourse has been framed as a clash between institutions and culture. The distinctive history of the Dagomba kingdom has not been adequately addressed in a search for solution. Further, we have the so called “noncompliant stance” of the Dagomba people to contend with. There is a general belief among Ghanaians that the Dagombas and people from the northern parts of Ghana are unmanageable. To this end, the same orthodox measures have been used to try to resolve the recurring conflicts in the Dagomba kingdom and elsewhere when they arise. I argue that these misinterpretations, misrepresentations and misunderstandings about the Dagomba kingdom need to be reconsidered if the persistent conflicts in the area are to be effectively addressed. In effect, the three regions in the northern part of Ghana – Northern, Upper East and Upper West – continue to reel in poverty and lack the benefits of development services relative to other regions of Ghana. This situation has changed little with the onset of the decentralization process.

Since 1987, decentralization has been introduced as another variable meant to deepen democracy in Ghana. Though not a magic bullet in solving the problems of development and political democracy in Ghana, politicians use the term “decentralization” as a palliative for many

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<sup>4</sup> As I was contemplating on the rationale for this dissertation, a dormant chieftaincy dispute at Bawku in the Upper East region of the northern part of Ghana was also raising concerns in Ghana.

governance problems, especially since all indications from the African Peer Review Mechanism (APRM), an offshoot of the African Union (AU), seems to suggest that Ghana's decentralization process is worth emulating. Indeed, both governments in developing countries and donors use decentralization programs as instruments for efficient allocation of resources. Consequently, provision of various public services has been devolved to lower levels of government. Ghana's decentralization targets issues of empowerment, equity, political inclusiveness, and accountability. This decentralization process now interacts with the chieftaincy institution at the local level, a natural consequence evident in countries that previously consisted of kingdoms. However, decentralization in Ghana has the potential to exacerbate the clash between formal and informal rules.

The most appealing explanation of this paradox between the formal rules and informal rules in a dual system, such as the Western-style political system of democracy and traditional institutions of chieftaincy, is Jack Knight's bargaining theory regarding the mix or combination of formal and informal institutions. North (1990) also suggests that informal rules can be formalized into the legal system. However, I propose to show that it is neither intentional change nor assimilation of informal rules operating here (Knight 1992, North 1990). Rather, formal and informal rules may be running parallel to each other with no mix or integration. This necessitates a refinement of the existing theory that contends that conflict occurs when there is an interpenetration of formal and informal rules (Bratton 2007). Eggertsson (1990, 282) states, "Laws, norms, and custom can be modeled either as endogenous variables or as part of the environment (a constraint). The treatment of these critical variables depends in each case on the purpose of the study and on the availability of relevant theories." The parallel operation of formal and informal rules are clearly demonstrated when informal rules are considered as

endogenous with formal variables being exogenous (environmental) variables. Further, we may have to come out with a new typology of conflicts in Africa to disabuse the prevailing discourse about violent conflicts, especially, for dual systems of governance as found in Ghana, Nigeria, Lesotho and Uganda among others. This will permit the evolution of innovative conflict resolution mechanisms, creating an environment conducive for channeling resources for development.

In this dissertation, I place Ghana within the larger context of sub-Saharan Africa to investigate this notion of parallel operation of formal and informal rules, in order to add to the existing institutional theory. To explore this idea, I invoke four objectives for this study. 1) to identify probable causes relating to the conflicts regarding chieftaincy succession rules and traditional land management in Ghana's Northern region as well as conflicts in Ashanti and Central regions; 2) to examine how formal rules, informal rules, or the interaction of both have an influence on these conflicts; 3) to examine successful conflict resolution measures while exploring factors contributing to unsuccessful attempts of resolutions; and 4) to evaluate the policy implications of the preceding findings in order to suggest and promote strategic conflict resolution mechanisms, success of which could inform a consideration of constitutional amendments to ensure effective local government.

## **1.2 Relevance of research**

There is a growing interest in African politics. However, despite developing formal legal systems and democratic states, the traditional Eurocentric themes underlying the political landscape in Africa persist. For well over 30 years, the dominant view in the study of African politics had been structured around "personal rule" and "Big Man" paradigms, as well as on

issues of the state, colonial legacies and hybrid states (authoritarian with some democratic institutions). The assumption has been that African leaders simply got what they needed. The old style politics in Africa persists in countries such as Cameroon, Eritrea, Ethiopia, Gabon, Sudan, and Togo still under authoritarian rule (Diamond 2008, 144) or Rwanda, Uganda and Zimbabwe under some guise of semi-authoritarianism (Joseph 2008, 101). The December 2007 Kenyan and March 2008 Zimbabwean elections, in which Presidents Mwai Kibaki and Robert Mugabe respectively rejected the results, do not ease this pessimism. However, recent scholarly work examines how formal rules are beginning to matter in the field of African politics. Beginning in the early 1990s, the period generally agreed in the literature as boosting the third wave of democracy in Africa or the ‘second liberation,’ it is becoming increasingly evident that we need to take a second look about the prevailing Afro-pessimism and turn our eyes to the promising development of institutions.

Consequently, issues of local government (and accompanying expressions of governance), conflict resolution structures (embedded in a mix of formal and informal rules) and institutional design are relevant on a broader scale for improving the quality of life of people. This becomes more compelling with the finding of unequal effects of decentralization across a country (e.g., Aikins 2007, in the Ghana case). This creates a gap between policy goals and outcomes. One way to reduce this gap is greater local participation and development of local institutions, with a “correct blend” of formal and informal rules. Policy implications of this research will address dualism of powers in local government associated with decentralization and traditional governance not only in Ghana, but also how they could be extended to other African countries like Botswana (Dzivenu 2008, Owusu 2006) and Burkina Faso (Ouedraogo 2003).

Central government and public opinion efforts to develop effective local government could also facilitate calls for the return of chiefs in the decentralization process. For instance in Ghana, the active role of chiefs is becoming more persuasive in the wake of numerous chieftaincy disputes, conflicts between local state officials and chiefs, and conflicts within the decentralization process itself (Adjepong *et al* 2003). The issue of chieftaincy disputes has not escaped the legislature either. Members of Parliament on July 5, 2010 expressed misgivings about the high incidence of chieftaincy disputes in Ghana (*Daily Graphic* 07.06.10). The 1992 Constitution bars chiefs from taking part in active politics. Meanwhile, the state overtly and covertly involves the institution of chieftaincy in governance. It is not uncommon for the state to appoint chiefs to serve in various capacities, such as in local government structures; chiefs are sometimes appointed as members of the District Assemblies. Covertly, we can see the structures of chieftaincy embedded in state organizations; for instance, the Council of State. This is a body comprising eminent and prominent citizens of Ghana, whose function is to advise the President of Ghana. Ghana has a unicameral legislature, and it is sometimes believed that the Council of State serves as a quasi upper chamber. The interesting thing however about the Council of State is that it is similar to a ‘council of elders’ found in the traditional political system.

Beyond this search for effective local government (conflict resolution mechanisms), we are also confronted with the debate as to whether decentralization as practiced in some developing countries is synonymous with the notion of federalism, and its adoption by African countries. King (1982) has disaggregated the difference between federalism and federations, as well as the linkage. The key point is that for a country to be considered federal, “the institutional arrangement, taking the form of a sovereign state, and distinguished from other states solely by the fact that its *central government incorporates regional units in its decision procedure on some*

*constitutionally entrenched basis,”* (77)<sup>5</sup> [italics, mine] delineates federations. And as Friedrich (1968) suggests, the emergence of institutional patterns of federalism in a government structure can be underlain by decentralization and local autonomy in one or two areas. However, mere devolution of power to local units as we observe in the current meaning of decentralization in some developing countries does not confer federalism, because local bodies may not be active participants in the amendment or alteration of the constitution.

Ultimately, we may have to revive the question of whether federalism (in degree, both in its centralizing and decentralizing tendencies) is appropriate for African countries. This is because one school of thought suggests that when the decentralization process ignores local differences it is difficult to achieve federalism in African countries (e.g., Dikshit 1971, Knight 1982). Others such as Watts (2003) also show that federalism, as in Nigeria, is certainly bound to be less successful without taking into consideration pre-existing institutional structures, a notion also reiterated by Ouedraogo (2003) in the case of Burkina Faso. For Owusu (2009), Ghana faces a daunting challenge in pursuing decentralization with objectives based on a nationalism/unitary state agenda impinging on regions and districts with pervasive chieftaincy institutions. In Uganda, the struggle is still on to adopt *federalo* or regional government being championed by the Buganda kingdom, one of the four accepted kingdoms out of the five that were all abolished in 1967. The Buganda kingdom was restored in 1993. Tangri shows how in his quest for a third term bid in Uganda, President Yoweri Museveni had to strike a deal with Kabaka, the king of the Buganda kingdom to effect a partial decentralization to the four regions of the country (Tangri 2006, 190). The findings would therefore have implications for the debate in adopting federalism for African countries.

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<sup>5</sup> Also Edward Gibson (2004) who defines federalism “a national polity with multiple levels of government, each exercising exclusive authority over constitutionally determined policy areas, but in which only one level of government – the central government – is internationally sovereign”.

The inferences of this research could also assist in framing conflict resolution strategies in other African countries such as Liberia, Côte d'Ivoire and Kenya that have either been at the fringes of hostility or exited war, especially since the institution of chieftaincy is prevalent in these countries as well. Within the larger framework of promoting peace in countries that have experienced war or ethnic rivalries, the contribution of the traditional sector appears not to be considered salient. There is growing evidence that traditional juridical alternatives may be more efficacious than Western-style adjudication. This is because traditional resolutions, while taking care of the social geography of societies, tend to patch up social ruptures and re-establish harmonious coexistence, which are absent in punitive and adversarial law courts (Drumbl 2000). Finally the path dependence of culture within parallel operation of formal and informal rules will be highlighted.

### **1.3 Scholarship on Formal and Informal Institutions**

According to institutional theories, we can explain all exchanges and contracts that evolve within a social institution – for instance, society, community, and country – as taking place within informal rules, within formal rules, and between formal and informal rules. Eggertsson (1990) examines social institutions, especially on the evolution of property rights, and he focuses on a transaction-costs approach within an economic setting. He states that:

Prestate societies, like societies with formal government, must meet the requirement of containing the open access problem by establishing individual exclusive rights or rules of internal governance for systems of communal rights. All societies depend on informal rules, conventions and taboos for ensuring cooperation and enforcing the structures of property rights (Eggertsson 1990, 283).

He goes on to show that for order (i.e., absence of conflicts) to prevail in these societies, cultural mechanisms such as vengeance groups, religious beliefs, compensation, cross-cutting allegiances



as well as chieftains who serve as neutral arbitrators are used to lower transaction costs. Other scholars make the connection (Bates 1983, Posner 1980, Gluckman 1956 and Evans-Pritchard 1956). However, Eggertsson's analysis was predicated on a stateless society and does not address the interaction between formal and informal rules. Indeed, his definition of institutions "as sets of rules governing interpersonal relations" focuses on formal social institutions (Eggertsson 1990, 70). The work of other institutional theorists (e.g., Knight 1992, North 1990) posit that informal rules may influence the creation of formal rules, with the latter probably overriding pre-existing norms, practices and core values.

Formal and informal rules have been defined in a variety of ways. However, North suggests the difference between formal and informal rules is one of degree (North 1990, 46). For North, formal rules embody a hierarchy consisting of constitutions, statute and common laws, specific byelaws and individual contracts. Informal rules deal with taboos, customs and tradition. Further, "the function of formal rules is to promote certain kinds of exchange but not all exchange" (North 1990, 47). King (1982) reiterates this point and states that no system can provide a rule covering every contingency. Inadvertent or deliberate omissions are the norm. For Knight (1992), in the process of formalizing informal rules, certain norms would be considered either insignificant to be codified or inviolate and unique for each traditional area. Hence, informal rules become formal once they are codified. The formalization of informal rules is made complete when the codified customs are formally accepted by local (traditional) and national governments (constitution). Else, the formalization becomes an imposition, which may be fiercely resisted by the informal actors.

For North (1990), informal rules are conventions, norms and codes of conduct that derive from a cultural heritage defining appropriate action. These constraints defining informal rules

are pervasive in a society. Inevitably, conflicts would be endemic to social life, and yet these informal rules also serve to reduce conflict. Consequently, rationality of human behavior is brought into question, since behavior is driven by both motivation and deciphering the environment (North 1990, 20). North's institutional theory is also based on economic performance, but a key point he identifies is that culturally derived informal rules will not be immediately altered in response to formal rules. The resulting tension between formal and informal rules will be pivotal for change in economies. I argue that this tension is also critical for dualistic societies in terms of alternative sources of power and legitimacy. Informal rules are very resistant to change, and any institutional change based on formalization of informal rules is path dependent, because of the lock-in customs (North 1990). This path dependence, I argue, will even be more pronounced with informal rules that have not been codified, i.e., no attempts made to formalize them.

The challenge then, is to identify the "correct blend" of formal and informal rules that may assist in creating an environment conducive for effective state capacity and delivery of political goods, without the distracting trend of dealing with persistent or recurring conflicts arising from the expression of informal rules. This is especially compelling for countries that appear to exhibit dualism in governance structures such as Ghana. The interaction between formal and informal rules is not to be conceived as a zero sum game, but rather a positive game in countries where the institution of chieftaincy is prevalent.

Knight's bargaining theory of institutional formation and social conflict suggests such a blend of formal and informal rules (Knight 1992). According to the theory, formal rules can change the relative bargaining power of individuals or groups. The acceptance of rules is the result of bargaining and negotiation among political elites within a group. The acceptance of the

informal (traditional) rules is the result of continuous bargaining and renegotiation between chiefs and community that ultimately becomes customary law. Formal laws are also the bargaining between political actors. Eggertsson reiterates this bargaining and negotiation from an economic approach when he examines the connection between political coalitions and the resulting property rights system. He states,

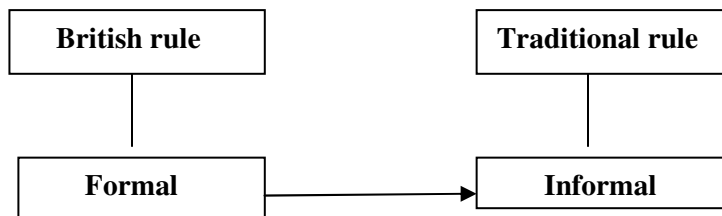
Usually the ruler (or the ruling group) of a state must deal with individuals and factions that possess substantial bargaining power. An increase in the bargaining power of a group often leads to demands for renegotiating the group's contract with the ruler, and changes in the structure of the social contract can affect economic performance (Eggertsson 1990, 328).

Empirically, we can observe Knight's theory in Ghana. For instance Amanor and Ubink (2008, 11) state, "Rather than being fixed and conservative, customary relations are seen as being perpetually negotiated by various actors who use their social networks to redefine and renegotiate customary relations." Berry (1993) reiterates this same notion by showing how the resources associated with land, labor, capital and others in agricultural economies of four African countries were constantly being shaped not only by the colonial, national and global economies, but also by negotiations over culture, power and property that extended outside the rural communities. Tracing the history of the Dagomba kingdom (or better known as Dagbon), I will demonstrate how this bargaining and negotiation theory best explains the relationship between customary (chiefs) and constitutional (state) actors as well as the interaction between formal and informal groups. However, in my case study, the history of the Dagomba kingdom begins with colonialism and indirect rule, and demonstrates how these ultimately came to express in the erosion of traditional power structures.

### 1.3.1 Colonial rule and its Effects on Chieftaincy; British Indirect Rule

Ghana attained independence on March 6, 1957. Previously, Ghana, then the Gold Coast, was a multi-ethnic society dominated by kingdoms. Local traditional rules in Ghana were manifested in a variety of ways such as lineage headship and chieftaincy. At independence, and typical of most African countries that evolved from colonialism, Ghana attempted to adopt the Western-style political system of democracy. However, from the start, there was a clash between imposed formal rules from the central government and local informal rules. Levels of central government interference, a legacy of British colonial rule in the form of diarchy, have implications for conflict with regard to whether formal rules are accepted or not.

**Figure 1: British diarchy**



Source: Author 2009

Figure 1 depicts the British intrusion of formal rules with the introduction of indirect rule. This is the root of the parallel operations of formal and informal rules and the potential for conflict. During the colonial era, the British introduced indirect rule through diarchy. This system allowed for a measure of local autonomy as long as the local leaders accepted British rule. It was also authoritarian in nature. Local resistance to British rule resulted in wars in which the British eventually triumphed, as evident in the Asante war in Ghana. While indirect rule strengthened the authority of the British, it partially displaced and decentralized the authority of local chiefs. As a result, the British intentionally instituted chiefs as traditional “Big

Men” in their areas of jurisdiction. During the post-colonial era in the 1960s, nationalist leaders, such as Ghana’s Kwame Nkrumah, eroded decentralized rule by weakening the authority of chiefs while simultaneously strengthening the center. With the national power of chiefs marginalized due to British decentralized rule (diarchy), the new national elites in the post-colonial era started the phenomenon of presidential supremacy.

Bureaucratic structures in Africa’s new democracies after independence were generally weak, prompting a rebuilding of state capacity and authority. African leaders embarked on a centralization drive, ostensibly to promote nationalization and forge unity among people of their new nations. This process inadvertently sowed seeds of personal rule and “Big Man politics.” However, these new leaders could only work with the institutions they inherited, that is, the authoritarian administration of the colonial rulers.

Colonial representational practices conditioned the minds and bodies of the colonized. Abrahamsen (2003, 203) suggests that power continues to be both repressive and productive of identities, and the current underdevelopment [of countries such as Ghana] is not only “a structural location in the global economy, but also an identity, ‘something that informs people’s sense of self.’” Consequently, African countries trying to consolidate democracy should have used their hybrid identity (Watts 2003, 26-29) and resist pursuing dangerous colonial legacies. In addition, these leaders should have embraced the politics of inclusion and asserted their unique identities typical of legitimate countries (Abrahamsen 2003). The institution of chieftaincy should have been factored into the equation by refining the colonial administrative strategies of indirect rule, instead of the new nationalist leaders weakening it. By marginalizing the authority of chiefs, formal rules were seen as an imposition that naturally would be resisted.

Chieftaincy as institution has a long history. In institutionalized form, chieftaincy is the embodiment of traditional rule (Assimeng 1997). In Africa, the institution of chieftaincy is closely tied to local communities. A former Chief Justice of Ghana articulated this point when he remarked that “it is not surprising that the Constitution of Ghana and most African countries expressly guarantee the institution of chieftaincy as established by custom and usage” (Acquah 2006). Chieftaincy has its norms and traditions located within an intricate belief system and unique regulations, all engulfed in material and abstract symbols and artifacts (Odotei and Awedoba 2006).

Scholars such as Odotei and Awedoba reiterate that chieftaincy in African societies is generally acknowledged as the pre-colonial institution of governance with judicial, legislative and executive power. Further, chiefs were instrumental in military, economic and religious matters. As an institution, chieftaincy had varying roots in different communities. That notwithstanding, chieftaincy in Africa had a hierarchical nature: paramount chief followed by divisional, sub-divisional all the way down to the least of the chiefs. This rough hierarchical nature had its variants depending on the area of jurisdiction. Each lower level owed allegiance to a higher level.

Traditionally, chiefs or traditional authorities were to be of a royal lineage, and had to be endorsed by key customary people including kingmakers and queen mothers. There are strict procedures for succession due to deaths, abdications or removals. As leaders, chiefs remain highly respected. In a survey conducted by Abotchie *et al.* (2006) one significant finding was that chiefs are highly respected, to the extent of being stereotyped as divinities in Mamprusi, Gonja and Dagomba kingships. Such stereotyping points to entrenched traditional legacies. Moreover, chiefs control some important local resources, especially land. For instance in Ghana,

chiefs control eighty percent of the land with only ten percent reserved for government public development (Odotei and Awedoba 2006). This control, coupled with the privileged status of chiefs has sometimes led to disputes over who occupy these revered positions. In the Abotchie *et al.* survey, more than ninety percent of Ghanaians perceived chiefs as embodiment of culture while agreeing that chiefs have the power to enact customary laws in their areas.

Chiefs are people responsible for the development of the areas they control. Traditionally they are often consulted by both the local people and state actors before most decisions are taken. Traditional authorities have been involved in local governance from time immemorial, taking on decentralized functions like local development under the Native Authority System during British colonialism. There have been arguments for and against the involvement of chiefs in local government in current times; the debate has escalated in light of the decentralization process that started in 1987.

Given the position and authority of chiefs, some scholars and government leaders want to see chiefs elected citing the undemocratic nature of chieftaincy succession, and decry the royal lineage of chiefs where only members of a particular royal lineage have a right to the throne, excluding all others. A former Deputy Speaker of Ghana's Parliament has even suggested that the institution of chieftaincy is anachronistic and should be abolished (*Ghana News Agency* 03.27.08). Such conservative views underpin the historiography of chieftaincy institution in Ghana. According to Rathbone (2006), there was a Eurocentric view that likened African kingdoms and chieftaincy to *ancient regimes* that should have died with the force of modernization. Survival of chieftaincy is accredited to British indirect rule of diarchy because the British did not destroy the indigenous traditional systems (Westermann 1949 cited in Van Rouveroy van Nieuwaal 1987). Tonah (2007, 18) echoes the voices of scholars who claim that

the advent of independence in Ghana, as seen by political elites, would lead to the gradual elimination of traditional institutions and citizens would shift their loyalties “to the national leadership and the newly-established institutions of governance.”

However, others believe chieftaincy is a valuable institution. Nyamnjoh (2002 cited in Dzivenu 2008) and Manboah-Rockson (2004) point to the resiliency of chieftaincy institution and the practical evidence of their worth in dispute resolution and their leadership in development of areas under their jurisdiction. Chiefs are intimately associated with the local people and they know the culture, needs and aspiration of their subjects. They are also instrumental in mobilizing local people for development-oriented projects. Indeed, chiefs are important actors in local conflict resolution, despite the legal restrictions as enshrined in the constitution of Ghana. These functions tie in perfectly with the decentralization goals. Chieftaincy institution still exists in most African countries, and there is a need to examine the relevance of their continued existence in the implementation of modern democracy, in effect, the interaction of formal and informal rules.

### **1.3.2 Application of Knight’s Institutional Theory to the Dagomba (Dagbon) Kingdom**

In this sub-section, I turn to bargaining and negotiation dynamics within customary law (chiefs) and between customary and constitutional (state) actors using Knight’s (1992) institutional theory. I begin with a brief history of the traditional norms in the Dagomba kingdom to set the appropriate context, as well as the interaction between tradition (informal) with politics (formal) culminating in what is now variously referred to as the “Yendi dispute” or “Dagbon crisis.” Then I apply Knight’s theoretical analysis on formal and informal rules with an emphasis on evolution of informal rules and institutional change to the Dagbon crisis.



The Dagbon kingdom is believed to have been founded in the fifteenth century by migrants from Niger. It was reputed to be “the greatest empire ever founded in pagan Africa – the tri-dominion of Dagomba, Moshi (residents of Burkina Faso) and Mamprusi (lying to the North)” (Cardinall 1925 cited in Staniland 1973). Some scholars (e.g., Mahama 2009), however put the beginnings of the kingdom at about 1100 when it was created from another kingdom, and therefore refer to the kingdom founded in 1403 – the current one – as the new kingdom. The Dagomba kingdom controlled the international trade routes between the coast and the Sahel over the Gonja kingdom, and played a prominent role as slave-raiders (MacGaffey 2006). However, the ascension of the Ashanti kingdom in 1744-45 ended this prominence. According to Staniland (1973), Dagbon was relegated to a “tributary protectorate” of Kumasi (the capital of the Ashanti kingdom). Consequently, Dagbon was obliged to give Ashanti an annual stock of slaves till 1874<sup>6</sup>. In the 1890s, Ashanti lost Dagbon to two colonial rulers, the British and Germans, who partitioned Dagbon into two regions and directly administered the kingdom. However, in the 1920s, the British took total control of Dagbon. The British instituted the beginnings of indirect rule through the chief or Ya Na, and formally imposed indirect rule in the 1930s.

This imposition can be understood from what has come to be known as the “Yendi dispute.” Yendi is the capital of Dagbon, having been selected in preference to Tamale after clashes with the Gonja kingdom. However, Tamale remains the political and administrative capital of the Northern region. The succession rules of Ya Nas in Dagbon have been well documented elsewhere (See Staniland 1973 and 1975, MacGaffey 2006, Mahama 2009).

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<sup>6</sup> MacDonald (1898, 270 ff) asserts that the loss of dignity by the king of Dagomba was compensated by a gain of commercial power. He struck a deal with the Ashanti king to be the intermediary between the Ashantis and the great markets of the far interior beyond Dagomba. “[B]y levying a toll upon all commodities passing through [Dagomba territory], [the king] increased his revenues and at the same time obtained respect from his conquerors as a superior tributary power.”

However, the succession rules of Ya Nas are also vague leaving room for local interpretation (or manipulation). Ferguson and Wilks (1970) point out that the ambiguous informal rules created conflict among the royal lineage, resulting in what the British referred to as “succession disputes” when they subjugated Dagbon. Mahama (2009, 3) states, “After all both ancient and modern Dagbon were established by the sword.” It will suffice to note that succession disputes and their associated political wrangling culminated in the codification of the “Dagomba constitution” in the 1930s. Consequently, the British attempted to reduce hostilities between factions in the kingdom, and empower the Ya Na through indirect rule.

Unfortunately, both factions and the British, as well as successive governments since 1930 have manipulated the vague succession rules, with the intention of changing the traditions of Dagbon. For instance, MacGaffey (2006) reports how, in 1948, some educated Ghanaians interested in promoting democracy and affiliated to one of the factions, the Abudu gate, conspired with the State Council of Dagbon to change the succession rules from one based on consultation of oracles to indirect elections. A selection committee was proposed to nominate and install a Ya Na. The effect of this voting was to replace the duties of the traditional kingmakers. This idea of election was clearly at odds with the traditional norms. Prior to that, in the 1920s, the British had interfered in the choice of a successor to a deceased Ya Na, a competition largely between the Abudu and Andani gates<sup>7</sup>. These developments can only be described as meddling, similar to the Believers and Unbelievers in Zakes Mda’s novel *The Heart*

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<sup>7</sup> Mahama (2009) shows how two gates came to be occupied by the first and second sons of Ya Na Yakubu I, the king from 1824 to 1849 – Abudulai and Andani. The king had appointed his younger brother to the gate skin of Karaga as his apparent heir. The conspiracy by the two sons to kill their uncle and replace him with their cousin resulted in a war between the Old Princes (represented by the King and the occupants of the gate skins of Savelugu and Mion) and the Young Princes (represented by the two sons and their cousin, now occupying the skin gate of Karaga). The Young Princes were victorious, but permitted their father – the king – to reign till he died. Subsequently, the two sons ousted the chiefs of Savelugu and Mion, and limited the succession to two gates from their lineage.

*of Redness*. The context is a rural area in South Africa, where the brawl between tradition and modernity evolved in the first generation between a set of twins. In the novel, the conflict continues into the second and third generations.

In the northern parts of Ghana, skins are the equivalent of stools (thrones) in the southern part of Ghana, to which the houses of the royal families (gates in the north) select a successor to ascend to. When a successor is enthroned as a king, he is said to have been enskinned, much like the enstoolment of chiefs in the southern part of the country. A deskinment in the north is also equivalent to a destoolment in the south.

As the customs and traditions of Dagombas evolved, it became apparent that any son of a Ya Na who occupies any of the gate skins of Mion, Savelugu and Karaga is qualified to be a Ya Na. This was the custom until 1954 when the Abudus again, subtly tried to introduce primogeniture into the Yendi throne. This is purported to be the main cause of the dispute. Manifestations of this cause were seen in 1954 when Ya Na Abudulai III succeeded his father Na Mahama Bla III and in 1969 when an attempt was made to impose Mahamadu Abudulai as successor to his late father, Ya Na Abudulai Bla III (died September 14, 1967), with the tacit approval of some members of the selection committee. The traditional kingmakers, who had nominated Mion Lana Andani as Ya Na fiercely resisted this proposed institutional change. Indeed, if the regent, Mahamadu Abudulai had been installed, this would have been the third time since 1948 that the Abudu gate would have occupied the throne to the exclusion of the Andani gate. Naturally, the Abudus did not recognize Mion Lana Andani when he was enskinned as the Ya Na, when Mahamadu Abudulai was deskinmed to allow Mion Lana Andani to be installed Ya-Na.

Staniland (1973) has noted that the colonial officials conceptualized “Tradition” as “a set of immutable rules concerned with succession and internal government.” He further notes that the Dagomba citizenry also distinguished between “Tradition” and “Politics” succinctly summarized by MacGaffey (2006, 80):

[B]y Politics they mean not only political parties but every kind of interference that emanates from Accra. Tradition means the offices and rituals of hierarchy of Dagbon, although the incorporation of the kingdom into the state not only modified Tradition but contributed in no small measure to its invention.

This inherited institutional divide created a dichotomy that currently exists in Dagomba society between “tradition” and “politics.” This can be traced to the legacy of indirect rule period, and has persisted into contemporary politics. Staniland poses three reasons for this dichotomy: 1) the existence of an apolitical set of rules, a set of ‘timeless norms’ constituting ‘tradition’ which once discovered and codified can be applied in a depoliticizing way, to reduce conflict and even competition over recruitment to the use of office; 2) desirability and possibility of isolating the local process of government from wider processes; and 3) ‘politics’ as a phenomenon found outside the ‘traditional’ (Staniland 1973, 386). According to Staniland, tradition is an artificial and malleable construct, never divorced from political manipulations. MacGaffey (2006), however, believes that this complex interaction of “tradition” and “politics” is ambiguous and could be explained with the concept of social pluralism. While eruption of the Dagbon crisis into violence culminating in the deaths of 18 people in 1969 motivated Staniland’s research, MacGaffey was reacting to the escalation of the dispute that resulted in the murder of Ya Na Yakubu Andani II and 40 of his elders<sup>8</sup> in March 2002.

MacGaffey claims that dual institutional systems characterize post-independence states “in both of which all citizens participate to some degree, and in which many people manipulate

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<sup>8</sup> The exact number of elders of the Ya Na that were killed in the three-day disturbances ranges from 30 to 40.

the values and structures of the one in order to gain advantage in the other, while simultaneously deploring this tendency in others” (MacGaffey 2006, 80). This dualism is a legacy of colonial rule, and essentially boils down to alternative sources of power and legitimacy. MacGaffey thus decries Nkrumah’s manipulation in chieftaincy affairs, and criticizes the 1992 constitution and the then ruling National Patriotic Party (NPP) government of John Agyekum Kufour for restoring the dualism with all its ambiguities. He further contends that tradition needs to evolve, since some of its elements are at variance with the modern state.

However, we are left without any clear-cut explanation as to why the Dagbon crisis persists. MacGaffey (2006) articulates the interplay of power between successive Ya Nas and governments of the day. While conceding that the 1992 Constitution (especially Articles 270, 272 and 277) protects chieftaincy, he fails to make the connection between the 1957 Constitution and all subsequent constitutions, missing the fact that the 1957 Constitution of post-independence Ghana recognized the country as being under common law, but did not abrogate customary law. As Schwelb (1960) states, the 1957 Constitution set out a “hierarchy of norms” by which the country was to be governed as enshrined in Article 40. The least of these was customary law, the “indigenous laws and customs” that apparently had a stronger support than common law. He points out that the implication one can infer from the clause that native laws and customs are to be applied only if not “repugnant to natural justice, equity and good conscience” reflects the persistence of customary law.

Political manipulations and social pluralism fail to explicate the Dagbon crisis. For instance, the kind of manipulation that Staniland (1973, 1975) introduces, from which MacGaffey (2006) builds on is “pseudo-traditionalism” in which one can identify a conscious attempt by “gatekeepers” to perpetuate the dichotomy between ‘tradition’ and ‘politics.’ Riker

(1986) conceptualized political manipulation as the role of one or more individuals who attempt to structure a group choice situation with a higher probability of enhancing favorable outcomes. But unfavorable outcomes may result, and persist, as manifested in the Dagbon case.

Consequently, the persistent Dagbon crisis cannot be attributed to a mere maintenance of a dichotomy or some political manipulations. It could be that some other group dynamics may influence the manipulation and persistence of the dichotomy in the first place. One can easily point to two group phenomena at work here, polarization and groupthink. The concept of group polarization is where members with extreme positions on an issue take even more extreme positions in resolving a problem, either towards risk acceptance or cautious behavior. Members of a group may also have loyal tendencies towards their group or the group leader, and in a bid to avoid conflicts within the group will seek concurrent behavior within their group. In this groupthink dynamic, alternative options are rarely considered in any problem resolution. Vertzberger (1997) has also shown that groups that are more cohesive, have more extroverts and susceptible to political manipulation tend to disregard or downplay informational influences in shaping the group's position, preferring normative or judgmental influences.

Regarding the Dagbon conflict, a more compelling argument invokes the idea of relative bargaining power and distributional gains situated in institutional theory. Indeed, few scholars have applied Jack Knight (1992) to explain conflict in Africa and especially, the Dagbon crisis. He defines institutions as "a set of rules that structure social interactions in particular ways...[where] knowledge of these rules must be shared by the members of the relevant community or society." Knight debunks any dichotomy especially as it relates to law and society; an *interaction* rather than a dichotomy. While formal rules (in the context of this subsection, "politics") require a third party enforcer, normally the state, the informal rules

(“tradition”) are self-enforcing, requiring no external authority to invoke respect of the customs, norms and conventions by social actors. Knight’s institutional theory posits that there is a need to address the evolution of the informal network of social conventions, norms, rules, and rights that forms the basis of a society. This draws heavily on the historical experiences of a society.

The key issue is explaining why the dichotomous institutional framework did not work, and how the lack of a mix between formal and informal institutions is the root cause of continued conflict. The evolution of social institutions takes time. Moreover, the winners and losers in the new institutional setting depend on the relative bargaining power of key actors (political elites and social groups) during the negotiations of the rules/institutions. In addition, the institutional rules determine how the losers are treated. Secondly, the theory suggests that existing informal rules and conventions need to change and adapt to new social institutions within this set-up. The focus is on distributive effects; that asymmetries of power between social actors lead to relative bargaining over distributional gains, which are inherently conflictual. Actors are strategic, and institutional maintenance has to be considered within the context of any ongoing tension over distributional benefits (not collective benefits) and the persistent usefulness of institutional constraints. In short, institutions “are the by-product of substantive conflicts over the distributions inherent in social outcome” (Knight 1992, 40). To understand the persistent conflicts in Dagbon, we need to appreciate that institutions matter – their evolution, attempts at their transformation and related consequences. How can we apply this interpretation of institutions and social conflict to the Dagbon crisis?

The history of the Dagbon crisis, well documented by Staniland (1973, 1975), MacGaffey (2006) and Mahama (2009) and to a lesser extent by other scholars such as Martinson (1990) makes it clear that the Dagomba kingdom was head in a hierarchy of kingdoms

in ancient Ghana, then the Gold Coast. This dominance was threatened by surrounding kingdoms, all of which capitulated to Dagbon, until the Asante (Ashanti) kingdom relegated its status to a “tributary protectorate.” This however did not dilute the informal rules, i.e., the norms, conventions and customs that were expressed in the rule of the Ya Na. Indeed, Abayie-Boaten (1997) claims that the Asante did not decimate the indigenous system of traditional local rule of its territories. Indeed, like the British, the Asante allowed the local rules to continue as a form of indirect rule. In his article, Abayie-Boaten operationalized traditional local rule as the indigenous system of government which was common and comprehensible to the people, irrespective of the simplicity of that society. Unlike many other colonial territories in Africa (such as those associated with the French and Portuguese) where the government attempted to eliminate (or assimilate) pre-colonial chieftaincy, British policy of indirect rule in West Africa perpetuated the existence of the institutions of chieftaincy (Odotei and Awedoba, 2006). Traditional institutions were used to sustain domination.

Succession rules of Ya Nas were vague from the early inception. MacGaffey (2006) reiterating earlier literature, has suggested that no rules existed in the pre-colonial history of Dagbon. One could only identify patterns emanating from power dynamics influenced by war victories (also, Mahama 2009). Informal succession rules appear to have evolved within factional rivalry among three ‘gate skins’ – Karaga, Mion and Savelugu. Currently, this infighting has condensed to the Abudu and Andani gates, occupying the Savelugu and Mion gates in turn. Codifying the ‘Dagbon Constitution’ in 1930 was therefore an attempt to cease and depoliticize these conflicts.

What is not normally recognized in the literature is the Bond of 1844, a contract exclusively between the British and the Fantis in which chiefs of the Fanti kingdom conceded to



be subjects of the British crown emboldened the British to subjugate all other kingdoms. This ended Asante hegemony of kingdoms in the Gold Coast in 1874. The next British strategy was to rule by proclamations that effectively began to erode traditional authority in Ghana. By 1910, the Native Jurisdiction Ordinance No. 5 of 1883 as amended by No. 7, 1910 Cap 11 Section 29 was legalized. This ordinance vested power in the governor to destool any chief, effectively usurping the democratic power of the people – a vital component of the traditional institution.

There is no argument that it was the British who reduced the traditional regional authority of chiefs. Nevertheless, the British still allowed chiefs to maintain their position in local communities. Indeed, chiefs themselves hoped to replace the British in the larger regional or national political scene after their exit. However, the chiefs lost even more authority when educated elites relegated the institution of chieftaincy to the background after independence. These elites never thought critically about the fact that the 1957 constitution did not abrogate customary law. The seeds of conflict had been sown. Chiefs were only bidding their time. Chiefs, especially in the rural areas, are the major embodiment of traditional customs. They are the mediators between their subjects and representatives of the (imposed) national political system including the current democratic government.

Thus, it was the 1910 amended ordinance that essentially began the change in the relative bargaining power of the kingmakers and the gates of Dagbon. In order to curry favor with governments, the gates persistently competed against each other. In addition, governments (authoritarian and democratic) continued to play one faction against the other. Thus, as Staniland (1973) correctly noted (and deduced from Knight's theory), the Andanis, Abudus and governments' manipulation of the succession rules is an attempt to change the informal rules of

Dagbon. This attempt to perpetuate the asymmetries of power has become a see-saw game, aiding the recurrent conflicts.

Another aspect of Knight's 1992 theory is how bargaining leads to repeated interactions and the emergence of informal rules. The historical literature on Dagbon makes it clear that after infighting between factions on succession rules, the approval and acceptance of a victorious Ya Na ended hostility till the beginning of another succession. In accordance with Knight's theory, this bargaining among unequal factions (asymmetrical power) creates credible commitments between the factions that lead to a decentralized emergence of institutions. Actors learn over repeated interactions within a sophisticated reasoning process to establish a self-enforcing social institution. According to Knight (1992), three reasons underpin this recognition of an emerging social institution. These are: 1) information about substantive resources that determine power asymmetries are observable; 2) power based on resources are systematically distributed in the society; and 3) individual and group commitments to social rules are based on perceived, distributional advantages even if not their preferred strategy. In addition, characteristics of individuals, especially local elites, play a role. All these factors work together to influence individual expectations about future strategies.

The ongoing conflict between the Andanis and Abudus with the tacit support of governments can also be seen as redistributive changes. The British explicit policy of diarchy continued in the Dagomba kingdom after independence. Even though the Accra democratic government has legitimacy and political control over most of the country, the central government maintains the divide and rule strategy of diarchy in Dagbon. According to Knight's theory, these shifts reflect systematic changes in the distribution of power. The historical literature suggests that once one faction got the ear of the government, it led to a revision of the succession rules in

that party's favor. An instance of this scenario was when in 1953, the Andanis allegedly framed the succession rule so that the chief position would alternate between the Andani and Abudugates, rather than elections. The Ollenu Commission upheld this argument. However, MacGaffey (2006) calls this position "flawed" because of his apparent preference of democratic succession rules between 1930 and World War II. On the contrary, the Andanis were battling to restore the traditions and norms of Dagbon that the British violated with the introduction of snippets of democracy into tradition. This limited British introduction of democracy created a perfect political opportunity structure that some educated Abudu-aligned faction seized upon to change the succession rules from selection to election in May 1948. Similar cases abound where ruling governments sided, and continue to side, with one faction because of influential people in government who align with particular factions. Indeed, the evidence collected in 2010 during my interviews refutes MacGaffey's assertion that there is a "parallel ambiguity of 'religious belief' in relation to chieftaincy" (MacGaffey 2006, 81). Chieftaincy indeed is like a religion. However, it is not the religious belief of different factions within the chieftaincy institution that prompted the redistributive changes.

That the Dagbon crisis persists is a clear indication of intentional change and continuous attempts to replace the traditional informal rules with formal laws. For Knight (1992), it is very difficult to change stable expectations. He posits that intentional change can have various outcomes. A successful outcome of accepting formal rules is based on the extent to which social expectations are reliable. He provides three reasons: 1) the strength of enduring expectations; 2) the reduction in the ambiguity of the new rules; and 3) the reduction in the uncertainty about the application of sanctions under the new rule. Outright rejection of the imposition of the new rule

is a second outcome. A third outcome manifests itself in the establishment of a dual or pluralist system of formal and informal rules, a system characteristic of post-independence societies.

A successful outcome is very unlikely in the Dagbon case. The ambiguity of chieftaincy in the 1992 constitution and others preceding it are evident, but not so with expectations and enforcement of sanctions. Ghana's post-independence constitutions never abrogated customary law, especially as relating to chieftaincy. Thus this embodiment of informal rules – the traditional system – has to be understood as an exclusion of the informal rules that were intended to be formalized. This appears to be the case for Dagbon and indeed for all traditional systems of chieftaincy (or kingdoms) in Ghana. The theory points to the inability of the legal system to translate the distributional consequences of informal rules into mediated (regulated) political competition.

While repeated chieftaincy disputes continue within Ghana, it is still unclear why between two prominent kingdoms, Asante and Dagbon, violence over succession rules plagues one kingdom and not the other. Indeed, in the other less well known kingdoms of Ghana and the other various traditional areas, there is little violent conflict over succession rules.

The literature on clan and ethnic conflict in Africa suggests that continued violence over new laws and constitutional changes is due to subjugation of informal rules. The way to resolve the institutional problem is through the type of laws and regulations that replace the traditional rules and practices. However, I argue it is this interaction between formal and informal groups – the result of the bargaining and negotiation within and among customary (chiefs) and constitutional (state) actors – that is the key to conflict management and resolution. In order to fully address this problem, I will discuss church-state separation vis-à-vis tradition-state relations

to show that interactions between the formal and informal institutions are necessary for mediation and conflict resolution mechanisms.

## CHAPTER TWO – DEVELOPMENT OF PARALLEL INSTITUTIONS

### 2.1 Church-state Separation as a Paradigm of State-tradition Relations

Freedom of religion suggests that the state will not interfere in the affairs of religious bodies and religious groups do not influence government affairs. However, we see this apparent separation of church and state challenged daily as local and national leaders seek to enforce the rules within a constitutional framework, while the religious leaders confront government officials for meddling in their affairs. Here, I examine the separation of church and state debate to show how this can be exemplified in state-tradition interactions. Clearly, both the church and tradition have become political factors that need the attention of the state. However, I argue that the nexus between the state and the church is a different dynamic from the relationship between the state and tradition. The separation between church and state is the result of interactions and negotiations, while the separation between tradition and the state reflects a parallel development rather than an interaction.

Some researchers suggest that the relationship between church and state is only possible when there is interaction between the state and church leaders. For example, Monsma and Soper (2009) examined five countries and found that, each country's unique history determined the nature of church-state separation. For instance, in the United States, the prevailing ideology stems from nineteenth century American history, where Enlightenment liberals and Protestants enforced Protestant ideals and marginalized Catholic persuasions. Unlike the United States, the Netherlands, also faced with liberal Enlightenment thinking, chose to adopt a system of principled pluralism, which sought to accommodate various religious and secular perspectives without discrimination. Australia adopted bits and pieces of this 'pluralist or structural pluralist' model. So did Germany, but also characterized by the 'established' model best exemplified by

England. The established model is essentially a symbiosis between state and church for the pursuit of order in society. However, informal underpinnings could be the basis of the relationship; this could emanate from “tradition or the overwhelming numerical or cultural strength of one religion” (Monsma and Soper 2009, 11).

Irrespective of contestations of the status quo in these countries, for order and peace to prevail, there is a constant negotiation and bargaining of the relationship between the church and state. This is what the theory of institutional bargaining suggests (Berry 1993, Eggertsson 1996, Amanor and Ubink 2008). For example, according to Knight (1992), formal rules promoted by the state leaders can change the relative bargaining power of individuals or groups such as churches. The acceptance of rules is the result of bargaining and negotiation among political elites within a group. Sometimes, the state appears to be controversial in its dealings on issues relating to the church, and coupled with differing opinions on the rulings of judges, the confusion over state-church separation remains. Monsma (2002) shows the inundation of cases at the Supreme Court and other courts in the United States for interpretations of the legal standard of neutrality or equal treatment regarding the United States’ ability to keep politics and religion separate as enshrined in the First Amendment. But more importantly, in church-state separation, the state leaders agree to limit the interference into church affairs and allow a level of autonomy, while the church leaders agree to limit interference into state affairs. This is the result of continuous bargaining and renegotiation. Thus, the separation of church and state *does not* reflect parallel institutions with no interaction.

The key point is that church-state separation and state-tradition separation represent the “cultural assumptions and values...and that it therefore is appropriate for the state to take positive measures to recognize, accommodate, and support religion” (Monsma and Soper 2009,

160) and I add *appropriate for the state to take positive measures to recognize, accommodate, and support tradition*. It also brings out the cooperation and support ties that exist between the state and tradition. Further, tradition is an established informal institution, but the traditional leaders may not always demand constant negotiation and bargaining to pursue the political and developmental goals of the region. Rather, both institutions – state and tradition – have their rights, roles and responsibilities, and to the extent that this cooperation and support is deemed to be mutual for peace and order to prevail.

## **2.2 State-tradition Interface**

The evolution of formal and informal institutions has been well articulated in the works of many renowned institutional theorists (Eggertsson 1990, Knight 1992, North 1990, etc.). Every country's evolutionary trajectory of institutions, whether church, state, or tradition hinges on peculiar cultural tenets and unique histories. Church-state separation for instance was originally a foreign idea in most African countries. Before the Berlin Conference of 1884 when there was scramble for Africa that led to indiscriminate borders that sometimes partitioned one ethnic group into two different countries, the notion of church was little known. Only in parts of Africa where the European missionaries had made incursions had Christianity been introduced such as when the Portuguese berthed at Elmina in Ghana in 1482. Methodism for instance, started in Ghana with the arrival of the Methodist missionaries in 1835 following the colonization of Ghana. The trans-Saharan trade relations also brought in Islamic influences. However, these religious effects were not in contention with state institutions or leaders Monsma and Soper describe in terms of legal-constitutional premises. It is not surprising therefore that there is very little scholarly work on church-state separation in Africa.



Indeed, with the increasing population of Christians in Africa, Phiri (2001) has identified the contentious role of churches in African politics, especially during the third wave of democracy that occurred in the 1990s. Normally, the relationship between the church and state is relatively harmonious, but “church-state conflict occurs when churches assume the functions of groups and organizations that the state has either repressed or liquidated” (Phiri 2001, 17). Thus, when the church expresses itself in the public arena, the institutions of the church and state come to matter in the political world. The church therefore resides more in the private sphere, what Bayart (1973) refers to as ‘collaborative.’ I draw on Bayart’s framework of three models of church-state relations: collaborative, complementary and conflictual<sup>9</sup>.

In the collaborative model, there is very little interaction between the church and state because the preferences of both the state and the church coincide, especially, in the aftermath of independence. The complementary model suggests indifference in the relationship between the state and church because each is pursuing their interest without threatening the other. In effect there is no ‘unity of purpose.’ However, much like developmental nongovernmental organizations (NGOs), churches may start to fill the political and social vacuum, supplementing the delivery of public goods and services where the state fails to meet the demands of the community – examples include prominent school buildings and helping farmers in Africa today. In Ghana, churches have established universities to make up for the shortfall in the public universities. Consequently, we have the Methodist University College, Catholic University College and Central University among others. In the process, these church-based universities, much like other private universities such as Ashesi University, require government accreditation.

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<sup>9</sup> Bayart’s work is in French, so I take the translated version of his conceptual framework from Phiri’s study. (Bayart, Jean-François. 1973. “La Fonction Politique des Eglises au Cameroun,” *Revue Francaise de Science Politique*, 3 (3 June): 514-536.

It is this church venture into the political economy that the condition gradually merges into Bayart's conflictual model.

In this case of Ghana's religious or church sponsored universities, I find that central government leadership agrees to limit interference into church (university) affairs and allows a level of autonomy, while the church leaders agree to limit interference into other central government affairs beyond university education and providing needed local services. This is the result of continuous bargaining and renegotiation. Thus, in Ghana, the separation of church and state would not reflect parallel institutions with no interaction. If we observe the development of parallel institutions with no interaction as in the collaborative model, then this may result in no mediation and conflict resolution mechanisms.

The key issue that central government leaders in Ghana as well as other African rational leaders have to contend with is the resilience of tradition and traditional leaders (i.e., chiefs). The traditional practices surrounding chieftaincy in Africa has the same social prevalence as the Western democracies. Indeed, when studying Ghana and other African nations, government and traditional practices are key political variables. Traditional leaders or chiefs in Ghana represent the similar social standing as church leaders in European democracies. As Assimeng (1997) contends, chieftaincy is the embodiment of traditional rule in institutionalized form. Further, in examining the case of Ghana and South Africa, both Schmidt (1997) and Konrad-Adenauer-Stiftung (1994) respectively note that chiefs were instrumental in the daily public lives of African citizens. It is this "[t]raditional rule...the indigenous system of government which is common and intelligible to the people, however simple such a society might be" (Abayie Boaten 1997) that colonialism sought to usurp in mostly sub-Saharan Africa. Both direct rule and indirect rule – where chiefs were co-opted as leaders, but in reality, were instruments of the

colonial masters – were used to separate state from tradition by the colonialists; in effect bringing to the fore the distinction between formal (state) and informal (tradition) rules.

During the colonial era, the British introduced indirect rule through diarchy. This was a system that allowed for a measure of local autonomy as long as the local leaders accepted British rule. In the process, persons who were not qualified as chiefs, or who were not initially leaders of a community (as pursued by the French colonizers in their policy of assimilation), were imposed alongside willing chiefs to indirectly rule their subjects. Indirect rule partially displaced the decentralized rule of chiefs and deliberately instituted chiefs as traditional “Big Men.” There are many instances across Africa where the British created warrant chiefs, starting in Nigeria. In fairness to the British, they were only continuing what their Fulani predecessors had done previously in northern Nigeria by interfering in the succession rules and the hierarchical regulations concerning local political heads. Similar to church-state separation, the British system of indirect rule was predicated on the idea “that the local political authorities which the British encountered, should be maintained insofar as this did not conflict unduly with British principles of proper administration and morality (Van Rouveroy van Nieuwaal 1987, 9). Westermann (1949 cited in Van Rouveroy van Nieuwaal 1987) has observed that the British were only being practical, and had no intent to destroy the indigenous institution of chieftaincy, which would not have inured to the benefit of the local population.

In Ghana, during the post-colonial era in the 1960s decentralized rule of chiefs was further eroded when the nationalist leader Kwame Nkrumah weakened the authority of chiefs while simultaneously strengthening the center. Personal rule and “Big Man politics” flourished in Ghana (as well as other African nations). Central government imposition reinforced the parallelism between the state and tradition and marginalized the authority of chiefs. Indeed,

these formal rules in Ghana, authoritarian in nature, met with resistance at the local level. Van Rouveroy van Nieuwaal (1987) suggests that the primary focus on Ghana in most research at that time, rather than other African countries, is because of the “actions of its first President, Kwame Nkrumah – one of the most outstanding modern African political leaders to date – for years set the political image for the whole of Africa. Ghanaian chiefs, in general considered a conservative element, were kept down...” (15). Van Rouveroy van Nieuwaal collates a rich variety of works that shows how the first breed of African leaders after independence overtly and covertly decimated the chieftaincy institution<sup>10</sup>. That chieftaincy (tradition) and state are the two most important institutions in West Africa can be gleaned from Donald Ray’s exposition on power and legitimacy in chief-state relations in Ghana. He states that “chiefs derive their legitimacy, authority and indeed even sovereignty from their pre-colonial roots, while the contemporary African state is a creation of, and a successor to, the imposed colonial state.” Subsequently, “chiefs form a parallel power to the post-colonial state...” (Ray in Ray and Van Rouveroy van Nieuwaal 1996).

With the power of chiefs whittled away, the new African elites started the phenomenon of presidential supremacy. Rather than promoting development and national integration in the newly independent African countries, African leaders with their newly acquired presidential hegemony spawned “a form of rule – neopatrimonialism – in which unfettered presidential discretion and informal access to the president became more important than compliance with formal rules” (Prempeh 2008, 111). One-party rule and one-party elections, manipulations of the

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<sup>10</sup> Examples range from Guinea through Ghana, Tanzania, Zimbabwe and Burkina Faso. For instance, the Kabaka, the king of Buganda kingdom in Uganda, was repressed by President Obote’s military and this led to the abolition of all the five kingdoms in Uganda. It took an act of Parliament to restore the kingdom in 1993 and the 1995 Constitution to institutionalize the Buganda kingdom. By 2010, four kingdoms with the exception of Ankole kingdom had been reinstated (Green 2010). On the contrary, the support of chiefs in Sierra Leone for the emergent ruling party ensured a constitutional recognition when the country attained independence.

constitution, and the emergence of military regimes marked this 30-year authoritarian period (e.g., Lindberg 2006).

Eliminating neopatrimonialism implied a focus on institutions, defined as formal rules underpinning democratic governance. More than a decade ago Olowu (1994, 22) hinted on a paradox of the African state, “[T]he African state is strong in those areas in which it ought to be weak (repressive power) and weak where it ought to be strong (popular mobilization, responsiveness, etc.)” Three years later, Schmidt (1997, 41) in assigning eight reasons for the importance of local or regional level in the African context, suggested that “[e]ffective decentralization and local self-government could be a solution to the paradox of the African state, which is simultaneously too weak and too strong.” To overcome issues such as poor governmental performance, rapid urbanization, democratic transition, shifts in international donor strategies, and societal demands, decentralization became the panacea for deepening democracy (Diamond 1999). Ghana’s recent decentralization plan includes national laws that aim to increase empowerment, equity, political inclusiveness, and local accountability. However, the policies and laws designed to speed up decentralization were vague, in order to allow local leaders to adapt to local conditions.

Unfortunately, decentralized democracy is turning out to be a variant of the non-democratic British diarchy. Ironically, because the 1979 and 1992 constitutions of post-independence Ghana permit using both national laws (statutory) and customary usages (traditional) in governing the country, this decentralization process now means there is greater interaction between central laws and chieftaincy institution at the local level, where District Chief Executives (DCEs), *not chiefs*, are now the local political heads. In a decentralized democracy, power is supposed to *devolve* to local political heads. The structure and institutional

framework of the decentralization process further weakens the authority of chiefs at the local level, where chiefs have always dominated. This marginalization of chiefs is made worse through an unintended outcome of this devolution, at least in Ghana. What is emerging is that DCEs are spawning a semblance of *local* “Big Man politics,” what I term “Little Man politics.” In the grand scheme of things, the “Little Man politics” has implications for whether or not local traditional elites accept formal rules. The playing field for the interaction of the parallel institutions which was previously between the state at central level and chieftaincy at the local level, has now shifted with decentralization to an all-out local affair between the actors. Before I show how this interaction can manifest in institutional bargaining at the local level, it will be prudent to put the emerging dynamics into context with the evolution of local government and decentralization in Ghana.

### **2.3 Local Government, Decentralization and the Locus of Chieftaincy**

In the 1990s, Ghana rode the wave of democratization that spread through Africa as opposition parties and active citizens attempted to end authoritarian regimes. This period has also been dubbed the ‘second liberation’ of Africa since many countries emerged from civil war, and the last vestiges of colonialism, such as Namibia from the clutches of South Africa and South Africa itself from apartheid policies. Ghana was one of the leading nations in this transformation. Having attained independence as the first black African nation in sub-Saharan Africa in 1957, the First Republic was truncated by the military on February 24, 1966. The military government gave way to multiparty elections in 1969, thus ushering in Professor Kofi Abrefa Busia of the Progress Party (PP) as the Prime Minister. Before Busia could complete his first term in office, the military struck again in 1972, and again conceded to democratic rule in

1979. However, before the changeover could materialize, a mutiny of junior officers of the Ghana Armed Forces was foiled on May 15, 1979. While the mutinous officers were being tried in a civil court of law, another group of young officers executed another coup d'état, which was successful this time around. The leader of the first rebellion of May 15<sup>th</sup>, Flight Lieutenant Jerry John Rawlings, was released from jail and made the leader of the second coup, mainly because of his bravery in accepting responsibility for the May 15<sup>th</sup> uprising.

To the amazement of both Ghanaians and the international community, Rawlings allowed previously planned (pre-coup) elections to proceed. In what has been described as 'kangaroo courts,' eight senior military officers, including three former heads of state were quickly tried and shot by firing squad. Whilst Ghanaians were coming to terms with the rough tactics of the Armed Forces Revolutionary Council (AFRC), attention turned to a run-off in the presidential elections between Mr. Victor Owusu and Dr. Hilla Limann. Limann of the People's National Party (PNP) won and became the President of the Third Republic.

The exit of Rawlings was rather to be a short-lived one. On December 31, 1981 he led another coup to topple President Limann and established the Provisional National Defence Council (PNDC). In 1992, after much internal and external pressure, Rawlings allowed the establishment of the Fourth Republic, with a re-introduction of multiparty elections and a constitution that was intended to set the country on a democratic path. Rawlings won on the ticket of the National Democratic Congress (NDC), and transformed from a military dictator to a democratically elected President. Prior to this renaissance, decentralization was introduced in 1987 as an institutional dynamic on its own. Decentralization was to be coupled with the idea of local government.

### **2.3.1 Local Government**

A historical development of local government in Ghana shows that two different machineries for the administration of Ghana evolved beginning from the Municipal Ordinance of 1859 through to the Local Government Act 1961, Act 54, enacted soon after independence. The first machinery operated from the capital (center) with branches at the local (district) level, while the second, separate and distinct, operated in well-defined localities. The latter was referred to as Local Government. This “Dual Hierarchy Model of Administration” led to problems of duplication and confusion. To overcome these problems, various commissions and committees of enquiry were set up. The major conclusive recommendation from these investigations called for devolution of central administrative authority to the local levels. It was not until 1974 that the Local Government Structure was established, essentially heralding a “Single Hierarchy Model.” Concomitantly, a monolithic structure of “District Councils” was created and assigned the responsibility of the entirety of government at the local level.

However, the 65 District Councils that were established had many problems, which I describe as deconcentration (administrative transfer) troubles. Consequently, in 1988, the structure of local government was restructured to combine, to “improve” and facilitate decentralization. Legal backing for the reforms was enshrined in the Local Government Law, 1988, PNDC Law 207. District Assemblies (DAs) were created to forge the link between local government and decentralization (Ministry of Local Government and Rural Development 1994). Decentralized departments were established to perform functions formerly executed by central government, while District Chief Executives were assigned to DAs, to which all communication were to be addressed. Chapter 20 of the 1992 Constitution reinforces PNDCL 207 with modifications.



### 2.3.2 Decentralization

The literature suggests that decentralization is one of the most important ways of promoting and improving both local and national governance (Rondinelli 1981; Cheema and Rondinelli 1983; Mawhood 1983; Smith 1985; all cited in Ayee 1996). Yet, some analysts believe that decentralization policies have been carried out with varying degrees of successful improvements in local governance (e.g., Bardhan and Mookherjee 2006, Treisman 2007). Indeed, decentralization in Africa tends to create more problems than resolutions<sup>11</sup>. Yet Smoke (2003) and Bardhan and Mookherjee (2006) argue that problems do not justify maintaining centralization. Rather, they urge for a more cautious approach initially neutral about decentralization, trusting it can work if properly designed and applied. In 1987, Ghana started the decentralization process in response to creating more effective local government.

Pursuing decentralization was probably in the right direction for Ghana, just as in many other developing countries with their economies being driven by policies of the international financial institutions and their fiscal demands attached to structural adjustment. By 2001, out of the 75 developing countries with population of more than five million, 63 were intensively pursuing decentralization policies that devolve functions and responsibilities to local governments (Helmsing 2001). A range of issues have driven the escalation of decentralization, which include poor governmental performance, urbanization, democratic transition, shifts in international donor strategies, and societal demands (Diamond 1999). The rationale for this approach is that involving local people in the identification of their needs and using them as a tool for checking accountability goes a long way to bring people closer to a desired standard of living.

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<sup>11</sup> See special issue on “Decentralisation and Local Governance” *Public Administration and Development* (2003) and Mehrotra (2006). Problems include extent and size of local government budget deficits, local elite capture, political immaturity, and capacity issues (e.g., Crook 2003).

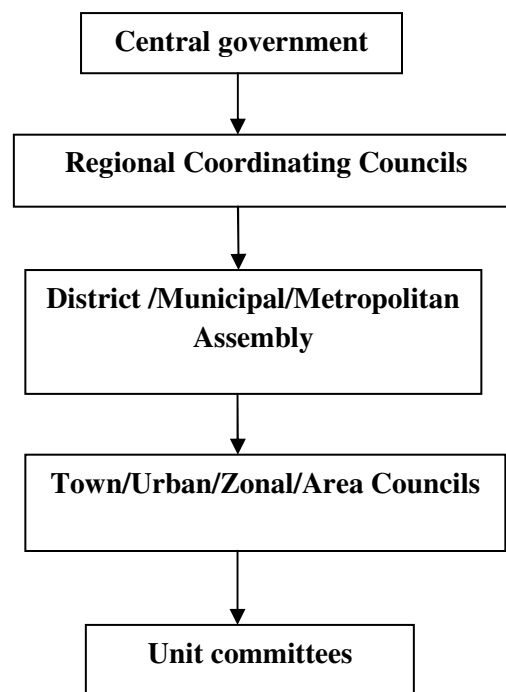
Decentralization is a multifaceted concept, and its various dimensions are not well understood (e.g., Nellis 1983 and Rondinelli 1983 in Parker 1995, Prud'homme 1995, John and Chathukulam 2003). Further, its relationship to local government is nebulous. Scholars generally agree that while decentralization focuses more on the administrative side, local government emphasizes a participatory element. Others employ terms such as “democratic decentralization” and “political decentralization” (e.g., Samoff 1990, 516 cited in Schmidt 1997) to assert that both administrative and participatory components should be considered. Consequently, we are confronted with two extreme degrees through which decentralization can be implemented, deconcentration and devolution.

In deconcentration, central government assigns its functions to staff in sub-national offices of sector ministries and departments to promote administrative efficiency. In devolution, political structures below the center such as regional, district and local government councils are established and empowered. Here, local government units can initiate, formulate, legislate and execute decisions regarding specifically assigned public sector development functions, secure resources and make allocation decisions (Litvack *et al.* 1998 in Bergh 2004, Rondinelli 1981). Devolution then, is similar to Mehrotra's 2006 model of decentralization – deep democratic decentralization; when the center acts to enable the articulation of voice by the local community, the functionaries of the state tend to respond positively to local-level pressure. This permits a three-way dynamic between the central government, the local authority, and civil society for effective service delivery. The original intention of the Ghanaian government was to pursue devolution.

To ensure decentralization achieves the set intentions in Ghana, a five-tier public administration has been put into place (Figure 2). At the top is central government. Below this

are the Regional Coordinating Councils (RCCs), which perform a hybrid role as extensions of the center and coordinators of activities of the local government systems. District Assemblies were considered pivotal in the decentralization program, and are located at the third level. Each DA must have a number of Area/Zonal/Town/Urban Councils representing groups of villages/communities and finally, Unit Committees at the lowest level representing communities.

**Figure 2: Structure of New Local Government System**



Source: Adapted from Ministry of Local Government and Rural Development 1994

Every Area Council and Unit Committee has elected members as well as members nominated by the President, where they are in existence. In 2011, the National Assembly will discuss proposals to remove the appointment of members by the President, after obtaining inputs from the Constitutional Review Commission. This structural arrangement was meant to institute

a bottom-up system whereby community issues would first be discussed at the Unit level, followed up at the Area Council level before they are submitted to the DA by the Assembly members (AMs). Assembly members therefore, serve as representatives of local government in their communities. The structures are also to ensure that counselors at lower levels are able to monitor projects being implemented in their jurisdiction. There are clear lines of reporting and communication, which are expected to achieve high standards both in the delivery of development projects and accountability in the utilization of development funds. A long list of legislative framework supports this decentralization process, but suffice it to say that they are all premised on The Local Government Act, 1993 (Act 462).

Within the institutional framework of the decentralization process, a District Assembly is the basic unit of government in a district assigned with deliberative, legislative and executive functions to bring about integration of political and administrative development at the local level. Essentially then, the intention is devolution. However, the dynamics change when we consider the roles and responsibilities of the DCE – head of the DA and two other key personnel, Presiding Member (PM) and Member of Parliament (MP) as enshrined in PNDCL 207. Power and authority begin to shift to DCEs. Increasing deconcentration and features of centralization begin to surface at the local level, ultimately reifying personal rule with all its concomitant patronage and clientelism. It is this reproduction of central problems at the local level that leads to the “Little Man politics,” essentially, a replication of “Big Man politics” at the local level.

### **2.3.2.1 Little Man Politics: An Unintended Outcome of Decentralization**

“Little Man politics” has its theoretical basis in local elite capture, and is essentially mimicry of “Big Man politics” found at the center, characterized by personal rule with all its

concomitant patronage and clientelism manifested at the local level. Consequently, the concept ultimately creates local authoritarianism, the very object of change in implementing decentralization and local government. The incidence of local elite capture has appealed to many scholars investigating decentralization and local government. For instance, Crook (2003) focuses on a patronage system alliance between central political authorities and local elites, which invariably has the effect of maintaining power bases at the local level. Diamond (1999) and Hutchcroft (2001) deal with persistence of “authoritarian enclaves” in local settings, where local bosses directly challenge central authority invoking strategic devolution mechanisms.

However, one issue that has not been addressed is the emerging power of local bosses who replicate the previously centralized national-level personal rule at the local level – “Little Man politics.” Crook and Manor (1988 in Grindle 2007) come close, showing that there might not be any significant differences in performance between elected local and national authorities, *but not how local authority may capitalize on assumed weaknesses in decentralization’s effect on local government to pursue their self-interest.* “Little Man politics” has implications for exacerbating the ambiguities in power relationships and administrative responsibilities existing between central and local governments (Grindle 2004 in Grindle 2007)<sup>12</sup>.

“Little Man politics” is really an unintended outcome of decentralization, and scholars have overlooked this African phenomenon. The focus in decentralization mechanisms has been on project outcomes, and the wherewithal to make the process work. Little research has been conducted on the weaknesses in the institutional framework of decentralization policies that local political heads can manipulate in their self interest. It has been assumed that decentralization, which is meant to transfer central authority to local levels, will eliminate the authoritarian tendencies that came to be soon after independence in many African countries. This “Big Man

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<sup>12</sup> The literature thoroughly discusses issues of power and authority (e.g., Hutchcroft 2001).

politics,” theorized as a continuation of British autocratic diarchy, would therefore naturally select itself out of government practices.

“Big Man Politics” where a single national leader captures the political system and central control over national resources has been pervasive in post-colonial Africa. In the past three decades, development practitioners have advocated decentralization as a form of good governance for promoting welfare outcomes in developing countries. There was a general expectation that decentralization, however, would be a conduit for eliminating the centralizing and authoritarian tendencies associated with “Big Man politics.” In fact, decentralization did eliminate “Big Man politics” at the national level in many African countries. Yet, many problems confront decentralization at the sub-national level. The key problem is that local elites become more autonomous before local institutions associated with decentralization are fully implemented. As a result, there is an unintended consequence from the decentralization process: “Little Man politics.” How can this replication of the “Big Man politics” come about? District Chief Executives in Ghana best exemplify this phenomenon.

The District Assembly is presided over by the Presiding member, and functions like a local legislature; the PM is thus akin to a Speaker of a national parliament. However, the political forces behind the office of the DCE invariably confer on a DCE the most important member of the DA that contributes to the evolving attribution of ‘imperial presidency’ to DCEs. For instance, the DA as established by law currently merges the executive and legislative powers into one, with the DCE overseeing the former, and the PM the latter. The President nominates DCEs; to legitimize their positions DCEs require at least two-thirds of the votes of Assembly members present and voting, similar to the ratification of PMs. However, the AM voting is complicated and can be manipulated. AMs want community recognitions as influential persons

who have the ears of the DCE. Thus they ratify the nomination of the DCE with the expectation that the DCE will in turn do some favors for them. This effectively should create a dilemma for DCEs, in terms of serving local interests while simultaneously owing allegiance to the President. However, *DCEs choose to ignore their part of the bargain because there is rarely a vote of no confidence for their removal!* This is a weak institutional oversight as DCEs capitalize on the norm within the social and religious elements in African politics<sup>13</sup> that abhors open defiance of an “elder” – a superior – in any endeavor. (Also see Bates 2008 on the politics of gerontocracy in Africa). Consequently, DCEs become audacious and implement their patrimonial tendencies by using threats and incentives (as “elders”) to create and perpetuate a form of personal rule at the local level. DCEs also circumvent the PMs’ horizontal check on their power by marginalizing them.

In the absence of the PM’s role in reining in the powers of the DCE, the DCE has the Member of Parliament to contend. In principle, MPs are also representatives of local government in the community since they forward local concerns of AMs to Parliament<sup>14</sup>. The constitution stipulates that MPs are non-voting members of the local Assemblies, while the DCEs are voting members. Yet, DCEs could frustrate MPs who call them to order. Ten percent of the District Assemblies’ Common Fund allocated to districts is for self-help programs, five percent of which goes to support MP’s development projects. The structure of the disbursement is such that the MP’s share of the Common Fund is accessible only when the Assembly receives its allocation. Personality clashes are more likely between the broadly-based elected MP and the “selected” DCE, who by virtue of being the President’s nominee assumes a superior power.

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<sup>13</sup> African notions of politics tend to be more inclusive of social and religious elements than current European-derived notions of politics (Skalniċ in Ray and Van Rouvery van Nieuwaal 1996).

<sup>14</sup> MPs represent districts. A district may have more than one MP depending on the size of the district.

The “Little Man politics” portrayed by DCEs is made more complete when other pertinent issues are brought into play. As head of the executive arm of the local assembly and representative of the executive arm of central government, a DCE appropriates the title of a local President. DCEs also preside over meetings of the Executive Committee (Exco)<sup>15</sup>. To the extent that the Exco comprises a maximum of one-third of the total membership of the Assembly, DCEs can transmit their ideas and socialize the Exco into their preferred norms of centralization. DCEs also serve as chairpersons of the District Security Committees. This requires that they gain the confidence of the central government in order to be entrusted with sensitive security matters. However, it is common to learn about DCEs siding with one party in conflict situations, and frequently they are not reprimanded. Finally, the structure of local government mandates DCEs to report to Regional Ministers, heads of Regional Coordinating Councils. However, because the President nominates DCEs, they also marginalize the Regional Ministers who are also presidential nominees (but ratified by the national parliament). Instead of reporting to Regional Ministers, DCEs report directly either to the President or the Minister for Local Government, creating yet another unintended arrogation of power to DCEs. It is this environment of local governance that chiefs, the traditional heads confront, which could be either a challenge or a benefit.

The main point is that the decentralization process in Ghana now institutionalizes both chieftaincy (informal rules) and local government (formal rules) as the two key political structures at the local level. Essentially, both institutions should have a ‘unity of purpose’ and be akin to Bayart’s collaborative model because the preferences of both the state and tradition should coincide. This is to see to the development of the localities to promote the standard of

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<sup>15</sup> Directly below the DA in the organizational structure is the Executive Committee. The Exco comprises the representatives of the Assembly sub-committees, according to section 19 (2) of Act 462 of 1993, serving as the first line approving authority for most of the Assembly’s plans.



living of the people. Consequently, there should be very little interaction between the state and tradition. However, this is not the case. As previously noted, when we observe the development of parallel institutions with no interaction, the result is in no mediation and little conflict resolution mechanisms. The complementary model that suggests indifference between national and local leaders in the state-tradition relationship is not relevant in this case. Rather, the Ghana case reflects the conflictual model. However, instead of the chieftaincy and traditional practices intruding into state affairs, it is the state leadership that is making incursions into chieftaincy and all its related customs and norms.

I argue that decentralization has created a new set of institutional bargaining mechanisms between chiefs and the state represented by local government. This novelty may not be as adaptable as the previous center-local interface, because of a lack of history of previous bargaining processes. When there is a history and acceptance of institutional bargaining *within* a group (either formal or informal), there then is a greater level of interaction among the two groups (i.e., institutional systems) and mediation among state and traditional actors is possible even if the level of state interference is low. However, when there is no history and acceptance of institutional bargaining *within one* of the groups (either formal or informal), then there is less interaction among the two groups (i.e., institutional systems) and mediation among state and traditional actors fails.

This is where the parallel operation of formal and informal rules is most evident. *There is neither divergence nor convergence in the interface between formal and informal rules.* This failure of mediation among state and traditional actors also means that there are no institutionalized conflict resolution mechanisms, which ultimately leads to ineffective local government. How this parallelism is captured in Ghana is the focus of this dissertation. In order

to set the stage for examining the kind of interactions that exist between state and tradition within this decentralization process, we need to see how chieftaincy has been factored into the formal system in Ghana and Africa.

## **2.4 Chieftaincy and Decentralization**

A puzzle that independent African countries undertaking decentralization constantly try to solve is how two political parallel worlds – Western-style democracy and traditional institutions of chieftaincy – co-exist for long periods in relative peace and calm, but occasionally, conflicts arise either between or within the two institutions. Ghana has been confronting this challenge since it started its decentralization process in 1987. To further exacerbate the dual system of governance in Ghana, conflicts also exist within the decentralization process itself (Adjepong *et al* 2003). These tensions can compromise peace both at the macro and micro levels, such as between the political elites of the dominant parties (Frempong 2007) and the Dagomba regicide respectively. Subsequently, we need strategic conflict resolution mechanisms to preempt these debilitating strains. Some African countries have been able to blend formal and informal rules to benefit them.

In Burkina Faso, traditional leaders have appropriated the decentralization process to combine the legal status previously denied them with their customary legitimacy (Ouedraogo 2003). The immediate problem arising is how to delimit customary functions of chiefs from state functions of elected officials; a recurring issue that always accompanies involvement of chiefs in partisan politics as witnessed in recent events in Burkina Faso in local natural resource management. However, here is the catch, which borders directly on the clash between formal and informal rules. As Ouedraogo points out, implementers of decentralization should be wary

of attempting to replace or undermine pre-existing institutions familiar to the local population with government reforms based on a legal and institutional framework. This is especially important when the traditional institutions themselves are in a state of flux, as is happening in both Burkina Faso and Ghana.

The relevance of the interplay of formal and formal rules becomes more revealing when we juxtapose meanings of decentralization by English speaking countries and French speaking countries. In the former, decentralization connotes ‘devolution of resources and powers of the central state to local or private decision-making bodies’ (Ribot 1999 in Ouedraogo 2003). Ouedraogo directs us to the French tradition of a more legalistic understanding of decentralization as indicated by Kiemde (2001): ‘state recognition of the existence of autonomous local governments endowed with specific competencies and managed by autonomous bodies.’ Decentralization here means “reorganizing the state and only involves governmental players at the local level (local government, public enterprises, etc.)” (Ouedraogo 2003, 98).

In Botswana, customary law has been co-opted into the modern legal system, a key factor in the overall peace and stability in Botswana (Dzivenu 2008). Owusu (2006) supports the view that Botswana and Ghana epitomize two successful African cases where the continuation of chieftaincy and Western democracy have been mutually beneficial in deepening democracy as opposed to cases such as Rwanda and Burundi where monarchical rule and chieftaincy were abolished (with resultant civil war and genocide). I challenge his comparison of Botswana and Ghana. Owusu and others contend that democracy was “inherent” with the Setswana tradition of consultation in Kgotla (traditional courts) in the case of Botswana, and in the case of Ghana, ‘the Akan chieftaincy model’ of power-sharing involved broad community involvement in

political decision making” (Mmusi 1981, 12 cited in Owusu 2006, 19-20). I contend that the totality of chieftaincy models in Ghana, not Akan alone, should form the basis for framers of constitutional reform, as a means of eradicating conflicts in the state-tradition interface.

Akans constitute the plurality in Ghana, but are less than fifty percent of the population. And as Owusu rightly declares, Botswana’s second chamber, House of Chiefs, is a constitutional provision very different from Ghana’s National House of Chiefs, which is not a legislature. Further, it is pertinent to note that Botswana’s National House of Chiefs is a clear example of informal formalized institutions (i.e., mix), whereas Ghana’s National House of Chiefs is not formalized (no mix) – and this is a pointer to the parallel operation of formal and informal rules. In Botswana, the customary courts have been integrated into formal delivery systems. Unlike in Botswana, the British succeeded in diminishing the power of chiefs from state affairs in Ghana.

It is interesting to note that successive governments in Ghana since 1957 have not followed a consistent policy regarding the role of chiefs in local government. Currently under the 1992 Constitution and the Local Government Act (Act 462) 1993 (specifically, Article 242 (d) and Act 462 Section 5(d) respectively), there is provision for two chiefs from the Regional House of Chiefs (elected by the chiefs at a meeting of the House) to serve on their respective Regional Coordinating Councils. However, the services of chiefs become available only if they are included among at most thirty per cent of the total membership of the DAs, appointed by the President. Even then, this membership is contingent on the President’s consultation with the traditional authorities and other interest groups in the district. I argue that this marked the beginning of conflict and non-cooperation between officials of the District Assembly – especially District Chief Executives and the chiefs, who are interested in influencing the political agenda of the district as well. Similarly, under Legislative Instrument (LI) 1589 1994, chiefs

have no automatic membership or participation in the sub-district governance structures.

According to Ayee (2006), the absence of institutional representation of chiefs in the structures of local government is a recipe for non-cooperation between chiefs and officials of the DA, especially DCEs. This represents clash of formal and informal rules.

Both some central leaders and politically active citizens recognize the need for chiefs to be an integral part of the decentralization process. One of the most recent calls is from a former minister of state, who is of the opinion that government cedes the right to appoint thirty percent of the membership of District, Municipal and Metropolitan Assemblies to traditional authorities (*Ghana News Agency* 09.29.09). At the same forum, a traditional leader, emphasizing the role of chiefs as agents of development, suggested an increase in the representation of traditional authorities at the district assemblies, with the objective of making chiefs active participants in the democratization process for sustainable development. To buttress the emerging “Little Man politics,” the *GNA* reported that the devolution of this presidential function to chiefs was treated with disdain by the DCEs present at the workshop.

Chiefs in Ghana, irrespective of hierarchical levels, are perceived as “social and cultural leaders different from self imposed or elected leaders and officials of the state, including the District Chief Executives, the pivots of the present decentralized system of administration who operate, or are expected to operate at the grassroots level” (Nana Arhin Brempong 2006, 27). For me, any attempts to position chiefs as politically-neutral leaders is a nonstarter, since they had institutional representation in colonial Native authorities and governance structures after independence in 1957 (Ayee 2006).

Informal rules or tradition comes into prominence during special occasions that are specifically presumed to be customary, for example, festivals. It is traditional councils that

determine modes of celebrating their festivals. During such festivals, chiefs are carried in palanquins to signify their authority over the land, and a dance performed by a chief has symbolic meaning. Besides these, other traditional usages include the power of chiefs in mobilizing their subjects for development-oriented projects, resolving disputes, authorizing ban on agricultural practices such as farming and fishing at specified periods of the year, approving ban on drumming and noise making at specified periods of the year, deciding on burial periods in their area of jurisdiction, etc. These traditional legacies are deemed to be the preserve of chiefs, but sometimes there are cases of government interference based on state legalism, and increasingly religious oppositions. Litigations easily arise as to who has power to decide ban on drumming within the context of religious freedom in Ghana; chiefs or pastors or government leaders? During festival celebrations, can government interfere especially if it borders on the security of the country or its citizens? Which traditional areas are restricted for government, and how does government come to respect these norms? These questions highlight the fundamental reality that in contemporary times, the social and political space of Ghana is inundated with many institutions struggling hard to find their niche – state, chieftaincy, religious institutions, etc.

In the struggle for space between government officials and chieftaincy, none sparks violent disagreements and conflicts than interference in succession rules and traditional land management. It is in these two areas that the resistance to central government interference is the greatest and the potential for instability and violent conflicts is high. Succession of a chief arises when the incumbent dies, abdicates or is dethroned. Succession rules differ from one traditional area to another, but may appear similar among clans or ethnic groups. For instance, in the Asante kingdom, it is the queen mother (normally the mother of a previous chief), who has

authority to appoint a succeeding chief. The successor necessarily has to come from the royal family, but it is not uncommon for a brother of a deceased chief to succeed him (e.g., MacDonald 1898). In the Dagomba kingdom, there appears to be a rotation system of succession between two families. These two examples of succession rules and their variations across the length and breadth of Ghana are inviolate, and any attempt to alter them can lead to chaos.

Chapter 1 began with the description of a murder in 2002 of the king of Dagomba. This was a clear manifestation of the interaction between state interference and traditional customary norms. The question we are confronted with is whether the death of Ya Na Yakubu Andani II was a random violent act or a failure of mediation among state and traditional actors. What was the level of government interference in the traditional succession rules? Do we have instances of similar interferences in other parts of Ghana? If so, what was the outcome (murder)? These questions would help us to identify the parallel operation of formal and informal rules. Insofar as interactions exist between the two institutional systems, we need to find out whether history and acceptance of institutional bargaining are absent or not to impact success or failure of mediation among state and traditional actors. This state-tradition interaction is also seen in traditional land management.

According to Article 257 of the 1992 Constitution, all public lands in Ghana and mineral rights are government-owned. Yet, chiefs as well as clans, families or individuals own customary lands. The customary sector manages 80 to 90 percent of land in Ghana (Kasanga and Kotey 2001). That so much land is under customary management results from agriculture being the single largest industry in Africa (Bates 2008). Respondents knowledgeable in land issues also reiterated and confirmed the high percentage of customary-owned lands in Ghana

during my data collection. This vast ownership of land by the customary sector also reflects the urban-rural divide, where majority of the population reside in the rural areas. For instance, in Ghana, the rural population hovers around seventy percent. Further, a historical trace by Amanor (2008) shows how British indirect rule unwittingly placed land under chiefs, which was then managed customarily. This was a liberal ideology promoted by the British colonial administration under the Native Authority system. The theory of communal land tenure was the premise on which the British supported their liberal position, which in Ghana meant that chiefs, especially paramount chiefs, acquired not only allodial rights over land, but also hegemony in land transactions.

In further clauses of the same article, i.e., Article 257 (3, 4 and 5), we clearly see a manifestation of the use of both statutory and customary laws in governing the country. Clause 3 states:

For the avoidance of doubt, it is hereby declared that all lands in the Northern, Upper East and Upper West regions of Ghana which immediately before the coming into force of this Constitution were vested in the Government of Ghana are not public lands within the meaning of clause (1) and (2) of this article.

Clause 4 states:

Subject to the provisions of this Constitution, all lands referred to in clause (3) of this article shall vest in any person who was the owner of the land before vesting, or in the appropriate skin without further assurance than this clause.

Clause 5 states:

Clauses (3) and (4) of this article shall be without prejudice to the vesting by the Government in itself of any land which is required in the public interest for public purposes.

Article 267 (1) states, “All stool (or skin) lands in Ghana shall vest in the appropriate stool on behalf of, and in trust for the subjects of the stool (or skin) in accordance with customary law and usage.”



A careful examination of the articles shows how central government divests itself of land – land covering almost half the land mass of Ghana – and yet maintains its future hold. The government continues to hold onto public lands. However, only lands in the northern part of Ghana are reverting from public to the customary sector. One could conjecture that this continued acquisition was probably an affirmative action to promote development in the northern sector, since the three regions are still the poorest in the country. However, the point to note is that there is a pluralistic land tenure and management system in Ghana, but is more manifestly expressed as a dual relationship.

Kasanga and Kotey (2001) note that “dual tenure and land management systems (*statutory and customary*) currently prevail in the country. The two systems run parallel to each other, with the customary system being the more robust in practice. However, as and when the state land machinery is applied and enforced, the customary is weakened and extinguished for all practical purposes” (Kasanga and Kotey 2001, 20; italics added). Kasanga and Kotey contend that since post-independence Ghana, the application of specific legislative instruments regarding land tenure and management has had two general shadow objectives. One is the gradual elimination of traditional and customary institutions and authorities in land management for economic and financial ends, and the second is the state acquisition of land from political opponents, which would cripple local revenues that could accrue to opposition parties or groups. Instead, plots of state-managed lands were given to political allies, top civil servants and military and security forces as a reward for their loyalty. The dynamics here are similar to what transpired in Zanzibar that Myers (2008) discusses. The general assumption has been that formalizing informal lands according to the ‘de Soto argument’ would reduce poverty. However, there is a growing body of evidence to suggest that formalization of land management

systems benefitted state elites. Myers also recounts that soon after Zanzibar's independence in 1963, the revolutionary leaders of 1964 seized all lands belonging to the fleeing Omani and Indian elites. Under the guise of nationalizing all lands, the Zanzibar government politicized the reallocation and favored their cronies, members of the Afro-Shirazi Party that had led the revolution. The unintended outcomes of the original laws suggest imposed formal rules over informal rules, which always had the potential for conflict.

Land disputes are becoming a perennial feature in Ghana and other African countries, because a pluralistic land tenure and management system has come to be maintained owing to the power and influence of chiefs and traditional rulers (Gough and Yankson 2000, Kasanga and Kotey 2001). Ghana's 1999 National Land Policy seems to reinforce to this trend. Gough and Yankson discuss how the parallel operation of indigenous land tenure systems and European-based systems in the colonial period in most African countries has been transformed after independence. The main alteration has been in more expansion of state rights over land in land tenure. Again, under the guise of nationalizing lands for development through compulsory acquisition, state elites promoted clientelism and corruption.

However, recent research by others such as Quan *et al* (2008) and Tonah (2008) show that new land reforms such as the Land Administration Project (LAP) introduced in 2003 with the support of the World Bank is reinvigorating chiefs to assume the control they previously had over land in the colonial period before their powers were whittled away soon after independence. The nature of landholding<sup>16</sup> in Ghana shows that "Ghana operates a dual land rights regime, but the link between administration of interests in land created through customary practice and formal titles to landed property is tenuous to nonexistent" (Quan *et al* 2008, 187). Consequently, LAP was instituted to address this anomaly. In a move to ensure that government divests itself

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<sup>16</sup> See Quan *et al* 2008, 184-187 for a succinct description.

of responsibility for the management of stool lands, Customary Land Secretariats (CLSs) were established to create more community-based approaches (bottom up) to the management of customary land. The CLSs were not only to ensure community-level participation, but also to promote transparency, greater equity and accountability in the use of stool lands and the accompanying revenue generation.

Contrary to the intended objectives of the CLSs, government had a strong hand in placing the CLSs under the control of traditional authorities; a clear political choice to perpetuate the marginalization of the poor peasant landholders and maintain the opportunistic status quo of a patronage environment controlled by an alliance of powerful, politically influential chiefs and the national political elite. In the final analysis, the bargaining and negotiations that ought to be the preserve of the local people in customary land relations is compromised. Rather, these interactions are seized by the elites, who further decide what constitutes custom. Amanor (2008, 56) states:

[C]ustomary relations are frequently constructed around an alliance between local power elites and the state, which comes to redefine what constitute custom in a situation of change. Thus, the definition and redefinition of the customary frequently...is associated with an adaptation to changing conditions rather than resistance to change.

What this means is that customary law (chief's local authority), which is the result of continuous bargaining and renegotiation between chiefs and community is now redefined by interactions between local power elites (who may not necessarily be chiefs, but local state actors) and the state (center) actors. Once the interaction shifts posts from a bargaining and negotiation among customary (chiefs) and constitutional (state actors) to one between quasi formal (local power elites) and formal (state actors), conflict management and resolution fails. Chiefs, who were "Big Men" under the Native Authority system, and were gradually assuming same position after the promulgation of 1992 Constitution are now in limbo.

However, Tonah (2008) shows how the involvement of post-independence governments in local power structures and customary land management in Northeastern Ghana has created a different parallel land management regime. This time around, it is opportunistic chiefs and state officials on one hand against the earth priests who were the religious and political leaders of settlements, but were displaced with the introduction of chiefs during the colonial period. I address issues in land parallelism between statutory and customary management systems suggested by some scholars (e.g., Kasanga and Kotey 2001, Quan *et al* 2008, Amanor 2008, Tonah 2008) in later chapters. For now, I tackle the evolution of LAP and CLSs that have drawn different positions in the literature. I obtained this information from a key official in charge of LAP in the Ministry of Lands, Forestry and Mines at Accra.

Land Administration Project is an offshoot of Ghana's 1999 National Land Policy, which seeks to give a policy direction as to how best to administer and manage land in the country. LAP is a 15-25 year program, divided into phases. The first phase, 2003-2008, was extended to December 2010. Government of Ghana in conjunction with donor partners –World Bank, Department of International Development (DFID), GTZ and other development partners were the initial funders of the project. The objective of the LAP is to stimulate community development, reduce poverty, promote social stability and prudent land resource management, and develop an efficient land market. Phase I of the LAP has four components: 1) harmonizing land policy and deliberative framework; 2) institutional reform and development; 3) improving land titling, valuation and land information systems; and 4) project management and development, i.e., project management, monitoring and evaluation. Institutional development embodies both the public institutions and the local institutions regarding land administration and management. Customary Land Secretariats form part of the institutional restructuring, and DFID

funded this sub-component to the tune of over nine million dollars up to 2009. The Office of the Administrator of the Stool Lands has taken over the management of this sub-component.

Customary Land Secretariats are local structures, which have been developed by landholding communities supported by the government to see how best they could manage and administer their lands. The observation had been that maladministration and mismanagement of land ended up in conflicts. The development of CLSs could also be said to be a response to scholarly findings. For instance, Sarah Berry had observed that in Ghana “where conflicts over land and belonging played directly into state politics, connections between chieftaincy, state and local governance...are multi-faceted, operating in overlapping but parallel spaces of political engagement and contestation (Berry 2008, 50). According to the LAP official, the focus on CLSs is “because eighty percent of land is owned by the traditional authorities in landholding communities and twenty percent by government” (*August 6, 2010*).

The functions of the CLSs are three: - 1) to keep and maintain accurate records of land transactions within their local areas; 2) to serve as a link between the landholding communities and other stakeholders and between the landholding communities and land sector stakeholders, and 3) to serve as a link between an applicant for land and land management committee of the various areas. These functions were to enhance good governance in land administration and resolve land disputes. A case in point is the resolution of disputes in the Gulkpe-Na's<sup>17</sup> palace in the Northern region using alternative dispute resolution (ADR) mechanisms. With peace follows investments to help develop the local communities. In what appears to be a critique of Amanor's assertion about shifting of the bargaining and negotiation posts among chiefs and government leaders to one between quasi formal (local power elites) and formal (state leaders), whereby conflict management and resolution fails, this LAP official decried the lack of collaboration

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<sup>17</sup> Gulkpe-Na is sometimes referred to as Gulkpe Na or Gulkpegu-Na.

between the District Assemblies and CLSs. The District Assemblies are responsible for land planning schemes, and yet do not value the inputs of the CLSs. District Assemblies do not see themselves as partners with the CLSs despite the growing awareness that CLSs are pivots in the land sector and help in the revenue mobilization of the District Assemblies.

The LAP official also debunked in no uncertain terms the issue relating to politicization of the CLSs. According to him, what the literature presents as a form of elite capture and connivance of state leaders with some influential chiefs to subjugate the bargaining and negotiation interactions in customary land relations were all perceptions.

*In some areas, they are seeing the CLSs as coming to usurp the powers of the chiefs and owners of the land. It's all about power; land is power – political power, financial power, social power. So if these structures are being set up, is it not a cunning way of the government trying to clamp down on traditional authority power at the local level? All these are perceptions, but these perceptions can be erased if there is intensive awareness creation telling the people the functions of the CLSs. They are not to come and usurp power, but to strengthen the existing system, and if possible, improve upon what is there. (August 6, 2010).*

Rather, he corroborated the success of the CLS at Gbawe much touted in the literature. He lauded the decentralized system of the Gbawe model, success of which really hinged on it being a family institution as well as the confidence the family had in their head. Additionally, the Gbawe secretariat has a staff (such as surveyors, attorneys) well versed in land matters, and exhibited attributes essential in good governance at the local level – accountability, transparency and equity. Generally, there was a clear observation of enforcement of the rules at Gbawe Kwatei family.

Gough and Yankson further contend that land management in Ghana differs from other countries such as Zambia, Zimbabwe and Tanzania. In Zambia and Zimbabwe, lands were seized for settler farmers, eroding indigenous tenure systems. “In Tanzania...indigenous rights holders...are only recognized informally by the administration system...in Ghana the traditional system is formally recognized and incorporated” (Gough and Yankson 2000, 248), a trend typical in most West African countries. However, Myers points to an instance in Zambia when the city council attempted to locate solid waste management sites in Lusaka’s peri-urban areas. This time round, the indigenous chieftainesses retained control over their land rights (Myers 2005). Kasanga and Kotey, who also examined the interactions between customary and state land management systems, compare changing tenure in four regions of Ghana – North, Western, Brong Ahafo and Ashanti. They identified the Northern sector as an area very prone to conflict. A major finding is that despite the abundance of land in the Northern region, land disputes, litigation and related problems continue to arise from the “current land administration and acquisition practices, emanating mainly from legislative interventions.....[which] have radically affected customary land tenure systems” (Kasanga and Kotey 2001, 14).

In sum then, even though empirically we see Knight’s institutional theory of bargaining, when applied to the development of parallel institutions, we observe that where there are no interactions, there is no mediation and little conflict resolution mechanisms. But when the interaction among institutional systems marginalizes the previous institutional bargaining and historical contexts with one of the groups (either formal or informal), mediation among state and traditional actors fails. An example is the implementation of decentralization process that now means there is greater interaction of central officials with chiefs. Traditional management of land is then renegotiated and redefined to provide political opportunity structures for a coalition

among state officials and chiefs to challenge traditional labor divisions or chiefs come into direct conflict with state officials, both at the local and central levels. In the former, earth priests who may regard themselves as more in tune with traditional norms and usages are marginalized. Further, Tonah (2008) correlates this division among the priests and chiefs as a breeding ground for chieftaincy succession conflicts. This division expresses as a split among the inhabitants and local lobbying groups.

Besides more intrusion of state actors into customary relations, chiefs are not to actively participate in politics and yet can be appointed to any public office (Article 276 of the 1992 Constitution). This situation may further exacerbate the parallelism between formal and informal rules. Unlike England where churches are not currently subsidized, some chiefs of status continue to receive salaries from the state, and their allegiance to tradition may be compromised if the state is able to use salaries as leverage for subjugating customary relations. This is because the secondary clauses under Article 267 (2 to 9) provide for an Office of the Administrator of Stool Lands to oversee traditional land management.

In Ghana, there is no doubt that the simple institutional bargaining that takes place between and among formal and informal institutions becomes very complicated when a nuanced analysis of the prevailing situation is done. The burning questions are why chieftaincy issues should escalate into violence and murder in Dagbon and why land litigation should be more pronounced in the Northern region and northern parts of Ghana, which is home to Dagbon. What is peculiar about the Northern region, which may not be found in the other nine regions, since research carried across the country still highlight the region? It will be instructive to take a brief look at the Northern region and why it is an anomaly.



## 2.5 The Puzzle of Ghana's Northern Region

Akwetey (1996) suggests that conflicts are more prevalent in periods of economic instability and democratic transitions, but over fifty years after attaining independence and experimenting with four constitutions and two successful democratic transitions, violent conflicts persist in northern Ghana. While conflicts regarding chieftaincy succession and traditional land management do occur all over Ghana, it is still unclear why violence continues in the Northern region.

The Northern region of Ghana has become an enigma for central government, being the only region in the country where political decisions are almost always embroiled in protracted stalemate. For instance, the President of Ghana recently nominated three district (county) political heads to replace the incumbents in the Northern region (*Ghana News Agency* 08.27.10), a rare feature that occurs in most other regions. It is also the only region that continues to experience recurring violent conflicts with no solution in sight, especially in the Dagomba kingdom<sup>18</sup>. The murder of Ya Na Yakubu Andani II is yet to be unraveled. The beheading of Ya Na Yakubu Andani II is a prime example of non acceptance of formal rules and central interference, which is indicative of the parallel operation of formal and informal rules I intend to show. Evidence will be brought to bear in the dissertation that it is the continuation of British indirect rule of diarchy and successive interferences in the succession rules of the Dagomba kingdom that led to the murder of the Ya Na. In exercising his right to celebrate a traditional festival, members of the rival family, the Abudus, who had the corroboration of the District Security Committee, headed by the DCE of Yendi where the palace of the Ya Na is located, connived to disregard the office of the Ya Na. Their contention was that Ya Na Yakubu Andani

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<sup>18</sup> Recent unrest in Bawku in the Upper East region, as recent as September 2009, is also becoming a significant issue for national government.

II had not been properly enskinned, and had not performed the funeral rites of a deceased Abudu king. Events culminating in the death of the Ya Na and forty of his elders showed that this was preceded by a clash of formal and informal rules associated with succession rules. To the extent that this parallel operation persists, instability and violent conflicts will continue until government of Ghana recognizes the Dagomba crisis as an institutional matter.

There is another school of thought that perceives the Northern region as the least decentralized region, potentially making it an anomaly. I find that the Northern region presents an interesting case where more local social interactions seem to be prevalent, and yet it is inconsistent with the hypothesis that societies with more prevalent local social networks are more likely to adopt decentralization values. Using datasets from the 1999 and 2005 Afrobarometer, I find a significant decline in the political activism of citizens to relate to the institutions and structures of the decentralization process, such as District Assemblies, as well as Assembly members and Members of Parliament (Aikins 2007).

The Northern region then is one area to explore in order to demystify the multidimensional nature of decentralization. This is because decentralization may well be turning out to be centralization in guise; it could also be that the inconsistent patterns of the nexus between local social interactions and adoption of decentralization values have implications for acceptance of formal rules. Failure to resolve chieftaincy and ethnic rivalries, as obtains in Ghana's Northern and Upper East regions, has the potential to generate collective dissent, and this compromises the gains from decentralization in terms of service delivery. The Northern region presents a natural laboratory for empirical testing of the competing influence of formal and informal rules in Ghana resulting in recurring conflicts. I propose to show that it is neither intentional change nor subjugation of informal rules operating in the Northern region. Rather,

formal and informal rules may not be in competition in those terms; both are *running parallel* to each other, necessitating a refinement of the existing theories of institutional bargaining, which contend that conflict occurs when there is an interpenetration of formal and informal rules. Further, it is the absence or marginalization of the history of a group (whether formal or informal) that precludes interaction among systems. But at what point does the level of central government interference clash with informal rules such that conflicts escalate into violence and mediation fails, precipitating the need for mediation tactics for effective local government? Baku (2006) asserts that government interference, a continuation of British rule of diarchy, not only worsens local conflicts but also creates political divisions, a development that is fast establishing itself in the Northern region.

Seemingly insignificant political behaviors at the local level that result in conflicts have implications for deepening democracy and achieving the intended outcome of development for fledgling democracies. Conflicts reduce the resources that may be used to promote the political and socio-economic development of countries. The Ghanaian authorities had to allocate \$1.2 million to aid some 200,000 people affected by the fighting in the interethnic violence and killings in northern Ghana in early 1994. The government of Ghana is yet to compute the huge resources that have been spent in the aftermath of the Dagomba regicide in 2002. Security personnel are still deployed in Yendi, while the financial component of the various commissions of enquiry is anybody's guess. Conflict resolution in a country such as Ghana, currently pursuing a dual reform (political democratization and neo-liberal economic development) and yet, some regions still straddle two political worlds, requires a tactical approach. What kinds of conflict resolution strategies would be appropriate for parallelism of institutional systems?

## **2.6 Conflict Resolution and Strategies**

Many conflict management systems have their origins in organizational structures. For instance, Ojielo (2002) identifies interests, rights and power as the three basic elements of conflict. The author cites Moore, Ghais, Woodrow and Wildau (2001, 16 in Ojielo 2002, 50ff.) and identifies three types of conflict management systems. One is organizational networks that form governance and/or dispute resolution systems. Two is institutional governance/dispute resolution systems, and three is a network of individual social leaders who act as mediators. Increasingly also, alternative dispute resolution strategies are being explored as extra judiciary means in some countries. Some scholars have touted African models of post-conflict reconciliation. For instance, Graybill (2004) has suggested three post-conflict methods: pardon, punishment and amnesia. In line with the thinking of others (e.g., Corey and Joireman 2004, Sarkin 2001), Graybill advocates that goals for justice and reconciliation should ensure that perpetrators of crime are held accountable in a timely manner, past conflict and cycles of violence are broken, and peace and cohesion in society are restored and built up. They point to promising traditional judicial systems that help to achieve these goals, one of which is the “gacaca” system of justice, practiced in Rwanda, Burundi and other countries that have been through genocide and civil war. Advantages of employing the gacaca include emphasis on restoration of peace and cohesion, public participation, quick dispensation of justice, elected judges, and apology from perpetrators and compensation to victims. However, the gacaca may be limited by among others, inability to tackle serious crimes (such as the murder of the Ya Na), poorly trained judges, lack of due process, and violation of international law. For Daley (2008, 39), she fears gacaca may “reify pre-modern injustices . . . embedded in these institutions.” But at least, it is one system that has not been tried, for instance, in the Dagomba crisis. Given the

deep-seated reverence for customs and traditions in Dagomba kingdom, is there a potential for adopting the gacaca system as a means to solving the crisis? More importantly, the gacaca system should pave the way to allow capacity development of social institutions for stabilizing social expectations (Knight 1992, 210), repairing social fissures and restoring harmonious co-existence.

The governments of Rwanda and Burundi have sanctioned the gacaca system. Such a system is promising for localities that have a low acceptance of formal rules amidst a high central interference; with declining confidence in the state law courts, communities resolve their conflicts the traditional way. For Acquah (2006), such an enabling environment for traditional rulers or chiefs to govern their subjects derives in large measure from the attitude of the state to the institution of chieftaincy. He cites the examples of the Karimojong of Uganda, the Boran of Ethiopia and the Samburu of Kenya, all in pre-independence Africa where chiefs and their council of elders amicably resolved conflicts. Acquah therefore calls for a revival of arbitral tribunals of chiefs in democratic governance underlain by the rule of law in Ghana. Such tribunals would apply customary law as the main law to deal with conflicts. However, the renowned judge does not speak to conflict resolution mechanisms that could be employed when there is an intrusion of state legalism in informal traditional customs and usages.

Crook (2008) has investigated dispute settlement institutions (DSIs) in three districts in Ghana when the state, local government, the chief, or other parties infringe upon customary landholder rights. It appears there is a preference for local state courts rather than traditional courts. On land disputes, Kasanga *et al* (1996) refer to the customary tenure system at Gbawe in the Greater Accra region where, in the interaction of state and tradition in land tenure and management, conflicts hardly arise. According to Quan *et al* (2008) this tenure system is

acclaimed as a paradigm of the customary land secretariat practice. Indeed, Gbawe served as the template for the blueprint of the CLSs. Before the CLS project was established, there were three pre-existing CLSs – Gbawe, Kyebi and Kumasi, which the first ten pilot CLSs incorporated.

In contrast to Gbawe, the authors assert that in Kumasi and other pilot CLSs that are under the purview of “large and powerful stools,” the traditional authorities have used the CLSs as conduits to secure “centralized control of the stool over leasehold transactions” (Quan *et al* 2008, 190). Chiefs in such areas are seizing the opportunity to consolidate authority over land they previously enjoyed under British control. In the process, chiefs (and to a lesser extent, landowning families) are reinterpreting customary land law already situated in a complex system of land administration, to appropriate the interests of smallholder farmers for both their economic and political interests.

I support the suggestion by Kasanga and Kotey (2001), which calls for a recognition of indigenous land management institutions, as well as a constitutional amendment to evolve conflict resolution mechanisms in respect of land disputes without the disturbing trend of legal or political hindrance. Kasanga *et al* (1996) made a similar recommendation. Quan *et al* point to a glimmer of hope in this direction as evidenced from the encouragement from LAP to pilot CLSs since 2008 to promote better accountability, by partnering representatives of District Assemblies and autonomous community members on land committees that have oversight of CLS operations. They also add their voice to a constitutional amendment that aims at more equitable and efficient customary land management systems. Quan *et al* opine that there is an urgent need for action research to assess pilot and experimental approaches, coupled with debates with policymakers and other stakeholders to resolve the complex issues surrounding land conflict in Ghana. A key aspect of my research is to engage in such a debate with policymakers, traditional

elites and opinion leaders both at the center and the districts. The findings of this dissertation might add impetus to the need for initiating a constitutional amendment that promotes effective local government in Ghana.

## CHAPTER THREE – OPERATIONAL DEFINITIONS AND METHODOLOGICAL ISSUES

### 3.1 Variables, Hypotheses and Data

The model of this research has conflict resolution success or failure as the dependent variable and the level of decentralization and acceptance of formal rules as the key independent variables. This includes the type of conflict resolution mechanism chiefs adopted at the local level. In the model I draw on a matrix (Figure 3) that shows levels of decentralization interacting with mix of formal and informal rules.

**Figure 3: Interaction of Central Interference and Acceptance of Formal Rules**

		Level of Central Interference	
		High	Low
History and Acceptance of Institutional Bargaining	High	<i>I.</i> <i>Success</i> <i>Conflict Resolution</i>	<i>III.</i> <i>Success</i> <i>Conflict Resolution</i>
	Low	<i>II.</i> <b><i>Failure</i></b> <b><i>Conflict Resolution</i></b> (mechanisms fail)	<i>IV.</i> <i>Success</i> <i>Conflict Resolution</i> (mechanisms succeed)

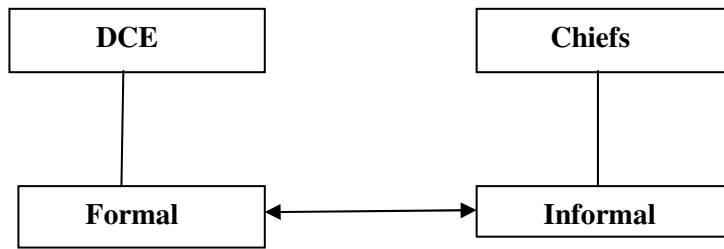
Source: Author 2009

The constitutional decentralized powers of DAs at the local level implemented through DCEs reflect the central government interference. The traditional leaders' level of resistance to change (i.e., resisting DCEs) reflects acceptance of formal rules. How does figure 3 reflect parallel operation of formal and formal rules? Figures 4 and 5 illustrate the assumptions for each box in Figure 3 and captures how the intrusion of central interference in succession rules and land management can evolve. Figures 4 and 5 show the direction of influence: a double arrow



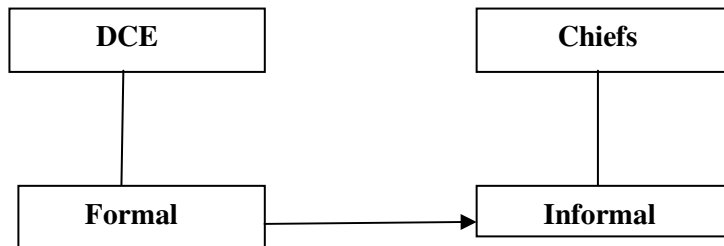
displays a mix of formal and informal rules, while a single arrow reflects central interference (i.e., a lasting influence of British diarchy).

**Figure 4: Mix/Acceptance of Formal and Informal Rules (Box I, III and IV)**



Source: Author 2009

**Figure 5: Parallel/Non-acceptance of Formal and informal Rules (Box II)**



Source: Author 2009

Acceptance of formal rules is an indicator (measure) of this mix. The conceptual definition is local elites' and community leaders' level of acceptance, ranging from low to high. It is important to note that this category is a continuum. High acceptance of formal rules is the case where despite the practice of informal traditional institutions, regional elites and citizens accept constitutional law, and formal and informal rules coexist peacefully. Low acceptance of formal rules is when traditional practices prevail in a community and completely override constitutional rule of law. In this case, no amount of state legalism is tolerated. A caveat is

necessary at this juncture. Not all central laws are rejects, but only specific laws that interfere with traditional practices. For instance, the region might accept and comply with tax laws, but completely reject land management or succession regulations. Contrary to what Knight (1992) suggests, the law-society dichotomy is not rejected. In this scenario, both formal and informal rules appear neither to converge nor diverge, but operate on parallel lines. Medium acceptance of formal rules is the situation when traditional usages occasionally prevail over national rules or vice versa.

Level of central interference connotes centralized authority, where the central government based in the capital, Accra, administers laws and regulations without consultation or inputs from local sub-national bodies. This level of central interference is a continuation of British diarchy. The conceptual definition of the level of decentralization is central government interference, also ranging from low, medium to high since this category is also a continuum. A high level of central government interference then, is when DCEs perceive themselves as autocrats, what I term “Little Man” at the local level, a mimicry of “Big Man” politics at central level. My key point is that this type of decentralization is centralization in guise. A low level of central government interference is when DCEs perceive themselves as facilitators in governance structures of DAs. While they have the constitutional authority to act unilaterally, they employ power-sharing mechanisms in their style of administration. For instance, such DCEs consult with technocrats and people on development planning and projects for the districts as opposed to “Little Men” who exercise absolute power in the promotion of development of their districts. A medium level of central government interference may be observed in ineffectual DCEs – DCEs who cannot take any initiatives of their own and are essentially rubber stamps of central government. Consequently, we can distinguish a continuum through three types of central

interference: high level of central interference is actually low level of decentralization (i.e., centralization) through medium level (i.e., deconcentration) and low level of central interference, which is actually high level of real decentralization (i.e., devolution – a kind of federalism in unitary states).

The conceptual definition of effective local government is conflict resolution. This variable is dichotomous, either high or low. Highly effective local government is when there are accepted constitutional mechanisms to resolve any differences that may arise from the parallel operation of formal and informal rules without violence, permitting the effective delivery of public goods. Essentially then, there will be a peaceful environment both at macro and micro levels and central government has incorporated regional units in its decision procedure on some constitutional agreements. Ineffective government is where the status quo prevails, with no constitutionally accepted mechanisms to resolve any differences that may arise from the parallel operation of formal and informal rules creating contradictions, conflicts and violence. Here, the current understanding of decentralization prevails where regional and local units are not active participants in the amendment or alteration of the constitution.

The level of mediation success then, is a function of level of acceptance of formal rules and history, and level of central government interference. I will show that *it is only when there is a high level of government interference and a low level of acceptance of institutional bargaining that violent conflicts emerge requiring successful conflict resolution strategies*. This acceptance of institutional bargaining also includes the history of acceptance.

From my matrix, I generate four testable hypotheses.

H1 (Box I): High level of central government interference and a high acceptance of institutional bargaining will result in relatively mutual interactions and conflict resolution mechanisms succeed.

H2 (Box II): High level of central government interference and a low acceptance of institutional bargaining will result in conflictual interactions and conflict resolution mechanisms fail.

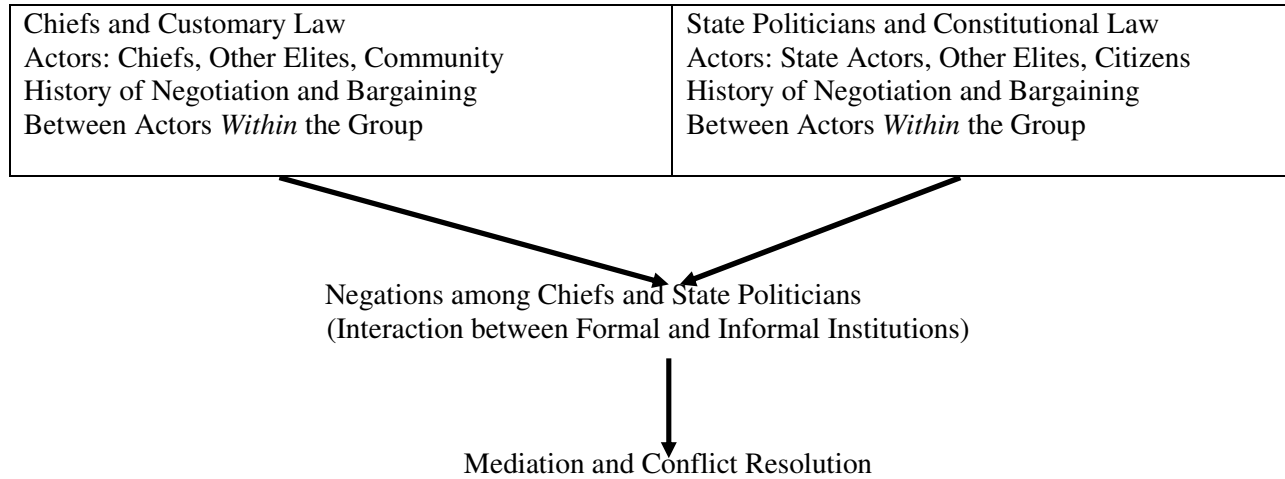
H3 (Box III): Low level of central government interference and a high acceptance of institutional bargaining will result in relatively mutual interactions and conflict resolution mechanisms succeed.

H4 (Box IV): Low level of central government interference and a low acceptance of institutional bargaining will result in relatively mutual interactions and conflict resolution mechanisms succeed.

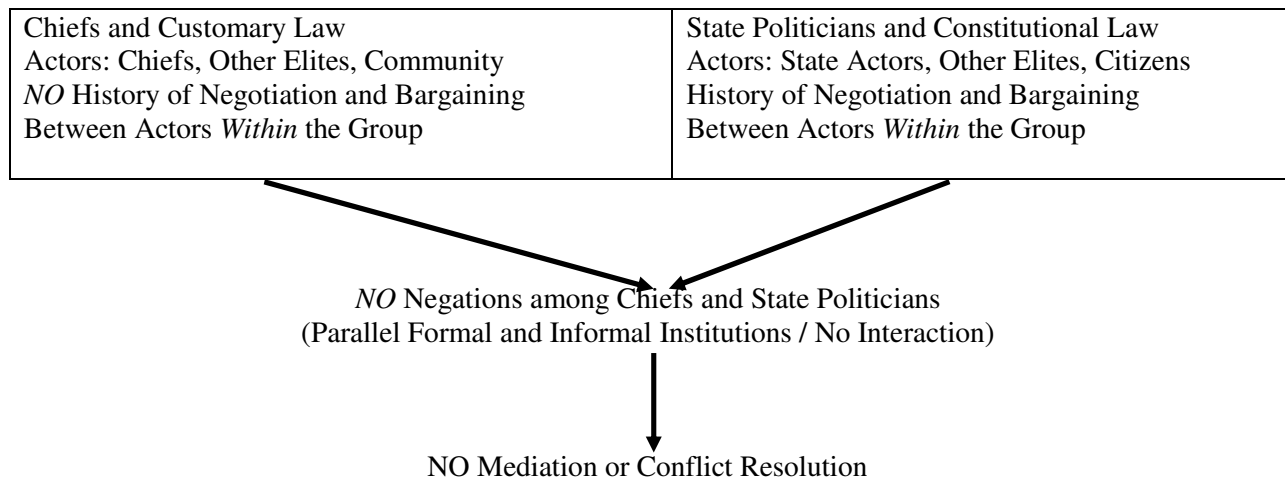
H1 and H3 show that when there is an acceptance of institutional bargaining *within* the group (either formal or informal), then there is a greater level of interaction among the two groups (i.e., institutional systems) and mediation among state and traditional actors is possible even if the level of state interference is low. However, when there is no acceptance of institutional bargaining *within one* of the groups (either formal or informal), then there is less interaction among the two groups (i.e., institutional systems) and mediation among state and traditional actors fails (H2), but mediation among state and traditional actors is possible even if the level of state interference is low (H4). The hypotheses can be presented in a conceptual framework as in Figure 6.

**Figure 6: Conceptual Framework of Institutional Bargaining and Mediation Outcomes**

When there is a history of accepting institutional bargaining *WITHIN* the group (either formal or informal), then there is a greater level of interaction among the two groups (i.e., institutional systems) and mediation among state and traditional actors is possible even if the level of state interference is low (H1, H3, H4)



When there is **NO** history of accepting institutional bargaining *WITHIN ONE* of the groups (either formal or informal), then there is less interaction among the two groups (i.e., institutional systems) and mediation among state and traditional actors fails (H2)



Source: Author: 2010

## **3.2 Research Methods**

### **3.2.1 Choice of research sites**

Before independence, Ghana, then known as the Gold Coast was divided among several kingdoms, of which the most important were the Fanti, who occupied the coastal region, and the Asante, whose territory was further inland. Currently, two prominent kingdoms, Asante and Dagomba, coexist with the prevailing parliamentary democracy. Dagomba kingdom in Northern region, Asante kingdom in Ashanti region and Cape Coast traditional area, an erstwhile Fanti kingdom<sup>19</sup> in Central region were therefore selected. These three regions constitute useful samples to represent the two kingdoms and erstwhile kingdoms of Ghana. Specifically, this project is a comparative research of three districts (counties) in these three regions in Ghana. The districts selected are the capitals of Northern region, Ashanti region and Central region, respectively, Tamale, Kumasi and Cape Coast. The main reason for the selection of these research sites is that they provide a good level of variation on the key variables.

The choice also reflects maximization of public service delivery as a result of decentralization<sup>20</sup>. The Ashanti region is doing well in terms of good service delivery, the Northern region at the other end of the spectrum in poor service delivery, and the Central region is between. Furthermore, the choice also reflects geo-ecological zones. Ghana is distinctly divided into four geo-ecological zones: Coastal Savannah, High Forest, Transition and Northern Savannah; each with unique features. These ecological regions have been endowed with natural resources at different levels with the High Forest zone being the most endowed and the Northern Savannah zone the least 'blessed.' Dagomba is in Northern Savannah, Asante in High Forest and Cape Coast in Coastal Savannah. These zones are the preferred ones by most research done

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<sup>19</sup> A kingdom/traditional area may be composed of more than one district; e.g., Dagomba kingdom at least encompasses Yendi and Tamale geographical areas – Tamale alone has three districts.

<sup>20</sup> Reference my 2007 Master's thesis.

in Ghana, and findings would help future comparisons to other research done in the area of interest of my research. Even though the thrust of the research emanates from the puzzle in the Northern region on persistent conflicts, the cases were selected on the independent variables.

**Figure 7: Administrative and Traditional Maps of Ghana**

**Map of Ghana showing 10 regions**



**Traditional Kingdoms in the Gold Coast**



### 3.2.2 Preliminary research and previous fieldwork

Regicide and numerous land disputes in the Northern region are the main incidents that sparked my interest in the region and motivate the thrust of my research. Consequently, I examined a database of the Northern region as a proxy for the Dagomba kingdom from the Afrobarometer. Analysis of data from the 2005 Afrobarometer database identifies three causes of conflict in Ghana. These are boundary or land disputes, traditional leadership disputes and poor communications or misunderstandings. For instance, the percentages for Northern region are 12.2%, 10.7%, and 6.8% respectively. The usual causes of conflicts discussed in the

literature such as religion, ethnic differences, exclusion from political leadership, political leadership disputes, natural resources and social deprivation appeared not to be relevant. What is rather emerging in the context of the Northern region besides the three identified factors was “personal behaviors.” Recent literature also suggests that in Ghana’s Northern region, local understandings of conflicts center on relationships, rejecting their portrayal as simple resource conflicts (e.g., Jönsson 2009). This finding from the Afrobarometer clearly justifies the focus of this research on land management and succession rules.

The Afrobarometer also has some questions that tap into how conflicts are resolved. Four of the ranking actors in conflict resolution are traditional chiefs/elders/mediators, armed forces or police, local government administration, and traditional courts. Percentages for the Northern region are 17.9, 13.7, 10.4 and 6.0 respectively. Coupled with the traditional courts, the traditional system was more sought after than the security forces or local government administration, both of which could be said to represent government, poignantly bringing into focus again the role of the traditional political system or informal rules in the Northern region. Both chiefs and traditional courts had higher percentages compared to the national average, but a lower percentage with security forces compared nationally. It appears that chiefs become prominent during conflict resolution. The finding that local government may be active in the Northern region compared to their role in conflict resolution nationally may well reinforce the role of local political representatives in the context of Ghana’s political decentralization, especially in conflict prone areas.

The Afrobarometer is a collaborative international survey-research project that measures public opinion regarding democracy, markets, and civil society in 18 African countries. Michael Bratton, the founder and director of the Afrobarometer, has employed datasets for 1999, 2002



and 2005 to examine the instance of formal versus informal institutions in Africa (Bratton 2007). In that study, Bratton also compared the Afrobarometer dataset with Freedom House indexes to boost the reliability of the Afrobarometer. My analysis takes a different tack from Bratton's, which was predicated on North's institutional theory, which basically looked at the nature of institutions and the outcomes of constraints shaping human interaction for differential performance of economies through time (North 1990). Bratton takes his tack from Goran Hyden's "economy of affection," and comes out with three informal institutions – clientelism, corruption, and "Big Man" presidentialism – that appear relevant to struggles for democracy in Africa. I used data from 2005 Afrobarometer since they capture survey findings soon after the March 2002 tragedy. In my interviews, I asked similar questions from the Afrobarometer in terms of sources of conflict and actors involved in conflict resolution, in order to assess whether the trends prevailing at that time hold or have changed. This may ultimately assist in some of my probing questions. Further, some similarity will lend some amount of cross validation to the Afrobarometer questions, where applicable.

In the summer of 2009, I made a reconnaissance trip to Tamale, the capital district of Northern region. While in Tamale, I introduced myself to the authorities of the University of Development Studies and interacted with some workers of the Volta River Authority (VRA) and the Catholic Archdiocese of Tamale. The main goal here was to informally elicit opinions about the murder of the Ya Na. I was surprised at the readiness of people to offer opinions, which suggested to me that there was a real need to investigate this problem. Finally, directly related to this research, I pretested my interview schedules in Winneba district using similar samples for a district as below prior to the collection of data. Winneba is a town located between Accra and Cape Coast, and has similar characteristics to the three selected research sites; a town noted for

recurring chieftaincy disputes arising from succession rules (Ephirim-Donkor 2000) and land disputes. I present the report of the pre-test issues at the end of this chapter.

### **3.2.3 Data collection/Sampling techniques/Sources**

The main techniques for collecting data were elite interviews and opinion leaders' focus group discussions using semi-structured interviews, as well as workshops and desk research. The interview questions are based on the stated objectives in Chapter 1. The semi-structured interviews allow for some comparison, but also additional qualitative information about the process of conflict resolution. Interviews and focus group discussions were mainly done in English (and my local Akan language where necessary, e.g., with illiterate Assembly members). The semi-structured interviews targeted traditional leaders, government officials at Accra and districts as well as members of parliament, while I employed focus group discussions for Assembly members and community leaders involved in local mediation. The subjects for the focus group discussions represent a homogenous group in being neither government officials nor traditional leaders. A similar set of questions in the interview schedule serves as a template for focus group discussions, but allows for emergent themes. The rationale was to get data both at individual and group levels in order to compare emerging patterns, both vertically between subjects in a district and horizontally across districts. My own experience with semi-structured interviews and focus group discussions as well as narratives from others (e.g., Francis 1992 and Smithson 2008) were very helpful in confronting some of the field problems associated with these methods.

I used purposeful (non-probability) sampling techniques for the elite interviews and focus group discussions. The two primary methods are snowball sampling and quota sampling. A total of 105 respondents were sampled out of 150 possible respondents. This is because I faced

some sampling problems in the field. One was the unavailability of central and local government officials. A second reason had to do with locating appropriate traditional elites. In some cases, the initial respondents I interviewed could not or would not introduce me to other seasoned elders for my interviews. However, I circumvented this problem by using my personal relations with key people to contact more traditional elites. No member of the National House of Chiefs was interviewed because the President of the National House of Chiefs was not willing to permit me to interact with them. He initially directed me to formally request permission through the secretariat of the National House of Chiefs. However, the registrar at the secretariat failed in numerous attempts to put the request across to the President, provided the feedback I received from him on several occasions is true. What was most surprising is that the President happened to be closely associated with academia. Further, I never had clearance from the President after persistent efforts to gather data on the biodata characteristics of paramount chiefs in Ghana. The registrar still needed authorization for me to proceed. Consequently, I abandoned a second model of this research, which would have looked at chief characteristics and the potential for conflict. On a brighter note, I had more success with the focus group discussants.

The initial research design called for elite interviews. Ten respondents from central government offices at each locality were to consist of DCE, Presiding Member of District Assembly, District Coordinating Director, Police Chief, State Attorney, and five departmental heads of the DA to be purposively selected from among the 11 departments. In addition, 10 local elites in each kingdom/traditional area were to include the main chiefs (Asante and Cape Coast paramount chiefs, Dagomba regent)<sup>21</sup>, four other sub chiefs, and five key experts in traditional councils of each research area. Dagomba kingdom being the focus of the study, a

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<sup>21</sup> Where norms of the area forbid interviewing the main chief, I spoke to the chief next in the hierarchy as nominated by the main respondent.

balance between Abudu and Andani factions was to have been sought since the feud is between the two families. However, on site, doing this would have compromised the objectivity of the research. I did not want to introduce any biases in the respondents' minds, which may have skewed their opinions. Consequently, I abandoned the search for a balance between the two factions. From the interviews though, I could discern sympathizers of each faction.

Further, I sought to interview 10-15 central government elites from Accra, the capital, comprising Ministers of State (or their representatives such as Deputy Ministers or Chief Directors) from relevant ministries such as Ministry of Local Government, Ministry of Chieftaincy Affairs, Ministry of Justice, and Ministry of Lands and Natural Resources, as well as three respective MPs of the research sites.

Elite interviews were held mainly at convenient locations for the respondents (such as conference rooms in offices) at their preferred times, and lasted between one to one-and-half hours, but some respondents engaged me for almost two hours or more. The most eager respondents even suggested I come back if I needed more information. Tape-recording of interviews was done only with the consent of interviewees. Interestingly, very few respondents refused to be recorded. This reflects a sign of trust in the researcher (me) as well as confidence in their own answers. It was interesting to observe the support of the Assembly officials. Once I began the interviews with them and they seemed to appreciate the value of the research, the officials were more than eager to assist me in every way to achieve success in my research. Table 1 gives a breakdown of the elite respondents interviewed.

**Table 1: Sample size: Interviews**

	Accra	Cape Coast	Kumasi	Tamale	Total
Government officials	12	9	7	9	37
Traditional elites	-	6	5	4	15
Members of Parliament	-	1	1	1	3
Total	12	16	13	14	55

Source: Author 2010

Initially, I interviewed 11 government officials, but after all the interviews, I had to go back to the Ministry of Lands, Forestry and Mines to interview one of the key officers in charge of the Land Administration Project. In Kumasi, the official assigned to liaise with me happened to be a traditional ruler, who willingly filled me in on matters relating to the succession process.

The design of the focus group discussions was based on a quota sample of community leaders, in addition to snowballing sampling. The 10 opinion leaders were selected from the community through the Assembly members in each district. After the initial discussions with Assembly members, it came to light that they would be in a better position to identify key community leaders. My initial fears that the Assembly members would pick friends and like-minded individuals were put to rest when I interacted with the community leaders. In addition, 10 Assembly members in each district were selected with the help of either the Coordinating Director (Cape Coast and Tamale) or Presiding member (Kumasi). The Presiding member of Tamale was based in Accra, while the PM for Cape Coast had traveled out of the country. However, I interviewed the Tamale PM in Accra.

The sampling frame was the list of all Assembly members from each district including elected and appointed members. Selection was based on the membership of relevant committees

and knowledge about succession rules or traditional land management. This approach paid off since in almost every discussion group, Assembly members who also happened to be traditional rulers or elders were selected. Thus, this also increased the number of traditional elites in the total sample. The traditional status of these Assembly members helped the groups' responses in terms of corroborating and complementing the responses of the traditional elite interviewees.

Half of the subjects in each homogenous group (five community leaders and five Assembly members) discussed succession rules while the other half worked on land management. Community leaders held their discussions at conference rooms of District Assemblies just like Assembly members, because these were centrally located. Holding the discussions at the conference rooms was in all cases suggested by Assembly members, with the support of Assembly officials. Table 2 gives a breakdown of the focus group discussants.

**Table 2: Sample size: Focus Group Discussions**

	Cape Coast	Kumasi	Tamale	Total
Assembly officials	10	10	10	30
Community leaders	10	10	10	30
Total	20	20	20	60

Source: Author 2010

Each focus group discussion lasted about one and half to two hours. On all occasions, I had to politely facilitate the discussions to ensure that none went beyond two hours. The first half dealt with semi-structured questions and the second half was an open discussion of conflict mediation. I tape-recorded proceedings from the focus group discussions. Both the interviews and focus group discussions were a solo effort, which I think paid off, because I was able to

preliminarily analyze the emerging patterns for the final roundtable conferences at Tamale, Kumasi and Cape Coast.

In order to confront ethical considerations in grouping more than one research participant, I discussed issues of confidentiality right at the outset of the meetings. This included statements of confidentiality and informed consent (this was also documented in the KU Human Subjects Report). I had no difficulty in getting people for the interviews or the focus group discussions because of the willingness to participate in University of Cape Coast projects. A drawback for the research was that some respondents arrived late for scheduled interviews and focus group discussions. Some interviews either started late or were postponed. In the focus groups, as soon as I had three discussants, we started off with general issues. Yet, by the time we got down to discussing the questions, the other discussants had arrived, each profusely apologizing with the usual Ghanaian phrase: “circumstances beyond my control.”

Once I had letters of introductions (as stated below), I did not have any problems with access to this set of primary sources of data. I obtained letters of introduction from the University of Cape Coast (my university). The four ministries, especially the Ministry of Local Government and Ministry of Chieftaincy Affairs had already displayed an interest in this study especially in various workshops to examine the methods of dispute resolution over land and succession practices arising as a result of the decentralization process. My research is the first of its kind in Ghana. Starting from Accra facilitated entry into the districts based on letters of introduction from the Ministries, reinforcing the rationale for such a study. In addition, I had personal contacts with a number of government officials in Ghana, such as the Deputy Minister of Justice who is also the MP for Cape Coast, the DCE for Cape Coast, the MP for Tamale and

the Deputy Clerk of Parliament. Finally, I had set up relations in Tamale during the summer of 2009.

After the elite interviews and focus group discussions were completed, I organized workshops in all three research sites. Initially, Accra was included, but I put that off in order not to preempt the policy recommendations of this research. The purpose of the workshops was not only to disseminate and discuss the preliminary findings with respondents, but also to bring together the four categories of respondents, i.e., government officials and bureaucrats, traditional leaders, opinion leaders and Assembly members in the communities. These workshops were variants of the focus group discussions (less structured approach) where the participants were encouraged to talk to each other, rather than mainly responding to questions as in the initial focus group discussions (See Appendix 2 for workshop questions).

Three themes came up for discussion in the workshops, viz. 1) role of traditional authorities in local government and decentralization; 2) conflict resolution mechanisms for chieftaincy succession disputes to promote effective local government; and 3) conflict resolution mechanisms for traditional land management disputes to promote effective local government. Under (2) and (3), participants were requested to address the role of the traditional authorities, the district assembly, and members of parliament. Further, syndicated sessions discussed whether a constitutional amendment to legislate resolution mechanisms to forestall future chieftaincy succession disputes should be effected.

I facilitated the discussion to elicit conflict resolution strategies as perceived by the participants (see Smithson 2008). Another point worth noting is that the workshops helped fill in the omitted responses from either the semi-structured interviews or focus group discussions. Finally, the workshops provided me with an opportunity to double check data and transcripts.



Moreover, they brought out themes or discourses unanticipated in the research, to help come out with resolute conflict mediation tactics.

In addition to the primary sources of data collection, I consulted many secondary sources. These included research documents and publications, parliamentary acts and bills, reports of committees of enquiry, and workshop proceedings. Some of the interviewees also gave me relevant documents, some of which I purchased. There are both the advantages and disadvantages of using documentation and archival data that other social scientists have published (Heaton 2008 and Prior 2008). I take note of them as I discuss the findings in the ensuing chapters. In order to tease out governmental actions especially after March 2002, I turned mainly to Hansard reports of the Ghana parliament. The appropriateness of the Hansard reports lies in the fact that the constitutional (and democratic) development in Ghana makes parliament a major contributor to governance structures not only in crafting and passing bills, but in having oversight responsibility over executive functions.

I incorporate a mixed-method approach in this research to clearly delineate the operation of the parallel formal and informal rules. Primary data alone may not have been adequate (especially in matters of so called “tradition secrets”), and thus, resort to secondary data to tease out research done on succession issues and land disputes. Mixed-methods not only helped in thinking ‘outside the box,’ increasing scope for theorizing beyond the macro and micro, and deepening the logic of qualitative explanation (Mason 2006), but also had implications for the outcomes of the research in terms of corroborations, elaborations, complementarities and contradictions (Brannen 2005).

### **3.3 Operational Definitions and the Use of Standard Questions, Semi-structured Interviews, Focus Groups and Archive and Documentation**

There is a distinction between the presence and implementation of laws (level of decentralization) and the actual opinions about whether the laws are a hindrance (level of acceptance). The conceptual definition of the mix is the level of local elites' and community leaders' acceptance and the operational definition is the interview questions that address their opinions about whether or not national or District Assembly rules or involvement pose a hindrance to the chief's selection process or land management. For example interview questions 2, 4, 6 and 8 (See Appendix 1). The conceptual definition of decentralization is central government interference, and the operational definition is the exercise of constitutional decentralized powers by the DCEs and bureaucrats of DAs at the local level. I elicited from interview questions that address actual laws on the books as well as their opinions about the presence and implementation of central and District Assembly laws and regulations regarding chief's selection process and land management. For example interview questions 1a, 3, 5a and 7 (See Appendix 1). While the traditional leaders answered all general and specific questions, central government officials and District Assembly officials answered questions relating directly to them (e.g., 2, 6, 11 and 15 for central government officials and 3, 4, 7, 8, 12, and 16 for District Assembly officials (See Appendix 1).

The conceptual definition of effective local governance is conflict resolution. This variable is operationally defined as mediation tactics local elites, community leaders and officials of DA employ. One set of interview questions revolves around the ways local elite and community leaders resolve local conflict (one local conflict such as succession rules and one more regional such as land), while the other set elicits responses from DCEs, bureaucrats of DAs

and Assembly members. The level of mediation success then, is a function of level of acceptance of formal rules and level of central government interference. Questions on conflict resolution can be found in the second part of the interview schedule (See Appendix 1).

Questions in the focus group discussions were similar to the individual interviews, but were explored in an interactive manner. In lieu of background characteristics for the participants of the focus group discussions, I inquired about the current events of the community (obtained from newsprints, etc.) to check on the knowledge of respondents regarding their communities. The discussions were recorded by tape. After the transcription of the data from the tapes, the tapes would be erased.

### **3.4 Research Schedule**

The total period for the fieldwork research was slightly over three months during the summer of 2010, spanning from May 13 to August 19. The pretest was conducted during the winter break of 2009.

Elite interviews were scheduled at the convenience of the elites – (also see Ross 2001). I had planned on interviewing two respondents a day, after initial appointments had been set up. However, some respondents requested I interview them right after meeting them, and there were occasions where I conducted more than two interviews per day.

Focus group discussions were done concurrently with the elite interviews. The implication of this is that in each research site, I estimated to stay there for a minimum of two weeks, but not more than three weeks. However, because I had to work around respondents' schedules, there were occasions when I shuttled between sites, especially between Accra and Cape Coast. The workshops were held in the second and third weeks of August 2010. The

transcriptions and coding were accomplished by mid-October, 2010 after returning to KU. I sorted and did quality control checks on the responses for coding of the interviews and the focus group discussions.

### **3.5 Methods of Data Analysis**

In the first step of the analysis, I transcribed all the interviews, focus group discussions and workshop proceedings. Then I sorted and screened the data for quality checks. Following that, I coded the data and used Statistical Program for Social Science Software (SPSS) to determine frequencies for descriptive statistics. The initial coding scheme used simple frequency distributions on the following questions: the selection process of chiefs and the main principles underlying traditional land management in the communities; whether central government in Accra or the District Assembly are involved in the process or rules of land management; whether central government/District Assembly rules or involvement are hindrances to the selection process or land management; whether there have been any conflicts over the succession of chiefs/management of land in the communities over the past ten years; the role traditional leadership played in the conflicts; role central leadership in Accra played in the conflict; role District Assembly played in the conflict; whether the conflicts have been resolved or not; how the conflicts were resolved; role traditional leadership/central leadership/District Assembly played in mediation; if no conflicts, how the potential conflicts were avoided and mediated; role traditional leadership/central leadership/District Assembly played in mediation. Since the instrument is a semi-structured questionnaire, open-ended answers were written down and coded according to emerging themes.

Background characteristics of respondents such as length of residence in community/length of stay in office; educational background; age; sex; marital status; occupation; professional background; family size; ethnicity and religion were also analyzed based on closed ended questions. In lieu of background characteristics for the participants of the focus group discussions, I inquired about the current events of the community (obtained from newsprints, etc.) to check on the knowledge of respondents regarding their communities.

Descriptive statistics help determine two types of patterns. The vertical pattern looks for trends mainly in the data (responses) between government officials and traditional rulers in districts, but also government officials and opinion leaders in districts, traditional leaders and opinion leaders in districts, and opinion leaders and Assembly members. The horizontal pattern examines trends across same category of respondents in research sites. I am very cautious in the comparisons since some responses are from semi-structured interviews on the one hand, and focus group discussions on the other. The unit of analysis for both is the groups. This is the rationale I used in making the questions for both the semi-structured interviews and focus group discussions as similar as possible.

### **3.6 Research Prerequisites**

The research involves human subjects; therefore I applied and received approval from the Human Subjects Committee Lawrence (HSCL), which is the Institutional Review Board for the University of Kansas. The approved application covers issues regarding payment to subjects, subject selection considerations, copies of the research instruments and consent form requirements.

### **3.7 Pre-test Issues**

After my arrival in Ghana on December 27, 2009 my main objective was to set up relations and pretest the interview questions. The first person I interacted with was the Member of Parliament of Cape Coast and Deputy Minister of Justice (Deputy Attorney General) in his office in Accra, the capital. I informed him about the purpose of my research and the part he was expected to play during the main research in the summer of 2010. Another rationale for meeting the Cape Coast MP was that I know him personally, and believed he could introduce me to the Ministers of the other three ministries that are vital to the research. So enthused was the MP with the research that he got on the phone to speak with the Minister of Local Government, who readily agreed to meet the following day even though he had decided to take a short leave off work prior to starting the new year, 2010.

The next day saw me at the office of the Minister for Local Government. On hearing me out on the purpose of my visit, his excitement was greater than that of the Cape Coast MP. The Minister informed me that this was the research he had always been hoping that someone would come out to investigate; a research that borders on the interaction between state officials on one hand and traditional authorities on the other hand. According to the Minister, an on-going research by one Ben Guri was investigating indigenous knowledge in local governance, but that the core problem he had come to meet on assumption of duty as the Minister of Local Government was the lack of cooperation between the traditional authorities and state officials as represented by District Chief Executives, District Assembly officials and sometimes even extending to Assembly members, who ironically part ways with local ideals upon being elected. This latter tends to breed friction between traditional authorities and the Assembly members.

Consequently, the Minister was of the view that my research was very apt for the current situation and was willing to assist in any possible way to see the research through.

As a first step, we agreed that since I intended to pretest the research in Winneba, one of the municipalities in the Central region, the Central Regional Minister who is not only the political head of the region but also the head of the local government structure in the region was to be informed of the research before I proceeded to Winneba. Subsequently, I traveled back to Cape Coast to set up an appointment with the Central Regional Minister on December 31, 2009. The meeting with the Central Regional Minister took the same format as those with the two Ministers I had earlier met. First, outlining the purpose of the research. Second, the need to pretest the questions in an area that had similar characteristics to the three-selected research sites for the main research to assess the feasibility of the impending research. Third, informing the key government officials and actors of the pretest research site. Fourth, seek permission and introduction to the Winneba Municipal Assembly. The Central Regional Minister was equally excited about the research and directed the Regional Coordinating Director to write a letter to the Winneba Municipal Assembly.

The preceding events and the readiness which the state officials were willing to assist me in embarking on the pretest is a pointer to the relevance of the research in the promotion of local governance and political development of Ghana. The initial fears about the difficulty in obtaining letters of introduction and the presumed bottlenecks that might arise to compromise the feasibility of the study were thus allayed. One incident that showed the willingness of government officials to cooperate with the research was my acceptability as a research fellow at the Institute for Development Studies (IDS) of the University of Cape Coast (UCC) and

underscores the fact that people were always ready to work with research and projects that are associated with UCC.

Winneba is a town noted for recurring chieftaincy disputes arising from succession rules (Ephirim-Donkor 2000). Ephirim-Donkor's book speaks of characteristics similar to the prevailing events that resulted in the murder of Ya Na, the king of the Dagomba kingdom in Ghana's Northern region in March 2002. January 1, 2010 being a national holiday in Ghana, I set off to Winneba from Cape Coast early Monday morning of January 4, 2010. On arrival at Winneba Municipal Assembly, I introduced myself to the Municipal Chief Executive, who directed I see the Municipal Coordinating Director. Informal interactions with some community residents suggested that the Municipal Chief Executive had not shown deep familiarity with local government implementation, and would normally delegate official matters first to the Coordinating Director.

The Coordinating Director, just like the state Ministers with whom I had interacted with earlier on, was also quick to assist after receiving the letter of introduction from the Regional Minister and hearing me out on the purpose of the pretest. For him, I could not have chosen a better site for the pretest and inquired whether I could not include Winneba municipality as one of the main research sites. Since I had set aside one week for the pretest in Winneba, we agreed that his staff would set about locating willing Assembly members for the focus group discussions, and that tentatively, the focus group discussions could come off on Wednesday January 6, 2010 at 10:00 am. When I requested for the list of Assembly members so that I could begin the recruitment process, the Coordinating Director indicated that his staff would contact the Assembly members and get me five willing respondents who could give me inputs on succession rules and traditional land management respectively. Recall that the focus group



discussions were structured similar to the interview schedule; pretesting the questions was my focus.

I spent the rest of the day inspecting the Municipal Assembly conference room which was readily assigned to me when I requested for it as the venue for the focus group discussions. Thereafter, I searched for and secured a caterer in Winneba to inquire about expenditure towards lunch for the respondents on the day of the focus group discussions. Lunch was meant to be the compensation for the respondents. After these preliminary set-ups, I tried to make contact with the Winneba chief, but was told he had then enrolled as a student of UCC, and coincidentally at IDS! He was out of town and would not be available for the rest of the week. That notwithstanding, I was able to contact two sub chiefs, whom I informed to be in readiness for interviewing if I saw the need for it after the focus group discussions.

Come Wednesday at 9:30 am, I arrived at Winneba from Accra. Tuesday saw me in Accra because during all the interactions with the Deputy Minister of Justice, the Minister of Local Government and the Central Regional Minister, I left copies of the interview schedule for government officials for their comments and suggestions. Both Ministers in Accra however could not give me a feedback then because even though I had made advance appointments with them, they were occupied with other national duties<sup>22</sup>. By 10:00 am, three of the five Assembly members had arrived and were ready to begin the first focus group discussion. By consent, we waited for the other two members, and after initial introductions at the Municipal Assembly conference room, we started the main business. This is how the focus group discussion went.

At exactly 10:45 am, I discussed issues of consent and ethical considerations with the five Assembly members. I informed them about their voluntary consent and that they could

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<sup>22</sup> I however later spoke with the two Ministers on phone when I arrived back in the United States for their comments. Both of them thought the questions were comprehensive for the purpose of the research.

decide to cease to be part of the discussion at any time. After obtaining their consent, I inquired about the possibility of tape-recording the proceedings, to which they all agreed. Following their consent on these preliminary issues, I explained to them the purpose of the research and that I would appreciate their candid opinions on state-tradition interactions that existed in their municipality. Further to that, I made the respondents aware that this was a pretest and that the larger summer research would be conducted in Cape Coast, Kumasi and Tamale Metropolises<sup>23</sup>. One of the focus group discussions would consist of Assembly members such as them because of the importance of Assembly members as local legislators in local government. In addition, I informed them that the discussion would be in two sessions, the first more structured addressing the issues I would raise, with the second more of an open discussion.

I started the main discussion by asking for the length of residence of the respondents, length of service as Assembly members and general conditions of Winneba municipality. When I inquired about major contemporary issues that affected the development (political and socio-economic) of the municipality, spontaneously they agreed that the three most important issues constraining the development of the municipality were chieftaincy disputes, land disputes and *festivals*. These responses came as a little bit of surprise to me since I had given them no inclination that the focus of the research was on chieftaincy succession rules and land management practices. The more surprising answer was festivals! Inquiring further why festivals, brought to light a connection that I had been grappling with in the prospectus on the relevance of chieftaincy succession rules. Apparently, and then it became so obvious the linkage between festivals and chieftaincy succession rules. As the discussion unfolded, it became clear that festivals were part of the validation of the position of a chief and a sign of conflict resolution

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<sup>23</sup> It is interesting to note that after the focus group discussions, all the respondents unanimously requested that I add Winneba Municipality to my research sites, to which I replied that I would consider their request based on increased funding.

over the rightful successor to a throne. Festivals were indications of the legitimacy/illegitimacy of a chief and this has implications for their successful celebrations. The definition of legitimacy here could clarify what I meant by *informal* rules in the prospectus.

Festivals either could not be traditionally observed or the celebration would proceed but with the intervention of the state in terms of providing security using the police and army. Further, such an intervention by the state was most likely to allow a festival to proceed where a party to the chieftaincy succession was either affiliated to the state government or a competing faction of the families to the throne was comparatively advantaged in aligning to the ruling government party. *And that is a crucial issue that led to the murder of the Ya Na.* Links of potential nominees or substantive chiefs to government or not influences the dynamics of succession rules. Subsequently, from the pretest, I got a suggestion on a future research that will show the relevance of festivals to the interaction between formal and informal rules. More importantly though, I also needed to define clearly what I meant by *informal*. This is because the *perceptions* of what is meant by local actors (for Ghanaians in general) are distinct and very different from the legal definition of informal. My take was that in the larger theoretical framework to situate the formal-informal interaction between state and tradition, it would not be out of place to look at state-church separation and how this informs on the dynamics between formal and informal rules in state-tradition relations. The pretest also validated the importance of using interviews for this research.

Well, since the participants had already introduced chieftaincy and land disputes, as well as festivals, I did not continue with the two other background issues – the impact of Assembly members in the development of the municipality and the major traditional activities in the municipality – since these could be inferred from their discussion. We moved on straight to

chieftaincy succession issues. Succession rules in the choice of chiefs were the preserve of two royal families, but over time these rules had become diluted with a migration of different inhabitants to the municipality. In the process, the history of the Winneba people was getting lost. Few scholars have investigated the Winneba chieftaincy issue. They include Ephirim-Donkor (himself a chief) and Quaison-Sackey, but they appear to be biased in their narratives of the Winneba succession rules and how chiefs are chosen due to their respective affiliations to one of the royal families. To this end, the respondents were exceptionally happy that I was researching into such an issue since I was an outsider and not affiliated to any of the royal families.

The pretest led to a revision of some of the questions. Equally importantly, it gave me an insight as to what to expect in moderating the focus group discussions, as well as timing for the questions. The total duration of the discussion was about one and half hours. After thanking them, I informed them about a similar discussion the following day with another set of discussants from the Assembly. The respondents indicated their willingness to be subjects again if I was willing to continue into the afternoon. This was welcome news, since I was equally pressed for time in my short stay in Ghana.

After seeking permission from the Coordinating Director, who informed me that the same respondents were as equally savvy in traditional land management as succession rules, we launched into the second focus group discussion on land management practices after an interval of 20 minutes. Traditional land management in Winneba is similar to what obtains from some of the responses in the main research findings. Consequently, I will allude to this land practice in the ensuing chapters. Similarly, the responses regarding central level interference and factors contributing to the non-resolution of conflicts surrounding succession rules and traditional land

management, as well as strategies for conflict resolution of succession rules and traditional land management would be incorporated into the findings of this dissertation.

## CHAPTER FOUR – SUCCESSION RULES IN GHANA

The selection of chiefs in Ghana conforms to Article 277 of the 1992 Constitution. However, central and local government interference introduces an interaction of formal and informal rules into succession rules, what essentially is an informal process. This interaction has implications for the level of acceptance by both the local elites (traditional rulers and District Assembly actors) and community leaders. What the central government and District Assembly involvements point out is a subtle manipulation of central government in the chief choice process. Without visibly expressing this intrusion, the government machinery finds loopholes either within the legal supporting framework or meddles in the negotiation process that goes on within the chieftaincy institution. Consequently, I examine whether or not national or District Assembly rules or involvements pose a hindrance to the chief's selection process, which turns out to be positive.

### **4.1 Selection of Chiefs**

The 1992 Constitution of the Republic of Ghana 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” (Article 277). Clearly, this article in the Constitution protects the institution of chieftaincy. Nevertheless, this leaves the selection of a chief (or queen mother) open to the various informal rules based in the different traditional settings within Ghana. Customary norms coincide almost perfectly with the different ethnic groupings in the country, and therefore depending on the ethnic backgrounds of the interviewees and focus group discussants, we could identify a variety of succession rules in the country. Yet, two main forms

stood out; selection was either matrilineal or patrilineal. In the matrilineal system, when a chief dies or is destooled, his brother, his nephew, his nephew's son or his grandson can succeed him. In the patrilineal system, brothers inherit the chieftaincy; therefore when a brother died, another brother would take over. Else, it could also be strictly from father to son in some communities; in such instances, succession must go to a son.

Further, most respondents described the Akan and Dagomba type of selection processes. This was not surprising since from the 53 elite interviewees, 57.4% of them were Akans, while slightly more than a fifth was of Hausa or Mole-Dagbani ethnic origin. Ghana is in the process of undertaking a population census in 2010, but Akans constitute the largest ethnic group (45.3%), of which the major subgroups are the Ashanti (in Kumasi and the center of the country) and the Fanti (in the center of the coastal region). Four main ethnic groups constitute the Northern region of Ghana: Konkombas, Nanumbas, Dagombas and Gonjas. Dagombas are the dominant tribe here, and constitute about 15% of the entire population in Ghana<sup>24</sup>. Consequently, I describe the succession rules in Ashanti kingdom, Cape Coast traditional area and Dagomba kingdom. These descriptions come from a collation of the succession process from the interviews and focus group discussions. The selection processes are purely traditional. Following a successful installation, the name of the chief is sent to the National House of Chiefs. It is when the National House of Chiefs subsequently enters the name of the chief in its register, that a chief is deemed to be gazetted; central government then recognizes that person as a chief.

#### **4.1.1 Succession in Ashanti kingdom**

The process of selecting a chief is lengthy. When a chief dies and is buried (the funeral is performed after a chief is installed), the queen mother (*Ohenema*), elders of the royal family and *Abusuapanyin* (head of family) confer and subsequently, the queen mother makes a nomination.

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<sup>24</sup> See for example *CIA – The World Factbook - Ghana*.

This is because the Ashantis have a matrilineal system. Not all families have queen mothers. Many houses or gates may comprise the royal family, and each gate is entitled to the throne. So each gate presents a candidate. Besides the family heads of each gate, the stool also has an overall family head. It is this Abusuapanyin and the other Abusuapanyins who deliberate over the selection of the candidate.

The Abusuapanyin initiates the process by announcing a vacancy and inviting applications, irrespective of whether candidates are royals or not. The non royals are rejected. Royal candidates may even be as many as ten, and the Abusuapanyin selects one. If the stool has a queen mother, she selects the candidate taking into consideration the character of the person. Before then, all eligible candidates would have brought drinks (schnapps) and money (these two correlate with the magnitude of the stool) to an intermediary in the royal family expressing their desire to be considered. Occasions arise when there is disagreement on the nomination of the queen mother, but this is ultimately resolved when Otumfuo, the *Asantehene* (Ashanti king) adjudicates on the matter. A leading traditional ruler put it this way:

*Nobody in the family should either say “I don’t want it” or “I don’t support it.” You can’t say it, but you can advise her on the person’s true blood relation; Abusuapanyin might say “Ohenema, you better be careful, this person doesn’t belong to us or our family. Even though we celebrate things together with them, that person is not a member of the royal family.” And if the queen mother decides that she will nominate that particular person, then the Abusuapanyin can swear the ‘great oath’ on her, that you better stop, because...that person ...is not a true blood of the royal family. That case will go to Otumfuo, and Otumfuo will adjudicate on it and find out exactly if that person is a true blood of that royal family or not. If that doesn’t happen – if nobody tells the queen mother or advises the queen mother that this person is not a true blood – then the queen mother’s nomination will hold. The nomination will then be given to Gyaasehene,*



*who in the Akan system is the custodian of all the properties of the stool, including the royals. And he, because he knows the royals, all the properties of the stool, he can also advise the queen mother, “Nana, you better be careful because I haven’t heard any history about these people belonging to your family.” (It) will only be an advice; he cannot swear an oath on the queen mother. But because he is an elder, he can also advise the elders to be careful because the person the queen mother is nominating is not a royal. If nobody says anything, the Gyaasehene accepts the nominee, there’s no problem. (Kumasi July 8, 2010)*

Typically then, the queen mother nominates one of the candidates and presents the name to the Gyaasehene, who in turn presents the name to other kingmakers (sub chiefs), who are eligible to be considered elders of that stool. It is the duty of the kingmakers to also investigate the background of the candidate to find out whether he has been in prison and is an ex convict, is a drunkard, etc. If the queen mother did her homework well, the kingmakers will normally accept the nominee. They are not concerned about the true blood relation between the nominee and queen mother, but the character only. The true blood should have been settled at home. The character of a potential chief must be above board. As one traditional ruler indicated,

*In the Akan system, there are certain restrictions or taboos – a nominee must not be deformed, must have clear eyesight, must be a person with good behavior, must not have been sentenced by a court of competent jurisdiction, so many of them, and you must not be a womanizer, you must not be a thief...So they will decide on that and if nobody can bring out a charge that this person has done this, then he is accepted. (Kumasi July 8, 2010)*

Following the acceptance, the kingmakers present the nominee to his group. Acceptance by the kingmakers is the election. This election is normally by consensus. In the event that there is some dissension within the kingmakers, a majority vote confirms the election of the candidate.

Otumfuo has divided the Asante kingdom into groups – Kronti, Akwamu, Gyaase, Ankobea, Kyidom, Mawere, and Nkuosuo. The appropriate group will also investigate the mode of selection. Having satisfied themselves that the family duly selected the nominee, the group would request for customary drinks, after which a date is scheduled to present the candidate to Otumfuo. If Otumfuo is pleased with the choice, he will direct that the candidate be sent to a place, where the candidate is initially tutored about certain issues regarding the stool – the dos and don'ts – before the candidate is requested to offer appropriate customary drinks and 'money drink.' The kingmakers take a portion and present Otumfuo's share to him.

Next, the candidate is sent to a gathering of the kingmakers and the state, where he would be requested to offer appropriate customary drinks. The representatives of the candidate or preferably, the elder through whom the candidate initially approached to express an interest in the stool, pay the equivalent of the drinks in cash. A linguist<sup>25</sup> pours libation with one of the bottles of schnapps brought along by the candidate, after which the candidate is outdoored through the community with showers of praise from the citizens, especially the women. Then back to the palace, where the candidate dressed in black to signify that he is mourning, is given a sword to swear an oath of allegiance to the elders – that he will abide by any advice offered by the elders, he will see to the development of the community and promote the welfare of the people. The elders then in turn swear one by one to the candidate. A date is then scheduled at which the Otumfuo is formally informed about the success of the mission. A portion of the

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<sup>25</sup> A traditional chieftaincy norm in most parts of Ghana is that citizens communicate to chiefs and vice versa through a linguist.

‘customary drinks’ and drinks are presented to the Otumfuo, through the appropriate linguist; for instance, if the stool is in the Nkuosuo division, it is the linguist from the Nkuosuo division. It is during this presentation that Otumfuo schedules a date when the candidate will swear to him at *Manhyia* (the Asantehene’s palace).

On the appointed date, the candidate arrives with his delegation and swears with the sword he used previously (there are many different kinds of swords); this sword will be amongst many at Manhyia which the candidate draws and swears. The linguist will inform the candidate about all the necessary customary rites regarding his stool. The equivalent of this is paid to the linguist before the candidate swears to Otumfuo, after which he offers thanks in the form of envelopes to many recipients, from Otumfuo even to the police. The envelopes may be accompanied by goats and drinks. Otumfuo and *Nananom* (the assembled chiefs come to recognize the nominee as the incoming chief) then welcome the candidate. After completion of all the ceremonial rites, the candidate then retires to his community, where the Gyaasehene, linguist, queen mother, kingmakers and all who are permitted to enter the ‘stool house’ at night perform certain rites as well. It is during that period that the candidate is placed on the stool three times to signify that he is now a chief. Depending on the candidate’s status – if he is qualified to swear with the highest sword, same as the one Otumfuo and some divisional chiefs use – the Otumfuo would have presented him with a goat (otherwise, the candidate would have to secure his own goat); it is this goat that is slaughtered in the ‘stool house.’

The following day, the candidate is ‘carried;’ he may not necessarily be carried in a palanquin if he has no money for that. Any time the candidate could afford, he would be carried in a palanquin to a gathering, and when seated, the candidate is welcomed again. The Otumfuo may personally go over to welcome the new chief, or he may send a delegation for that purpose.

This opens the way for the candidate to be sent to his appropriate group, where he reports to them, and then he retires to his house. The next day, the candidate dressed in white, will now be welcomed by his family to signify his new status as a chief. Then the candidate finds an appropriate time to thank Otumfuo, after which he is assigned to his seat at Manhyia where he can place his stool during meetings.

In the selection of a chief in Ashanti or Asanteman traditional area, the role of the queen mother is key, as in most Akan areas. She has an arduous task of determining the best out of the suitable candidates. This can be inferred from what one Assembly official said,

*According to custom, from the Akan point, we are maternal. So, it is a son of sisters, for example, in some areas, it is the son of the first daughter or any of the daughters. So within the royal setting, the women – the sons of sisters or cousins – are the eligible ones in the Akan custom. Some go to the extent of nominating the first son of the first daughter. So if that daughter doesn't have a son, then the next daughter's son will be the next in line. So it's actually a selection of sons of sisters or first cousins, more or less, within the royal family...The queen mother determines who is eligible. As I'm saying, they have to pick one among those. If the first son is seen credible, then they don't have a problem. Then it's so obvious, they just pick him and he becomes their (chief). Otherwise, maybe the third or the fourth one is more industrious, more responsible; he takes care of home affairs and things like that. Because if the first son for example, has gone to live abroad for so many years, he doesn't even come home, maybe even married to a white woman or a foreigner – virtually lost his roots, we cannot go and bring such a person and make him chief. That's the way it works. That is why it is not automatic. (Kumasi June 30, 2010).*

It was the contention of Kumasi community leaders that queen mothers sometimes found themselves in a fix. In order to avoid disagreements from their nominations, they put forth their own sons, which could generate conflicts as well. Speaking to the same issue, Kumasi Assembly members described the evolution of disagreements, and the subsequent role of Otumfuo. Interestingly, the current king, Otumfuo, is the son of the queen mother, but this did not create any confusion when he was nominated.

Where there is disagreement on the suitability of the nominee, the matter is forwarded to the Otumfuo. A committee is set up, and at that hearing, each side is made to present the history of their line of succession. The report of the committee is then presented to the Otumfuo. The ruling from Otumfuo is considered final. For instance, it may be that the nominee is indeed from the family, but history will show that his ancestors were originally not from the community. What happens is that citizens of Asanteman are hospitable people, who easily integrated members of their clan hailing from other places outside of Asanteman like Dunkwa or Kyekyewere. In due course, over a long period, there was a blurring of the true descendants of the royal clan, and an opportunistic descendant of the integrated clan may then wish to contest the throne.

Some other anomalies may arise because in the past, children could be given for partial adoption by the royal family, in that when such children were of age, they would have to go back to their original parents. However, such children were considered part of the royal family, and their descendants may then equally desire to sit on the throne. Another conflictual situation arises when there are no males to inherit the throne. Typically and traditionally, the Asantes have a matrilineal line of succession, and in situations where there is no maternal son, a male from the paternal side could be requested to be a substitute. The descendants of such a chief may

then also insist on their right to the throne. The desire to allow a paternal son to reign because of his wealth or status (e.g., a doctor) may occasionally have been the case in the past. Rather than being a one-off case, the descendants point to this ancestor to claim a right of place to the throne.

Another interesting issue that came out during the focus group discussion was that there are two categories of chiefs in Ashanti kingdom: – those who swear allegiance direct to Otumfuo and serve him, and those, who, despite having sworn the oath of allegiance to the Otumfuo serve under the queen mother. This scenario arises because the queen mother is custodian of her own lands, and has chiefs who minister to her. Indeed, the Kumasi Member of Parliament I interviewed believes ‘queen mother’ is a misnomer; the appropriate title he preferred was ‘queen.’ In sum then, for a smooth selection of a chief in Asanteman traditional area, a range of actors determine the customary line of succession. However, the role of the queen mother and Abusuapanyin matter most, and it is the bargaining and negotiation between these two key actors, followed by the negotiations of these two on hand and with the kingmakers on the hand, that eventually leads the community to accept to recognize a chief. Is the process the same in the case of Cape Coast, another Akan traditional area?

#### **4.1.2 Succession in Cape Coast Traditional Area**

Unlike the uniformity in the Asanteman traditional area, which spans Ashanti region, and parts of the Eastern and Brong Ahafo regions, selection of chiefs shows subtle variations in Cape Coast, albeit with the Akan influences observed in the Ashanti kingdom. Succession is also matrilineal. Further, in Cape Coast, chiefs are also selected based on ancestry, but with a more nuanced understanding. Chiefs are those ancestors who explored the virgin forest; the first people to set foot in an area and chose to stay on that land because it was habitable. The first

such person to settle in such a virgin land is said to own that land. A traditional leader who explained the lineage stated:

*In Akan parlance, we say that, 'a chief is the owner of the land,' as witness the accolade given to a chief during festivals – 'the owner of the land is approaching.' Later settlers in that land became your citizens or your descendants, and you their chief. When the chief dies, it continues with his lineage. (Cape Coast June 21, 2010).*

That ancestral history was considered important was reiterated by a chief,

*My ancestors were originally from Techiman, and came to Cape Coast even before the castle was built. They came with their stool and their gods... Those who joined us in Cape Coast are those from Efutu. Cape Coast has its owners. Before you are enstooled as a chief, it implies that there is a stool in your house or family. (Cape Coast June 27, 2010).*

In Cape Coast, succession is vested in the *Asafo* companies<sup>26</sup>, because they constitute the core of the *oman* – state (community). When I inquired from another chief the importance of the *Asafo* companies in the selection of a chief, he indicated that they were the ones who would fight during a war. Consequently, they were the rightful people to interview a candidate to acknowledge that he could lead them in battle. Wars are a thing of the past in Ghana, but the *Asafo* companies persist within the traditional set-up. Their presence is usually manifested during festivals and community work.

When the last chief died in 1996, the heads of all the *Asafo* companies met. *Nkum* No. 4 was the first *Asafo* company to settle in Cape Coast and therefore is still deferred to in the selection of the paramount chief. Subsequently, it was the prerogative of *Nkum* No. 4 to request

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<sup>26</sup> The term “company” has nothing do with business organizations. The *Asafo* companies are the backbone of specific community groupings.

a candidate from the deceased chief's family to sit on the vacant stool. In the recent case, all the *Supis* (leaders of the Asafo companies) met with their overall head, the *Tufuhen* signifying the beginning of the process to select a successor. The Nkum Asafo went along with the staff of the state, i.e., the staff of the Tufuhen, accompanied by the linguist of the Tufuhen and one representative of each of the Asafo companies to the head of the deceased chief's family.

The Asafo companies have the right to reject the nomination of the family three times. The nominated person has to meet the attributes of a chief; he should not be a drunkard, a thief nor be disabled. Next, the selection body will investigate the background of the nominee, much like the kingmakers do in Ashanti kingdom. Because of democratic rule, even though the head of the family had the prerogative of nominating candidates, he summoned all the five royal gates and presented the issue to them, requesting them to nominate suitable candidates. After that, the selection body summoned a series of meetings to vet the candidates, eliminating candidates along the way. Consequently, the vetting process could span a period of four months to enable the selection body do their background checks. Questions posed included why one wanted to be a chief, one's vision for the state, and knowledge about the stool.

In the recent case of Cape Coast, the Mbra faction had ruled for 101 years. The selection body therefore decided that this time around, for democracy's sake, the stool was to go to another gate. A District Assembly official gave me an insight into this long reign of the Mbra faction.

*The history I know is that the Mbras were originally not part. Historically, under the colonial rule, the then Governor decided that if they are not able to pick a substantive chief, he would put one there. So what happened was that then they had to run it, and because they were not able to get anybody from the principal houses – four in all, he decided to go for this guy who was working at Saltpond at the ports. Ohen mbedzi mbra, Ohen mbeka mbra (translated as a chief to*



*rule and act according to law). Hence, the name Mbra 1, 2, 3. The other houses never took keen interest in the chieftaincy. That's where the Mbras reigned from 1 to 2. That's where the name of Kwesi Atta happens to be Kwesi Atta II. If you doubt it, you have to go back to Kwesi Atta I. That was how they managed to get it. So for a generation, people thought it was the Mbras because for hundred years they have ruled. That is how we have Kona Ebiradze. These are two clans or so, which will never meet, but because of that linkage, it became Kona Ebiradze. Ebiradze is a separate one and Kona is a separate one. So the merger came, and after a period, they decided that now we have to take it back, through the process of you also nominating somebody who also will go through the vetting and fall by the way. That was where the conflict started, because the generation that came never knew about this historical antecedent. (Cape Coast June 17, 2010)*

After the vetting, two candidates stood out, with almost similar qualifications – both were chartered accountants. What weighed in the favor of one was to select the “uncle”<sup>27</sup> and not the “nephew” in line with the adage that “if Nkrumah (the ninth born) is living, Badu (the tenth) cannot be an heir.” Following the vetting, the divisional chiefs (councilors of the *Omanhen* – paramount chief) were informed to receive the candidate. Under normal circumstances, this welcome of the successful nominee is a symbolic act. However, this time around, the divisional chiefs accepted, but indicated that since they were the ones to work with the paramount chief, they also wanted to investigate his background. The real motives of the divisional chiefs however, was to examine whether the precedence of a rotational basis in the selection process existed. Recall that the late chief’s line had ruled for over a century, which nullified any semblance of rotation. The *Omanhen* subsequently swore the oath, led by the Asafo companies

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<sup>27</sup> Kwesi Atta II just alluded to by the District Assembly official.

to a place called the *Adzewofodanpanomu*, where the candidate placed his foot on a stone and swore to the Asafo members. Once that is done, it is believed that a person is now the chief, which the Asafo companies recognize as such.

The chief is subsequently confined for eight days or two weeks as suitable. It is believed that during the confinement, the chief communicates with his ancestors on how to govern, as well as enable him to plan the development of his reign. It is also a period of medical examination to determine the fitness of the person, as well as to nourish the candidate. The idea is that the candidate comes out on the eighth day as a changed person. Following the confinement, the chief is taken to *Prapratam* – the meeting place for the state – amidst firing of musketry. It is at *Prapratam* that the chief swears to the oman, who in turn, swear to the chief. This place is also the place where a chief is destooled. Thus when a chief, knowing that he has committed some misbehavior, is summoned to *Prapratam*, this is a signal that his reign is about to end.

One would ask, “Where is the queen mother in the selection process?” Well, unlike the Ashanti kingdom, the queen mother’s role is very much in the background. Where there is one, the *Abusuapanyin* consults with her in the nomination process. In the absence of a queen mother, it is the old women in the royal house – the *Mberewatsia*, who are consulted because they know the history of the family. Typically in Cape Coast, it is not the ratification of a nominated solo candidate; rather, it is a vetting process. However, unlike the Ashanti kingdom where the selection process is similar down the hierarchy, in Cape Coast traditional area, variations exist. The salience of the Asafo companies, so key in the selection of the paramount chief, may be virtually absent as one goes down the hierarchy.

In a prominent suburb just about five miles from the Cape Coast town center, the royal Ebiradze family consists of two houses – Egyir Ansah faction and Obrempon Kojo faction. As it was explained by the chief,

*It is done on rotational basis and is matrilineal. Candidate is expected to be educated, and the selection is not done on elderly basis. We were five candidates and I was chosen. I was interviewed by the Abusuapanyin and queen mother, and they subsequently introduced me to the town elders. (Cape Coast July 26, 2010).*

Another chief more distant from the town center describes the selection process:

*In my village after the family meets, the elders at home think about it and nominate a candidate. The candidate is selected on rotational basis. The Abusuapanyin first presents the nominee to the family to be initiated. That indicates that the candidate has been selected. It is after this that the family presents the nominee to the oman for them to also select you. If the state accepts, the candidate is confined for one week, after which a date is scheduled for the candidate's installation and swearing. The candidate swears to the state, and the state in turn swears to the nominee. After that, the candidate must swear the oath of allegiance to the Omanhen and his elders and perform certain customary rites before he is acknowledged as a chief, after which the traditional council prepares your CV forms for submission to the House of Chiefs to be presented to government for government to gazette the chief. Then you become a full chief.*

Education and gazetting of a chief were issues that were emphasized by the Cape Coast respondents. As the Cape Coast Assembly members indicated during their focus group discussion, previously, qualities such as educational background were not relevant.

Consequently, identified princes were expected to be morally well groomed. Cape Coast community leaders described how in the past, a candidate may have been confined for a period

of three years, where he was groomed about his role as a chief. He was expected to score more than 67% of a test to qualify to be selected. This preparation period used to be as long as 13 years after the death of a chief. Morals matter, as we can see from the scrutiny of the character by either kingmakers in Ashanti kingdom or divisional chiefs in the recent Cape Coast chieftaincy selection. However, education is becoming equally important to qualify as a chief. Indeed, out of a total of 10 chiefs I interviewed during the research, five had tertiary education and four had at least, secondary education. Government recognition of chiefs through the gazetting process, while mentioned by respondents, was opposed by some traditional elites; this would be taken up later in the section on central level interference.

Clearly, the succession rules in the Cape Coast traditional area conform to the general Akan tradition. There are some slight differences in the process, since the process depends on the traditional area. It is the uniformity of the process in the Ashanti kingdom that is striking. However, we should not assume that all Akans follow the matrilineal succession process. In Winneba, where I pretested my interview questions, it is patrilineal. In Elmina traditional area, a fishing community which borders Cape Coast traditional area, it is also patrilineal and here, the Asafo companies are more salient in the selection process than what obtains in Cape Coast. One respondent diligently elaborated on the process:

*Elmina is a little bit different. It is the Asafo companies who nominate a chief. What they do is they have a place called Achodo close to the Elmina castle. Then the number seven Asafo company will go there; because theirs is not matrilineal, it is interesting. Theirs is patrilineal, so it could belong to any family; it must be the son of either a former Omanhen. They go through the selection process at the beach. Then the number seven Asafo company will go and inform the general Asafo company that when they went, this is what happened. If the latter also endorse it, it is after this that the candidate is taken through the process of confinement. In Cape Coast, the*

*Asafo members have a say, but theirs is not as pronounced as in Elmina. Because it is matrilineal, the family nominates the candidate, and the Asafo companies – representing the oman – with the divisional chiefs consider and accept, and the rest follows.*

(I: So the Elmina one is much like the Winneba one, which is also patrilineal?)

*Yes, I don't know how it came about, but it is interesting. The society itself is matrilineal, but the succession of the Omanhen is patrilineal. However, with the divisional chiefs, sub chiefs and so on, it is matrilineal – it belongs to families! Not so with the Omanhen, which is patrilineal. (Cape Coast June 19, 2010).*

Patrilineal succession is more prevalent in the Dagomba kingdom. I describe this in the next sub-section.

#### **4.1.3 Succession in Dagomba kingdom**

I want to begin this sub-section with an insightful statement made by a government official who is not a Dagomba, but of Akan ethnicity, to show how unique and striking chieftaincy is in the Dagomba kingdom:

*Dagbon here, the chieftaincy is very unique. What I have been told is that it involves something like a promotion. You don't stay at one place as a chief. When you start, you may be in a village, but when there is vacancy – it can be a higher skin – they move you there, unlike the Akan system where if you are chief of Apam, you are chief of Apam till (death). But here, you can move, maybe, from Garijegu and go and go. Some people know that when they start from here, they will end at Yendi. It's rich and wonderful, the way it is done. Every chief knows where he will end. (July 15, 2010).*

In the northern part of Ghana, there are four main traditional areas or kingdoms; they are Mamprugu, Yabon (Gonja), Nanum (Bimbilla) and Dagbon (Dagomba kingdom). The selection

of chiefs in the Dagomba kingdom is very complex, but unique. Previously, a nominee could refuse the chieftaincy title, especially in the past when chieftaincy was not considered prestigious. In Dagbon, it turns out that there are three categories of chiefs, those chosen by God and the ancestors, inherited chiefships, and chiefships which are offered and bestowed on people for recognition of past services. This is how one chief described the beginning of the selection process:

*Chiefs are chosen in two ways. There are certain chiefships that are chosen through soothsaying. That one, we say our ancestors and God choose those chiefs. And there are certain chiefships which is an honor bestowed on someone for past services rendered to chiefships. Those are the chiefships in Dagbon that people compete and buy. But the traditional customary one is by soothsaying; they cannot refuse it, they refuse it at their own peril, because if God and the ancestors have destined that you should lead and you refuse the leadership, God and our ancestors will not forgive you. (Tamale, July 22, 2010)*

The traditional customarily selected and inherited chiefs make up the royal family. They must belong to a lineage, and they normally *ascend* to the throne “by virtue of their fathers and ancestors being chiefs, because Mole-Dagbani is a stratified society” (*Tamale MP May 27, 2010*). This Member of Parliament explained the structure of Dagbon society and excluded himself from the royal lineage; “I am a commoner within the Dagbon tradition, and can never be a chief. It is a form of a caste system in that place except that it does not hold you into slavery. Everybody is born into a professional group.”

However, it is the king or Ya Na who selects the chief. When a chief dies, all the contestants would pass through the linguist to inform the regent of their intention to ascend to the throne. The regent, son of the deceased chief, acts as chief until his father’s funeral is

performed. Would be contestants would then approach the regent and his elders (kingmakers), visit them as often as they could, and sometimes take gifts to them. The chief in turn consults the elders to see whose turn it is, because there are so many gates to one particular skin<sup>28</sup>. The elders would advise him which gate was more qualified. The skin is then offered to the qualified gate. After the funeral of the deceased chief is performed, the king of Dagomba, Ya Na, selects or chooses a person from that gate. No other person has a hand in this selection. Consequently, some of the respondents referred to the Ya Na in this particular sense as a kind of dictator, even though he selected according to custom. This is because he is the only person who has the right to make a choice. The authoritarian tendency enmeshed in the complexity of the system was aptly alluded to by one chief. This is how he explained it.

*In Dagbon, the Ya Na can pick anybody and make him a chief, and nobody can say anything about it. He may even pick a stranger and make him a chief. And Dagbon has an unwritten Constitution. It is just like the British Constitution which is done by precedence. When something happens, it becomes part of the system. But strictly speaking, what happens is that it comes from the lineage. In Dagbon, it is rather complex. Fortunately, my direct uncle has ever been chief of this village. We deal with the male (inheritance). But before that, I can't trace any of my direct, except the extended family which has ever been chief of this village. You see how complex it can be. There are several gates, as far as prince hood is concerned in Dagbon. For instance, you can have the real princely lineage that traces their (line) to the Ya Na. And there are other people that will trace their (line) to the followers. They may be kingmakers, advisors and so on and so forth. All this follows lineage, but as to the followers, you can pick anybody and make him a chief. But there are certain skins that you can't unless you are just a strong chief, for instance, if I want to make anybody an elder, I will call it an elder of this village. Nobody can*

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<sup>28</sup> Gates refer to the different houses within a royal family in parts of Ghana, particularly in the north. In the northern parts of Ghana, skins are the equivalent of stools (thrones) in the southern part of Ghana.

*stop me. But there is a laid down precedence. You must follow the laid down principle. You must be part of the system that has ever happened or else you are going to set a precedence. (Tamale July 19, 2010).*

After the Ya Na selects a person, he chooses a day for his enskinment, and this the regent and his elders would do. The point though is that selection to a vacant skin is by ascension. The chief who described the autocratic bias of the Ya Na to me had just moved from one village to the current one; he had ascended or been promoted, as it were.

The death of a Ya Na has similar but specific dynamics. Three paramount chiefs together with the regent (eldest son) qualify to ascend the throne. Normally, the regent would qualify only if he belonged to the three paramount skins of Karaga, Savelugu and Mion. Moreover, the fathers of the occupants of these three skins should have been former Ya Nas. This was a very important clarification, because the prevailing view is that only the occupants of Savelugu or Mion could ascend to Yendi, the throne of the Ya Na. I was also thrilled to know that the history of Dagbon had not been lost in the present generation, and that the current conflict between the Abudu and Andani gates was indeed not a case of Dagomba kingdom made up of only Abudus and Andanis. I probed these issues with one of the chiefs as part of the conversation on the selection of chiefs in Dagbon.

*The royal family are those that climb. Somebody would start from a smaller chief, sub chief, then to chief, then to divisional, then to gate skin. If their father was a Ya Na, once they get to the gate skin, they can become Ya Na. But if you are within a gate skin and your father was not a Ya Na, you cannot be a Ya Na. Then you become a grandson. Grandsons don't get as far as Ya Na. Only direct sons (blood) can become a Ya Na.*

(I: The grandsons go to Karaga?)



*No, it isn't destined that they go to Karaga. It so happens that Karaga, his grandfather could not ascend to the Ya Naship and died at Kore. Then his children aspired and went beyond their father's limit and got Karaga. But because their father could not get to Yendi, they cannot get to Yendi. So they stay at Karaga. But if this Karaga man should die and they choose a Ya Na son, he can get to Yendi. Savelegu, if they choose a direct Ya Na's son, he can get to Yendi, Mion if he is a direct son, he can get to Yendi. The qualification is two criteria; one, you must be in the gate skin, two, you must be a direct son. So you could be in a gate skin and you are not a direct son, you are disqualified. Direct sons aspire to get to the gate skins to enable them become Ya Na.*

(I: Those skins are three?)

*Yes, Karaga, Savelugu and Mion.*

(I: So where do the Abudus and Andanis come in?)

*The Abudus and Andanis, Yakubu was their grandfather. Yakubu gave birth to three sons, Abudulai, Andani and Mahami. It is Mahami's children or grandchildren who cannot now get there, because Mahami did not become Ya Na, whereas Abudulai became a Ya Na, Andani too became a Ya Na. Hence Abudulai and Andani, that's how it's come about. (Tamale July 22, 2010).*

Community leaders in one focus group discussion emphasized that the ascension line for a Ya Na was being subjected to competition in contemporary times (*Tamale July 22, 2010*), a feature prevalent in the Upper East and Upper West regions that was alluded to by another Tamale District Assembly official (*July 16, 2010*). Previously, the path to become a Ya Na began from Savelugu to Karaga to Mion, and finally to Yendi. The misplacement of Karaga could therefore be said to be the issue that leads to the prevailing view about the right to Yendi boiling down to a rotation between the Andanis and the Abudus. As it were, the Andanis and Abudus also ensure that only sons of former Ya Nas are enskinned at Savelugu and Mion,

effectively maintaining the precedence. Besides the ascension, enskinment was also hierarchically structured. As discussed by the Tamale Assembly members, the king enskins the paramount chiefs, who in turn enskin divisional chiefs, divisional chiefs sub chiefs and the process goes on to the village level. Community leaders also added that the paramount chief (or higher chief) who is expected to enskin a candidate has a say in the selection besides the kingmakers.

The role of queen mothers was hardly mentioned in the responses. Even though I did not pursue the rationale behind the virtual absence of queen mothers, the marginalization of females is well known in Islamic settings in Ghana. That Dagomba kingdom is dominantly a Muslim society could be the reason for this anomaly. It could also be that queen mothers were not very instrumental in succession rules of Dagbon. What I did find is that matrilineal succession was somehow significantly present in Dagbon, a society in which primogeniture is now dominant. About 20% of succession could be considered matrilineal (*Traditional elite, Tamale July 16, 2010*). One chief spoke about matrilineal succession without any prompt from me.

*You Akans, you think you are matrilineal, but the Dagombas, not on paper, but in principle, we are more matrilineal than you people. It is not just said that we are matrilineal, because there are certain skins that are reserved for children of women princes or children of women followers, you can coin it in anyway, or children of women elders. For instance, my daughter can have her skin. Since she is not a boy, she has been disenfranchised from the main line, but they have their skins. So she can have her line. For instance, in Dagbon, there is only one person who can chastise the Ya Na, the Lion of Dagbon and that is the Gundo-Na who is a woman. Nobody else, no man born of a woman can say that. When you in Akan you say you have queen mothers, we have real chiefs. And there are certain skins that rotate between men and women or women chiefs...in Mamprugu and Dagbon. Women have their line, men have their line. Insofar as I cannot be*

*chief, then my children can become chiefs. And there are certain areas that the women themselves can become chiefs. Where they cannot become chiefs, their children can become chiefs of certain places. (Tamale July 19, 2010).*

In conclusion, succession rules vary according to the traditional area or kingdom. However, as was reiterated by all respondents, irrespective of the traditional norms and customs associated with the rules, the selection of a chief had to conform to Article 277 of the 1992 Constitution. Therefore, where can we put the blame for the incidence of conflicts and disputes that arise in the succession rules? Is it because of the protection of chieftaincy that gives rise to conflicts, that is, do the conflicts arise within the customary sector itself? Or does government interfere in the process? These questions lead to whether there is a mix in the implementation of the laws and the actual opinions about whether the laws are a hindrance. This is because this mix has implications for the level of acceptance by both the local elites (traditional rulers and District Assembly actors) and community leaders. The opinions will also speak to whether or not national or District Assembly rules or involvement pose a hindrance to the chief's selection process. Further, the questions posed above relate to the level of decentralization effects as defined by central government interference. I take up these issues in the next section and chapter five.

#### **4.2 Central Government Interference and Interaction of Formal and Informal Rules**

The selection of chiefs in the three research sites shows the informality of succession rules in Ghana. Moreover, the succession rules described are very representative of what obtains in Ghana. In the other examples of succession processes that I encountered during the research, be it in Greater Accra, Volta, Upper West, Upper East, Brong Ahafo and Eastern regions, as well

as other parts of Central region, the Akan model or something close to the Dagomba paradigm was the case. On many occasions during the data collection, respondents were very emphatic that the process was purely traditional, and generally conformed to the constitutional provision of choosing persons hailing from the appropriate lineage. It stands to reason therefore that there should be no central government or district assembly involvement in the chief choice process. Yet, eight out of the 53 elites interviewed indicated that these involvements were present.

This was interesting because while all the categories of the respondents (central government officials, one MP, traditional elites and District Assembly officials) were represented in claiming central government intrusion, it was only one MP and a DA official that alluded to the involvement of the DA. The latter two were split between Tamale and Kumasi. What was more interesting, were the reasons attached to this central government interference. The first had to do with gazetting of chiefs which necessarily brings in government. Article 270 (3b) requires that after chiefs are selected and successfully installed, their names are registered and publicly recognized as such in the registers of the traditional councils, Regional House of Chiefs or the National House of Chiefs. This is the gazetting process. Central government recognizes a chief after the National House of Chiefs enters the name of the chief into its register. Strictly speaking, gazetting should not be considered a level of interference, because as we have seen from the succession process, chiefs are gazetted *after* the traditional and customary processes. That gazetting of chiefs was an intrusion by government was explained by a chief, who stated:

*The entrenched question of registering chiefs has brought about many problems. Number 1, with a chief, it is his people who recognize him. They know his worth; it is not a matter for the government. We were there before government came, and nobody recognized that he must be gazetted somewhere in a document. Consequently, if a chief is misbehaving, he should not be*

*destooled until a certain procedure is followed first. In the olden days when these issues were not there, if a chief misbehaved, he was invited to an open forum in the state (community), e.g., at Prapatam, where you are required to answer your charges. No lawyers (attorneys) were involved; only your family could intercede on your behalf. If the residents believe you are destroying their state, you are destooled... In the past, stools of queen mother were not outdoored in state; only the stools of chiefs were exhibited in public. Unfortunately, these days, queen mothers are even gazetted. Queen mothers now have power to challenge chiefs. This is wrong. In the past, it was those of us chiefs who sit on blood stools that are the ones invited by government for discussions. Now, even so called foreign chiefs in our state want to be gazetted. All these issues are a pollution of our culture. (June 27, 2010)*

Insofar as this traditional ruler was concerned, gazetting diminishes the importance of chiefs as beholden by their subjects. He also decried the situation where queen mothers were now being placed on equal footing with chiefs; a feat that definitely would be cheered by gender activists, but certainly an affront to the largely patriarchal chieftaincy institution in Ghana. But these were not only the concerns of the renowned chief. He explained further the genesis of the gazetting process, which he attributed squarely at the feet of colonialism.

*It is the colonial system that has created conflicts in succession rules in Cape Coast. How come if a chief questions the rationale behind certain acts of the slave trade, he is banished to the Seychelles island, and another chief from elsewhere is brought to oversee his land? It is not right. That is how both the Asantehene (Prempeh) and our chief were sent to Seychelles island. All these factors have made our chieftaincy matters take different turns... Consequently, when a chief is to be selected, the government is interested in somebody who will support us, somebody who will mobilize the voters for us. Despite the fact that the Constitution says Nananom (chiefs)*

*do not take part in active politics, yet still they (government) try to hide behind chiefs. This is also not fine. When they do this, they compromise Nananom. So a lot of things have to change.*

A government official however considered gazetting as a legal manipulation by central government. This is how he explained the issue:

*But indeed, if you even look at the law, gazetting and the rest, government will say it has no hand. You need to get through the House of Chiefs, but finally it is the government that has to recognize. (June 1, 2010).*

This government official was one of the respondents, who, though had a very busy day ahead of him, interacted with me for over two and half hours. He described in detail how government interference has been covertly employed right from colonialism to the present crisis in the two chieftaincy conflicts that have assumed national importance – Dagbon and Bawku. Government involvement is expressed in a variety of ways: setting up commission of enquiries; ensuring security at festivals or government ineptitude thereof; and discounting a kind of traditional colonialism as seen in the history of the Bawku case besides the gazetting issue he mentioned. The key point he makes is that these interventions do not make sense if “it [succession of chiefs] is purely traditional.”

The act of interceding during disputes about the legitimacy of a chief is also another avenue for central government to get involved in the succession process. The point at which government intervenes could be anytime during the process. As stated by another government official, this intervention by government officials has “sometimes confirmed the ‘false perception’ that the government may be aligned to one of the feuding factions” (*Accra June 1,*

2010). Indeed, this line of thinking was espoused by a DA official and the MP. As the MP explained,

*Government should normally not be involved, but because of the politicization of national life, government tries to influence the choice of divisional and paramount chiefs because of their position as opinion leaders. (June 3, 2010).*

The DA official was among about half of my total respondents, who told me that I could mention their names if I so desired. He boldly narrated an incidence in the installation of a prominent chief during the government of the National Democratic Congress between 1992 and 2000. This DA official claimed that even though the chief was a royal, he did not belong to any of the gates because he was ‘brought’ to one of the royal houses. The chief was installed only because he was an NDC supporter and government assisted him to continue with the installation process using the police. When I probed further that he was maligning all the relevant actors – head of family and elders – essentially disregarding the traditional process, he claimed to be a descendant of this ‘illegitimate’ chief. However, as intimated by the MP’s remarks above, there is so much politicization of national life in Ghana, which calls for circumspection in the perception that the government may be aligned to one of the feuding factions in a succession conflict.

That circumspection is necessary can be gleaned from the remarks of a chief, who tried to differentiate between political influence and governmental influence.

*Sometimes there is political influence, not governmental influence. There may be political activists in the royal house or family. The rightful candidate may not lean towards the party in power, and apparently may not get the support of the family. But the installation of a chief is strictly traditional, and is determined by the family, with no governmental influence. So it is with destoolment. The Constitution allows chieftaincy issues to be decided on by chiefs, and not the*

*courts. If the issue is not resolved at the traditional council, it goes to the regional traditional council, then Regional House of Chiefs, National House of Chiefs, which serves as an appeal court. It is only when the matter is not resolved that it is taken to the Supreme Court for a final decision on installation or destoolment.*

*However, the political influence could generate a lot of discontent. For instance, during Kwame Nkrumah's era, a lot of chiefs were involved in politics. Consequently, with the overthrow of Nkrumah, majority of these chiefs were also destooled. That is why in the subsequent Constitution, it was legislated that chiefs must not take part in active politics. This is because the chief is a father to all in the community unlike politicians who come and go. A chief cannot be destooled till death, even if he is terminally indisposed. (June 27, 2010).*

One MP and a District Assembly official cited DA involvement in the succession process. While one of them was speculating that the DA is the lowest wing of the government that would definitely involve the Assembly if government took an interest in a particular skin or stool, albeit under cover, the other was emphatic about DA interference. For the latter, central government works through the District Chief Executives to influence the choice of a chief by using sticks and carrots. Usually, such candidates may previously have aligned to particular political parties.

The views of the key elites on government interferences in the succession process were almost in sync with the opinions of the six focus groups. While only one group indicted the central government, none accused the DAs. However, it was the general contention of discussants that both the central government and the DAs could come in when there was a breach of security or peace. Further, in line with the perceptions of interviewees, government involvement would be done clandestinely. It was normal not only for the government, but any



influential person to have an interest in a succession issue. However, government's apparent involvement is seen when some individuals with their own political interest came in. Such involvement became problematic when it surfaced, because they would influence not only by lobbying but also through monetary inducements.

The sentiments of the only group that contended that government was involved in the succession process were very illuminating. This group of Assembly members noted that there was a lot of political interest and intrusion into chieftaincy matters, even though the government was expected to stay out of chieftaincy matters. However, to draw that line is very difficult, because the government may have the objective of seeing to the development of the community. For instance, the group referred to the establishment of a chieftaincy secretariat, which signals to chiefs that government has their interest at heart. Ironically, this noble venture could also create an opportune linkage between government and some chiefs.

Certainly, what the central government and DA involvements point out is a subtle manipulation of central government in the chief choice process. Without visibly expressing this intrusion, the government machinery finds loopholes either within the legal supporting framework or meddles in the negotiation process that goes on within the chieftaincy institution. The level of decentralization, defined as central government interference, is evident with the involvement of DCEs. Clearly, and without doubt, government involvement also shows that formal rules are interacting with informal norms and traditions, because succession is purely traditional. To what extent can this interaction be considered a mix of formal and informal rules?

The conceptual definition of mix is the level of acceptance by local elites and community leaders. We can examine this by looking at the opinions of respondents regarding

whether or not national or District Assembly rules or involvement pose a hindrance to the chief's selection process. Four key elites out of the eight who indicated some form of government involvement believed that this involvement was a hindrance to the process. Basically, for them, government had no business in chieftaincy matters, whether succession or disputes; this was a constitutional requirement. But again, the issue of where to draw the line between chieftaincy and government comes in again, as can be inferred from the dialogue between me and this DA official on DA involvement:

*Sure, because it impedes the smooth flow of decision making. Either they do it covertly or overtly. If it is covertly, they might either influence the enskinning authority either with money, with power, with enticement whatever. So he might not pick the person who could have led his people to follow the laid down traditional rules. So the person who will be picked is the favored person of probably, the ruling government. And so that person will come, and will subvert certain decisions that the people may want to take in regards to their development. So it's an impediment in a way. If they could be allowed to flow freely, so much the better. But it also helps the government to do good governance, because if a chief opposes the government, you can understand what will be the implications.*

(I: So it is a chicken and egg case?)

*Yes. Honestly, anybody who denies that there is political influence in our chieftaincy, even you can think of the Asantehene, the Ya Na, the Akim chief or the paramount chiefs. Government has some influences, you can't deny it.*

(I: Like the government's backing for Nana Akwasi Agyeman during the selection of the Asantehene?)

*His backing was weighty. (July 16, 2010).*

I was in the position to ask this last question, because a chief had alluded to this earlier in one of my interviews.

*The government in a subtle way will maneuver, like when King Osei Tutu was vying for the stool. At that time, NDC (Rawlings) was in power, and the mayor of the city, Kwesi Agyeman is a royal. So the government was actually interested in seeing their own becoming the king of Ashanti. There's nothing wrong with that.*

(I: It was just an expression of interest)

*Yes. They cannot impose him on us. We won't accept him. That's for sure. There was some maneuvering. They sent a delegation of ministers to the queen mother to confer with her and ask her that this is our own, he is a true royal and you can think of him, it will be good for us. They did it, but it didn't work. (July 8, 2010).*

The most exhilarating experience I had during the fieldwork was when my interviewees responded 'No' to a question I posed, and wanted to explain their viewpoint; they were not required to do so. This happened so many times that I lost count. Reference to some of these answers strengthens the opinions of respondents who had assenting views. The conversation I had with one MP is instructive here on the involvement of central government.

*No involvement at all. The Constitution is quite clear; it insulates the institution of chieftaincy against governmental manipulation. That is why chieftaincy even as an institution has been entrenched in the Constitution. You can only remove or amend portions of the Constitution that deal with chieftaincy by a referendum. Nobody can mess up. As a political scientist, I will try to explain why it happened that way.*

*When we got independent and the overwhelming influence of the Asante kingdom was quite dominant in the pre-independence era, and the Asantehene's influence extended far and beyond, central government thought that it was important to cut the Asantehene to size. The*

*literature talks about destoolment, who is a chief, the creation of the Brong Ahafo region and the fact of removing the Brong created a lot of confusion. When Nkrumah was overthrown, as one of the ways to have legitimacy, the National Liberation Council reversed almost everything that Nkrumah did.*

(I: That is where the problem of government meddling comes is,.. with the Ollenu Commission, etc.)

*Previously, the Constitution allowed the government to have a hand, and government hand has always been evident in the power of government to gazette. Gazetting a chief is recognition. Recognition confers legitimacy. So if government does not like a chief, you will not be gazetted and you will forever remain illegitimate. Almost all the provisions of the Constitution of 1992 have historical antecedents. The Constitution of 1969 tried to improve upon the Constitution of 1960, 61 and 62. And then the 1979 Constitution was a further improvement in material detail. (May 27, 2010).*

This MP was an attorney by profession, but wanted to speak to me on a political science platform. Further, he wanted to reiterate the subtle manner government found itself into chieftaincy affairs and finally legalized recognition of chiefs. Recall that earlier on, a chief criticized this issue of gazetting, and this is one of the clearest demonstrations of non acceptance of formal rules by the custodians of customary law and tradition. No wonder then that I never had permission from the President of the National House of Chiefs to interview its members. The 1992 Constitution has tasked the House to come out with codification rules underlying succession. Eighteen years after the implementation of the Constitution, the House has not been able to do this. Is this another example of resisting the intrusion of formal rules into the traditional sector? Well, the debate of gazetting chiefs will continue for some time, because one

government Minister was of the view that government had no hand in the gazetting process. This was in sharp contrast to the opinion of the Member of Parliament just quoted above.

Incidentally, this MP is also a deputy Minister. The Minister states,

*The only thing, and even to remove the central government from this kind of arrangement is that it is the House of Chiefs through their President that has to gazette chiefs who have gone through duly all the processes and have been made chiefs. They are recognized not by the government but through the processes of the traditional council; from the traditional council to the Regional Houses of Chiefs and then to the National House of Chiefs, where their names will be gazetted. And that gazetting has nothing to do with central government in terms of recognition, and central government does not intervene at any stage, even when there is a dispute between one party and the other about chieftaincy. The only time that central government comes in is when there is a breach of security and law and order have to be restored. It is the aim of government just to ensure that there is law and order, and lives are not threatened, limbs are not broken, and the rest of it. (May 28, 2010).*

This central government interference and non acceptance of the formal rules by local elites has implications for conflicts within the succession rules. Conflicts generally are contradictions arising from differences in interests, ideas, ideologies, orientations, perceptions and tendencies that could explode into violence, persecution or other human rights violations. Conflicts are inevitable, and they need not necessarily be negative. Would conflicts arise from the interaction of formal and informal rules? Yes, because basically, we are dealing with two institutions with separate norms. If so, what institutional bargaining and negotiations are involved to mediate and resolve these conflicts? When or under what circumstances will negotiations break down for entry of parallel formal and informal institutions, such that there

will be no mediation or conflict resolution? To address these issues, first, we need to identify the incidence of conflicts in succession processes, and how they come to matter in the interplay of formal and informal rules.

## CHAPTER FIVE – SUCCESSION CONFLICTS AND RESOLUTION

There are many causes of succession conflicts, but it appears that the ultimate cause is the distortions in the system. These distortions occur within the chieftaincy institution itself as well as between actors both in the chieftaincy and formal (government) institutions. They include marginalization of history and custom, as well as a legacy of British interference. My focus in this chapter is to examine the sites of the institutional bargaining and negotiations that are currently prevailing, and why these may have led to conflicts. The level of decentralization, defined as central government interference, is evident with the involvement of District Chief Executives. The evidence suggests that Asante kingdom has virtually no conflict, Cape Coast traditional area had a conflict which has been resolved – be it partial or whole, and Dagbon kingdom is the unresolved conflict that appears to be the most important. Insofar as the historical negotiation and bargaining are not upheld by exercising the rule of law, coupled with a rejection of the traditional negotiation processes, then no interaction is possible. Hence parallel formal and informal institutions come to be, and no mediation or conflict resolution can emerge.

### **5.1 Conflicts in Chief Succession over the Past Decade**

Almost all the key informants (more than 90%, 48 in number) indicated that there had been conflicts over the succession of chiefs over the past 10 years. It was interesting to see the look on some of the faces of the respondents, suggesting that the answer to the question I was posing concerning succession conflicts was so obvious. As at May 2010, there were 232 reported chieftaincy disputes filed at the research office of the Ministry for Chieftaincy and Culture. As one traditional ruler explained, “chieftaincy disputes come in so many forms” (*July 8, 2010*). Some of the chieftaincy disputes are linked to land conflicts; some emanate from the

traditional system; some from government involvement; and so forth and so on. As an example, most of the chieftaincy disputes cited in Accra were linked to land conflicts. However, majority of the recorded conflicts at the Ministry for Chieftaincy and Culture appear to revolve around succession, and we may even surmise that it is the prominent conflicts that were even reported. Many may go unrecorded either because they were not reported or may not have reached the scale approaching violence.

About half of the interviewees (26) believed that the most important or most recent conflict was the Dagbon case. Again, three of the six focus groups intimated that Dagbon was the conflict that had assumed national importance; indeed the Dagbon case has received the most publicity because of the level of violence. This was interesting, because the interview question asked for the most recent or important conflict in Ghana, and *not* conflict in the research sites. That Dagbon clearly was topical and the most important or recent succession conflict in Ghana really justified my motivation for undertaking this research. This conflict has not been resolved. It would have been interesting to outline all the different cases mentioned, but for purposes of this dissertation, I will discuss the most relevant cases pertaining to the three research sites. The focus is to examine the sites of the institutional bargaining and negotiations that are currently prevailing, and why these may have led to conflicts. Despite the abundant literature on the Dagbon crisis, which I discussed in my review of existing data, I will explore the prevailing views on this crisis. Further, I will occasionally allude to other succession conflict cases to highlight the causes of succession conflicts. Following the discussion on the conflicts, I will outline how the conflicts have either been partially or wholly resolved and why some conflicts have not been resolved in the next section. That is where I will invoke all the mechanisms that



have been used for mediation to elaborate on the various tools at the disposal of actors within the institutional bargaining process.

There are many causes of succession conflicts, but it appears that the ultimate cause is the distortions in the system. These distortions occur within the chieftaincy institution itself as well as between actors both in the chieftaincy and formal (government) institutions. Tamale community leaders described these distortions as “the shortcuts in the process” (July 22, 2010). One of these “shortcuts” has come about because every community now desires to have an enlightened chief; consequently, education has become an important factor. One government official explained it this way:

*First of all, chiefs have a glamorous position in society. Even though central government allowances to them is not important, they derive some importance in terms of courtesy calls, investors calling on them, and for them promoting their culture and the rest of them. There's been a lot of problems about succession because in some communities, even though they know who should be a chief, they say you belong to the lineage alright, but you are not educated sufficiently. Because we want enlightened chiefs, this has been a source of conflict. Others are tangential to the royal families, but they have money and they want to come in. So it is the disproportionate interest that other non royals have in becoming chiefs that they distort the succession. (May 28, 2010).*

Not only education, but wealth was also becoming important. This government official further emphasized that the distortions could also originate from colonial structures, the traditional succession process itself, as well as from the influence of politics. In reference to Dagbon, he states,

*Again, in the case of Dagbon it is because, really, it is fashionable to say we had a system, it was working, it was not a clear system. They knew who were entitled, but it depended on how you put yourself up and you competed before the kingmakers. So it was not as if it is for this person or for that person. But as colonialism came, they tried to see, is there a pattern? And in documenting, that has created the confusion. And politics has further worsened it. So you now have claims that unless you were the son a former Ya Na, you will not be Ya Na. And then there is also the movement, in terms of hierarchy. You move from one gate to the other before you can ascend to the ultimate paramountcy stool or skin. So these are the distortions that have happened.*

That the covert involvement of politicians was becoming very problematic was an issue discussed at length by the Tamale community leaders. According to them, in seeking for votes, politicians influence kingmakers to distort the rules and processes of succession. They reiterated that some of these politicians masterminding the conflicts were in government positions.

This allegation was vague, so I decided to get to the bottom of this accusation by probing to find out which government officials were involved in the murder of the Ya Na, since they had indicated earlier that Dagbon was the most recent succession conflict. While they were full of praise for the current ruling National Democratic Party government for its goal of attempting to unite the different factions of Dagombas, they blamed the army and police for their failure to prevent the conflict in 2002. Insofar as the community leaders were concerned, the negligence of somebody somewhere precipitated the murder. They believed strongly that the government in power influenced the army and the police. Incidentally, Mahama (2009) has also suggested this complicity of the security personnel. Nevertheless, I probed to make them substantiate their

assertions because the security personnel could have been acting under orders. The community leaders insisted that the apparent alignment of the Abudus and Andanis to the political parties has complicated the problem, especially the role the “learned men” of the two groups play.

Since the community leaders appeared to be very knowledgeable about Tamale community from the pre-discussion interaction, I prevailed upon them to give me a definite link to government politicians in this horrible murder. It turned out that this was associated to the political alignment of the Andanis and Abudus, who, many respondents generally agreed, had currently aligned to the NDC and the National Patriotic Party respectively. According to the community leaders, Abudu adherents of the NPP promised to mobilize people to vote the NPP into power in 2000 on the condition that if the party won to form the government, it would somehow resolve the grievance of the Abudus and reinstate an Abudu king. Ironically, the NPP supporters are in the minority in Dagbon, and this makes the linkage very suspicious. The difficulty in this alignment was whether central government was acutely aware of this alliance or not. If central government was, then this shows a premeditated disregard of the informal rules of, or an attempt to erode, the traditional practices of the Dagomba kingdom.

However, another government official, who initially, was reluctant to comment on this involvement of government in the gruesome murder of the Ya Na, had this to say:

*The information I have is that before the Kufour government won and formed the government in 2001, during their election campaign, they had promised the Dagbon people that when they come to power, they will help them to perform the funeral of the Ya Na, the one who I have just explained. When he came to power, they were waiting and they did not hear anything, apparently some people gave them the go ahead to murder the one who was on the skin...But, this one is a very sensitive matter, it cannot go into the open because that is what we have been told, that it*

*was a campaign promise, but apparently, the government cannot admit such a criminal act. (July 21, 2010).*

John Kufour was the President of the NPP-led government from 2001 to 2008. The interesting thing about this official is that he was not a Dagomba, but had been working in Tamale community for the last nine years.

Irrespective of which version is the correct one, there is no doubt that the NPP government was somehow linked to the murder of the Dagomba king. This NPP involvement was also taken up by the discussion group made up of District Assembly members; indeed, they had reiterated this same point three days earlier before the community leaders did. That is how come, according to them, the NPP government (note, not party) did not have much support in the Northern region during the last election of 2008.

While there is a general belief in Ghana that these alignments exist, it is the various people related to the chieftaincy, and chiefs themselves, who have associated themselves with political parties to perpetuate this perception of alliances. Many respondents suggested that when a feuding faction aligns with a political party, it gives the group a feeling of power when their party became the ruling government. This apparent power makes such factions believe they could do whatever they wished. As one Presiding member summed it all up:

*[O]nce those political parties find their voice or find their way in government, they think they can have a way of implementing whatever agenda, even if it is not endorsed by the government itself. Government may not even be aware that such moves are being made, and suddenly you see it being included. (July 29, 2010).*

The added difficulty with these alignments is that there is no enforcement of the national rules, neither are people punished for criminal acts just because they belong to the ruling political party. As one government official bemoaned,

*But certainly, chiefs have aligned themselves to political parties...the political parties are not aware that this is what is going to happen. Before (they) realize they (adherents) will do certain things based upon that very power...If you cannot punish your own people, then definitely, they ride over the situation and do whatever they want. (July 15, 2010).*

However, this respondent, and others like him, were very excited that the current NDC government led by Professor John Atta Mills was making efforts to haul the perpetrators of the Dagbon regicide to the law courts. Further, the government has signaled to everybody that it was prepared to enforce the rules, no matter one's perceived political affiliation.

In support of the distortions in the system and the alignments in Dagbon, this is what one traditional ruler had to say:

*There are a lot of succession conflicts even where there are written constitutions, let alone in Dagbon, where there are no written constitutions. I think it is not coming from the tradition or the culture, but it is coming from the human beings, because as I always say, culture is dynamic. It is the people that make culture. So if people want to change it and the people want to infiltrate into it, because when money goes a lot of places, it gets a lot of things. There has been a lot of these things, but the conflicts that come from these things as far as succession is concerned is just that people are not telling the truth...Distortions in the system. (July 19, 2010).*

This chief attributed the Dagbon succession conflict in part to the lack of a written documentation on the succession rules that could have guided the process. When I asked him to

relate how the Dagbon conflict came about, he reiterated this constitutional deficit as a distortion of history, but added the notion of personal interests in the succession process. He stated:

*Hmmm! (i.e., sigh). What I will say is that people are not telling the truth. People are distorting history and their stomachs are riding them – in Dagbon we say their stomachs are working and not their brains. I think it is selfishness. I say that people who are doing it and people who don't want it to stop, if you read into history, they are not Dagombas... Dagombas too, some of us are too selfish, and we don't think beyond our nose. We are more interested in the two factions than the greater Dagbon. That is the biggest problem.*

These factors just discussed ranging from education to political alignment were mentioned several times as respondents narrated how conflicts emerge not only in Dagbon, but in places like Winneba, Wa, Gonja and Bawku. However, there is one source of conflict peculiar to the northern part of the country regarding succession issues; this has to do with the performance of the funeral of a late chief. Because of government interference emanating from the setting up of committees of enquiry or non recognition of, or alignment to, one feuding faction, coupled with destoolment of chiefs, what has happened is that funerals of deceased chiefs could sometimes not be customarily performed. This has not been the case only for Dagbon as I initially alluded to in the case of the murdered king, but was a big component in the Bawku conflict in the Upper East region, a conflict between the Mamprusis and the Kusasis.

It turns out that the Kusasi community, once an acephalous society and therefore ruled by Mamprusi chiefs, now wanted their self-governance. The Mamprusis had earlier instituted a kind of traditional colonialism over the Kusasis, the owners of Bawku land. However, as a result of a 1958 commission of enquiry that recognized the Kusasis, they refused to allow the funeral of a deposed Mamprusi chief, who had died in exile. The Kusasis had aligned with the

Convention People's Party (CPP) regime of Kwame Nkrumah in post-independence Ghana and so had had a field day until the National Liberation Council (NLC) overthrew the CPP government in a military coup in 1966. The Mamprusis had earlier aligned to the opposition United Party (UP), and by fate or by design, the NLC enacted a law that destooled several chiefs in the country; this affected Bawku as well. This law rendered the Kusasi chief's enthronement null and void, and then recognized the Mamprusi chief, by which time the Mamprusi chief had died in exile. Between 1966 and 1992, any change in government, whether military or civilian, coincided with either a Mamprusi-aligned party or government in power or a government that the Kusasis aligned to. During the era of the Provincial National Defence Council led by Rawlings from 1981 to 1992, the Kusasi chief died, but because of an influential actor within the PNDC, the Kusasis were able to enskin a new chief, while the funeral of the Mamprusi chief had still not been performed. The new Kusasi chief happened to be the son of the late chief. Without the performance of this funeral, traditionally, the Mamprusis could not enskin a new chief. Much like the Dagbon case, this is where a link between chieftaincy and government involvement comes in. As one government official put it,

*So that's how come the Kusasis then enskinned this one. So over the years they have had only two chiefs. When the man died, after that stalemate, in the PNDC era, his son was put in charge. So historically, this made Bawku son and father. But these people historically have a long (history). That is the difficulty. So we can see a link between the chieftaincy and government involvement in the Bawku area. That is the kind of situation why it is difficult: two different ethnic groups, one is arguing that traditionally they have been ruling over the years; these people too are arguing that yes, this is our land, so you can't come and lord it over us. ...But largely, in brief, that is just their structure. So I believe we can get the point at which government came in and where the traditional system ended. (June 1, 2010).*

Insofar as this respondent was concerned, the interference of government had totally sidelined the customary norms and traditions. In the light of this, a resolution to the Bawku conflict was a remote issue, indeed, more remote than the Dagbon crisis. For him, resolving the Dagbon crisis was much easier than the Bawku one. This is because even though the historical contexts and the issues were different, the involvement of government in the complex web of the dynamics of the informal structures makes the two cases similar. Beyond that however, is the observation that Dagbon is a feud between families, while the Bawku case is one between two different ethnic groups with their own customary norms.

The marginalization of custom and history has implications for the negotiations that go on between state politicians and constitutional law on one hand and chiefs and customary law on the other. Negotiations break down when government attempts to overrule custom and historical precedents. This is best observed when it comes to the funeral of a late chief. This unfortunately has been the case of Dagbon since 1953. A seasoned chief, who was instrumental in protecting the murdered Ya Na to no avail, objectively and passionately spoke to the issues in Dagbon. For him, custom is pitted against government when opportune persons enlist the support of central government to go against custom and history. This manifests especially in the issues of destoolment and funerals of deceased chiefs. Destoolment or deskinment of a chief is deemed untraditional in Dagbon. Meanwhile, the funeral of a deceased Ya Na should normally be performed in the palace. However, there appear to be historical antecedents of distortions in these two areas. These distortions caused the murder of the king.

*The conflict dates back to 1953. Then a Ya Na died and a wrong person was made Ya Na. They tried to change it and central government got involved. It was during the Nkrumah days. He investigated it, set up commissions, and they came to the conclusion that the Ya Na should be removed. But custom said, "Custom cannot be wrong," as in English Constitution, they say the*



*queen can do no wrong, the king can do no wrong, because the king or queen does not do anything on their own, except what custom determines. So where custom has made an error, custom waits until that person dies their natural death and custom will correct it. That's how we do it here. So this man's fate, when he died, his son went through custom to a point and then enlisted the support of central government and decided he would become Ya Na, having failed to go through the apprenticeship scheme, he wasn't prepared to sit as regent. His father too didn't go through the apprenticeship scheme. Custom said, "No. Your father was one of a mistake. We won't duplicate it." So he enlisted the support of central government, who came, killed people in the palace, arrested them and drove them out and used the joint force of army and police to install him as Ya Na, against custom. Custom was not involved. So the other side, to whom that right had descended, appealed as far as the Supreme Court. The Supreme Court judged that what the Ollenu Committee found was true, and therefore that man should cease to be Ya Na. Then custom then gave it to Yakubu and it was confirmed by government. Yakubu became Ya Na. And because this man was removed – deskinning – his family refused to perform his funeral after he died, and then insisted that Yakubu should vacate the palace to enable them go there and perform his funeral. Yakubu said, "No, I cannot. There are precedences in our history that forbids it. Even when your own grandfather died, my father wanted to perform his funeral. He was denied. When later he came and your father Abudulai was Ya Na, he also did not agree. I had to perform his own father's funeral in an elder's house." That's how Andani performed Mahama II's funeral. So the precedence was set by your family. When your grandfather Alhasani ascended to the Ya Naship and one Ya Na who was deposed, his funeral could not be performed there. He did not allow it. So once you are in occupation, no funeral can take place there until you die. So they then decided that the best thing left to them was to kill him, so that if he dies, they can then go there and perform the funeral. They killed him, and Dagbon could not stay without a leader. So he was interred – buried – and his son became regent and immediately was in occupation. They say, "Come out," and they (other party) said, "No, custom forbids it.*

*You should have realized that and not killed the man. If he had died natural death and we buried him, and you say ‘Stand by, let us perform Mahamadu’s funeral then before we make you regent,’ that could have worked.” But they didn’t do that. Hence the conflict. (July 22, 2010).*

This long discourse, while summing up the Dagbon crisis, really captures the struggle within the informal system, which is exacerbated by the intrusion of central government. Whereas the negotiations appear to have broken down within the traditional system itself, governments have allowed their structures to be used to perpetuate the conflicts. This will hastily be denied by government, and actors here will point to government’s position as a neutral arbiter.

For instance, in a bid to appease the public that it has no involvement in chieftaincy affairs, the government would demonstrate this in law court decisions. However, what evolves is that a lot of ambiguity in the interpretation of the law and court rulings results, and we are still left with no defined role the government has in the interaction between formal (national) rules and informal (chieftaincy) rules. This is how a government official explained this to me when he spoke about two important conflicts in the Greater Accra region:

*In Nungua, for instance, the stool has been there for years. It’s not been resolved; there are rulings...but the pronouncements are the courts do not conclude who the chief should be, because the courts do not, maybe, install chiefs. So they read meanings into it, (for example, a plaintiff wins a case over the substantive chief and thinks that that makes him the chief). Meanwhile, a chief should have been selected, confined, installed, outdoored and then finally registered in the national register. There are a number of those things currently.*

*Osu stool, for instance, is a similar one. Because the judgments are not very straight forward, lawyers interpret (them) they way they think fit...That is where there is a thin line about who is a legitimate one and who is not. ...But those where we talk of legitimacy are those whose names have been registered in the national register, and where there is no challenge, for example*

*Otumfuo. The fact that (some) chiefs are being challenged, in my view, and you have not been, maybe, declared as whatever, you still remain the chief, whether you were wrongly selected or not, until such time that you have been properly destooled or whatever. So there are a number of them that the Chieftaincy Secretariat is faced with ...The non resolution is probably due to the ambiguity in the interpretation of the judgments, because the courts will say that they don't have any jurisdiction about chieftaincy. If you have anything, go back to the traditional authorities. It is the traditional authorities who have to look at your norms, customs there and whether each one followed it. Unfortunately, most of them too have not been resolved. So it becomes very difficult for them to be able to know who the chief is. If the court says that, well, under the circumstances you have no capacity to come bringing this matter, you are not too sure who can then take the matter (up). Some too, they say, "Go back to the traditional authorities," and then they don't go back. So the thing (conflict) keeps on lingering. (July 30, 2010).*

Zeroing down to the main traditional stools or skin in the three research sites, the interviews showed that beyond the major reference to the Dagbon crisis, no respondent mentioned a conflict surrounding the Asantehene in Kumasi. However, six interviewees mentioned a conflict regarding the ascension of Osabarima in Cape Coast, five of whom were residents; consequently, I turn to the cause(s) of the succession conflict in Cape Coast. An attempt to correct a distortion in the rotation system that came to be due to education, colonialism and slavery culminated in the recent succession conflict. A chief narrated how these three factors contributed to the genesis of the Cape Coast conflict.

*For the conflict in Cape Coast here, the trouble is that at the beginning, Cape Coast became a British occupied area. The British government interfered with chieftaincy matters. Cape Coast was also at one point a place for slavery. Consequently, whenever a chief challenged the repatriation of his subjects into slavery, then the British government removed the chief, and*

*installed someone from a different place to be chief. Egyir Ansah came from Efutu to rule Cape Coast for several years despite the fact that he was not from Cape Coast. So when it is time to select a chief, then we cannot determine the legitimate owner of the stool. Efutus are laying claim to the stool, so are Cape Coasters, Ebiradze family as well as the Akonafo family, who first settled in Cape Coast. Meanwhile, the Akonafo are fishermen and unschooled. It is the educated ones who arrived later, who are trying to subjugate the Akonafos. This is the genesis of the Cape Coast conflict. They acquired knowledge, and with knowledge, you know how to manipulate. (June 27, 2010).*

Another chief, while corroborating these earlier sentiments of his colleague, touched on the founding mechanisms of chieftaincy in Cape Coast and how it had survived till today.

*In 1856, the stool of Obrempon Kojo was adopted as the head stool of Cape Coast. However, Obrempon Kojo was never a chief. The adopted stool was a dual one – head stool of Cape Coast and a family stool. Thus began matrilineal lineage after conflict between Kofi Amissah and the Asafo companies challenging patrilineal lineage introduced by Efutu. Cape Coast has five houses. Mbra house adopted into royal Ebiradze family in Cape Coast; Mbra I was from Anomabo, Mbra II a regent, Mbra III (1920-34), 1934-44 no chief in Cape Coast, Mbra IV, Nana Cann (1944-48). Prior to Mbra IV's reign, Mbra V had already been detained, but was rejected by Efiekesemu (parent house of Obrempon Kojo). When Mbra IV abdicated, Mbra V was installed, and died in 1996. (July 26, 2010).*

Adoption needs to be explained here. During the colonial days, it was a common practice for wealthy families to have 'servants' or 'slaves.' With time, these servants, but especially females, were either adopted as part of the families they were serving or were married into the family. At the point of adoption or marriage, such servants technically became members of the family, and

were regarded as such, enjoying all the rights and privileges of genetically bred children. Such privileges included education.

Tracing the history of Cape Coast, a District Assembly official also alluded to the generosity of Obrempon Kojo in educating all who lived under his roof, including the adopted ones. Meanwhile, it is believed that the founder of Cape Coast never had children, leading to the adoption of the stool as well. As the official said,

*All this goes back to our history. The founder of Cape Coast, Obrempon Kojo is alleged not to have given birth, which probably resulted in a successor to the throne after his death not being of the royal lineage. So these are some of the issues that bring the conflicts. The other factor could be education. As I just alluded to, people who lived under the roof of Obrempon Kojo and became educated, took advantage of the illiteracy levels of the royal family to lay claim to the throne. Therefore, if later, there is a contest as to the rightful claimants to the throne, then conflicts arise. (June 8, 2010).*

The result of education, British influence, slavery and the absence of a true blood royal from Obrempon Kojo, being the first to explore the virgin land of Cape Coast and to be considered a chief, distills into another cause in the succession process; this is the mix of patrilineal and matrilineal inheritances that was the crux of the recent matter. One DA official explained the mix:

*We are in a fix; maternally it's to the Osabarima, paternally it's to Addison. (June 17, 2010).*

The Osabarima is the current chief, while the deceased chief, Nana Mbra V hails from the Bart-Addison family. This inheritance mix then, appeared to be the main contributor to the succession conflict in Cape Coast. A DA official indicated that the attempt to restore a rotation

system that previously was in place, but distorted through education, meant that Bart-Addison, who incidentally is an educationist, should not have dreamt of contesting the throne. This is because his family had reigned for over a century, as we can infer from the interviews. This was the official's contention on this matter:

*Bart-Addison family believes they are the rightful claim to the throne. I hear there are five gates that can inherit the Cape Coast throne. There is a general feeling that there must be a rotation system in place. The deceased chief hails from the Bart-Addison family, and therefore it is the turn of another gate. Indeed, the other gates claim the Bart-Addison family should not even have constituted a gate in the first instance. Meanwhile, the Bart-Addison family is demanding an explanation as to their disputed inclusion in the royal gates. (June 8, 2010).*

The whole issue boils down to which of these two families (or houses) has the right to nominate a candidate for the stool, as the Cape Coast MP pointed out to me during our interaction (*June 19, 2010*). However, community leaders who discussed the Cape Coast conflict also indicated that there was a perception that the current chief may have used his wealth to influence the kingmakers (*June 16, 2010*).

The scenario becomes more exciting because the two houses are accusing each other of their line having been 'brought' or 'adopted' into the royal family. But for education, enlightenment and personal clout of the current chief, the community leaders believed that a third candidate well versed in customary matters, would have probably won the day during the vetting process. Illiteracy cost him! A puzzling question is why this conflict has not escalated. For me, one probable reason could be because the conflict essentially is between two houses or gates from the same family, without any active interest of the other three houses regarding the disagreements. Another reason could be due to the apathetic attitude of the citizens, but more so

that Cape Coast is the hub of education in Ghana. Missionaries and colonialists facilitated literate education in terms of reading and writing. Initially, education was focused in Cape Coast, leading to the current flux of high quality schools. Suffice it to say that the citizens of Cape Coast, as a result of this early educational opportunity, tend to be very law abiding and have a high political awareness (*Cape Coast Assembly members June 10, 2010*). Therefore, a Dagomba-like conflict would hardly be the case in the Cape Coast succession conflict.

Some of the key informants mentioned other causes of succession conflicts. In what follows, the parentheses after the towns show the regions; I highlight only the three regions and the kingdoms or traditional area of interest in this dissertation – Northern, Ashanti and Central. They are:

- Nyakpala (**Northern, Dagomba**), Ekon (**Central, Cape Coast**), Buipe, Kokoben (**Ashanti, Asante**) – disagreement between family and kingmakers;
- Wa – no documentation of succession rules, personal interest, and short reign of chief that is prompting the deceased’s family to bypass rotation system;
- Bimbilla – two chiefs simultaneously;
- Ga, Osu – linked to land conflicts and gazetting. Invariably, almost any chieftaincy dispute in the Greater Accra region, of which Ga and Osu are included, centers around land;
- Akwapim Amanokrom – distortion in rotation;
- Akyem – succession not by rotation, but line has to be exhausted or if line considered ineffective (e.g., heir not of age, i.e., immature), before it goes to another line, which may take generations. Thus, there is the possibility of monetary influences;

- Breman (**Ashanti, Asante**) – challenge of queen mother’s legitimacy to nominate, but in reality power relations linked to land, since both the head of family and queen mother wanted to control the land.

- Sushen – between two clans, Asona and Kona;

- Anlo – non royal regent, who now wanted to manipulate to become the chief;

- Winneba (**Central**) – mix of patrilineal (Guan) and matrilineal (Akan) successions, but also between two houses, the Acquahs and Gharveys; and

- Techiman-Tuwobodom (**Ashanti, Asante**) – these are two towns in the Brong Ahafo region.

The contention here is whether the Tuwobodom chief should pay allegiance to Asantehene or to the Techiman chief. The Asantehene claims Tuwobodom belongs to the Asanteman traditional area.

I did not initially consider the Techiman-Tuwobodom case a succession conflict because where allegiance lay did not seem to fit. Three key elites had previously mentioned this case, so when a focus group also referred to it, I probed why the Techiman-Tuwobodom issue borders on succession. Apparently, after the death of a chief, both the Techiman chief and the Asantehene initiated steps to install a successor, which meant the presence of two chiefs that the discussants referred to as “parallel authority” (*Tamale July 19, 2010*) similar to the Bimbilla one above.

That this revelation came from Tamale Assembly members was very insightful. Ibrahim Mahama shows how parallel paramountcies came to exist between the Bolin Na (son of the deceased Ya Na who was insisting on performing his father’s funeral in the palace) and Ya Na prior to the murder (Mahama 2009). It is therefore not surprising that beyond their own conflict, the other most recent and important conflict for them was the Techiman-Tuwobodom case.



In sum then, the causes of chieftaincy succession conflicts are many. They range from the need for educated or enlightened nominees through political involvement all the way to disagreements within the traditional system on the right heir to a throne. Apparently in general, succession conflicts seem to be virtually absent in the Asante kingdom, but more prominent in the Dagomba kingdom. Cape Coast traditional area has very few of these conflicts as well. If we were to consider the main stool or skin, while there is an absence of succession conflict in Asante, a conflict exists in Dagbon. In Cape Coast, while a conflict existed starting from 1998, it appeared to have all but disappeared by 1994. This set me wondering as to what could be the underlying factors making this trend possible. Was it an Akan model versus a unique Dagomba model? And why is there no challenge to the legitimacy of the Asante king, but controversies surrounded that of Cape Coast paramountcy and Dagomba kingdom? The views of one government official seemed to hint at the paradoxes observed. He states,

*[W]hen you go to the north, they have so many gates to the skin, and at times things are not well structured in such a way that if this gate finishes with its line, another gate should come and those kind of things. It's a bit undefined and it's bringing a lot of problems. You see, chieftaincy conflicts in Ghana (are) one major aspect which is waning into insecurity of the nation, and I think it cuts across. Of course, I can say the Akan area is quite less in terms of reoccurrence. It appears Akan way of succession is better defined than in the north, because in the north, let's say if I am a chief and I have let's say five children, most of the time, they will say the eldest should ascend to the throne. But perhaps I am also just one stock of it. There are other people who also have so many children, and all of them can be fighting. So theirs is a bit complex. I think that is the same thing that happens in Ga (Accra). They are all patrilineal. It appears the patrilineal lineage is a bit complex, because I know in the Volta region too, there are a lot of problems over there. And in this sense, I will say that Akan area, even though that is also not free from it. And when you come to the Ashanti region, and more or less, let me say the Asanteman Council – let*

*me say that traditionally we don't have the Ashanti region, we have the Asanteman Council – the Asanteman Council to be specific, things are quite easier here because of Otumfuo. So whatever it is, he will have to accept you as a leader before you can ascend to the throne. Once you ascend to the throne, he can dethrone you, whether you are a paramount chief or you are what, he can dethrone you. So it makes here a bit simpler. So if somebody has a grievance for a specific chief, he can address it through Otumfuo. But others, once he is a paramount chief, he is more or less superior to himself. But when you come here, we have so many paramount chiefs; all of them are under the Otumfuo. Once he can do and undo you, there is a bit of order. I am not saying it is free from conflicts.*

It is the patrilineal system which appears to be more conflictual. Beyond that, it is the presence of a leader whose authority is accepted by all that is the thread holding the Asante kingdom together. This orderliness in the Asante kingdom was emphasized by almost all the Kumasi interviewees. As one person said, “Over here, nobody challenges the authority of the golden stool. Never, so that makes it straight” (*Kumasi June 30, 2010*). The golden stool symbolizes the reverence of the Asante king. The orderly situation in Asante kingdom could have held for Dagbon, but for the many potential gates and infighting which have crystallized in an Andani-Abudu quest for power that has led to a semblance of a parallel paramountcy.

Having established the causes of the conflicts, the next issues I turn to are the sources of the conflicts, i.e., the various actors contributing to the succession conflicts. Here, I focus on the roles of the traditional leadership and the District Assembly. Where relevant, I include the role of central government, especially if this involves the role of the District Assembly. The idea is to establish the complicity or otherwise of these actors to the conflicts.

## **5.2 Actors Involved in Succession Conflicts**

In the succession conflicts discussed in the previous section, the pattern emerging is that Asante kingdom has virtually no conflict, Cape Coast traditional area had a conflict which has been resolved – be it partial or whole, and Dagbon kingdom is the unresolved conflict that appears to be the most important. Recall that almost half of the key informants mentioned Dagbon as the most recent or most important conflict. Subsequently, I discuss the involvement of the traditional leadership and the District Assembly officials in the Dagbon and Cape Coast conflicts. Working on the premise that the residents of an area may best be knowledgeable about the roles of these actors, I focus on the respondents within each research site to investigate these roles. That notwithstanding, following the findings from the respondents in each specific site, I examine the responses from respondents who, normally were not resident in a particular community.

### **5.2.1 Actors in the Dagbon Conflict**

#### *5.2.1.1 Perceptions of District Assembly Officials*

Generally, DA officials believed that the traditional leadership of the Andanis and the Abudus was the source of the succession conflict, as captured in this statement by one of them:

*[T]he traditional leaders themselves are the conflict, because they know the history. (July 15, 2010).*

The two gates (Abudu and Andani) were the genesis of the conflict, which has persisted over the past decade. Beyond that however, the political alliances of the gates has virtually knitted all Abudu chiefs on one side and all Andani chiefs on the other. This is a difficult problem, because as I have outlined in detail in a previous section, the distortions in the history between the

traditional leadership itself is exacerbated by the political influence variable, which has the effect of bringing in personal selfish interests as well.

When I inquired about the involvement of the DA, very interesting responses emerged. Some respondents considered that the Assembly would definitely not be a party to the conflict. One official explained it to me this way:

*Since the start of the decentralization process and the 1992 Constitution, no District Assembly has been interfering. But what is happening is that Abudus are aligned to the NPP and Andanis NDC. Conflict became more pronounced with the involvement of politicians of NDC and NPP. (July 15, 2010).*

This DA official passed the buck to the traditional leadership and politicians, as did others. Other officials were emphatic that any district assembly involvement would lead to the immediate reprimand of culpable officials. For them, the only role the DA played in Tamale was to provide security. In addition, after the murder, the DA intensified education appealing to people not to take up arms and fight. Others were unsure about the role of the DA. This is because a DA in principle is supposed to be non partisan. However, district assemblies were increasingly becoming politically aligned, and therefore, it was difficult to exonerate the DA totally as was stated by one of them:

*The District Assemblies were supposed to be apolitical, but these days what we see is that because of the party political activity, even the independent candidates have some alliance with a political party. You know two-thirds (Assembly members) are non partisan and elected. The remaining one-third are (is) nominated by the government. The government usually nominates people who are sympathetic to its cause. So that is the trend now, even though the original*

*concession is that it should be non-political – still on paper it is non-political – in reality there is (alignment). (July 21, 2010).*

Yet, in all their responses, though they were careful not to implicate the district assemblies, the DA officials did not rule out the possibility that some Assembly officials could be behind the scenes. For them, anybody who thought of complicity by the DA was just imagining things. Any involvement was a mere perception, as suggested by one official:

*You know, there was this issue about an armored car not having a battery. Somebody might believe that somebody in authority might have influenced this or it could be purely a genuine mechanical problem. But the coincidence was so something that, no this one I can't accept it, and maybe this man is an Abudu...It could also be that he (DCE) used his position, but you can't tell. But as an Assembly, those things cannot even be discussed there. In the Assembly, they don't normally talk about security. The DCE can brief them on what has happened and the measures they intend to take. It's mostly the DISEC and they will have the details. As an Assembly, they may not consciously, no, they may make a mistake in judgment, but as an individual who may have the power, I wouldn't know what he can use the power to do. But as an Assembly which is made up of a Presiding member, elected (members), that one, it is not possible...The Coordinating Director and some of the government appointees, they are not all Dagombas. (July 15, 2010).*

Certainly, it would be unheard of for an Assembly to have an agenda to murder. However, it would not be out of place to surmise that interested persons within the Assembly could have the intent to commit crime. That notwithstanding, the DISEC, the District Security in charge of the security situation in a district, is the structure that oversees that there is peace, and preempt any security breach. The District Chief Executive chairs the DISEC. Earlier however, this official

and another one had referred to the findings of the Wuaku Commission, which implicated the Yendi DCE in the murder of the Ya Na.

Shortly after the death of the Ya Na and some of his elders in March 2002, the government of Ghana appointed on April 25, 2002, a Commission of Inquiry to investigate the criminal aspect of the Yendi crisis. The Commission was headed by a retired justice of the Supreme Court, Mr. Justice I.N.K. Wuaku; hence the name 'Wuaku Commission.' Other members of the Commission were Professor Kwesi Yankah of the University of Ghana and Mrs. Florence Brew, an educationist.

The other official who did mention the Yendi DCE blamed the Kufour government for "fueling the perception" (*July 29, 2010*). For him, the fact that the Wuaku Commission had recommended that the Yendi DCE be relieved of his position because his continued stay in office created some challenges to the security of the area (Republic of Ghana 2002), but the government did not act on this suggestion would fuel the perception that government had a hand in the murder or that the DCE was actually culpable in that regard. The official bemoaned the inability of the due process to function effectively in Ghana and Ghana's persistent problems with formal institutions. Moreover, the sentiments of this respondent nullify the assertion made by one official, who indicated that liable District Assembly actors would be immediately reprimanded by government.

Clearly then, while the negotiations and bargaining structures within the traditional leadership had already broken down, the government and its perceived associated political influence could not also become a mediator, knowing fully well where its preference lay for a particular faction. Furthermore, failing to enforce the due process of the law that the Commission directed and the government set up smacks of hypocrisy and culpability. In this

respect, the institutional structure of government could be said to be weak in implementation, and this has implications for the kind of negotiation mechanisms that go on within the formal sector itself. Mahama (2009) has painstakingly analyzed the modus operandus of the Wuaku Commission and its findings. Examining the whole appointment of the Commission right up to the publication of the government White paper on the Yendi crisis from a legal viewpoint, he shows the biases in the Commission's proceedings, as well as the truncation of credible evidences that would have nailed key government officials as accomplices to the crime. Mahama shows how coincidences mentioned by my key informants were actually organized negligence on the part of the military and police, who were receiving instructions from key ministers of state, with initial information obtained from the Yendi DCE.

It is a matter of grave concern to learn that an Assembly may not be apprised of the security situation of a district, details of which are known only by the DISEC. This is a constitutional manipulation by DCEs, and speaks to the "Little Man politics" that is gradually emerging within the ambit of the decentralization process. From the interviews and Mahama's book, we get a feel of decentralized machinery – DISEC – that could have been the avenue for facilitating a negotiated settlement between the "parallel authority" that had come to be in Dagbon, but rather was captured by a DCE to perpetuate his own interest. This is a clear manifestation of "Little Man politics" and associated authoritarian tendencies that were meant to be eradicated with the introduction of decentralization. The government of the then ruling NPP failed to implement the Wuaku Commission recommendation by simply redeploying the DCE. The current national Parliament can compel the government to act, since it has a majority of NDC legislators. However, this has implications for the separation of powers, which already is

in doubt since the Constitution mandates the President to select Ministers of State from Parliament.

Suffice it to say here that the conflict in the Dagomba kingdom is enmeshed in national politics. Each side of the feuding factions seems to align ideologically with either the NPP and its adherents or the NDC and its supporters. The Yendi DCE example and others of this nature reflect the local power of DCEs. The current NDC government certainly needs to be credited for hauling the perpetrators of the Yendi murder – the Yendi DCE included – to the law court.

#### *5.2.1.2 Perceptions of Traditional Elites*

It was the contention of the traditional elites that the disagreements between the Abudu and Andani gates, coupled with political alignments and influences, helped in the escalation of the conflict situation in Dagbon. In this sense, traditional elites were in agreement with the views of DA officials, that the conflict was the traditional leadership itself. However, one chief did not totally concede to this claim, but believed that the deepening alliances emanated not from chiefs, but from people, who, in the structure of the society, could not ascend to skins. This is how he explained the selfish interests of some non royals:

*There are certain clans that, I don't know whether my history is right, in North Africa, in one of the areas, they used to make chief warriors, not people of the area, so that they won't have interest in the throne. The point is that we have such things in Dagbon, but they have taken sides. That is the dangerous thing. (July 19, 2010).*

Interestingly, the Tamale MP had spoken about this stratification in the Dagbon society. It was this same chief who had earlier passed part of the buck to non Dagombas in the perpetuation of the conflict. What is more revealing here is that the traditional leadership would have probably



been compelled to sit down and bargain in matters of succession, but for the tangential rekindling of the alliances based on selfish preferences from non royals, both of Dagomba origin and immigrants.

Three of the four traditional elites – all chiefs – came down heavily on central government involvement in the succession conflict that led to the murder of the king. One finding in the Afrobarometer rounds is that Ghanaians tend to equate government with political parties. This was very evident during my interviews where the government was synonymous with political party. Two chiefs expressed the government involvement in different ways:

*Central government is involved. If they want to do it they know who to contact. They are contacting the wrong people and they don't have some willpower. They are causing the confusion for us because it is politics that is central government. So, it is politics that has brought us far. (July 19, 2010).*

*What led to the murder basically was politicians. That it was the family members of the Ya Na, we have the Abudu and the Andani groups, and they all succeed the skin in turns; it rotates. The brothers, the Abudus, couldn't wait till the murdered Ya Na dies. So when the new political party came into power in 2000, some of their members, they knew how they convinced the government, and the government supported them and they murdered the king. What we even heard, when they interviewed some of the elders of the Abudus why they killed the Ya Na, one of them mentioned that for the past 28 years that the Ya Na was there, they haven't known peace. He said it, and nothing happened to him. Thank God today, the new government in place is taking action, because they are arresting all those who were involved in the planning and murder of the late Ya Na. That the investigation is still ongoing. (July 20, 2010).*

The third chief spoke at length about the covert and overt involvement of central government. For him, “the covert was in the planning, the overt was in the implementation” (*July 22, 2010*). The Minister of Interior, the Security Adviser and many others in government machinery were Abudus. Notwithstanding the apparent ignorance of Cabinet regarding the events leading to the murder, this chief maintained that once these government elites were members of Cabinet, it justifiably exposed the covert involvement of the government. The overt involvement of government revolved around an imposition of a curfew prior to the death of the Ya Na.

As I have indicated elsewhere, a parallel paramountcy had come to exist in Yendi with the substantive Ya Na and the Bolin Na. The rumor mill had it that tension was mounting in Yendi in the closing days of March 2002. After a series of DISEC and Regional Security Council (REGSEC) meetings, a curfew was imposed on the orders of the Ministry of Interior. This curfew, the Ya Na considered an affront, because he had the sole and traditional right to celebrate an impending Bugum festival. He prevailed upon the Regional Minister, incidentally an Andani, but an Abudu sympathizer, to lift the curfew, which he complied with. Then orders came from the Ministry of Interior to re-impose the curfew. More sinister in the overt involvement was the severance of communications access to Yendi (all telephone wires were cut so that there was no communication in or out). Further, national security cordoned off Yendi and no one could go into or come out of Yendi.

Another interesting point is the implication of the Yendi DCE caught in the loop of central government interference. While one chief appealed for circumspection in the tacit involvement of Mohammed Habib Tijani, the then Yendi DCE, two others were definite about his involvement. Here is the evidence:

*[E]ven evidence now coming out have got video clips of the District Chief Executive being present at the ghastly deed on camera. (July 22, 2010).*

*The DCE himself, Tijani, was deeply involved and he has been arrested. (July 19, 2010).*

The DCE may only have been implementing instructions from Accra based on the security situation. Hence, his involvement is based on his capacity as the chair of DISEC. But to be caught on video as an active participant of a murder leaves much to be desired.

So far then, both the District Assembly officials and the traditional elites are largely speaking the same voice. The issues raised in respect of the institutional bargaining both within the informal and formal sectors hold. For instance, there was clear dissonance between the Regional Minister and the DCE on hand right in Tamale as to whether a curfew should be imposed or not, and between the Regional Minister and the Ministry of Interior on the same matter. Negotiations between the Ya Na and the government represented by the Regional Minister and the DCE were also inconsistent. Why should the Regional Minister agree to lift a curfew only for the DCE to impose it on the orders of national security officials? It could be argued that the DCE was the man on the spot and consequently best could assess the security situation. If so, why was the murder of the Ya Na not prevented? Various testimonies from the Wuaku Commission report suggested that negligence of the DCE and security personnel on the ground carried the day, complicity well articulated by Mahama in his legal analysis of the Wuaku Commission report (Mahama 2009). What are the perceptions of Assembly members and community leaders on the involvement of traditional leaders and DA in the Dagbon succession conflict?

### *5.2.1.3 Perceptions of District Assembly Members*

Respondents conceived traditional leadership not only as the local chiefs, but also as the traditional council or the Regional House of Chiefs or the National House of Chiefs. In

succession conflict, some respondents also considered the Committee of Eminent Chiefs appointed by the government as traditional leadership. Besides the Wuaku Commission which was appointed to investigate the criminality relating to the Dagbon succession conflict, the Kufour government also appointed a Committee of Eminent Chiefs to deal with the customary aspect. This Committee was headed by the Asante king, Asantehene and had two other members, the Gonja king, Yabon-wura and the Mamprugu king, Nayire. The Otumfuo Committee, as is normally called because it is chaired by Otumfuo, the Asantehene, was to mediate between the two feuding factions of Dagbon. It is still in place. Since its inception, the Yabon-wura and Nayire have died, and have been replaced by their successors. Indeed, all respondents whose reasoning of traditional leadership went beyond that of chiefs invariably indicated that they acted only in a mediation role, but not to “add fire to the conflict,” my expression to probe on the involvement of the various actors, i.e., traditional leaders, government officials and DA officials.

Assembly members in Tamale also blamed the Abudu and Andani leaders for the never-ending succession conflict in Dagbon. Further, they were not happy with the Abudu leadership for withdrawing from the discussions with the Otumfuo Committee, thereby stalling the Committee’s work. According to the discussants, the Asantehene’s strategy was not only to hear the two sides, but he also sought to unearth the facts by crosschecking the traditional norms of Dagbon from people well versed in Dagbon customary usages. This he achieved by sending emissaries to investigate certain allegations. Through this strategy, the Asantehene was able to read in between the lines and to determine which gate was narrating the truth. Obviously, this ‘judgment’ of the Committee did not go down well with the Abudu leadership. Beyond this resistance of the Abudu leadership to the mediation efforts of the Otumfuo Committee, what this

action of the Abudu leaders demonstrates is a rejection of third party mediators in a purely traditional affair, irrespective of the fact that the mediators are also chiefs themselves. But this is an issue for a later discussion.

On the involvement of the District Assembly, the members here blamed *both* the Yendi DA and the then Tamale Municipal Assembly. Further, the Assembly members brought the involvement of central government into the loop. The District Assembly is supposed to be the highest political authority in the district, and in command of the district security. For them, any District Assembly involvement would come about because the DCE is the chairman of the DISEC. The then District Chief Executive of Yendi, as chairman of the Yendi DISEC, maneuvered and protected the illegitimate chief. It was the opinion of the discussants that the disturbance in Yendi spanned three days. Consequently, the DCE should have put in place a security system to prevent the escalation of the conflict. The central government involvement comes in because of the alignment of the Abudus to the NPP government.

The Yendi District Assembly is believed to be responsible for severing the telephone lines leading to Yendi, and thus effectively cutting off all communication links to Yendi. The prison officers, military platoon dispatched to keep security, the police and Bureau of National Investigation (BNI) were all at Yendi for the three days of the conflict and yet, the king was murdered. The palace is just about 200 yards from the police station. That is how come the discussants were emphatic in attributing the issue to government involvement. The blame on government is strengthened because traditionally, war is not waged at night. The security personnel could claim that they could not act during the day for fear of being caught in the crossfire. However, they had the whole night after the initial disturbance that occurred on Monday during the day, to secure the palace awaiting any further reprisals that would emerge the

following day. Yet, they did not. The involvement of the then government is further seen in later developments. It appointed the Wuaku Commission, which identified certain personalities and recommended the arrest and prosecution of them. The government never implemented the recommendations of the Commission. The dilemma of the Assembly members was why the government committed the taxpayers' money to set up a commission and yet refuse to implement its recommendations. For them, this was complicity sealed.

Discussants also narrated how the Ya Na sent an emissary direct to the Yendi DCE and another one to Tamale, whereupon a sub chief went to the Regional Administration where a REGSEC meeting was being held under the chairmanship of the then Tamale Municipal Chief Executive (MCE) because the Regional Minister was out of town. They posed the question, "How long would it take security personnel to Yendi from Tamale, a distance of less than 60 miles?" (*July 19, 2010*) According to the Assembly members, this is ample proof of the involvement of both the Tamale and Yendi District Assemblies. Meanwhile, the then Minister of Interior who was also the MP for the Yendi constituency came out to deny that any disturbance was going on in Yendi. And to crown it all, Mr. Obetsebi Lamptey, a Minister in the NPP government, was the one who announced the death of the Ya Na on an electronic media, Joy FM the day after the murder. On the death of chiefs, the norm has been that a delegation of traditional elders officially informs government about "a chief who has gone to the village." It is a taboo for government to announce the departure of a chief without recourse to the traditional authorities first. This, the government did not do, but hastily announced the death of the Ya Na.

Further, the discussants could not fathom why Tamale and Yendi voted for the NPP in 2000 only for the NPP government to turn round and be culpable in the murder of the Ya Na. Discussants recounted an unusual incident that took place during the 2000 elections, where the

Ya Na voted twice! The story goes like this. The then Vice President was supposed to vote together with the Ya Na. After a long wait, Ya Na decided to cast his vote. When the Vice President finally arrived, he insisted on going with the Ya Na because he wanted to witness the Ya Na casting his vote. Consequently, the Ya Na was given another ballot paper, and after thumb printing it showed it the public – an act which is not supposed to be done – and then placed the paper in the ballot box. The local people say that the Ya Na voted for his “bullets that will be used to kill him,” and it came to pass.

Obviously, this focus group discussion comprising of Assembly members was the most detailed inference of the involvement of not only the Yendi District Assembly alluded to by previous respondents, but also that of the Tamale Municipal Assembly, represented by the Tamale MCE. More important though was the narrative of this group, which was so similar to that of one of the chiefs, that there was no shadow of doubt about the involvement of the District Assemblies and central government in a case that was already protracted and begging for a solution. The Tamale MCE could be said to have been acting for the Regional Minister in his absence. However, his subsequent acts of omission or commission in that capacity served to taint the Tamale Municipal Assembly. His actions though, speak to a deconcentration type of a DCE, who takes no initiative of his own, but follows orders of his superiors. But only one instance may not be valid to draw such an inference.

#### *5.2.1.4 Perceptions of Community Leaders*

Community leaders also recounted the division between the traditional leadership in Dagbon as a source of the succession conflict, much like traditional elites, Assembly officials and members. They however absolved chiefs in the Tamale metropolis from blame, because the

events leading to the murder occurred so quickly that the divisional chiefs in Tamale who could have defended or supported the king were not aware of the nature of the conflict. They heard of disturbances in Yendi on the electronic media, which were denied and then the next moment, the unthinkable happened.

On the District Assembly involvement, the community leaders narrated how the Yendi DCE imposed a curfew, which was subsequently lifted by the Northern Regional Minister. Meanwhile, there were rumors of the intention to kill the Ya Na during the fire festival. Acting upon that rumor, the Regional Minister had a discussion with the Ya Na at Yendi, where both of them determined that the motive of the curfew was not to prevent conflict, but to allow a dubious act to be committed in the night. That is how come the Regional Minister decided to lift the curfew in order to absolve himself of any responsibility. On the fateful day of the murder, the Regional Minister happened to be in Accra, but the Yendi DCE oversaw the horrible operation.

In sum then, all the four different categories represented in the Dagomba kingdom essentially blamed the traditional leadership (Abudu and Andani) and actors within the two District Assemblies, especially the Yendi DCE for their role in the succession conflict of Dagbon, which unfortunately led to the death of the king. The bargaining processes within the customary (informal) institution of chieftaincy had definitely broken down when it came to succession issues. And this was not a new thing, but had been in existence from the colonial era through to contemporary times. This situation has not been helped by the involvement of central and local government actors, who sought to inflame the already dismal institutional negotiations going on within the chieftaincy structure. The formal system itself also seemed to have been in some kind of disarray, with the top leadership probably unaware of dealings below, exacerbated by inconsistencies in the actions of officials both at the center and local. The burning question



borders on who or what government structure was actually in charge of the security situation prior to the murder of the king. Beyond this, the alliances of the actors, both in the formal and informal system, served to further confuse the power relations within each institutional setting, be it formal or informal. Do perceptions of respondents *outside* those within the Dagomba kingdom tally or differ from the narratives and discussions above?

#### *5.2.1.5 Perceptions of Non-Resident Respondents in Dagbon*

On the involvement of traditional actors, respondents, who normally were not resident in Tamale, mentioned similar sentiments about the division in the Abudu and Andani camps. While some of them intimated that the Regional House of Chiefs and the Otumfuo Committee were trying to mediate the impasse between the Abudus and the Andanis, others maintained the liability of the two gates, Abudus and Andanis. Responses pertaining to District Assembly involvement were also not different from those of the residents. Some of the responses looped in central government involvement as well.

The discussion of Kumasi Assembly members sums up how others outside of Tamale viewed the involvement of the traditional leaders and the District Assembly, but from a slightly different perspective. They conceded the role of traditional leaders in succession conflicts, but felt that these roles were indirect. By this, they meant that it was the respective factions and supporters of the factions that were actually involved. The chiefs would not have been involved, but for their supporters. This was interesting since residents on the spot asserted strongly the involvement of the factions. Consequently, the Kumasi Assembly members totally absolved the traditional leadership of any blame!

Their discussion of the involvement of the District Assembly encapsulated and reinforced the resident's responses. As far as they were concerned, the District Assemblies were involved. They explained that this was possible because the Abudus and Andanis align with the political standing of Assembly officials and members. Thus almost all the Abudus in the Assembly were NPP, while the Andanis NDC, and this was reinforced by a ruling party to influence its faction in the Assembly. This categorical assertion was very difficult for me to accept, knowing that they were not resident in Kumasi.

However, it made sense when they linked their perceived alignment to what they called the "system" (*July 6, 2010*). According to the discussants, it was not the politicians who had allowed the system to be in a place, but it was the system that had attracted the politicians to have a field day, because when the conflict started during the British colonial rule, (party) politics was not yet instituted. The system that had come to be in place was that succeeding governments from independence passed judgments in favor of one or the other gate at different times. The aggrieved party would then perceive that the ruling government was not in their favor, and this has evolved into present day politics. The party politicians, opportunistic as they are, and always in search of votes, have subsequently also infiltrated into the system. For them, this started with the Convention People's Party and United Party, and currently expressed by the NPP and NDC.

Again, as far as these Assembly members were concerned, the non partisan nature of the Assembly was rhetorical; partisanship was clearly institutionalized in the Assemblies of the Dagomba kingdom. Considering that in the pre-discussion session the discussants commended the Kumasi Metropolitan Assembly of a positive trend that seeks to shift divisive politics in terms of hostility to a better understanding of opposing party political ideas since 2001, I was not

in the least surprised after all. They referred to the ‘skirt and blouse’ observation in the last presidential and parliamentary elections where people may have voted for their preferred presidential candidate, but not the legislator standing for the president’s party or vice versa. But what struck me most from the responses of people normally resident outside the Dagomba kingdom was the corroboration of the responses of the residents.

What this probably means is that indeed, the Dagbon issue had assumed national importance to the extent that outsiders could speak the same voice as insiders, though not in detailed elaboration. It is now nationally acknowledged that the institutional bargaining has collapsed within the actors of Dagbon succession. In addition, government involvement – central and local – expressed through political manipulations and complicity has not escaped Ghanaians in general. A selection of a chief that starts out purely as a traditional (informal) event is so enmeshed in government interference that ought not to be, but increasingly occurs to end in a rather gruesome murder of a king, so loved by his people that the pain just would not go away. How does the Cape Coast state of affairs differ or approach the situation in Dagbon?

## **5.2.2 Actors in the Cape Coast Conflict**

### *5.2.2.1 Perceptions of District Assembly Officials*

Unlike Dagbon where the traditional leadership itself was the source of the succession problem, in Cape Coast, the customary sector mediated the conflict, as stated by two DA officials. That the two officials here knew about the issues was because of their positions in the DA; in addition, one happened to be a member of the royal family.

The bone of contention here was that the Mbra house or Bart-Addison family, having reigned for over one hundred years, assumed it was a foregone conclusion that another candidate

from the family in the person of Bart-Addison, an educationist, was next in line. Consequently, there was an attempt to stall the selection process, which failed. This is what transpired between me and one of the DA officials as he explained the abortive attempt, when I inquired about the role the traditional leadership played in the Cape Coast conflict.

*The Cape Coast one, let's say they have a united voice. Go through all the Adontehen and whosoever, they will tell you this is the rightful man on the throne.*

(I: So they didn't play any part in fuelling the conflict?)

*No, they didn't. It was that one house that did not participate in the process, because they felt it is ours, under the pretext that their Abusuapanyin, Mr. Dsane then, had traveled outside the country. So until he comes, they will not participate. And the others said "We won't wait for you." So they went ahead. But all the others came behind, because they realized that he is the son of a woman Anna Panyin; they are twins – Anna Panyin and Kakra, from one house. The Abusuapanyin comes from the Kakra, the Omanhen comes from the Panyin...Many people never knew him, and thought that he was an imposition.*

(I: Actually, he is really in the line)

*That is it. But history and our elders have not helped us, and we too have not helped them by taking interest in the chieftaincy thing, and making sure with computers try to get down everybody's line – lineage, and produce it as paper for them. That is where we, the learned, have failed. (June 17, 2010).*

To all intents and purposes, very few citizens of Cape Coast even realized that some sort of disagreement had cropped up. All they knew was that a rival candidate who put himself up as the chief of Cape Coast was hurriedly dropped by his adherents while riding in a palanquin. This was when word got out that the security personnel were on their heels, since the supposed chief had not gone through the vetting process. As a long time citizen of Cape Coast myself, I know

this as the story that makes the rounds, and it is always recounted for amusement. Cape Coast citizens do not care much about chieftaincy, and this was rightly observed by this respondent. But more importantly, the royal family refused to be torn asunder or be held hostage by one side. The institutional bargaining within the traditional setting overrode petty dissenting issues as to whether the nominated candidate was indeed legitimate. The Cape Coast traditional council even stayed out of the fracas as much as possible, leaving the royal family to sort itself out, as the MP told me.

Again, in contrast to the Dagbon crisis, the then Cape Coast Municipal Assembly had no role in the Cape Coast conflict, except to ensure the security of the municipality, a legitimate function of an Assembly. The Cape Coast DISEC was in readiness for any eventuality, and indeed did act once to stop the illegitimate chief from the Bart-Addison family being paraded through the principal streets. The minimal role of the Assembly stemmed from the awareness that the DA is a wing of government; thus, it limited any involvement in chieftaincy issues (*DA official June 8, 2010*).

From informal discussions with both traditional elites and Assembly personnel, the impression I had was that a cordial relationship existed between the Assembly as agents of the government and the traditional elites as custodians of customary norms and usages. Many traditional rulers were members of the Assembly and worked very closely with the Metropolitan Chief Executive. Indeed, when I discussed with the MCE to use the Assembly Conference room for the final roundtable discussion I had in my mind, he quickly suggested the newly refurbished conference room at the Omanhen's palace, which was the reception hall used when President Barack Obama of the United States visited Cape Coast in 2009. Hence the name 'Obama Hall.' To my amazement, when I applied for the hall, it was granted when I informally suggested that

the idea originated from the MCE. All indications were that here was a local government official bent on seeing to it that the Assembly implements devolution type of decentralization. The District Assembly saw the chieftaincy succession process as a no go zone, and respected this norm.

#### 5.2.2.2 Perceptions of Traditional Elites

Corroborating the MP's assertion, the two chiefs that discussed the Cape Coast conflict also emphasized that the traditional leadership left the resolution of the conflict to the royal family. From their viewpoint, there was no conflict, even though the Bart-Addison family had taken up the case in both the law court and the Cape Coast Regional House of Chiefs. As had been expressed by one DA official, this house within the royal family just would not accept defeat. Consequently, "they pick up aspects." (DA official June 17, 2010). According to one chief, insofar as the Omanhen, Nana Kwesi Atta II had been gazetted, he was the substantive chief. On one hand, this chief acknowledges the acceptance of the formal rules in the gazetting of chiefs. On the other hand, his sentiments speak to a resistance of the gazetting process. This is how he put it:

*He is the chief. The government has a law to deal with such cases. One thing that has brought trouble in chieftaincy matters is the original involvement of government, which directs that the government has to gazette any chief that is installed, to show that the community acknowledges that you are the legitimate chief. Without government gazette, it means you are not a legitimate chief. But, your people may have accepted you as their chief. There are rules accompanying being gazetted by the government. When it comes to destoolment, certain rules have to be complied. The law is an axe that grinds slowly, even with cases at traditional courts. There are legal representations, and cases are always being postponed for hearing, and this could go on for*

*10 years. The chief will still be reigning even though there may be an injunction to the chief performing his functions as such. Even then, the injunction has to be ruled and accepted. This is a legal tussle compounded by the absences of the legal counsels. Sometimes the delays result in the courts issuing a mandamus, that is, time is being wasted that the chief has to be gazetted. Once gazetted, the chief continues to reign until the opponents secure an interim injunction, requesting that the chief be set aside for the case to be heard again at the Regional House of Chiefs. (June 27, 2010)*

He explained to me that a case against a paramount chief had to be taken up by a Regional House of Chiefs, while with all other chiefs, when there is a dispute on any matter, it is the traditional council that deals with them. I probed for any role the traditional leadership could have played beyond allowing the royal family to bargain on the nomination of a candidate. I wanted to indirectly elicit from him whether the kind of alliances that were prevailing in the Dagbon crisis where all Abudu chiefs supported the Bolin Na and Andani chiefs the murdered king existed in Cape Coast. The respondent stated:

*We proposed that we wanted to mediate in the conflict, because disputes are always conflicts, and they compromise the development of the state (community). There is no united front. And as the major chief for the state, if the front is divided, if there is problem on my stool, it doesn't matter too much because others don't have a problem; you are the head of the whole state – paramount chief and there is a problem with the stool, then development is compromised. Again, politics comes into play here, where the NPP and NDC governments lend support to the two factions.*

At this point, I bowed my head (my intuitive reaction of NO, not again), to which he quickly made a passing comment and continued,

*You are bending your head, I am telling you the truth. Meanwhile, the person in question is also maneuvering his way, aligning with whatever government is in power. Cape Coast is an important place, the first residence of the colonialists. They first came to Edina (Elmina) and Cape Coast before going to Accra and other places...and that is why Cape Coast has become a problem spot. They all came here – the Portuguese, Danes, Germans, British, all sorts of people.*

So again, the chiefs corroborated what the DA officials had observed about the traditional leadership in Cape Coast; they were more likely to mediate in a succession conflict, rather than be part of the conflict.

With regards to the Municipal Assembly, the chiefs indicated that the Assembly did not come into the equation in any way. The DA's only role was to ensure peace in the municipality.

### *5.2.2.3 Perceptions of District Assembly Members*

In contrast to the other categories of respondents, the Assembly members here who discussed succession issues did not find any problem with the Cape Coast paramount stool. For them, succession conflicts could be observed in the suburbs of Cape Coast, such as Ekon, Abura, and Pedu. The latter two had been resolved. In the Ekon case, the discussants chastised the Oguaa (Cape Coast) traditional council for allowing the northern faction to nominate a candidate as well as direct that a rotation system should be established for the position of Abusuapanyin. Akan norms and custom frown on the selection of a head of family by rotation in Ghana. Further, the discussants indicated the possibility that the kingmakers could have been influenced with money. A brief description of the Ekon conflict will put the role of the traditional council in context.



There are four gates in Ekon, two in the northern sector and two in the southern sector. The Abusuapanyin hails from the southern sector. Selection of chiefs rotates between the two sectors; a convention, but not written. When the last chief from the northern sector died, the second gate from the northern sector wanted to succeed. The major reason was that all the key elders were in the southern sector – Abusuapanyin, Okyeame (linguist) and Obaahema (queen mother) – and with a chief from the southern sector, all the positions would be concentrated there. Consequently, if a norm could be established for the rotation of the Abusuapanyin, then the northern sector would agree to the continued rotation. The case was determined at the traditional council, which ruled that the Abusuapanyin should allow the northerners to nominate a candidate. Further, the traditional council directed that the position of Abusuapanyin should also rotate between the north and south.

Initially, the Abusuapanyin rejected the rulings, but after a period of time accepted them on condition that both sectors would nominate a candidate each for the position of the chief. Thereafter, the citizens would interview the two candidates and select one. Further, the rotation system in the succession rules was to be documented.

Whether by fate or by design, some prominent Ekon citizens favored the northern candidate. The interview procedure was arranged such that the northern candidate would be interviewed first, and the southern candidate a week later. However, after the interview of the first candidate, he was immediately installed as a chief. This situation obviously incurred the displeasure of the Abusuapanyin, who then refused to avail himself for the customary rites of ‘sitting the nominee on his lap.’ It was this gesture that signified that a candidate had been customarily accepted as the substantive chief. The northerners went ahead anyway by ‘sitting the nominee on another Abusuapanyin’s lap.’ The aggrieved Abusuapanyin went straight to the

law court. The court subsequently placed an injunction on the ‘illegal chief’ in the performance of his chiefly duties until after the determination of the case.

As can be observed here, the Asafo companies and the queen mother are visibly absent, and do not appear to have a stake in the selection of a chief as would normally occur in the selection of the paramount chief. However, an innovative introduction of a democratic process into the selection process was craftily circumvented. It is rather unfortunate for the traditional council to attempt to change the informal rules within the informal sector itself. However, the bargaining process within the sector allowed the head of the family to cave in, paving the way for the selection of a chief only to be frustrated again by opportunistic elements in the society. Once again, the District Assembly had no function in the conflict.

#### *5.2.2.4 Perceptions of Community Leaders*

The Cape Coast community leaders echoed the sentiments of the District Assembly officials and the traditional rulers. Both the traditional leadership and the District Assembly stayed out of the succession conflict regarding the paramount chief. They indicated that the conflict was resolved after six years, because the royal family saw no point in perpetuating the conflict, which bordered on a perception that the candidate manipulated the process through the use of his wealth. It was the considered opinion of the group that the factors that weighed in the favor of the current chief was that he was highly qualified (a chartered accountant), highly educated, and well connected to facilitate the development of the community as enshrined in the current government’s agenda.

Recall that the chief has been duly gazetted, and is recognized as such not only by the citizens, but also by government. Indeed, during the fieldwork, I was unable to interview him

even after I had met him to schedule an interview appointment. He was a member of many national boards as well as the Constitutional Review Committee. Hence, his busy schedule. But key to this dissertation, is that the institutional bargaining within the informal system does not break down in some traditional areas. This coupled with acceptance of formal rules such as the gazetting process speaks to successful interactions between the formal and informal institutions of state and tradition respectively.

#### *5.2.2.5 Perceptions of Non-Resident Respondents in Cape Coast*

Interestingly, the sole outsider, but nevertheless, an indigene claimed the non involvement of the traditional leaders is because they are “stomach chiefs” (*July 7, 2010*). By this, he meant the sub chiefs had been silenced with money. Community leaders also alluded to this issue of the influence of money and the perception that the wealth of the candidate allowed him to ascend the throne, but that line of thinking appeared to be over. What we can observe is that petty tangential issues to the claim to the throne are what the Bart-Addison family was pursuing at the law court and the Regional House of Chiefs.

In addition, this respondent alone did not accept that the Cape Coast chief had been gazetted. This is a piece I had with him:

*He is not recognized by the now (current) family head of the royal family.*

(I: But his name has been gazetted?)

*I don't know. People are saying that he has been gazetted. If he's been gazetted, then it is the government that has gazetted him. It is not the royal family. (July 7, 2010)*

That notwithstanding, this respondent concurred with all others that the District Assembly had no role in the recent succession conflict. It is only when a security issue arose that

DISEC and REGSEC were called in. Else, the DA detaches itself from succession conflicts. He stated,

*Apart from that, they don't mingle in chieftaincy. There is a difference between the government and the chieftaincy.*

To close this section, it is clear that in the two succession conflicts of Dagbon and Cape Coast, the tasks of the traditional leadership and District Assembly were markedly different. While in Dagbon, the traditional leadership was the problem, in Cape Coast the traditional council opted to leave the issues to the royal family. Not so in Dagbon, where the royal family was caught in a web of alliances that were reinforced by sub chiefs belonging to the two camps as well as political influences, which brought in the perception of governmental interference.

The District Assembly in Cape Coast could not be faulted for interfering in the succession rules or in the resulting conflict. Any involvement was in the area of ensuring peace, a legitimate function within the roles and responsibility of a DA. In Dagbon, at least the then Yendi DCE appeared to be deeply involved in the fray, while the former Tamale MCE failed to exercise delegative powers in the absence of the Regional Minister, but succumbed to the dictates of the Yendi DCE. Thus, ultimately we have three models of succession process as represented by the Asante kingdom, Dagomba kingdom and Cape Coast traditional area.

In Asante, we do not know whether central and local government interference could have mattered in the installation of the current Asantehene in 1999. Odotei and Hagan (2003) in a very detailed study about the installation of the current king sought to investigate this rare event, which had occurred thrice in the twentieth century. Asante kingdom is known for its rich cultural heritage, and in line with democracy, the researchers were interested in the evolution of democratic process in the succession process or not, and the power roles of women in the Akan

political system. One revelation was that the queen mother rebuffed an attempt by the government of the day (NDC1) to project a preferred candidate. They note “a very thorough consultative and consensus building process [that] has to take place behind the scenes to avoid rejection at any stage” (Odotei and Hagan 2003, 2). This is a pointer to the institutional bargaining that goes on within the traditional Asante sector. Odotei and Hagan note further that, “[o]nce a candidate had been accepted, everyone rallied to support him as the new king. Individual preferences are submerged for the common good of the Asante nation” (Odotei and Hagan 2003, 3).

In Asante kingdom then, there is little central government interference in the succession rules. But beyond that, the citizens also accept the bargaining processes that have occurred within the traditional set up, even though they may not be privy to the negotiation processes. In Cape Coast, consensus is also achieved within the royal family, and much like the Asante model, there is very little noticeable government involvement (at least government represented by the District Assembly) and absence of traditional leadership influences. The vetting process introduces elements of democracy, and the negotiations that go on between the royal family and the Asafo companies stays within the succession bloc. Both the Asante and Cape Coast successions are also matrilineal.

A patrilineal system of primogeniture is what prevails in Dagbon. Beyond that, negotiations have broken down not only within the traditional system, but also between the traditional leaders and central government. The former has come about because of alliances and personal interests underlain by political influence. Custom and history have been totally marginalized unlike the case of Asante and Cape Coast. These political alliances, which are a continuation of British diarchy, have crept into the contemporary interaction between tradition

and government. One outcome of the collapse in the formal-informal interaction is the rejection of the Otumfuo Committee by the Abudus, after it initially hailed the Committee as impartial. This has implications for future government negotiations with the Abudus. For now, they are dissatisfied that the current government has hauled a number of Abudus to the law court, which includes the former Yendi DCE. Further, they have snubbed a committee composed entirely of chiefs just like their leadership; this committee was appointed by government and it might be an indicator of non acceptance of formal rules. Tentatively then, it is the breakdown of the interaction both within the factions of Dagbon succession stakeholders and between the central government and the feuding factions that leads to the perpetuation of the Dagbon conflict. What are the reasons for the non resolution of the Dagbon conflict, and how was the Cape Coast conflict resolved?

### **5.3 Conflict Resolution**

In this section, I focus on the mediation tactics that have been employed to either preempt or resolve succession conflicts generally in Ghana, but specifically in the Asante kingdom and Cape Coast traditional area respectively. The way local elites, community leaders and officials of DA mediate such conflicts has implications for effective local government. Consequently, following a discussion of the successful mediation tactics, I will describe the various factors which have compromised a successful conflict resolution, especially in Dagbon. Any elimination of continued conflict hinges on the expected mediation strategies relevant to the contestants and the role of government

### **5.3.1 Successful Resolutions**

Only three succession conflicts had been resolved so far as per my interviews, and these were neither in Asante kingdom nor Cape Coast traditional area. The main tactics used in two of them were traditional mediation by leaders and elders, while in the third, the royal family relied on history. What is common among all three cases was that the conflicts were staged between factions within the royal family, and yet, it was the same elders that negotiated among themselves to resolve the succession conflict. Further, in all the three, the involvement of the District Assembly was nil both in the escalation of the conflict and in the mediation. Consequently, the informal institutions had resolved their own problems without an alternative from government.

One such dispute occurred in a village called Kusoko in the Gonja area. Succession is by ascendancy similar to Dagbon, and the dispute involved the Yabon-wura and his family, much like the Ya Na's. Yabon is the highest chiefship of the Gonja people. Within seven years, this chief moved from Yapei to Kusoko to Yabon, and in all three instances, his elder brother and his supporters challenged him. In all three instances though, he prevailed because of the mediation by the elders. At a point in his ascendancy, precisely at Kusoko, his elder brother mobilized people to fight against him to no avail.

In the third case where the elders invoked traditional history relating to succession, it so happened that the elders themselves participated in appointing a surrogate chief to act in the absence of the rightful heir. When the acting chief refused to hand over the mantle of the stool, precedence of a similar situation when there was a smooth transition from an acting chief was invoked to allow a peaceful switch. These three cases are illuminating in the sense that they demonstrate that no conflict is too intractable for a resolution.

Of the two potential conflicts that had been avoided, one relied on custom and the wisdom of the elders. The other was purported to have been prevented because of the absence of partisanship within the chieftaincy institution. Both respondents who expressed these sentiments failed to give me examples. Therefore, I assumed they were making suggestions, which could preempt a potential succession conflict. My worry really was how only three elites believed that no succession conflicts existed in Ghana, much to the overwhelming majority. Two reasons could be attributed to this anomaly. Two elites' responses were centered on their location, Kumasi and Cape Coast; they were specific on the main stools of the Asantehene and Osabarima. As far as they were concerned, no succession disputes had ever cropped up in those areas. The other respondent in Tamale, incidentally, was one among two respondents who were of the opinion that the murder of the Ya Na had nothing to do with succession, but a purely criminal issue. However, there is no doubt from the interviews, that a protracted succession dispute in Dagbon led to the murder. Events took a sinister turn when the NPP government came to power in Ghana in 2001 because of the Abudus' alliance to the ruling party and the indiscrete promises of politicians.

In mediating to avoid potential conflicts, traditional leadership would be assumed to be firm, and outcomes would depend on the respectability of the elders. Their role in mediation would be attributed to them being “fair-minded and being just, going according to rules and regulations” (*District Assembly Official July 9, 2010*).

### **5.3.2 Partial Resolutions**

Seven key informants spoke about partial resolution of succession conflicts. With the exception of one, all the other six had earlier indicated that over the past decade, a succession conflict had occurred in Cape Coast. Further, they all agreed that this conflict has been partially



resolved. The paramount chief, Osabarima, has been gazetted by central government through the National House of Chiefs. However, one house out of the five was still dissatisfied with the installation of Nana Kwesi Atta II. The issue at stake appears no more to be why Osabarima was not the rightful heir. That was laid to rest in 2004. However, the Bart-Addison family was pursuing “aspects” as earlier described by one DA official on the current state of affairs. That the resolution was partial is because the Bart-Addison family was contesting these aspects relating to their disputed inclusion in the royal family at both the law courts and the traditional court (Central Region House of Chiefs). The reaction of a DA official best speaks to the latest situation.

*The Cape Coast one, and is now to the Supreme Court. Here he is gazetted. They are talking about some other things even though related to chieftaincy, but not to his legitimacy. The government uses him. He is even a member of the TOR management board. So that means the government on one hand recognizes the legitimacy, and he is ruling. To a large extent, let's say it's been resolved, but there might be some minor, minor issues.*

*They used the judiciary to also a large extent to resolve it; the military played their part, that is, security; from every sector – the administration, the RCC as well as the District Assembly played their part providing security, calling people to order, arresting people that they should arrest and prosecuting them where necessary. The chieftaincy institution also ascertained the legitimacy of the current chief. You agree that once they recognize that, he is legitimate. (June 17, 2010).*

Both the traditional leadership and District Assembly also played a part in this resolution. The DA had the support of the Regional Coordinating Council and provided security awaiting any

breach of peace. As the Metropolitan Chief Executive of Cape Coast Metropolitan Assembly explained the Assembly's role in the mediation process:

*The Assembly has no mandate to get involved in chieftaincy or family affairs. We come in purely on technical grounds. (June 8, 2010).*

Being a member of the Tema Oil Refinery (TOR) board testifies to the recognition of Osabarima both by government, and Cape Coast citizens and chiefs. Chiefs were not particularly enthused that despite their own internal resolution mechanisms at the traditional council, they were not being involved in the mediation. According to them, they could have resolved this case without necessarily going to the law court. The major constraint is from the laws of Ghana, which direct that a case against a chief of paramount status has to be adjudicated at the Regional House of Chiefs. This is how another chief of divisional status explained the ongoing process to me.

*Anytime the traditional leadership attempts to venture into the case, we are told this matter does not concern us. We have tried it before, but we were rebuffed. It is in the Chieftaincy Act and because of the government involvement with gazetting, there is an accompanying law that another chief should not interfere in the affairs of another chieftaincy area*

(I: So it is the Regional House of Chiefs that can resolve the issue? What has that House done about the case?)

*Well, the case is always postponed. With the Regional House of Chiefs, it is not mediation as such; it is arbitration to make sure that the right thing is being done. With mediation, you come in and plead, that please, put down your guns; stop fighting, it's not good. If they stop, then it's OK. You wait and allow one chief to reign. That's how you can mediate. But if you want to resolve the matter, you have to arbitrate. The case has to be heard, where lawyers (attorneys)*

*come in. You can imagine; it is an expensive thing too. By the time the case is settled, the family is in huge debt. (June 27, 2010).*

The opinion of this chief was very interesting. It was this same chief who had earlier indicated that the Cape Coast problem was essentially attributable to the influence of the British in the chieftaincy system. The political system disaggregated into executive, legislature and judiciary in Ghana is a legacy of British colonialism. In a subtle manner to perpetuate indirect control, the 1992 Constitution of Ghana both protects chieftaincy institution and yet, maintains control. For instance, Act 274 of the 1992 Constitution establishes Regional House of Chiefs in all the 10 regions of Ghana. The Act allows for a Judicial Committee of three members to be appointed from the membership of the House. Clause (4) of the Act states:

*A Judicial Committee of a Regional House of Chiefs shall be assisted by a lawyer of not less than five years' standing appointed by the Regional House of Chiefs on the recommendation of the Attorney-General (italics mine).*

By accepting attorneys recommended by central government (Attorney-General), we see a clear acceptance of formal rules in the informal customary sector. In my research sites, not once did any respondent chastise the government for legalizing the Regional House of Chiefs. In contrast, they were ever so happy to have legal assistance.

But beyond this mutual interaction between the formal and informal institutions, we can deduce a more nuanced distinction made by this chief between mediation and resolution. This differentiation has been the background on which most of the key informants who alluded to the Otumfuo Committee in the Dagbon crisis based their responses on. As far as they were concerned, the Otumfuo Committee was only mediating as per its terms of reference; resolution was another issue. Consequently, it is the law courts that could resolve succession conflicts. Yet

Articles 273 (2) and 274 (4) mandate the judicial committees of the National House of Chiefs and Regional Houses of Chiefs respectively to have appellate jurisdiction.

The central government involvement in the chieftaincy institution clearly goes beyond a perception of their political alignment to particular houses or gates of royal families, as well as the debate on whether gazetting of chiefs is wholly accepted by chiefs. Constitutionally, government is mandated to assist the Regional House of Chiefs, by providing salaried attorneys and remunerating the judicial committees of the houses of chiefs<sup>29</sup>. However, it stands to reason that since the houses *appoint* the attorneys, chiefs can reject government's recommendation. Central government's role in mediation could therefore be said to be indirect. However, by the spirit of the Constitution, if a party is dissatisfied with a ruling at the Regional House of Chiefs, an appeal could be made at the National House of Chiefs. Any further grievances ended at the Supreme Court as per Article 273 (6). Indeed, a prominent chief of Cape Coast averred that in mediation "[t]he only part the government could play is that if after a period of time the case is not resolved, it will direct that it be sent to the Supreme Court" (*Chief June 27, 2010*). Central government then is capable of directly intervening in mediation. The Supreme Court becomes the final arbiter. Cape Coast citizens and traditional leaders alike are patiently waiting for the judgment of the Supreme Court.

Nevertheless, it is the general view that with the gazetting of the Omanhen in 2004, any litigation beyond that is a non starter. As the Member of Parliament for the area stated, "Once you see the gazette notice, then you want to believe that it is finalized." (*June 19, 2010*). The puzzling issue though is how the chief came to be gazetted despite the litigation that went on for almost six years. Some of the key informants suggested that, that indeed was a mystery. I

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<sup>29</sup> Article 273 of the 1992 Constitution allows for a similar structure of a Judicial Committee in the National House of Chiefs.

pressed the MP to tell me why the conflict has not been wholly resolved. In the design of the interview schedule, I posed this question only to respondents who indicated that the succession conflict had not been resolved. Being a deputy Minister of State in charge of legal issues, I wanted to get his opinion on this conflict, which on the surface appeared insignificant to the residents of Cape Coast until one investigated more thoroughly. This was his view:

*I think that some time back, the government tried to get the traditional councils to prepare what they call family trees of royal families to show who and who qualify to ascend to the throne, and to furnish the traditional councils with that information so that any time the stool becomes vacant, you have something you can fall on. Assuming the wrong person is nominated and the case comes before the traditional council or the Regional House of Chiefs, they have some information, which will inform whatever decision they will want to take. It is true that we have to take oral evidence, but if we have some guidance, that you yourselves gave me this family tree. So I want to believe that this is what I can rely on. But quite a number of families did not furnish the traditional council with the information, which I find very unfortunate. If they had, it would have helped to cut down unnecessary litigation.*

The MP was referring to the 1992 Constitutional provision that had requested the National House of Chiefs to codify the succession process. Article 272 (b) spells out one of the four functions of the National House of Chiefs:

Undertake the progressive study, interpretation and codification of customary laws 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.

This lackadaisical attitude of members of the royal family compromises the work of the National House of Chiefs, which has to rely on inputs from the Regional Houses of Chiefs (Article 274 (3f)), but ultimately from the royal families. However, this action of some royal families could

be seen as resistance to the intrusion of formal rules into the traditional sector. Failing to provide the lines of succession becomes a weapon of the traditional institution. But it also begs the question of the kind of authority that the National House of Chiefs wields, in not enforcing this constitutional provision, or is the House passing the buck or hiding behind the lack of inputs to demonstrate its own resistance?

### **5.3.3 Unsuccessful Resolutions**

Based on my interviews, six major factors emerged as contributing to the persistence of succession conflicts in Ghana. These were: -

1. Chieftaincy inaction (11.3%)
2. Absence of independent mediators (3.8%)
3. Personal interest and alignments (23.8%)
4. Absence or marginalization of history and custom (18.8%)
5. Lack of documentation of succession lines and rules (13.8%), and
6. Government inaction and political involvement (28.8%).

Government inaction and political involvement coupled with personal interest and alignments accounted for more than half of the reasons why succession conflicts have not been resolved.

Table 3 shows the conflict location and the reasons assigned for non resolution of the conflicts in Dagbon, Bawku, Techiman-Tuwobodom, Accra and Winneba. These five conflict locations were the ones that respondents who mentioned them, agreed without conflicting opinions, that the conflicts had not been resolved. Consequently, any calculated percentages from Table 3 may not tally with the percentages associated with list of reasons above.

**Table 3: Reasons for Non Resolution of Succession Conflicts**

Reasons	Conflict Location					Total
	Dagbon	Bawku	T-Tuwobodom	Accra	Winneba	
Chieftaincy inaction	2	-	-	2	-	4
Independent mediators absent	3	-	-	-	-	3
Personal interest/Alignments	13	1	-	4	1	19
History or Custom marginalized or absent	13	-	-	-	1	14
Lack of documentation	5	-	-	3	1	9
Government inaction or political involvement	14	-	-	5	-	19
Total	50	1	0	14	3	68

Source: Author 2010

From Table 3, Dagbon appears to be *the* chieftaincy succession conflict in Ghana that deserves serious attention in terms of resolution. Recall Dagbon was mentioned by 26 of the respondents. It is therefore not surprising that the focus here was on Dagbon; almost three quarters of the suggestions were peculiar to Dagbon. No reasons were assigned for the conflict in Techiman-Tuwobodom, reinforcing my disagreement with the respondents who alluded to the issue as a succession conflict. Interesting though, are succession conflicts in Greater Accra region, which are becoming a source of concern in Ghana. Since most of the chieftaincy succession disputes were related to land conflicts, it remains to be seen in the chapters on traditional land management whether the linkage between succession and land conflicts is not a spurious one. In the ensuing sub-sections, I first talk about the perceptions of Dagbon residents. Then I explore whether nonresidents had similar views or not.

### 5.3.3.1 Succession Conflict Resolution Suggestions from Dagbon Residents

In Dagbon, the three leading contending reasons for the non resolution of the protracted succession conflict were the ineptitude of government; the marginalization of history and customs; and personal interests and alignments. Two factors that were almost exclusively assigned to Dagbon were the absence of independent mediators and the marginalization of history and customs. Chieftaincy inaction and lack of documentation appeared to be relatively important to the resolution of the Dagbon crisis. As would be inferred from the perceptions of some of the respondents, these two were intricately tied to two of the leading factors; chieftaincy inaction to personal interest and alignment, and lack of documentation to marginalization of history and customs. However, the solution to the Dagbon crisis in the current situation appears to suggest a two-pronged approach: dealing with the criminal aspect and the traditional dimension, and this essentially narrows down to the state (formal) versus tradition (informal).

On the ineptitude of government, traditional leaders in Tamale did not mince words about the inability of the previous Kufour government to bring to justice the perpetrators of crimes regarding succession. According to one chief, the first step towards resolving the Dagbon crisis is authority punishing the wrongdoer. By authority, this chief meant government. He recapitulated this lack of punishment for wrongdoers since Nkrumah's days. He decried the situation where instead of invoking the rule of law, commissions of enquiry were always set up. As he explained through an interpreter,

*The history of the conflict dates far back to Nkrumah's regime. Since then, they have been forming commissions to go into the conflict. Finally, they settled it that it was the Andani's turn; they have the right to succeed. And that because they didn't punish those who did wrong that time, they still saw that they can do it again and go free. There were there doing small, small.*



*When NPP assumed power, they easily associated themselves with them and they were able to convince the government and they had a chance to commit that murder. (July 20, 2010).*

It was easy to feel the pain from the manner in which some of the respondents spoke about the Dagbon succession conflict that ended in the death of the king. This chief, while commending the ruling NDC government for their efforts in arresting suspects involved in the murder of the Ya Na, also wished for a speedy punishment to serve as a deterrent. Said another chief,

*Government should really take a bold stance and be firm and resolute. The Bible doesn't say that the poor man should be judged differently from the rich man. Both the Bible and Quran say it is more difficult for a rich man to enter heaven and it's easier for a camel to enter the eye of a needle. They have reasons for that...Government should be firm for the benefit of Ghana. (July 19, 2010).*

All six Tamale DA officials who also spoke on government inaction were equally concerned about the delay in dealing with the criminal aspect of the regicide. A key official was very blunt about the non enforcement of the rules. He decried the situation where Ghana appeared to be regressing to prehistoric times. This is how he made his point:

*We have always described ourselves as being in modern Ghana, modern world, twenty-first century Ghana. Ghana is not an acephalous state. We have established rules governing every corner, every hamlet. So if we have rules, we insist on the preservation of the rules. If we were gonna back to prehistoric times, once you feel that you are superior or stronger than me, whatever possessions I have, you just beat me up and take it. We can't do that. I'm sure even people who are not connected with it, people who do not even hail from that area, once you go somewhere; you may have traveled to Kansas, when that story is known, they wouldn't say you*

*are from the Dagbon area. They would say, “The ‘head’ in Ghana.” It would actually bring some pain unto you. (July 29, 2010).*

At this point, he paused to reiterate the motivation for my dissertation research that I had initially explained to him, regarding the interplay of formal and informal rules in countries such as Ghana with both formal and informal institutions. What he said next stunned me, because that was the expected outcome of the research, and he was the first respondent to make a categorical statement that hit right on the head of the nail:

*[T]hey (formal and informal institutions) don’t cross each other. You tamper with them and want them to merge or converge at some point; there will be a serious clash.*

Earlier, this same official had expressed his disappointment on the scornful disregard of past Supreme Court decisions on the Dagbon issue. For him, governments appeared incapable of ensuring fair play. Is this a case of government indicating ‘hands off’ in traditional matters or resistance of the customary sector to the intrusion of common law into norms and usages or is it plain government incompetence? Central government is really caught between the devil and God; a huge dilemma, as one DA official stated when I asked him for suggestions on the inability to resolve the Dagbon crisis:

*Involvement of politicians and affiliation (of combatants) with particular political parties. Yet it is incumbent of government to investigate the murder of the Ya Na. This should not be viewed as political; the due process of the law should be allowed to work. For eight years in NPP rule, no perpetrators were brought to justice, fuelling the suspicion of involvement of NPP alignment with the Abudus. (July 15, 2010).*

Government inaction then has been exacerbated by the perception of the politicization of the conflict, an issue that virtually about half of the respondents who made suggestions on the non resolution of the Dagbon dwelt on. As one District Assembly official described it, politicization was “the oil that fuels the lamp, it is political engineering” (*July 16, 2010*). Indeed two of the DA officials here in Tamale were highly vocal on this alignment of the Abudus to the NPP and the Andanis to the NDC. They blamed the “government and party people” for making empty promises to resolve the protracted succession problem in Dagbon, rather than leaving the matter in the hands of the “traditional people themselves to sit down” (*July 15, 2010*). Unlike the Tamale chiefs who only dwelt on punishment, the DA local government actors were, in addition, very displeased with their bosses at the center.

Closely associated with politicization was personal interests and alignment of the feuding factions, Abudus and Andanis. Whilst one chief commented on these alignments, he attributed the root cause to the greed of the Abudus (*July 20, 2010*). He could not bring himself to understand why the Abudus wanted to distort the rotation system as reinstated by a Supreme Court decision, promulgated in a legislative instrument, and yet wanted to succeed three times consecutively. In the focus group discussion with community leaders in Tamale, they also emphasized the need for the current government to deal with the perpetrators of the regicide. But beyond that, they corroborated this chief’s sentiments by suggesting that government should go back to revisit LI 59 passed in Nkrumah’s time, trace the connections with LI 74 and the 1986 Supreme Court ruling and finally link all these to the murder of the Ya Na. Thereafter, government should attempt to reconcile the Abudus and Andanis for the rotation system to resume. (*July 22, 2010*).

For Assembly members in Tamale however, this greed always came to the fore whenever there was a change of government. In 1969, a little after one year when the Progress Party, the forerunner of the NPP, came to power, disturbances emerged in Yendi when the murdered Ya Na was then the regent, since his father has just died. A little over a year after the NPP assumed power, the Abudus “finished their job” (i.e., killing the Ya Na). They referred to a similar scenario that existed in Bawku, where the Mamprusis are NPP and the Kusasis, previously aligned to Nkrumah’s Convention People’s Party, are now with the NDC. The Bawku issue was in the background when Rawlings’ NDC was in power. The moment the NDC left the scene (and NPP came to power) the issue flared up, with beginnings during the campaign period prior to the 2000 elections. According to the Assembly members then, the problems that were prevalent during the British colonial days have resurfaced through the politicians after independence, and they could not be mere coincidences. (*July 19, 2010*).

In the post-independence period, greed, political alignments and government ineptitude have resulted in the entrenched positions taken by both the Abudus and Andanis, which leads to the persistence of the Dagbon crisis. The first item on a second chief’s suggestion to resolving the solution was in allowing only the real princes, those who were eligible to be Ya Nas to dialogue (*July 19, 2010*). He corrected my notion of real princes as the sons of former kings to mean not only that, but sons really in line. This idea of real princes became clearer to me from the discussion with community leaders, and which incidentally, substantiated the primogeniture system within the Dagbon succession ascendancy discussed in the review of related scholarly works. Moreover, the current problem emanated from the ‘parallel authority’ that had come to be created prior to the death of the Ya Na, Yakubu Andani II. This apparently brought in the factor of chieftaincy inaction into the already complex mix of issues.

By their perceived complicity in the death of the king, the Abudus had inflicted a self wound and created a dilemma for themselves. The proposed negotiation expected within the bargaining process of the real princes is that since the king did not die a natural death, an elderly person from the Andani faction could be enskinned Ya Na as well as ensure an Abudu was the Mion Na. Recall that the movement is from Savelugu to Mion and finally to Yendi, the seat of the throne or skin. The argument was that in all probability, the elderly person would soon die and the rotation system would continue. This suggestion in itself would not distort the movement system since the murdered king did not live out his reign. The real problem however was not that the current Mion Na is an Abudu as expected in the rotation system, but that he is also very elderly, and in all probability he may also die soon after an elderly Andani is enskinned. Consequently, the Abudus are not open to that line of suggestion.

What they would rather wish to have happened was that a younger man be enskinned as the Mion Na, who happens to be the Bolin Na that had brought about the ‘parallel authority’ in Yendi. Meanwhile, this Bolin Na had confessed to the Wuaku Commission that technically, he was not yet in the line. He has not moved to Savelugu, let alone move to Mion. The greed of the Abudus had boomeranged in their faces, leading to their entrenched position. That is how come almost all the Tamale respondents believed strongly that the resolution of the Dagbon crisis really resided in custom and history. As one DA official put it, “with Dagbon, the traditional leaders are the conflict, because they know the history...nobody from outside, whether government or anybody” (*July 15, 2010*) could resolve the crisis.

The most illuminating evidence on resorting to custom and history to resolve the Dagbon chieftaincy succession problem came from a seasoned chief whose background was teaching, financial administration, and policy advising. That his views on customary usages and norms

were important can be understood from his role in the Otumfuo Committee that was appointed by government to deal with the mediation of the Dagbon crisis. As previously mentioned, at the beginning of the Committee's assignment, Otumfuo had to understudy the customs and traditions of the Dagomba kingdom. Consequently, he deferred to the Kuga-Na, who is the custodian of customs and the Chief Justice of Dagbon. The Kuga-Na who lives in Yendi, is a customary chief, one of those that soothsaying determines. Therefore, he can never be Ya Na. He is independent of the Ya Na, and he is the only one whose plea of mercy if even it is a capital punishment, the Ya Na cannot refuse. However, with the Ya Na in the mortuary, he was forbidden to leave Dagbon. In the absence of the Kuga-Na, the chief of Nyakpala could have represented him, but he was also deceased. Since my respondent was the son of the deceased Nyakpala chief and had been groomed by his father, he was selected to perform this duty.

This is how this chief discussed the twin issues of custom and history with me:

*It hasn't been resolved because from 1953, the Abudus tried to marginalize and to obliterate the traditional custom, and to substitute it with a committee system of elections and failed. Then they had a second chance, again failed, and the Ollenu Committee pointed these things out. When illegal maneuvering did not work, they resorted to violence. So they have in effect, refused to abide by custom and they are abiding by will, what they wish is now their custom. But in our custom, there is no will. Custom is something determined before you are born, and you are compelled to adhere to the wisdom of the tried and tested procedures and customs; that is why we call custom. You come and meet it, you don't question it. They are questioning it, they are rejecting it. Then, the other side, that is Andani side, though they have embraced the custom, they are marginalizing it. So one side has rejected it, the other side is marginalizing it, and that is why it is moving at a snail pace.*

(I: So the marginalization has come about exactly because of what circumstances?)

*They, when Na Yakubu was killed, they said they are not going to do anything until they find the killers of the Na. So they put their vehicle into low gear, and moving at a slow pace and marginalizing custom.*

(I: So until and unless the perpetrators of the crime are apprehended and justice is executed, custom cannot reemerge to resolve this case?)

*Custom could, but the Andanis feel if custom does, central government which was involved covertly and overtly would be left off the hook, and there will be a repetition. And the precedence would be set that this is how it's done. You could also do it and go scot free.*

(I: Incidentally, in 1969 when a similar thing happened, were the perpetrators brought to book?)

*No. So they don't want it to happen a second time, and then it becomes an established precedence. I am saying to the Andanis your marginalization, which is delaying tactics, is adversely affecting the custom, because since Na Yakubu's death and before his death, other chiefs have died and their funerals hadn't been performed. We've got regents, and regency has got its limitations. Instead of them performing those funerals and having substantive chiefs installed to fight the battle, they've got regents with limited powers. Regents, should it turn into war, don't go to war; only chiefs go to war, regents don't, custom forbids it.*

(I: Moreover, the longer they stay in the regency, the more they taste the power, and the more difficult it will be for them to be...)

*Right, so this is where the marginalization comes in. It's like cutting your nose to spite your face.*

(I: Any other suggestion in relation to Dagbon?)

*The matter can be resolved. The resolution of this problem lies in custom. Until we go back to custom, we've got an uphill battle. Customarily, what used to happen before European intervention of settlement here or being a protectorate, if someone breached custom and it was capital punishment and they were royals – capital punishment did not extend to royals – they were exiled and they would no longer be part of the family. I can give you examples of exiles in*

*Takoradi, Gonja land, Eastern region who are from Dagbon, because they were royals who committed crimes punishable by death...All that is required in custom is for the accused to admit their guilt, confess, pledge not to do it again, show remorse and judgment will be given. The admission, the declaration of guilt and the remorse would show the level of resolution; either exile or you stay but don't come near it. The Kuga-Na, who is the custodian of custom and chief justice would have dispensed with the judgment and remedy. So the answer is in our hands, in the hands of the Kuga-Na and his consecrated elders. All the Otumfuo Committee is mediating, bring the two sides to talk, leave them to come to an agreement and implement certain customary things. But the main customary breach of killing a Ya Na in the palace has desecrated the palace and that's why a new palace, temporary palace, had to be built to enable us continue with customary rituals without entering the desecrated palace...But the resolution lies in custom, but nowhere else, not the law courts. The law courts, as has happened before as far as the Supreme Court determined the matter. Yet it is still going on. But once custom does it, where custom has done it in the past, it hasn't repeated itself, and that is my proof that custom holds the key...But where it is determined by external imposition, it has invariably reared its ugly head and happened again, as '69, as 2002. So not until we go to custom for custom to determine and resolve it, it will be a never, never ending problem. (July 22, 2010).*

What a rather revealing simple solution to the Dagbon crisis based on custom and history, and yet the feuding factions had decided either to disregard or marginalize them! According to community leaders here in Tamale, the Abudus lacked boldness in seeing to the resolution of the crisis. For them, just one courageous act from the Abudus in sending a delegation to the elders of the Andanis to concede their role in the murder of the king and render an apology will end the matter at the traditional level. The community leaders were very incensed about the non resolution of the Dagbon issue.



The rejection of custom by the Abudus could be obvious. However, what underlies this deliberate disregard of custom may be the lack of documentation of the succession rules and history. One DA official was very disappointed about the slow process in the codification of customary law, and blamed the traditional leadership for their reliance on oral history. This was problematic because for him, this creates doubt when conflicts arise as to who actually belongs to the royal family (*July 15, 2010*). This point was relevant in the wake of the erroneous impression that all Dagombas were Abudus or Andanis, rather than a stratified society; an issue I earlier discussed. One chief was more forthcoming, and blamed a lack of written constitution in Dagbon, a given for the Kumasi and Cape Coast stools. He even questioned what in the literature, were existing constitutions of Dagbon. He explained:

*Our biggest problem, if they want to solve the Dagbon issue, that there should be a constitution, not an unwritten constitution as we have it now; and people should be honest. Even the Omaboe Constitution and all those constitutions about Dagbon; they were partisan.*

(I: I was going to say that there was a 1930 Constitution...)

*...they were partisan. They should pick people who have the fear of the Lord, the pastors, the Ahmadiya people who fear God proper, to come and look into it. It will stand the test of time. Our biggest problem in Dagbon is we started with the survival of the fittest – quote me – from history, from Gbewaa up to here. He who is mightier, he takes everything. It is bad. So we should have a Constitution...Dagombas have disenfranchised themselves. It's a pity, people are not honest. (July 19, 2010).*

All the previous constitutions could not help because of a continuation of British diarchy and alliances, which had persisted into post-independence Ghana. But the chief also introduced the absence of independent mediators.

It appears there was a lack of confidence in the Otumfuo Committee, despite the inclusion of the Mamprusi chief as a member. Historically, the Dagombas consider the Mamprusi chief as an elder, and persons who occupied the Mamprugu skin had been instrumental in resolving past conflicts; this was the rationale for central government appointing the Nayire as a member of the Committee. Certainly, it is a matter without dispute, and even from the field data, that the Asante kingdom is relatively conflict-free in terms of chieftaincy succession; hence the appointment of Otumfuo. It also made sense for the Yabon wura, king of the Gonja land next door to Dagbon to be included, since there are similarities in the succession processes among the kingdoms in the northern part of the country.

However, not only did this chief call for religious leaders to mediate, so did the Tamale MP, who suggested the inclusion of liberals – those who are outside the chieftaincy institution (*May 27, 2010*). For the MP, the chieftaincy institution in Dagbon had compromised itself by the split between Abudus and Andanis. Hence, any mediation should have been taken up by the commoners in Dagbon. Ironically, the chiefs had also hijacked the impartiality of the commoners, and had succeeded in falsely establishing an Abudu-Andani divide in Dagbon. Mediation by the traditional sector and locals was losing out, but could religious leaders be the instrument for the expected miracle in Dagbon? Was a DA official being prophetic that it was only when both sides started the processes of forgiveness that a reconciliation could be realized? (*July 16, 2010*). The need for religious leaders to facilitate may be worth exploring, considering that in Abura, a village in Cape Coast, it was through the efforts of religious leaders in the community (Catholic and Muslim leaders) and opinion leaders that a 50-year old conflict between two factions in the Kona Ebiradze royal family was recently resolved (*Cape Coast Assembly members June 10, 2010*).

### 5.3.3.2 Succession Conflict Resolution Suggestions from Dagbon Nonresidents

Suffice it to say that respondents from Cape Coast and Kumasi, as well as central government officials corroborated the sentiments of the Tamale residents. Below is a sample of what these respondents from afar had to say regarding the non resolution of the Dagbon succession conflict:

*The indigenous people have failed or neglected to understand that there must be compromise and forgiveness for peace to prevail. (Government Official July 30, 2010).*

*The better opportunity we are talking about is getting an international mission, UN or some other mediators who are not nationals, who will come and everybody agrees to go by what they have said. (Government Official May 28, 2010).*

*Very difficult to resolve with political involvement. (Kumasi Traditional elite July 9, 2010).*

*The government should deal with the perpetrators of the crime, for all to see that the law has taken its course. Nobody can rise up, commit murder and go scot free. The laws of the country must work. In addition, the National House of Chiefs should undertake to resolve this conflict coming out forcefully to declare that the slain king was the rightful heir to the skin. It was the turn of his gate to ascend to the skin. In the circumstances, who should be the next king? This is the responsibility of the National House of Chiefs. Once the truth is declared and everybody is satisfied, then the rightful candidate would be installed, and the case ends. (Kumasi chief July 6, 2010).*

*Attitudinal change is important between the Abudus and Andanis...There is a need to take a look*

*at historically remote causes and address them. (Cape Coast District Assembly Official June 6, 2010).*

*[T]he codification will help, the succession will help, and if there is that issue of bringing all royals together, that will also help, because there has been a long time that has passed and people do not have all the facts...Until we recognize that we have to call them and let them choose who should mediate, we'll fail. I think I did a paper on the use of mediation to resolve the Dagbon conflict. One way will be to get them to agree who to mediate in their problem; that is 50% of the problem solved. And once they agree that it is you, then they have respect for you...But history and our elders have not helped us, and we too have not helped them by taking interest in the chieftaincy thing, and making sure with computers try to get down everybody's line – lineage, and produce it as paper for them. That is where we, the learned, have failed. (Cape Coast District Assembly Official June 17, 2010).*

The major addition to the suggestions was emphasis on the roles and responsibility of the National House of Chiefs, as enshrined in the 1992 Constitution, Article 272 (a and b). It is significant that this reminder came from a chief whose educational background was law.

By and large then, the reversal of the factors that have precipitated the Dagbon crisis will bring relief and resolution to it. In the Cape Coast chieftaincy succession conflict over the past decade, the factors promoting the succession conflict were education; wealth; debate over patrilineal versus matrilineal inheritance that was intricately linked with 'adoption;' and a legacy of British influence. In contrast, the Dagbon crisis has its causes in politicization that comes from British heritage and continued alignment to political parties; lack of documentation on succession rules; and most potent of all, marginalization of custom and history. The resolution of the Dagbon crisis was deemed imminent by all the Tamale residents not only because it was

considered a dent in the image of the kingdom, but the continued crisis has implications for traditional land tenure and management in Dagbon as well, as would be discussed in the next two chapters. The Tamale Presiding member's view on Dagbon's shame summarizes the opinions of most respondents:

*I have tried researching into the history of Dagbon, and though it is subject to debate or subject to change, this has never occurred even in prehistoric times, even at the time they were engaged in war of conquest or they were having difficulties with other tribes. It has never happened. So a lot of people look at it as a shame to the Dagbon nation. How to get over it will take a long period. (July 29, 2010).*

A history of negotiation and bargaining between actors within Dagbon existed, and yet one group had chosen to reject it, while the other could initiate the process, but wanted the perpetrators of the regicide to be punished first. Else, the history of institutional bargaining in the formal sector would also have been marginalized by letting off the state's complicity. Precedence in the bargaining process between tradition and local government (represented by DCEs) has also not been established. The state, which should pose as a third party enforcer of the rules, has unwittingly, or perhaps, knowingly, become an interested party in the Dagbon crisis because of vote seeking and baseless promises to party adherents to address a conflict, whose solution lies in custom. Insofar as the historical negotiation and bargaining are not upheld by exercising the rule of law, coupled with a rejection of the traditional negotiation processes, then no interaction is possible. Hence parallel formal and informal institutions come to be, and no mediation or conflict resolution can emerge.

Among the three sites of interest then, viz. Asante kingdom, Dagbon kingdom and Cape Coast traditional area, it is becoming evident that formal and informal rules operate parallel to

each other, most poignantly in Dagbon. Would this parallel operation of formal and informal rules be expressed in the management of traditional land only in Dagbon as well, or would this be seen also in the Asante kingdom and Cape Coast traditional area? This question becomes relevant within the context that the customary sector in Ghana, represented mainly by chiefs, controls 80 to 90 percent of land (e.g., Odotei and Awedoba 2006, Antwi and Adams 2003, Kasanga and Kotey 2001, Fieldwork 2010). The literature also demonstrates that land disputes are developing into a persistent feature in Ghana and other African countries, because a pluralistic land tenure and management system has come to be maintained owing to the power and influence of chiefs and traditional rulers (Gough and Yankson 2000, Kasanga and Kotey 2001). Kasanga and Kotey have also suggested that in Ghana, there is a dual tenure and land management systems, which essentially crystallizes into a parallel operation of statutory and customary laws. However, they found that in practice, the customary system appears to be stronger, but this control could diminish and be marginalized with the enforcement of state laws.

From the interviews, it is in Greater Accra region that chieftaincy succession disputes were almost consistently linked to land. Within the three main areas of interest in this dissertation – Dagbon kingdom, Asante kingdom and Cape Coast traditional area, it is tempting to rule out traditional land management disputes in the latter two based on absence of succession conflicts in Kumasi and one in Cape Coast that is, to all intents and purposes, resolved. However, such a tentative inference may be deceptive, because although chieftaincy in general is linked to land control, this power may turn out to be superficial after a nuanced analysis of traditional land management and tenure systems. The dynamics of state involvement in traditional land management may also turn out to be different than what obtains in succession

rules. The relations of power may or may not manifest as a parallel operation of formal and informal rules. I take up these issues in chapters six and seven.

## CHAPTER SIX – TRADITIONAL LAND MANAGEMENT IN GHANA

This chapter explores traditional land management practices. Variations exist, just as they do in succession rules. In a more localized context, it is apparent that Tamale is similar to Kumasi in terms of a hierarchical structure and a centralized authority. While variations exist, both the local and traditional elites appear to have accepted the formal rules within the management process. However, the involvement of national and District Assembly rules sometimes imposed constraints on the smooth implementation of managing lands in the communities. These impediments include frictions between the central and local government agencies; lack of collaboration between chiefs and District Assembly; and “Little Man politics.” What is emerging then is that 23 years after the implementation of decentralization, not only has a history of institutional bargaining not been established between local political officials and local traditional elites, but this history of institutional bargaining has also not been firmly been put in place between and among the agents of government.

### **6.1 Traditional Land Management Principles**

Land in Ghana can be classified either as public or customary lands. The government (state) owns all public lands and minerals in all lands per Article 257 (1, 2 and 6) of the 1992 Constitution. The customary sector manages 80 to 90 percent of land in Ghana (Odotei and Awedoba 2006, Antwi and Adams 2003, Kasanga and Kotey 2001, Fieldwork 2010). I designed my interview schedule such that whereas questions tapping into chieftaincy succession processes sought to investigate a variety of succession rules in Ghana, the questions on traditional land management were very specific to the communities in the three research sites – Kumasi, Cape Coast and Tamale. That notwithstanding, I first elicited the views of central government



officials in Accra to explore how much they knew of the general traditional land administration in Ghana.

Customary lands may be owned by stools or skins, clans, families or individuals. There are various mechanisms in the acquisition of land, as explained by a government official in the Ministry of Lands, Forestry and Mines:

*Our land ownership is rooted in tradition, and the land acquisition itself has got a lot of processes. Some could have been by discovery, some by conquest, others by gifts, by purchase and those things. The land, whether it is for a particular family or stool, is supposed to be for the living, dead, and yet unborn. Therefore the management or administration of it should have all these ones in mind. (July 30, 2010).*

As I discovered from the interviews, majority of respondents generally assumed that chiefs were the major owners of customary land, irrespective of multiple land ownership by clans, families and individuals as well. Invariably therefore, the conversations tended to center on chiefs. This is not surprising because it is well known that chiefs control a large proportion of land in Ghana. At least 80 percent of the control may lie with chiefs, with at most ten percent of the occupancy reserved for families, clans and individuals. Chiefs were considered to be custodians, but equally so with the other ‘owners’ of land. The same government official stressed this point to support his concern with sustainability of the land when he explained the main principles underlying the management of traditional lands in Ghana.

*So the principles are that whoever is the chief is a custodian; he is holding the land in trust for the people who are dead, those who are living, and the countless number to be born. Those are the principles that underlie all our customary lands, whether they are stool or family or clan lands.*

He further emphasized that individuals who had acquired private land also demonstrated land sustainability in the way they managed their land, even though they may be unaware of this outcome. This is because while investing in their land, they did so with their offspring and future generations in mind. This notion of land custodianship and sustainability is captured in Article 36 (8) of the 1992 Constitution, which stipulates that land is to be considered as a communal trust in all landholding systems. It states:

The State shall recognize that ownership and possession of land carry a social obligation to serve the larger community and, in particular, the State shall recognize that managers of public, stool, skin and family lands are fiduciaries charged with the obligation to discharge their functions for the benefit respectively of the people of Ghana, of the stool, skin, or family concerned and are accountable to fiduciaries in this regard.

However, specific communities determine the actual management and administration of the land, and there is typically little uniformity among communities. One government official expressed this variation like this:

*Main principles will vary from place to place in many of our communities, particularly if it is in the north. In Dagbon, which is one of the largest traditional areas, it is the chiefs who own the land at the same time. But in many other places, it is not the chief; it is families who own the land. And therefore the issue of land management has been modernized to a large extent where the chiefs in such communities witness documents for land acquisition and all that. They also take decisions in terms of arbitration or adjudication in land disputes. But the chiefs in those particular communities that don't have chiefs owning land, they are just more or less to authenticate that the land was acquired from this family. So they will normally put their signature or some authority on it...Again, in the southern part also, we still see that it is a mixture of chiefs who own some lands. But it is largely family ownership. People confuse these issues. The chief takes the lead sometimes in delineating land for development purposes, but really, in each part of this country, there is a specific ownership issue and how they dispose of the*

*land. But because we are modernizing and people want title to land and to be able to use it, then you sometimes need chiefs to authenticate some of the documents. (May 28, 2010).*

From this official's exposition, three issues stand out. The first is that land management practices differ in the northern and southern parts of the country. Whereas in the north chiefs largely own lands such as in Dagbon, in the south land ownership is more likely to be vested in families. Moreover, this official's opinion challenges the assumption that chiefs own all lands in the north; rather, families have their share of the land. The second point is that chiefs have a great deal of influence even when they are not the direct managers of the land. They not only arbitrate and adjudicate (mediate and resolve) land disputes, they also validate title deeds. A third implication that can be inferred from this viewpoint is that disposal of land is at the discretion of owners, not necessarily vested in chiefs. Consequently, unlike succession rules where negotiations are meant to be exclusive to royal families, chiefs are but one of the managers of traditional land.

A third government official gave a twist to the landholding system. Beyond the ownership of lands vested in stools or skins, clans, families and individuals, he articulated how chiefs controlled all virgin lands in the past. Beyond this however, this official was of the opinion that the legacy of colonialism brought chiefs into the limelight. Colonialism instituted chieftaincy in some areas where previously, fetish priests were the owners of the land. The obvious consequence of this policy has been confusion and disagreements between original and imposed landowners; a battle that has persisted into post-independence Ghana. This is how the official explained the dilution of ownership between chiefs and fetish priests:

*[V]irgin lands are often under the chief. So you want to acquire land...you approach the chief and then the chief will sell to you. In some places, chieftaincy is like a new institution relatively*

*to the tindanas or landowners. So such areas, those people claim that literally tindanas mean owners of the land; so they are like the spiritual people, fetish priest. They have to pacify the gods and so literally, they claim they own. As in Bolga, that confusion was arising. They want to say that we are the rightful owners of the land. Chiefs have come like a new (thing); it is a novelty. We didn't know chieftaincy. Colonialism brought it to some of the areas. In some areas they have come forth and taken control, and now...So where the tindanas claim ownership, they would want to say that they have to grant you. But largely, the trend is changing. The chiefs have literally taken over the control at least. And it's a battle now going on. (June 1, 2010).*

The foregoing views, representing the general opinions of central government officials, show that land tenure in Ghana varies. How do the residents in the various communities perceive the administration of traditional land? Will their views be in tandem with government officials? I focused on three communities, Kumasi, Cape Coast and Tamale to identify the specific management practices prevailing in each of them.

### **6.1.1 Traditional Land Administration in Kumasi**

In Kumasi, and generally, within the Asante kingdom, everybody believes that every stool has properties. The properties include humans, as one divisional chief explained to me:

*The stool has properties, and the properties include its citizens. We call them subjects, including the land, including the black stools, including the palace, including cars, farms; it all belongs to the stool. The chief is the administrator of the stool's properties even though the custodian is the Gyaasehene. The administrator, who is the chief should see to it that every person including the subjects of the stool, should have access to the land, including outsiders. (July 8, 2010).*

Contrarily to the spirit of the Constitution, chiefs were not the custodians of land in Kumasi. The custodians were Gyaasehenes, while chief were the administrators. Recall that while discussing

succession rules in the Asante system, traditional leaders identified the unique position of the Gyaasehene; he *is* the custodian of all properties of the stool, including the royals.

Consequently, it stands to reason that as managers of stool lands, chiefs still wield power, but they would have to negotiate with Gyaasehenes. Based on interviews conducted by Odotei and Hagan, *Gyaase* is the palace administration, and means “the properties of the king are in the hands of the Gyaase” (Odotei and Hagan 2003, 75). Chiefs comprise the Gyaase, and their head is the Gyaasehene. Among the properties of the stool, land is the most prized. A District Assembly official corroborated the value of land among the properties of a stool, when he stated that land is “the most valuable property which is attached to every stool” (*July 2, 2010*).

Within the Asante kingdom, paramountcies own allodial titles; subsequently, in Kumasi, Otumfuo, the Asantehene is the administrator of land. Previously however, this was not the case. A key District Assembly official shed more light on how the Otumfuo became solely in charge of Kumasi lands. This was his brief answer to me when I posed the question relating to the main principles underlying traditional management in Kumasi.

*It's like the Constitution; power resides with the people. Otumfuo is the political head in the Asante Confederacy, but with no authority over land. But with time, since land had economic value, Otumfuo became the authority, both economic and political. (July 9, 2010).*

What this means is that land is now important in the political economy of Kumasi. Though brief, this DA official's response was very insightful. This is because I had spoken earlier in the week to a chief who had inherited land from his predecessor. Since his ascension to the throne, he had computerized all lands under his purview. If a chief could manage his land, would Otumfuo be the ultimate authority of Kumasi lands? From my interviews, it became very clear that Otumfuo was indeed the chief administrator, but had delegated the administration of apportioned areas in

Kumasi to his sub chiefs. As far as land was concerned then, all sub chiefs who held lands in trust for their subjects were actually caretaker chiefs for Otumfuo.

Assembly members who discussed traditional land management threw more light on the process of land caretaking, which was both hierarchical and delegative. It turns out that Otumfuo has delegated his authority to his sub chiefs (*Abremponfuo*) who may in turn have sub chiefs (*Odikros*) in every community. Each lower hierarchy is a caretaker of the land for the higher hierarchy; an Odikro attends to all the related customary administration at his level, then transmits the transaction to an *Obrempon*, who in turn communicates to Otumfuo. However, an in-depth analysis will reveal that the land actually is in the custody of families. Therefore, a prospective buyer of land first contacts a family, who then reports a transaction to the Odikro (or the Obrempon) for the appropriate documentation, and then the chain continues upwards to Otumfuo, who finally appends his signature of approval.

According to the discussants, it was for the sake of bureaucracy that the process had been short circuited and labeled 'stool lands.' In effect, the process started with families. Traditional land management in Kumasi therefore, appears to be more interesting than previously presumed. Otumfuo is the chief administrator, sub chiefs are caretakers and Gyaasehenes of chiefs are custodians, but in practice families own the lands.

That notwithstanding, Gyaasehenes appear to be key players in traditional land management, as they do also in succession rules. An official at the Kumasi Metropolitan Assembly (KMA) that I closely worked with in Kumasi to identify some of my key informants happened to be a chief. During my interaction with him, he described a bit of what happens on the death of a chief. First, the butler (*Adanmuhene*) informs the Gyaasehene. The Gyaasehene then breaks the news to the Krontihene, who then arranges to inform the state about the death of

the chief (*July 2, 2010*). Gyaasehenes are so important to the traditional way of life that some even lived in the palaces of chiefs, as the ‘computer’ chief told me his did. My informant chief at the KMA further informed me that traditional processes of succession rules and traditional land management were underlain by rules and regulations, which have not been encoded in the Constitution. He compared the two processes to the Act of the Civil Service, which is spelt out in the Constitution, but not the rules and regulations underlying the Act. His remarks reflected the opinions of my respondents, because what appears superficially to be simple processes as per the Constitution, are masked by the finer details that can only be unearthed with research. Beyond this however, we see the uncodified norms and usages in the customary sector that are prone to impact the interaction between formal and informal rules. These uncodified customary laws were the rules and regulations that were intentionally omitted in the 1992 Constitution of the Republic of Ghana.

In my discussion with Assembly members, which took place on July 6, 2010 I probed further to find out whether individuals could own lands in Kumasi. Individuals may possess lands, but such lands would be leased for a maximum of 99 years in Ashanti region, of which Kumasi is the capital. After the expiry of a lease, the land became the property of the stool. However, priority would be given to the lessee to re-acquire the land. Failing that, the land was then available for fresh acquisition. Finally, they reiterated the opinions of some DA officials and traditional elites that Kumasi lands were not sold. What happens is that after a ‘stool’ allocates land, the ‘buyer’ offers ‘drink money.’

Community leaders’ discussion two days later was remarkably very similar to the views of the Assembly members. The only conflicting issue was suggested by a DA official who was emphatic that Kumasi lands were sold (*July 7, 2010*). I would have disregarded his claim, but

for the emergence of multiple sales as a causative factor in land conflicts in Kumasi. I deal with this land sale issue later.

But, in whatever manner revenues accruing from the disposal of land or royalties from mineral excavation were obtained, they were distributed in such a way that Otumfuo received his due, as explained by another divisional chief:

*The land belongs to the chief and all his subjects, but the chief holds the land in trust for his people. He manages the land with his elders. What happens is that each family has been allocated land on which they farm. In the past, when a hunter had a catch, he offered the thigh to the chief and took possession of the rest. In contemporary times, this is not so. It is the same with farmers and their produce. Meanwhile, whatever was on and in the land was overseen by the chief – timber, gold, diamond, manganese – everything, including sand and stone. When the chief obtained revenue from anything, it was divided into three, and one third given to Otumfuo. The remaining two thirds was further divided into four; one part he gave to his elders, a quarter for his use, another quarter he apportioned for the expenses of the stool, in most cases managed by Gyaasehene, Sanahene or Afutosanfuohene and expends rest on the development of the town, managed by Town Committee, now referred to as Unit Committee. However, with the paramount chiefs, revenue belongs to them. What I was talking about refers to us, the divisional chiefs. Revenue accruing to paramount chiefs is divided into three: one third for himself and two thirds for the chief he swears to, his elders and his town.*

This chief also indicated that paramount chiefs within the Asanteman traditional area were not obliged to offer a portion of their revenue to Otumfuo, unless it was a huge Asanteman project such as Ashantigold, an investment in which the Otumfuo was a signatory. At first, this appeared contradictory to me because from the discussion on succession rules in the Asanteman traditional area, the impression was that with Otumfuo as the king, it was incumbent on all



paramount chiefs to swear to him. However, paramount chiefs within the Asanteman traditional area had autonomy when it came to land. Consequently, Otumfuo's authority over land was limited to Kumasi.

On how the actual management is done within Kumasi, the caretaker chiefs were the allocators, while the Otumfuo was the approving authority. One DA official would not accept that the traditional elites had any role to play in the management process. For him, "No management as such, management actually through District Assembly. Chiefs are just allocators" (June 30, 2010). In reality, chiefs do manage traditional lands, but in partnership with government structures. This inference can be gleaned from the opinion of two DA officials:

*You are the caretaker chief, so if there is any land transaction, for example if I come to your area as the Asokwa chief and I buy land from you, you will sign an allocation note, which will have to be confirmed by the Asantehene. You sign as the lessor, and then he signs as the confirming party. And whatever drink money that is paid, you pay two thirds to him, because he is there managing the land, and then you pay one third to the Land Secretariat at the Asantehene's palace at Manhyia. Then this allocation note will be brought to this office (Lands Commission), and we will draft the lease document for them, and the lease document too, you will sign as the lessor, and I, the buyer will sign as the lessee and then Otumfuo will sign as the confirming party to you. So without Otumfuo's endorsement, the land transaction is not complete, and you cannot bring it here for processing. The same way with the other paramountcies – Agogo, Offinso, Ejisu, Nsuta, Kumawu, Bekwai – all these traditional areas. They also have caretaker chiefs, who sign the document. Then the paramount chief will sign as the confirming party. (June 30, 2010).*

*Most of the time, the chief will have his own committees in terms of allocation of the land, giving out land to prospective developers and those kind of things. It is here that we bring in government structures, because when you look at the government structure, even with Act 462,*

*every District Assembly is a planning authority. Therefore, as a planning authority, you don't plan in space or abstract. You should plan on the ground. Therefore in planning, land comes in forcefully, and therefore what happens is that before a chief can go ahead to give out land to any prospective developer, it should conform to the planning scheme of a district, which is the planning authority. So what practically happens is that most of these towns or villages or settlements or whatever it is, the chief would have to liaise with the District Assembly for the District Assembly to do the planning – the schemes – so that after the schemes have been prepared, they will give a copy of the scheme to the chief, upon which the chief will rely to release the land for various prospective developers. And they will also keep a copy so that if even a chief gives out a land to somebody or to a prospective developer, and the prospective developer wants to start, the Assembly can link it up and grant a permit to the developer. So now the management of land has become some sort of a combination of the stool and the District Assembly, for that matter, the government, because the District Assembly which is the planning authority with its agents or secretariat as Town Planning, they will do all the planning aspect and give it to the land owner to follow it in terms of giving it out. (July 2, 2010).*

It appears that in Kumasi and, indeed, the totality of the Asanteman traditional area, the local elites have accepted the formal rules in the management of traditional land. One chief corroborated this condition, i.e., the absence of resistance to the involvement of formal rules in the traditional land management. This was the chief, who I earlier indicated had employed technology, coupled with his own background as an architect, to map out land in his community.

*In my situation, what I did was as soon as I came in; I knew my grand uncle whom I have inherited had given some lands to people. The only way I could tell that this piece of land has been given to somebody is to go to Lands Commission. Here, the government comes in. The government says if you allocate a piece of land to somebody, that person should register it at the*

*Lands Commission so that we can take ground rent from that person, we can take property rate from that person. In order for the government to collect all these taxes, the government should know who that person is. So what I did was I went to Lands Commission and asked for a search on all (my<sup>30</sup>) lands. The search was done, so I computerized the lands with all the available information. Certain plots were deemed vacant, but even though they were deemed vacant at the Lands Commission, if you went on to a plot, there will be a building on it. That means somebody has negotiated with that particular person on that plot. So what I did was I also wrote some letters and went to all the plots that had buildings on it, but don't have papers at Lands Commission. Some of them produced some documents that were genuine, that were really given to them by my predecessor. And so, I will change the documentation; give them a fresh documentation so that they can proceed to get their lease. And then, some of them were truly vacant, and those vacant lands were also allocated to people by myself and the elders. (July 8, 2010).*

Clearly, government has been interacting with chiefs in traditional land matters. Behind this interface though are the negotiations that go on among the chiefs, Gyaasehenes and families within the customary sector. Chiefs worked with both the Lands Commission and the District Assembly for documentation and planning schemes respectively. Would this situation of acceptance of formal rules in the traditional management of land be in place in both Cape Coast and Tamale? And if so, to what extent would this government involvement be considered a facilitation process or a hindrance? It would be interesting to see how these issues would be addressed. I tackle whether this relationship between formal and informal rules would be a mix or parallel after I examine traditional land management processes in Cape Coast and Tamale.

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<sup>30</sup> Name of community deleted for sake of anonymity.

### 6.1.2 Traditional Land Administration in Cape Coast

One particular insinuation some Kumasi and government respondents had made to me was that in most Akan systems, stools owned lands. This apparently was not the case in Cape Coast. Majority of Cape Coast lands belong to families and individuals, with very few reserved as stool lands. Traditional elites here confirmed the opinion of one government official on the various modes of initial ownership of land. A chief described how Cape Coast land was discovered:

*Every land has its owner. The major principle is that somebody initially settled in a place, irrespective of his origin or whether through conquest or whether the land was virgin, he lays claim to the land. Anybody who comes after him has no claim to the land. My ancestors were one of the first people to settle in Cape Coast. As a result, majority of the Cape Coast land belongs to the Akonafo, Ebiradze and Adwenadze families. The rest were claimed by foreigners. In contemporary times, for everybody to acknowledge that the land belongs to you, the government gets involved to preempt conflicts, because land is a major property. Somebody must determine that such and such land belongs to such and such person in order to avoid conflicts. It is said that “A land that is not subject to conflicts has no owner.” After the determination of the owner by the courts, this is then documented at the Lands Commission. This is exactly what happened in the case of my ancestors. The land may be vast, and therefore people took advantage of laying claim to parts of the land. (June 27, 2010).*

In a matter of minutes, this chief not only described how Cape Coast land was discovered, but also implied that the formal rules in traditional land management have been accepted by traditional elites. He also confirmed that land is a valuable asset, determination of ownership of which is made by government through the courts. Ownership largely was vested in families.

The acceptance of formal rules in this sector of customary relations was all but confirmed because another divisional chief had earlier on stated that government has directed that transactions on all lands were to be in the form of leasehold. I probed further with this respondent to find out the actual process in terms of land sale and allocation. This is what transpired between me and the chief.

(I: With the traditional land, do you have the power to sell to other people, or allocate to persons to farm?)

*Yes, but we need to make a distinction between stool lands and individual lands. Concerning stool lands, the original owner may be long dead. However, it is his family and initial followers who are entitled to possess the land. Mind you, even as a chief, if you acquire some property, perhaps through your labor, that property belongs to your family. This is because it is assumed that the property was acquired by virtue of being on the throne. Subsequently, your family has a share in the property. A chief does not have the singular power of disposing of a land. This has to be done with the approval of the elders concerning the correct procedures, the revenue to be accrued and the purpose for which the land must be put to. The government has the power to put this on hold, backed by a law that says that stool lands cannot be sold, because the land is meant for the family's ancestry. So if you sell, what will your successors do? Consequently, all stool lands are leased for the benefits thereof to be enjoyed by successive generations. This is another area the government gets involved. However, lands that individuals have acquired or purchased outright through conveyance, the owners have the power to sell. Lands that have been demarcated for projects or farms are not sold. They are family property forever, and can only be leased, subject to renewal or else the land with all property on it reverts to the original owner.*

A fine distinction between stool lands and individual lands, as well as project or farm lands can be observed. Again, much like what obtains in Kumasi, chiefs could not unilaterally dispose of

lands, but had to defer to committees and structures in place. More so, the management of the land regarding disposal could be halted by government to ensure sustainability of land. The remarkable thing about this conversation is that it was the same chief who was very antagonistic about the issue of gazetting of chiefs. It was his candid opinion that gazetting was an unnecessary intrusion of government into customary matters. Yet, here he was heartily accepting the involvement of government in the determination of ownership of land, and beyond that, the willingness of local traditional elites to abide by the law regarding the disposal of land. It appears that involvement of formal rules in customary usages is differentially accepted, probably more so with traditional land management than succession rules. This is because, as was the case with Kumasi respondents, respondents here mentioned government involvement in traditional land management without my prompting. Two District Assembly officials were specifically emphatic about the involvement of government in traditional land management. One stated the response to the main principles on traditional land management this way:

*It is important to note that government has commissioned the Lands Commission to address the traditional management of land. (June 8, 2010).*

The other alluded to government involvement, just like most respondents, but brought in the Administrator of Stool Lands, whose outfit has a key role to play in the management of stool lands.

*In fact all stool lands are vested in, invariably are being controlled by the government through the Stool Lands Administrator. Because if stool lands are taken up for whatever it is, either for development projects or whatever it is, any money accruing there from and portions thereof are to be paid to the Assemblies for development work, because the stools are involved in the development of the traditional area. (June 16, 2010).*

This is a Constitutional provision enshrined in Article 267 (2). This statute also spells out the percentage of revenue to be apportioned to District Assemblies. What was very striking during the entire research, was that despite the revenue accruing to the Assemblies from stool land royalties, only one DA official mentioned the role of the Stool Lands Administrator.

Previously in Cape Coast though, Asafo companies had large tracts of land and were the major landowners. However, because majority of the population then were fishermen, land was not effectively utilized. Consequently, control and ownership of land became limited to the beaches. This is how a traditional leader explained the fate of the Asafo companies to me.

*Traditionally in Cape Coast, every Asafo has its geographical area, which is connected to your stronghold. In the past, all that the Asafo members had to do was put the land into a very good use. Cape Coasters are predominantly fishermen, and therefore could not utilize the land effectively. However, it is only along the beaches that the Asafo companies have apportioned land to themselves to be managed by three of the Asafo companies. It is at the center of the strongholds that drums are beaten to summon people in a particular Asafo area; the extent of the sound of drums thus limited the boundary of each geographical area. Subsequently and currently, people can live anywhere on the land. With the coming of the District Assembly concept, the management of the land has shifted from the Asafo companies. They have taken over... (June 21, 2010).*

Asafo companies could also lay claim to stool lands if they were the first to explore the virgin land, which became their stronghold. Respondent narrated incidences involving Nkum No. 4 Asafo Company, one of which was very insightful concerning the place of the law courts when negotiations between the Asafo companies and the Cape Coast royal family apparently broke down. This was the story.

*Let me take the case of Nkum No. 4 Asafo Company for instance, because they were the first to explore the virgin land...In one case, the royal Ebiradze family which owns the Cape Coast stool contested the ownership of some Nkum lands, forgetting that when a commissioner at that time needed land to build an incinerator, he applied to Nkum Asafo and there was a judgment on it for the change in ownership. If the government itself that wants land has to apply to the Nkum Asafo for it, how come the Ebiradze family lays claim to a land. The contention of the Ebiradze family was that membership of the Asafo is voluntary, and therefore are not entitled to have any lands. I have the documents, which I retrieved from the chambers of lawyer Assiam, where the Law report quoted that judgment; very, very interesting and lawyer Sekyi defended the Nkum Asafo Company. The judgment conceded that Asafo companies are military in nature, but that did not debar them from owning lands, because the government of the day applied to the Nkum Asafo Company before they were granted permission to build the incinerator. (June 21, 2010).*

While Asafo companies have lost almost all their lands, now vested in the District Assembly, royal families may still lay claim to some land. Ownership in the surrounding communities of the main township of Cape Coast tended towards more royal family ownership, partly because these communities were smaller in size. This observation also emerged during the focus group discussion with Assembly members (June 10, 2010). Moreover, it appears there was variation in the disposal of land. In Cape Coast and communities at the outskirts of the traditional area, the head of family (Abusuapanyin) would be consulted before any lands were disposed; this also applied to stool lands. However, in a growing suburb in the semi-peripheral areas, heads of families may not be important. A case in point is Abura land, which belongs to the royal Ebiradze family. The royal family comprises six houses, and each house has its 'feeding place' and house leader, with land supervised by one overall head of family. However,



each leader has the mandate to sell from his portion (feeding place), and the sale would be outright or freehold, not leasehold. Interestingly, the overall leader would not necessarily be informed about transactions. What is noteworthy here is that as one moves from the center, the government's directive to dispose of lands by leasehold is not respected. A possible reason would be that stool lands were very limited in Cape Coast. Another explanation could be due to the lack of a decentralized system of traditional land management, which opens up avenues for chiefs, who, far from the center, manage lands without recourse to formal rules and regulations.

This freehold transaction would have been problematic for me save that that is how my own family's land was acquired in 1959 at Abura. The current pattern though within the town center was for lands to be leased for 99 years, subject to renewal. Leaseholds on farmlands vary between 20 and 50 years (*Chief August 3, 2010*). Customary law tenancy specific for farming purposes employed the *abunu* and *abusa* system. A DA official in the agricultural sector eloquently explained this system. She also elaborated on secondary regulations within this system concerning share cropping and renewal of tenancy, as follows:

*When you go to a community, the land may belong to a chief or a family. They know which line (boundary) belongs to who. The chiefs and elders have rules covering the land and how the land is managed. So to acquire the land, there are various ways. Let's take it that you want to do seasonal cropping on the land, you can either hire the land or do the 'abusa' or 'abunu' system. The landowner will give you a piece of land and tell you that whatever you cultivate and harvest, we are dividing it into two. You take half, I also take half – that is the 'abunu,' and the 'abusa' is the three – you divide it into three, you give one to the landowner and you take two. That is hiring the land for short season crops – maize, cassava, etc. But if you want to use the land for tree crops or crops that take a very long time, or you want to use the land to build, you need to buy it outright or long time, maybe 33 to about 90 years. So that one, you can cultivate cocoa, oil*

*palm, citrus. You die and even your children can use it. So the other family has the agreement. After 90 years, they will remind you that you either buy it or they take over their land...Apart from acquiring the lands, there are certain regulations that you follow. They may tell you that certain crops you shouldn't cultivate it on that land, all in a bid to help you maintain the land. So that if you don't abide by that regulation and they see you cultivating a different crop on the land or you are doing something that is degrading the land, they can take you to the elders. (June 11, 2010).*

Community leaders in Cape Coast who discussed traditional land management issues corroborated the opinion of this DA official. The striking difference in their discussion was their insistence that majority of Cape Coast lands belonged to Asafo companies (*June 16, 2010*). However, considering the views of most key informants as well as the Assembly members, it would be safe to accept that families have major control over lands in Cape Coast, unlike in Kumasi, where the Asantehene is the ultimate authority over land. In contrast, Cape Coast chiefs have very little land. Any chief that lays claim to land is land actually controlled by the head of family. Asafo companies may have been the largest owners of land in the past, but due to their occupation in fishing, they have relegated a major component of their land parcels to the District Assembly.

In general, on the mode of distribution of proceeds from stool lands in Cape Coast, one third of the proceeds would go to the chief, a third to the family where the stool is located, and the last third would be reserved for the maintenance of expenses relating to the stool. With family and individual lands though, sale could be outright (conveyance) or on leasehold (*DA officials June 16, 2010; June 17, 2010*), because they had the discretion and autonomy to deal with their property as they deemed fit. In sum, Cape Coast traditional land management appears

to be more flexible than what obtains in Kumasi traditional area. Individuals were likely to be the major landowners in Cape Coast, with most of these lands acquired through conveyance and freehold, but now more of leaseholds. Chiefs have very little land here, and management of stool lands is vested in the heads of families, rather than chiefs. The deficit in landholding assets by chiefs in Cape Coast may be one reason for fewer chieftaincy succession conflicts, or most probable, why the recent succession conflict was not correlated to land. That notwithstanding, both local and traditional elites seem to have accepted the involvement of formal rules into the traditional land administration. This partnership between formal and informal rules appears to be more symbiotic in Cape Coast than Kumasi so far. Validation of this, however, would be seen in the ensuing section. But for now, what would be the pattern of land management in Tamale, a non Akan community, and with different succession rules? This is what I investigate in the next sub-section.

### **6.1.3 Traditional Land Administration in Tamale**

My first interview in this research was with the Tamale Member of Parliament, and it went so well that I knew I was in for something worthwhile. He gave me deep insight into how traditional land management was effected in Tamale. Similar to Kumasi, Ya Na was the ultimate authority in traditional land matters. However, the nexus between land and chieftaincy in Tamale was more intertwined than what obtains in Kumasi, as can be inferred from this hearty dialogue I had with the MP.

*In my community, the principles of land ownership and traditional land management is conterminous with the right of a person to succeed the throne. For instance all Dagombas, including all the trees, all the animals in Dagbon land belong to the Ya Na. So I'm a subject of the Ya Na.*

(I: So everything concerning land has to go through the Ya Na?)

*Even today when you acquire land and you are given an indenture, Ya Na has to authenticate it. Everything in Dagbon is vested in the Ya Na. So that's it. It's just like the central government. Ya Na in administering his kingdom has appointed people to occupy certain positions for the purpose of looking over the land which can be said to be his appreciation of the fact that he cannot be everywhere at every time.*

(I: So there is a kind of delegation of authority?)

*Delegation of authority. I will give you a clear example of the Gulkpe Na in Tamale. There was nothing like Gulkpe Na before the colonialists arrived. There was nothing like that. Tamale was ruled by tindanas because Tamale was a market post. That was why when the British came,...the system of Lugard's indirect rule, etc...the first point the British considered establishing their authority was in Yendi. That was nearer the chief's palace, and the British wanted to rule through chiefs.*

(I: That is after the British had defeated Germany?)

*Germany...at Adipo, because part of Yendi was German Togoland. So then after some time, as administrators, they looked at whether Yendi was...and everything, and decided that even before Yendi it was at Dambaga. So it was decided to bring it to Tamale. When it came to Tamale, it was difficult for the Ya Na to be consulting with the British administration in Tamale, and so the Ya Na needed a representative. So he created Gukpegu, that is West...responsible for administering the western part. He was just to be his liaison between the British administration and the Ya Na. But today, it is an established institution.*

(I: So it is actually a decentralized system?)

*Decentralized system, in fact, the whole chieftaincy institution in Dagbon is decentralized. You are given jurisdiction over the title that you administer. The territory doesn't actually reflect your power within the Dagbon traditional institution. I don't know how, but the territory is about land and the people. But that does not show you where you stand in the hierarchy. Why it*

*happened that way, I don't know, but it doesn't. You have Savelugu. Not everybody can be a chief of Savelugu. You must necessarily be a son of a Ya Na. You administer that area.*

*Savelugu – you must be a Ya Na's son, because anybody who occupies Savelugu can be a chief of Nanton, and from there you can go to Yendi. (May 27, 2010).*

All the four traditional elites in Tamale confirmed this hierarchical and delegative land administration as it pertains in Tamale described by the MP. Further, this system of traditional land administration evolved from British indirect rule, which relocated the center of the kingdom, Yendi to Tamale. This intrusion of the British compelled the Ya Na to implement a kind of deconcentrated decentralization, which has now come to be institutionalized. Again, it turns out that it is only the appointees of the Ya Na, not all chiefs enskinned by higher chiefs, who had the first right to allot land for building purposes. However, village chiefs could allot lands for building if one did not require documentation. Else, the Ya Na would have to be brought into the loop, as was explained to me by a traditional informant who was a legal practitioner, politician and farmer:

*When it comes to real documentation that is where the Ya Na really comes in. But if it's just a village, the chief or village headman, you will approach only the village headman and he will point to a piece of land for you to build a house. But if you want documentation, you first of all go to the village chief. The village chief will make a recommendation of his offer to his divisional or paramount chief to do the allocation. He will say that you have satisfied the customary rites of so, so and so. Then the paramount chief will do the allocation to you. Then when a lease is going to be prepared, it's the paramount chief or divisional chief who becomes the lessor – he leases the land to you. But the Ya Na, being the allodial owner – he will countersign the lease. He is the third party who will sign the lease. The lease document will be signed by three people, you the lessee – the one to whom the land is given, the divisional or paramount chief who gave it*

*to you...Years ago, he (Ya Na) was the only person considered as paramount chief, but in course of time, the divisional chiefs were rank-promoted to become paramount chiefs, but there are some of high standard who remain divisional chiefs or sub chiefs, but all of them are entitled to sign leases and to be countersigned by the Ya Na. (July 16, 2010).*

Cognizant of his status as a farmer, I probed further into the traditional principles underlying farming ventures in Tamale. Tamale is predominantly an agricultural area. However, the rules in farming were entirely different from those in Cape Coast, as he opined:

*For farming purposes, it is very easy. If you are a citizen of the village, just find where there is a vacant land. You just go and start clearing the land. You don't meet anybody to ask for permission to do anything. But if you are a stranger, in two ways: 1) you in Tamale here or 2) a Dagomba man can be a stranger in another village and is not resident there. When you want to farm, you have to go to the village chief and ask for permission, then he will give it to you. But if you want documentation, that again will go through the first process I told you.*

(I: Are there any customary rites or so performed when you want to farm?)

*Yes, if it's a local person, no rite is performed. You just go to the place, weed the place, plough the place, and plant your things. But the only thing is that the chief, the local headman, is entitled at the end of your harvest for you to give him either a bundle of yams, if it is yams or a basket of guinea corn or a basket of corn. There is no specific quantity you are going to give him, but you must give him that.*

Much like what happens in Kumasi but not in Cape Coast, a portion of the customary rites involved in the transaction would be sent over to the Ya Na. Similarly, documentation would have to be validated at the Lands Commission. This came out during my interaction with two other chiefs. The first one stated,

*When a sub chief has a land and he wants to lease it to private people or individuals who want to build or use it for other purpose, the local chief will do the documents and sign, and he also has a part to sign. Whatever quantity they do there, they take some and bring some to him. He will also take some and send some to the Ya Na. After signing his portion, the document will now be valid to go to the Lands Commission for them to open a lease for it. After the lease, it is he and the Ya Na who endorse the lease before it can work as a proper document. (July 20, 2010).*

The second chief went beyond the traditional way of administering land to link the current involvement of formal rules in the traditional sector as a legacy of British rule. This is an excerpt of his answer to the main principles underlying land administration.

*With the coming of the British, some land was allocated, not sold to them. The British introduced their own system, and land which was allocated to them for their use while they were here, they brought the British system. Hence, we've got the Lands Commission, we've got Survey department, we've got Town and Country Planning. So any land that you require which is within their sector, it is to them that you will go. But before you go, you have to obtain your permit from the chief before they open a file. Once they process the file, they bring it back to the chief, the chief signs as far as the divisional chiefs and it goes to the paramount chief (Overlord or Ya Na), whose signature becomes final. (July 22, 2010).*

Remarkably, all the District Assembly officials corroborated the perceptions of the traditional elites without exception regarding farming, building, as well as government involvement in the traditional land sector. One of them stated, "Land management is a kind of decentralized system and transparency is a requirement from bottom-up." (DA official July 15, 2010). Some reiterated that previously, land was not sold in Tamale. Chiefs were highly revered, consequently, they were not expected to do menial jobs, but were looked after by their subjects. With the advent of

modernity came a steep reduction in expenditure on chiefs, necessitating a system for the “management of the land as an economic sustenance for themselves” (e.g., DA official July 29, 2010). This they did by apportioning or giving out parcels of land. This official also touched on government’s role, and its validation of the actions of chiefs.

*Government has also recognized the management of it, because if you need to have a building on a particular parcel of land; before it is registered or we (District Assembly) give you the permit to actually build, we have to have an allocation letter from a chief in the area that you are going to cite your property or building. This has given recognition to chiefs giving out land or deriving some economic benefits from the management of land.*

He also mentioned that central government has also gone beyond this recognition of chiefs to empower the Gulkpegu-Na, the representative of the Ya Na in Tamale.

*Central government has also aided the process, by setting up a Stool Lands Registry for the Gulkpegu-Na. So every allocation done within the Tamale Metropolitan Assembly has a record at the Gulkpegu-Na’s records registry. These things enable sub chiefs to be able to know that this is my area and this is where I should send my records.*

Incidentally, the Stool Lands Registry being referred to here is the Customary Land Secretariat under the Land Administration Project being piloted in Tamale. The registry is not only meant for documentation, but also to serve as a reference point in matters of dispute of the land.

Before documentation became an issue in Tamale, acquisition of land just involved negotiations between subjects and chiefs on the use of land. This past mode of land administration was the focus of the Assembly members in their discussion, partly because legacies of past land management persisted into the present. Negotiations started only after



“giving cola to the chief,” a kind of requesting for permission to interact with a chief. Indeed, this system persists as I found in my interviews at Tamale. I had to give cola before the elders of chiefs and traditional elites would permit me to speak with them; chiefs in particular.<sup>31</sup>

According to the Assembly members, previously when land was not demarcated, the buyer was shown a piece of land in line with the requested size. In recent times, the custodians seek the services of the Lands Commission and Survey department to demarcate these plots and have them documented. Therefore, after the “giving of cola” the chief presents buyers with a document that they may send to Lands Commission for verification and legal processing. Yet currently, if the requested site was for a building, but the land was previously used for farming, the buyer was obliged to permit the farmer to continue his vocation until he was ready to build. This comes about because every land under a custodian has been apportioned to elders, whose family farmed on their portions. A buyer had no right to evict the relatives of the elder until the purpose for which the land was negotiated was to be executed.

The discussants also described how the cola given to a sub chief where the plot of land is located, travels up the hierarchy to the Ya Na, who finally approves and signs the lease paper offered at the starting point. In the past, the main preoccupation of the inhabitants was farming, and the hierarchical system which had come to be established as a result of the British influence noted above, became a perfect avenue to ‘pass the cola.’ The Assembly members emphasized that this system was well in place before the idea of lands for building emerged, which has now been monetized as sale of lands. This, for me, is a clear adaptation of a system to fit modernity. The mode of negotiations for land previously meant for farming was now being applied for the purpose of building. However, a chief was expected to allocate land provided there would be

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<sup>31</sup> However, two of the traditional elites dispensed with this “cola giving” on the basis that I was a researcher.

excess land for farming purposes. This is the rationale behind allowing relatives of an elder to continue to farm until the purpose for which the land was negotiated came to be executed.

There is still no successor to the murdered Ya Na, and this has implications for the approval process. One DA official stated that “[s]ince the death of the Ya Na, no signatory has been appended” for land transactions. Subsequently, “certain companies want to come in, but they are refusing because they can’t settle on a land without having complete documents covering it.” (*DA official July 20, 2010*). This official further informed me that the Committee of Eminent Chiefs headed by Otumfuo had directed the regent not to sign any land documents.

It turns out that there is more complexity in the management of land in Dagbon beyond the earlier descriptions from traditional elites and District Assembly officials. Assembly members in this focus group disaggregated the various roles of managers of traditional land in Dagbon. Insofar as lands are concerned, there were different categories of managers, but with varying capacities. Sub chiefs under an enskinned chief fall into two groups: position holders who own lands and compound chiefs who do not own lands, but could manage lands. The compound chiefs could be described as ‘land monitors.’ It was their duty to inform the chief who had enskinned them of any misuse of land, such as when a subject cultivated rice in a non-swampy area. They had authority to take any necessary actions to ensure that negotiated agreements were implemented, as well as check on the sustainability of land in Dagbon. Consequently, at the end of harvest seasons, farmers were supposed to send part of their produce to them, and *not* to the chief who had enskinned the compound chiefs. It is what was accumulated at the level of the compound chief that part was sent to the one who had enskinned him. The landowners – position holders – however, received their share of the harvest direct from the farmers. The same principle applied when lands were being negotiated for buildings.

This time however, the managers were the position holders and title holders. Title holders are respected citizens in the community, but cannot be chiefs.

Economic trees also feature in land management in Dagomba. Trees like dawa dawa, shea butter and kapok are harvested and sold by chiefs to provide income for the women in the house. Consequently, if such trees are being felled, the chief has to be compensated. These economic trees and some natural features like streams also serve as boundaries, and are used to demarcate ownership of the land. Further, some lands have been reserved as fetish groves to be managed spiritually, i.e., sacred lands. Even though such lands fall within the boundary of a chief, priests (tindanas) managed them since they serve as sites for pacification to the gods. Such lands, however, are on the decline with the advent of modernity.

A distinction was made on the category of priests. Some were priests who owned land, some were priests attached to chiefs and had no lands of their own, and some were women priests or chiefs who also owned land. Among the women chiefs, they had total control over their lands even though the Ya Na is the Overlord; Ya Na would have to negotiate with them if he so desired to annex part of their lands. This was the only reference from my interviews on the limitation of the Overlord's power.

Finally, the Assembly members also described the transfer of land management in Dagbon. On the death of a chief, his family no longer had control over the land after his funeral was performed. This is because the land and all the land assets are transferred to the new chief who may hail from an entirely different family. The new chief may give part of the land to the previous family members, but this was not a given. Recall that succession in Dagbon is by ascendancy and movement. Indeed, in an informal discussion with one chief who had moved, he complained about the loss of his vast farmland in his previous village. On assumption of duty as

a chief at a new village, and realizing that the land had no demarcations, such a chief would seek the services of government land agents – Survey department, Lands Commission – for the preparation of a layout scheme.

Community leaders in Tamale confirmed that most rural lands had not been demarcated. This meant that the chief could permit anybody in the community to farm or build. The only caveat was that one could not acquire land and fail to use it; else it would be re-allocated to another person. In some rural areas though, past tradition of land management persisted, whereby negotiations between subjects and chiefs end at the village level. But where the land had been properly documented, any transactions would necessarily go through the hierarchical process. If a farmland also lay fallow for two years, it reverted to the custodian of that community on behalf of the Ya Na.

In summarizing evidence on the traditional land management in the capital towns of the three metropolises, it is obvious that they are not the same; variations exist, just as they did with succession rules. In a more localized context, it is apparent that Tamale is similar to Kumasi in terms of the hierarchical structure and a centralized authority in the person of Ya Na in the Tamale case, and Otumfuo in Kumasi's situation. While both kings have final authority, that of the Ya Na may be challenged by women chiefs. This is interesting because in the succession process in Dagbon, only one person, the Gundo-Na who is a woman, could rebuke the Ya Na. It therefore appears that the Lion of Dagbon may have a check of his dictatorial power alluded to by Tamale respondents. Not so with Otumfuo, who is the final power both in land transactions and succession rules. Ya Na's influence may further be eroded in the remotest rural areas where land has not been demarcated, leading to a variant of feudalism at the village level. Unlike Cape Coast and Kumasi, management of land in Tamale goes beyond families, heads of families to

compound chiefs, title holders, tindanas, women chiefs and even trees and streams. This is not to discount cases where queen mothers, such as the queen mother in Kumasi may have lands. The point is that in Tamale, there is a wide spectrum of managers of land. In Cape Coast though, land is rarely vested in chiefs, and even where chiefs own land, they defer to the heads of families. Smaller communities in the outskirts of Cape Coast townships may approach the Tamale and Kumasi models, in which royal families tend to own lands and with more authority over family heads.

Variations can also be seen in the distribution of proceeds. In contrast to Kumasi and to a lesser extent in Cape Coast where chiefs receive a portion of revenues, in Tamale, a bottom-up distribution is in place, whereby 'cola' offered at the village level trickles up to the Ya Na, whether land was allocated for farming or building. This system in Tamale, and generally in Dagbon, has come to be because of the influence of indirect rule instituted through British colonialism. Yet, in all three metropolitan centers, both local and traditional elites have accepted the involvement of formal rules into the traditional land administration. Tamale respondents in particular, attributed the emergence and acceptance of formal systems into the traditional set up as a result of British interference. Unlike succession rules where any mention of government involvement hinted at the possibility of conflict, it appears respondents generally assumed that government involvement was a given, but whether such involvement poses a hindrance or not is the meat of the discussion in the next section.

## **6.2 Central Government Interference and Interaction of Formal and Informal Rules**

Articles in the 1992 Constitution which clearly demonstrate the use of both statutory and customary laws in governing Ghana are: - a) Article 257 (3, 4 and 5) – land ownership other than

public lands; b) 258-262 – Lands Commission; c) 267 – stool and skin lands and property; and d) 270-277 – institution of chieftaincy. All these articles are expected to work in the spirit of Articles 240-256, which deal with decentralization and local government. There is no doubt that unlike succession rules, it appears that within the decentralization process of governance at the local level, government involvement through the Lands Commission and the Administrator of Stool Lands has been accepted within the context of traditional land management. It was therefore not surprising that majority of the interviewees and four of the focus groups responded in the affirmative that both central government and District Assemblies were involved in the management of traditional land. This was a direct opposite to their responses to the involvement of central government and District Assembly in chieftaincy succession rules. The government agents involved in traditional land administration were the Lands Commission, Survey department, Town and Country Planning department and the District Assembly. The first three were all subsumed under the District Assemblies at the local level, as one chief alluded to.

*These days, we are in a decentralized system, the District Assembly is responsible for all governmental agencies in the district. They all come under the District Assembly. The District Chief Executive is the representative of the Executive President...So if the departments do not perform their duties transparently, it affects the Chief Executive, and subsequently the President...If the government wants to acquire land, there is procedure for that through a legislative instrument after going through Parliament, and will offer compensation. That is how the University of Cape Coast was acquired during Kwame Nkrumah's time. (Chief, June 27, 2010).*

Most of the traditional elites alluded to formal rules in their opinions about the principles underlying traditional land management in their communities. Consequently, I select two quotes

on how they expressed their acceptance of the formal rules. On central government involvement, one chief said:

*We are now in a formal rule, which is governance, and governance involves departments and agencies that see to it that the law is obeyed. So these institutions enforce the laws that say that all lands must be registered. The government is then in a position to know the rightful owners of the land, however acquired (as indicated previously). A search at the Lands department reveals the rightful owner. (June 27, 2010).*

On District Assembly involvement, another chief said:

*That is why we have local government so that they can deal with matters of this nature; what we say and what we want. Both the traditional council and the District Assembly are under the local government. It is just recently that they wanted to establish something akin to a socialist state, where property was to be controlled by Assembly members. However, this could not be, because this heritage has been with us for a long time. (June 19, 2010).*

An examination of the various opinions here demonstrates that the agencies at the district level mainly dealt with documentation of land titles and approval of building permits. Further, for the traditional councils to be subsumed under local governments speaks a lot to the acceptance of formal rules by the informal sector. More interesting were the discussions in the focus groups. Initially, all the groups indicated that there was no central government involvement; government was hands off in customary relations in land. However, they all kept on mentioning the involvement of the Lands Commission during the discussion on District Assembly involvement in land management. When I drew their attention to the fact that the Lands Commission is an institution of central government, but with deconcentrated authority in

the districts, they all conceded that central government was involved. I was equipped with this information from Articles 258-265 of the Constitution, but more so, the local and government officials directly associated with land matters had indicated to me during the interviews that central government involvement in traditional land administration was through the Lands Commission, while District Assembly involvement was through the District Assemblies. But by and large, acceptance of formal rules in traditional land management was not an issue for debate. What would be at variance with this absence of resistance to national or District Assembly rules would be whether this mix poses a hindrance to the management of traditional land.

Eleven key informants did say that central government (3) and District Assembly (8) involvements were interference into what are largely customary processes in land management. It was interesting that discussants in both focus groups on traditional land management in Cape Coast did not know about the roles of the Lands Commission and the District Assembly here. That the community leaders were ignorant of these involvements may be pardonable, considering that individuals and families owned most lands, and probably because they may not have had occasion to document their land or building titles. Cape Coast is an ancient town, unlike Kumasi, the second largest city in Ghana and Tamale, the fastest growing city in West Africa.<sup>32</sup> However, for Assembly members in Cape Coast also to demonstrate ignorance about both national and local involvement in traditional land management is unfortunate. Yet, both groups could be absolved from blame on the grounds that chiefs own very little land in Cape Coast, and their understanding of traditional lands may have been limited to stool lands. So what were the opinions of the eleven key informants regarding the impediments national and local governments' involvement create for traditional land management.

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<sup>32</sup> The status of Kumasi is well known, but the information on Tamale I obtained from the discussants in the two focus groups.



On the issue of national rules imposing obstacles in the administration of traditional land management, one respondent, an MP, reprimanded government for its failure in the payment of compensations to the traditional sector when it acquired land for the public good (*June 3, 2010*). The other two respondents linked ineptitude of central government to the irresponsibility of the District Assemblies. They identified inattention to details, corruption and bureaucracy as the other key issues restraining the expected functioning of central government as a facilitator of the mix of formal and informal rules. This is how one government official, who had worked previously with District Assemblies, explained the corruption of DA officials and the bureaucracy in the implementation of the rules:

*Where I have a problem with the issue is that now, the land management...it is the District Assembly that is the planning authority. So even though traditionally the land may be vested in the family or the skin or the stool, the Assembly has the authority to plan. So if you have your land you are farming on, you necessarily can't come and say, "Oh, I just want to put up a market here, I want to put up a mosque, a church here, a school there." It must fit with the scheme of things by the government or the Assembly, because it may have to do the planning, the zoning of the whole township...Where I find government involvement a hindrance, even though it is supposed to be a facilitator, is the bureaucracy...Now you are going to put up a house. You are required to apply for a permit for the Assembly to ensure that you have met the basic requirements...(June 1, 2010).*

A chief also complained about the Lands Commission and the corruption that goes on here as well. He stated:

*Because they don't cross check with the chiefs, and sometimes the Land Commission will end up allocating one plot of land to more than one person, and it brings about conflict. (July 22, 2010).*

I decided to probe this allegation further because chiefs gave buyers the allocation notes in Tamale.

*Yes, the chief initiates it. They have registered me. Then someone comes back later and say plot this, they don't cross check and they allocate to that person*

(I: I get you, because the chief might inadvertently give the same plot to another person?)

*Right, and sometimes, the chief hasn't given it. But those people who go there have ways and means to persuade the officers to then register their name. And sometimes, the person who's been there first with the chief's approval does not know the intricacies and he doesn't ensure that there is a proper record, recorded against that plot. They think once you go in and you talk to the Lands Commission and you come out, that's it. They don't follow it through, because they know the procedures. They say, "I've been to Lands, they know about me." Somebody comes, Lands open the file and say, "Oh, there is no one registered on this plot." They then duplicate.*

In fairness to the Lands Commission, the officials here may sincerely not be at fault; the blame could be placed squarely on ignorant buyers, who did not follow through to have their documents authenticated. Nevertheless, officers whom buyers succeed in persuading in however manner this happens, are liable to corruption charges.

That corruption was prevalent within the District Assembly structures as well, was pointed out by this same chief when I inquired about the facilitation or otherwise of the District Assembly to the management process. This is what he said:

*They do, in the sense that they, the Survey department will survey the place, Town and Country Planning has already mapped out the area and they know which plots of lands have already been put to use and which ones haven't. They will invariably know duplication, but they are mute. When ways and means are applied, they are mute and say it will be sorted out later and then it brings conflict.*

To all intents and purposes, this was a chief, who had accepted the formal rules and yet was not happy with the negotiations on the part of local government officials. Twenty-three years after the implementation of decentralization, it appeared a history of institutional bargaining has still not been established between local political officials and local traditional elites. Moreover, recall that it was issues of duplication in the local government structure that necessitated the implementation of the decentralization process. Ghana may have come full circle to the past, and this has implications for conflict in the mix of formal and informal rules. And this is relevant considering that the MP, who spoke on government's failure to pay compensation in the acquisition of lands, also saw the involvement of the District Assembly as a hindrance. For him, the DAs, acting on behalf of central government acquire land without any participatory consultation with the people.

This was an MP for Kumasi, and it is pertinent that he made this remark. Out of the three research sites where I conducted my research, Kumasi was the only site where I could sense a feeling of 'Little Man politics.' 'Big Man politics' at the local level was very much evident in Kumasi. Top DA officials wore an aura of self importance almost approaching arrogance, and indeed, it was only in Kumasi that I never interacted with the Metropolitan Chief Executive, let alone have the opportunity to interview him. Again, it was only in Kumasi that neither the MCE nor his Coordinating Directors or deputies would avail themselves for interviews. Neither would the Metro Police Commander<sup>33</sup> even speak with me but through an orderly. The case of the Police Commander was very interesting. Short of avoiding talking to me directly to discuss my mission as almost every respondent did, he indicated that a letter of introduction from the Kumasi Metropolitan Assembly should have been channeled through the Ashanti Regional

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<sup>33</sup> Kumasi is a large city. Therefore the city has at least three Police Commanders.

Police Commander. Yet, I interacted with the Metro Police Commanders of Cape Coast and Tamale without any fuss.

A fourth potential respondent in Kumasi did meet me the first time, but unlike other respondents who had to reschedule their interviews sometimes, this particular respondent rescheduled his four times. On all four occasions, he dismissed the appointments because he had to attend to important official assignments, as if other officials had nothing important to do. This could have been a sign of unwillingness to participate in the research, but he never was forthright on this, but always offered excuses of meeting the MCE, attending a KMA weeklong workshop or another thing. But particularly, the cases of the MCE and Coordinating Directors were rather unfortunate, because the faces of the assemblies in Ghana are the DCEs and Coordinating Directors. One can only anticipate that consultation and participation would be very marginal in this district, a district which happens to be the seat of Otumfuo, the final authority in succession rules and traditional land management. This probable lack of consultation of the DA was also the complaint of a traditional leader in Kumasi. Hear him:

*It is chiefs who are in touch with the grassroots, and they wield influence over their people. If chiefs are permitted to be involved in every decision making process, the chiefs will be the channel to reach the people on the ground to explain the benefits of developmental projects even before the President or his representatives come down to explain such projects. But they (DA) don't want to involve us. (Traditional elite July 9, 2010).*

Suffice it to say that this traditional leader was one of those persons intimately associated with Otumfuo to exercise his function as a king, and his reaction should be taken seriously. Not only a traditional leader, but also an MP was concerned about this development deficit of local government in Kumasi. However, in his outlook on how the District Assembly could hinder the

management of traditional land, a Kumasi DA official put the blame on some chiefs. This is how he explained the impediment to me.

*From my point of view, I will say it enhances, but of course you will get some of the chiefs who will also say it is a hindrance, more or less, putting a lot of untold pressure on them because the way they would have wanted to dispose of land or do things with their land, the Assembly or the planning authority will say no. So, in their point of view, I wouldn't say the entire chieftaincy, but some of the chiefs will not feel comfortable with the structure or the arrangement. But I sitting here as an officer and more or less a land administrator or land expert, I will say it is better with arrangement now, whereby the chiefs will just have to submit their wishes to the planning authority for a better development. Else, they will do so many things which will not augur well for coherent development. So in my personal view, it is better with the current arrangement than leaving everything with chiefs. (July 2, 2010).*

The debate is on; here we have a traditional leader (informal) blaming the DA (formal) and a DA official also accusing the chiefs. Is this a case of resistance to formal rules, or lack of proper implementation of the District Assembly rules? Well, what were the views of the other four respondents, one from Tamale, and the rest from Cape Coast on the obstacles DAs put in the way of managing traditional land?

The Tamale DA official gave a simple answer, “Sure” (July 16, 2010). When I pressed for an explanation, he concurred with me that some DA officials have ulterior motives. Earlier, he had given me details of both the involvement of central government and District Assembly in the management of traditional land. This is how he described the involvements to me in our dialogue.

*Central government involvement is very clear and obvious in the sense that Ghana as a state, the state cannot do without control over the land, because the land is our main economic resource. As such, government or the state is interested in the land. So the state decides to use a piece of land for anything, even though they would have to still consult the chiefs, but they have the oversight to say, “Yes, we are using this piece of land” and the chief will have little to say. He may only ask for his compensation. And most often, the chief cannot also sell or dispose of the land to somebody else – foreigner or local – without the state institutions. They must approve of it so that it becomes the legal property of the inheriting person.*

(I: Besides this point of the state’s oversight responsibility, land that the state is not really interested in or lands that are not being sold to foreigners as mentioned in the Constitution, the purely traditional lands that the chiefs are still in control, is there any meddling of affairs by the government of those lands?)

*It depends on whether you are looking at government as the government or government as the institution that serves government. If you are looking at government that is government, at that level, the influence is very, very negligible; you may not even be able to realize it. But those other institutions that serve the government, they are the people you can visibly see trying to encroach on these traditional authorities. You can see them going about, at least also trying to grab one or two pieces of land to make some small money for themselves.*

(I: In this case, are we talking about the Lands Commission?)

*All the institutions that are involved like Town and Country Planning, District Assembly, all of them.*

So he had already implicated the District Assembly; hence his one-word answer. And District Assembly culpability was strengthened from the remarks of the three Cape Coast DA officials.

The first official had already protested about the rift between the Lands Commission as a central government appendage on the one hand, and the Survey department and Town and Country Planning department on the other hand. He had no problem with role of the Stool Lands Administration, because according to him, that office dealt with royalties and was firmly being controlled by the central government. The bone of contention was a disjoint between the Lands Commission and the DA agents, which had come about because of the current use of cadastral plans to demarcate lands. Previously, compasses were the instruments of choice. In the process, recent maps of plots tended to be at variance with what the family approved previously and what the cadastral located. Consequently, this struggle over whether the DA agents were right with their modern technology or the Lands Commission had to impose what was on record becomes a long drawn-out battle. After a buyer has gratefully been given the light to continue with the documentation process, he/she then moves to the DA to submit a building plan. A tax is calculated for the plan, which is paid after the building inspectors have moved to the ground physically. This is a way to ensure that the applicant has not already started to construct a structure. If so, a penalty is slapped on the fees.

Starting with the battle over central and local government agents up to the inspection by the DA can take forever, and it is anybody's guess. Yet, after this undue delay due to no fault of the buyer, the drama continues at the approval stage. This is what the official said regarding the hindrance, and the conversation we had.

*A hindrance, because of the process. If you take one month, two months just for a building plan when they meet once a month to approve of building plans.*

(I: Previously once in six months, but from some of the interviews, I hear it is once a month now.)

*Once a month. But even then, how long should people wait? And what will be the monthly cycle? Is it a 30-day plan a month? If I present one on 29<sup>th</sup> and it's a calendar month, then it means that on the 30<sup>th</sup> you should consider.*

(I: But then the meeting would have been held on the 28<sup>th</sup>?)

*Precisely. So these are the difficulties that make the system not to be too attractive; people go ahead and then build. (June 17, 2010).*

This official, who was not associated with the DA's land departmental wing, was very unhappy with the delay with the whole process within the DA and between the DA and Lands Commission representing central government in the districts. This misunderstanding between central government agents (Land Commission) and local government implementers (DA) has implications for effective local government, in that the agents of the formal rules would not be on the same level to speak a distinct voice when interacting with the informal sector. What is emerging then is that not only has a history of institutional bargaining not been established between local political officials and local traditional elites, but this history of institutional bargaining has also not been firmly put in place between and among the agents of government. We can infer more of this emerging trend from the views of a second DA official in Cape Coast.

Within the District Assembly itself again, this official was concerned about duplication of services. It appears the technical department in charge of traditional land affairs comes into a head on collision with the bureaucrats of the District Assembly as well. As he made clear to me, whether the DA will be a hindrance or not depends on whether the negotiations within the structures of the Assembly itself are harmonious or not:

*I would say it is a 'Yes' and 'No.' Where there is a right understanding, the proper collaboration comes, then the technical advice of the men from say, Town and Country Planning, is given, and*



*the administration is able to accept and enforce it. It becomes a collaborative (venture) and the administration of the land becomes very effective. When technically you inform the Assembly, it is the Assembly which is supposed to take the action with your advice. But if they don't see it that way that the person is developing in a road reservation; where the law says that the Assembly is the overall planning authority in the town, but the technical field goes to inform them that this is the situation, but they do not permit any action to be taken on it, then it means if the law had not been like that, but the authority had been with the Town and Country Planning, then they could have moved in to correct the situation. In that case, that involvement of the Assembly has become a hindrance. So it depends. (June 17, 2010).*

The third official's opinion on the hindrance matter emphasized the face of the District Assembly I recently referred to. With a choice of few words, he had hit on the "Little Man politics" again. This is how he clarified his position:

*Generally no, because District Assembly rather is a facilitator for peace and amicable settlement. However, District Assembly becomes a hindrance depending on the type of political head – personal attitude, morals – which leads to abuse of power. (June 9, 2010).*

This was exciting news. This young man had only been working for ten years, seven out of which had been in Cape Coast. Within the seven years, he had witnessed three DCEs, and certainly, he had a premise on which to make such a categorical statement, unknown to him, but very obvious to me. One thing I knew for sure was that he was not referring to the current Metropolitan Chief Executive, whom he had previously complimented informally.

In sum, to a large extent then, the formal rules in the management of traditional land appeared to have been accepted by both local and traditional elites. In their opinions, the majority of respondents suggested that a harmonious relationship existed between the

governmental (state) sector and the tradition (customary) sector. However, the involvement of national and District Assembly rules sometimes imposed constraints on the smooth implementation of managing lands in Kumasi, Cape Coast and Tamale communities. These impediments included frictions between the central and local government agencies; disagreements and duplications within the District Assembly structures; delays in processing documentation for buyers; lack of collaboration between chiefs and DA; corruption; bureaucracy; and “Little Man politics.”

Similar to what I did in the examination of succession rules, I turn next to consider the conflicts that would arise from the interaction of formal and informal rules in traditional land management. These conflicts would be inevitable, following from the discussion above. After identifying the conflicts, I examine the institutional bargaining and negotiations that would be used to mediate and resolve these conflicts. Again, would negotiations break down for entry of parallel formal and informal institutions, such that there will be no mediation or conflict resolution? To deal with these anticipations, I continue first by identifying the incidence of conflicts in traditional land management processes, and how they come to matter in the interaction between formal and informal rules.

## CHAPTER SEVEN – TRADITIONAL LAND CONFLICTS AND RESOLUTION

Despite local and traditional elites' acceptance of formal rules in traditional land management, conflicts abound. The causes of traditional land management are many and vary across the communities. Conflicts were more likely in communities where the chieftaincy institution was very strong. They include boundary and multiple sales; government mismanagement; and chieftaincy disputes. Central government's failure to honor part of its institutional bargaining on traditional land acquisition creates avenues for chiefs to capitalize on promoting their self interest. Consequently, different players were manipulating the structures to serve their individual preferences and motives. The presence of "Little Man politics" and the opportunistic avenues open to chiefs and their agents brings to the fore the parallel operation of formal and informal rules in Kumasi, when the struggle for space between state and tradition plays out in traditional land management. A similar situation that could have been in place in Tamale has been shrouded by the ghost of the murdered king of Dagomba.

### **7.1 Conflicts in Traditional Land Management over the Past Decade**

Fewer respondents (35, 64.8%) indicated that conflicts had come about in traditional land management over the past decade. This was in sharp contrast to the number of respondents who pointed to chieftaincy succession conflicts (48). However, this finding may not be so surprising, having established that it appears that formal rules are more accepted by local and traditional elites in traditional land management than in succession rules and processes. Table 4 shows the causes of the land conflicts in Kumasi, Cape Coast and Tamale, and the number of respondents

(totaling 26) who mentioned causes of traditional land management conflicts in their respective locations<sup>34</sup>.

**Table 4: Traditional Land Conflict Management Causes in Three Metropolitan Centers**

Causes	Location					
	Cape Coast		Kumasi		Tamale	
	No.	%	No.	%	No.	%
Boundary/Ownership	6	<b>42.9</b>	5	<b>31.3</b>	5	<b>25.0</b>
Multiple/Indiscriminate sales	4	<b>28.6</b>	3	<b>18.8</b>	4	<b>20.0</b>
Revenue generation and distribution	-	-	1	<b>6.3</b>	1	<b>5.0</b>
Encroachment into government land	1	<b>7.1</b>	2	<b>12.5</b>	1	<b>5.0</b>
Central/local government mismanagement	3	<b>21.4</b>	1	<b>6.3</b>	3	<b>15.0</b>
Chieftaincy disputes	-	-	4	<b>25.0</b>	6	<b>30.0</b>
Total number of respondents within sample at location	8/16	<b>50</b>	8/13	<b>61.5</b>	10/14	<b>71.4</b>

Source: Author 2010

Table 4 shows that the causes of traditional land management conflicts vary across the three locations. The number of respondents mentioning a cause of conflict is an indicator of the relative importance of that conflict to community residents. In Cape Coast, boundary and ownership disputes appeared to be important followed by indiscriminate sales. Kumasi is similar to Cape Coast, except that chieftaincy disputes rank second. In Tamale, the most important cause of land conflict is chieftaincy disputes followed by boundary and ownership disputes. The Table also shows that respondents reported more conflicts from traditional land management in Tamale (71.4%), than in Kumasi (61.5%) or Cape Coast (50%). What is exciting about these

<sup>34</sup> The responses of nine government officials are not included, since they were asked to talk about causes of conflicts in communities, not specifically Kumasi, Cape Coast or Tamale. See Appendix for the distribution of their responses.

findings is that despite the acceptance of formal rules in traditional land management, conflicts existed in *all* three locations. How did these conflicts emerge? I examine these conflicts in the respective communities. Subsequently, and similar to the discussion on chieftaincy succession conflicts, I discuss the sources of the conflicts, i.e., the various actors contributing to the conflicts in traditional land management. Again, I focus on the roles of the traditional leadership and the District Assembly as perceived by respondents within each research site based on the argument that, residents of an area may best be knowledgeable about the roles of these actors.

### **7.1.1 Traditional Land Management Conflicts in Kumasi**

All four traditional elites in Kumasi argued that conflicts existed in traditional land administration over the past decade. Three focused on boundary demarcations and ownership, such as between Kumawu and Kwaman lands (*July 9, 2010*) and between Asokore Mampong and the surrounding villages (*July 8, 2010*). As explained by the latter respondent, most chieftaincy disputes tie in with undefined boundaries.

*Boundaries are major. Another chieftaincy dispute can come from land. Asokore Mampong came here before all the surrounding villages – (mentions them); they all came and met me here. My ancestors gave land to all these villages for them to live on. But because, it is about three, four, five hundred years ago, the boundary is not demarcated. Maybe we used a tree and that tree is gone.*

As far as the fourth traditional leader was concerned, two causes of conflicts could be identified. These were indiscriminate sale of lands as in Apromase and “encroachment of farm lands, especially those that are merging with urban lands” (*July 9, 2010*). Clearly, for the major players in the traditional sector, boundary disagreements matter.

Four of the District Assembly officials interviewed declared that there were no land conflicts in Kumasi. One reneged almost immediately, and pointed to boundary disputes. However, in his view, these disputes were minor and unrelated to paramountcies<sup>35</sup>. I decided to engage him in a conversation because his office was central to traditional land management.

*Well, sometimes there may be boundary issues between, say, Kumawu and Agogo, because some of the people belong to this side and they belong to that side too. These traditional areas have not gotten clear-cut survey boundaries, so when the boundary appears to be very far away, it's OK. But as we develop and they move around, now that we have mechanized agriculture people can clear large tracts of land, you may have these conflicts resulting. But in almost all situations, because the Asantehene has said that he doesn't want land cases to be sent to court, so they try to resolve their issues internally at the House of Chiefs. That is what they do, and so far, we can say that it has worked. There've been only minor disputes maybe, between two parties; I bought the land from this chief, the chief is dead and you also came and you bought the land from the present chief. When you came, he didn't have any records to show that this particular plot had been sold. Then there is a dispute, because I'm holding an allocation note, he is also holding an allocation note, when I bought it I didn't develop it or I'm yet to develop it – these things bring conflicts.*

(I: But you would say that generally, in this community, there are no major conflicts, and very minimal?)

*Yes, because even with the government land within the community, the road appropriation and all those things that are government lands managed by the Lands Commission, because they form part of a certain stool's jurisdiction. Even when we have given allocation to applicants, when they go, they also go and recognize the chief – go and pay homage. Sometimes, the chief even*

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<sup>35</sup> A paramountcy is the geographical space overseen by a chief who occupies the highest position within the chieftaincy hierarchy in a traditional area. In Kumasi, even though the king rules over many traditional areas in the Asante kingdom, he is the paramount chief of the Kumasi traditional area.

*proposes if this plot can be allocated to this person. And we have a very civilized arrangement, very cordial between us. Disputes, yes, but they are mainly between two parties; very minor, not on the scale between two paramountcies. (June 30, 2010).*

Clearly, the opinions of this official were in contrast to the views of the traditional elites. Both Kumawu and Agogo are paramountcies and it is very unlikely boundary disputes would arise in these traditional areas without the chiefs in the know. Unfortunately, I did not want to follow up on this anomaly because my focus was in Kumasi traditional area. But it is relevant that he did allude to farming practices probably encroaching urban lands as one traditional leader had previously mentioned.

His assertion that an outstanding harmonious relationship existed between Lands Commission and chiefs was also at variance with the views of almost two-thirds of the respondents in Kumasi. Three other District Assembly officials who confirmed that conflicts existed identified chieftaincy disputes as one major cause of traditional land management conflict in Kumasi. Again, chieftaincy disputes were intimately related to boundary and ownership issues here, as evidenced in the opinions of one of the DA officials.

*There are always conflicts in land management, and the conflicts can stem from so many angles. We can talk about ownership; that is one major area which (causes) conflict. In the traditional sector, as I said, every stool has land, and the land is its valuable property. So in traditional parlance, when we say, "A chief or stool without land is worthless," the land is actually the valuable asset behind any stool. But there is a major problem with respect to boundaries. The boundaries are always a source of conflict, especially when it comes to land in urban settings like Kumasi whereby a plot of land in certain areas are sold around 500 million, 600 million (old cedis), some of them even beyond one billion, then it can tell you that if there is a problem with*

*the demarcation, nobody will allow land just to go away. Therefore, when it comes to ownership, that is one major source of conflict. (July 2, 2010).*

According to the official, the increasing cost of land was one good reason why disputes center on boundaries. Five hundred million old cedis is equivalent to about \$36,000, and having committed such a colossal amount of money into the purchase of a bare piece of land, nobody would readily give this up.

But more important though, is the opportunity structure that opens up on the death of a chief. Indiscriminate sales then abound creating more problems for ownership claims, as he continued his narrative.

*And it could be within the same stool, especially areas whereby they have not been able to get a substantive chief on the stool. Once there is a vacancy, of course, especially, in our area there is a structure – if the chief is not there, there is Krontihene, there is Gyaasehene, there is this – but all these chiefs will not have absolute command in terms of controlling the subjects than the chief. So if the chief himself is not there, you get this kind of (situation), everybody wants to sell, and that is also a source of the problem, because if there is a chief, as I said, the area has been demarcated by the District Assembly and well cut out in the scheme. But since a chief who will be given a copy might not be around, his subjects and others within the family will just sell the lands. For all you know, that particular plot may have been sold to somebody else. So controlling the releasing of land also becomes a problem – one major source of conflicts. There could be others, but they may not be very peculiar in this community. Especially when you go to Accra.....*

The Kumasi MP was equally distressed with indiscriminate sales in the traditional area, as he was with improper disbursement of revenue from stool lands (*June 3, 2010*). What is emerging



then is that causes of conflicts in Kumasi are much related, and sometimes becomes a vicious circle; indeed, a no-win situation.

My interaction with another DA official was equally engaging, because the nature of his work required him to communicate regularly with community residents. Within a short space of time, he informed me about the improper allocation of lands in five communities, and that chiefs and members of the royal family were responsible for disposing of these lands. It was difficult for me to accept his assertions, because the principles underlying traditional land management in Kumasi stipulated that Otumfuo approve all allocated lands. Consequently, I pointed out to him that what I was inferring from his claims was that the process of sending allocation papers to Otumfuo was no longer being upheld; in short, no more tenable. This was his response, and the dialogue that ensued.

*Usually when lands are allocated, you are supposed to pass through those structures to the palace and then to Lands Commission, then you acquire your title to the land. Usually, people don't do that. Once the person gets allocation paper, it ends there. He goes to the Assembly for site plan and building plan, and then he starts building. If he is lucky and nothing happens to him, he is there. But if he is not lucky, before you are aware, somebody will also be on the land, "This is my land," and then it creates a whole lot of problems. And because you've not gone through the process to Lands Commission to acquire title, it becomes a very serious issue.*

(I: It means the District Assembly somehow plays a part in the conflict, without checking whether the proper title has been allocated before the permit is given?)

*The Assemblies cannot be blamed here. Usually, the problem arises because the royals in that particular area are not one or maybe because they do not respect the one on the seat, because the chiefs are supposed to be the people who will be doing the allocation. So if the allocation is*

*coming from one area, there will never be conflict, because there will be a book – a register – and the chief will know the plot has been allocated.*

(I: Probably, I'm saying that the collaboration between the Lands Commission and the Assembly may not be that fluid, because other than that, the buyers may not be able to get the permit?)

*It depends on who goes there first. I can be the first person who went on to the land. Maybe, the land was sold to another person. When lands are sold, the chief has to sign the allocation paper. This is what surprises me. The land was allocated to another person, so who actually signed and stamped? It means people have made their own stamps here and there and have been doing that.*

(I: So the District Assembly cannot be blamed?)

*They cannot be blamed in any way.*

(I: It means there is some corrupt practice somewhere along the line?)

*Exactly.*

(I: So the District Assembly is also not in a position to determine that, because here comes a paper which is properly stamped and signed.)

*Yes. (July 6, 2010).*

This DA official had implicated his own establishment, and yet he was not prepared to admit it. The District Assembly as an indirect contributor to conflicts in Kumasi is worth examining. However, before I look at actors involved in the conflicts, I turn to the discussion of the focus groups on land management held on July 6, 2010 (Assembly members) and July 8, 2010 (community leaders).

Both groups went into great detail to lay out the conflicts that Kumasi was experiencing regarding traditional land administration. The group of Assembly members included a chief of senior status, which really enriched the discussion, more so because the opinions of traditional

leaders and DA officials were largely corroborated. The group began the discussion focusing on chiefs who did not appreciate the wisdom in interacting with the District Assembly in order to zone land under their custody. As a result, the same plot of land would be allocated to different people because the chief could not draw on well-defined boundaries. Chiefs who had properly demarcated their land would not be found in this predicament, such as the Asokore Mamponghe. In a very recent case, a culpable chief, who also happened to be an Assembly member, had been destooled by Otumfuo.

Other chiefs were reprimanded for indulging in multiple sales. For the discussants, such chiefs were pursuing their selfish interest in order to make more money. They explained the tactics of such chiefs to me. Faced with the problem of the first lessee laying claim to his land, a chief would attempt to appease the person with a refund of his/her money. But this sometimes proved very difficult and ended in a dispute. I probed into how such a situation could crop up, since buyers would have to be in possession of allocation papers signed by the Otumfuo. It turned out that after buyers were offered allocation papers, they only proceeded to the District Assembly, provided those lands had been zoned by the District Assembly. Else they began to put the land to use. Otumfuo comes in after the process in the District Assembly. Going back to the principles of land management in Kumasi, it is pertinent to recall that it is the Lands Commission that prepares draft lease documents, which are processed after Otumfuo's signature. Consequently, chiefs could easily manipulate lands that had no schemes prepared by the District Assembly. Unscrupulous buyers would also not see the need to process their allocation papers legally. The Assembly members were therefore hitting on an opportune opening that selfish chiefs were cashing in, aided by equally opportunistic buyers.

The discussants also talked about a protracted problem that has come to be, because buyers do not promptly develop their acquired lands. What happens in Kumasi is that after acquiring a plot of land, a person was expected to develop it within a stipulated time (normally two years) or else, the land had to be resold to another person. A resell is actually a transfer of the land to another person, who then notifies the chief about the transaction, without mentioning the amount of money exchanged between the original owner and the new owner. The three parties sit together to effect the transfer, obviously parting with some money to the chief because “one does not go to a chief empty handed.” A chief has the right to enter land that remains undeveloped after the stipulated period and negotiate a fresh sale. When the first lessee appears, then a conflict ensues. Such cases usually ended up in the courts to be litigated upon for generations.

Another common conflict came from delays in replacing a deceased chief, as happened in Tafo, where it took over ten years to install a successor. Members of the royal family would then have a field day of selling the lands even though they had no authority to sign allocation papers. This scenario was much like what a DA official had earlier told me. However, the Assembly members went further to explain how the intransigence of buyers would lead to more conflicts within the indiscriminate sales. Upon the installation of a substantive chief, out of humanitarian reasons, such a chief would request the ‘illegal’ buyers to regularize their allocation papers. Illegal buyers should have deemed such a gesture by a newly installed chief as the best option for them, because under normal circumstances, chiefs had the right to take the land from these buyers. Ironically, many buyers refuse to put forth new money for such regularization, and this also ended up in protracted litigations.

It also came to light that this practice of the royals taking advantage of the death of a substantive chief was also occurring among families, culminating in multiple sales and unsigned allocation papers. Discussants were at a loss as to why prospective buyers could not ensure that a proper search of the to-be-acquired plot was done at the Lands Commission.

Community leaders confirmed incidences of multiple sales by some chiefs, but focused largely on local government complicity. This was exciting for me, because two days earlier, a DA official had tried to defend the District Assembly of any wrong doing regarding land conflicts. They recounted a very insightful case that occurred at Amokom where the main chief had released land, reserved for dumping waste materials and trash. The residents realized that a church building was being constructed on the land. When the community protested, it was discovered that the Kumasi Planning Committee (KPC) of the Kumasi Metropolitan Assembly had previously approved the lease papers and a building permit had been issued by the KMA. The double standard of the KMA was exposed when the community sought the assistance of the KMA to demolish the structures being put up, which KMA obliged. KMA requested their city guards to pull down the church building. The church officials took the matter to court and won the case. Subsequently, the court fined the KMA, two chiefs in the community, the Assembly member and the entire community. Insofar as the community leaders were concerned, the KMA was to be blamed for failing to investigate whether the KPC had permitted the church to develop that particular plot, and more so had approved the necessary documents. Indeed, for the community leaders, many of the conflicts in Kumasi originated from the KMA because the Assembly regularly flouted the rules.

Increasingly as the research proceeded, it was becoming evident to me that much as the actions of chiefs and members of the royal family were creating a no-win situation in the matter

of traditional land conflicts in Kumasi, the institutional bargaining between the customary sector and the local government structures were either not in place, or was breaking down, or entrenched positions were being taken. A moment of truth dawned when the community leaders referred to another scenario.

The development plan of the KMA has earmarked specific sites for development. It turns out that undeveloped lands that have been acquired by governments were sometimes released by chiefs for 'public good' projects like private schools. The KMA would immediately move in to stop any construction from progressing. As far as the community residents were concerned, such a 'public good' would have benefitted them. In contrast, insofar as the KMA was concerned, such a private school would inure to the private benefit of an entrepreneur. For me, discounting who is right, the burning puzzle is whether chiefs, who have accepted the formal rules and by assumption, were prepared to abide by these formal laws, could unilaterally allocate government land even if the use of the land would turn out to be a 'public good?' This example speaks to power relations in traditional land management, and how actors seek to justify their motives. The KMA failed to put down the chief for taking a unilateral action, and yet did not give room for negotiations that would have allowed a supposedly 'public good,' which would have also inured to the benefit of the community.

The matter of undeveloped land, both government-acquired and private purchase, it seems, would continue for some time in Kumasi. Another case involving undeveloped land attests to this prediction. The community leaders, while confirming the trend whereby chiefs could reenter sites that were left undeveloped for a period, tied this in with the corruption that I found emerging within District Assemblies. Problems with undeveloped lands generate many conflicts in that the law favors a developer who has put up a building. It turns out that a

defaulter (second lessee) may have manipulated to get approval for a permit from the Town and Country Planning department, and then would quickly put up a building on an undeveloped land that had been previously approved by a permit from the same department. This again, shows the complicity of the District Assembly. First lessees have frequently confronted chiefs involved in such dubious deals, who in turn attempted to settle such issues by allocating other plots of land, which sometimes never materialized.

The land conflicts in Kumasi seem to be more complex than one would have imagined. Clearly, the traditional authorities and the District Assembly are both culpable in deepening the conflicts. What were the perceptions of the respondents on the role of traditional leaders and the DA?

#### *7.1.1.1 Actors in the Kumasi Land Conflicts*

All four traditional leaders indicated that chiefs were contributors to the traditional land conflicts, but not the District Assembly. One chief also blamed families for the conflicts. Interestingly, while two of the three DA officials also put the guilt on chiefs, none conceded that the DA was culpable. For one DA official, the role of the traditional leadership was more inclined into conflict mediation. However, the MP did not spare the District Assembly. Earlier, he had decried the indirect influence of central government in chieftaincy disputes. As long as chieftaincy was linked to land, this influence would contribute to a lack of transparency in the sale and acquisition of lands. When I asked him the role of the District Assembly in the conflicts, this is what he said, “The DCEs are used as the indirect tool for government interference in land issues” (*June 3, 2010*).

I wanted more to this opinion by the MP, but that was as far as he would go. However, it was noteworthy that a specific mention of a key actor within the DA had been made; DCEs were indirectly involved in land conflicts in Kumasi. The focus groups corroborated the culpability of chiefs; the community leaders went beyond chiefs to chastise the KMA, as previously discussed above. So within the complex web of conflicts in Kumasi, chiefs were the major actors, besides families and probably DCEs. However, from the explanations of how conflicts in traditional land management had emerged over the past ten years, the guilt of the District Assembly cannot be overlooked as indicated by the community leaders.

### **7.1.2 Traditional Land Management Conflicts in Cape Coast**

Conflicts were also emanating from traditional land administration in Cape Coast. However, they appeared insignificant compared to the scenarios in Kumasi. One reason could be that Asafo companies had virtually lost all their lands, because the District Assembly had taken over the beach line on the strength of a decree, which now vests all lands along the beaches of Ghana in the Ministry of Lands and Mineral Resources (*Traditional Leader June 21, 2010*). Another explanation could be attributable to the fact that chiefs control very little land in Cape Coast; royal families' interest in stool lands appears to increase as one moves from the center. Consequently, conflicts on stool lands were almost absent. This second reason could be inferred from the opinion of one chief, who indicated to me that most stool lands had been acquired by government way back in the colonial days and into the First Republic. The expectation then would be that land conflicts would be observed more among individuals and families, which this chief confirmed.

*The conflicts are within families. There is no major trouble in land disputes between the clans such as Ebiradze and Adwenadze. The disputes are mostly emanating from lands that the government acquired, because this place was originally a colonial territory and governors lived*



*here. They determined certain things and legislated that certain lands be allocated. For example, Adwenadze lands were given to Mfantsipim School. Initial contracts which indicated that our children could attend school at Mfantsipim have all been abrogated. At times, the chiefs get peeved off and then they decide to confront the government to return their lands. Land space for accommodation is now scarce, and compensations have not been paid, because sometimes, we the chiefs offered the lands as gifts for development of schools, sometimes without defining any boundaries, and there was no clear policy on the payment of compensation. So, most land disputes are between individuals and within families, involving multiple sales. But they are small, small ones. (June 27, 2010).*

The chief would not even want to consider these conflicts as any ones of substance. Indeed, as the Asafo traditional head and another chief informed me, land disputes were minor ones, with most involving individuals and families of stools, who had ventured into multiple sales, and thereby creating ownership disputes. A deeper analysis of this chief's opinion shows that the colonial masters may have been authoritarian, but for the chiefs to offer land as gifts for public goods, may be a hint that chiefs had come to accept the motives of the British. Rather than resisting the intrusion of the colonial masters into their land, some kind of negotiations and bargaining may have taken place for them to freely offer land. And that this may have been probable is seen from the generosity of chiefs in not defining land size for use by governors. The nebulous arrangement regarding a policy on compensation however, has left a legacy of multiple sales by families and individuals in this first capital city of Ghana.

The emerging beautiful state of affairs concerning land conflicts may not be the perfect picture, because the nonpayment of compensation of government acquired lands and the scarcity of land could compel chiefs to intrude into government lands. Subsequently, a state of tension

between chiefs and government would in all likelihood occur. The failure of government to pay compensation would no doubt lead chiefs or their agents to indulge in multiple sales of land. The University of Cape Coast land represents a classic case of multiple sales by families of stools due to acquisition of land by government. This was an interesting case, as can be seen from the details expressed by a District Assembly official.

*The University lands were compulsorily acquired by the government under a legislative instrument, LI 13 of 1972...It was Nkrumah who did it, but the legislative instrument was passed in 1972. And then these lands were vested in the University of Cape Coast. Unfortunately, the settler communities were not resettled – Apewosika, Kwaprow, Amamoma, Kwesi Prah, Akotokyer – they were not resettled, and they lived within the University community. As time went on, they started encroaching on (the land) because they felt they were the owners of the land. Presently, there is even a matter pending before the Court of Appeal on certain sales or alienations that have been made by the villagers, resulting in serious encroachment on university lands. They knew very well that the land had been acquired by the government. What some of them was talking about was in respect of compensation. But the law is that if your land has been acquired, so properly acquired and you have not been compensated, you don't go back and take the land. You pursue your compensation, and not go back and dispose of the land. And that is what happened in the University of Cape Coast.*

(I: So it means they are probably reselling some of the lands?)

*They have sold portions thereof to individuals. And the pathetic aspect of it is that some members of the University community have bought some of the land and developed some into hostels, private houses and what have you. (June 16, 2010).*

The traditional leader, who was a head of one of the Asafo companies and was concerned about the loss of Asafo beach lands, confirmed the incidence of multiple sales on University of Cape Coast lands. This was how he made his point:

*But there are many examples of conflicts over University land. Residents of Kwaprow are Nkum; Akotokyer are Ntsin; Apewosika, Kokwado, Kwesi Prah are Bentsi. They are not fighting against one another; everybody knows their boundaries. What is happening is double sale of lands.*

(I: Who are doing the double sale of lands?)

*Families within the stool houses. There is no problem with the Asafo companies, as used to occur in the past with wars over Asafo lands, property, paraphernalia, etc. (June 21, 2010).*

Three Asafo companies – Nkum, Ntsin and Bentsi – currently living within the villages situated right on the University of Cape Coast lands were not the problem. Rather, families of chiefs were supervising the illegal sale of lands here. In villages largely populated by Asafo companies, one would have expected them to be the people agitating for the land based on their previous pugilistic tendencies. It appears the Asafo companies have come to terms with their situation, and were not likely to join in the fray, because they have no lands. However, families of chiefs of the villages within the University community had arrogated unlawful powers to themselves to dispose of land. The failure of government to honor its part of the bargaining process has led to a redefinition of the negotiating process, where chiefs unilaterally repossess land that had been previously negotiated in favor of government. To make matters worse, the families of stools were indulging in multiple sales. To dispose of land could speak of rebellion in the face of nonpayment of compensation. However, to execute multiple sales to unsuspecting buyers would definitely be indicative of the irresponsibility of families of chiefs. As the head of the Asafo company put it, “everybody knows their boundaries,” which brings to fore the finding

by Sarah Berry that chiefs indeed know their boundaries (Berry 2001). However, an increasingly monetized economy was changing the negotiation patterns within land transactions, not only in Cape Coast, but we have also seen this in Kumasi.

From my conversation with the MP, it turns out that some compensation had been paid to the villagers, but the government's blunder had been its inability to resettle them after the payment. This is how he explained the problem, which has been exacerbated by population growth, leaving the University authorities in a sticky situation.

*The University of Cape Coast was compulsorily acquired in about the 1960s by the Nkrumah regime for that purpose. Unfortunately, I think the error was that citizens of the villages there were not resettled. If they had been relocated, it would have prevented this problem we are having now. Now the people live on their land; the government has acquired it; in respect of about 70% of them, they have been paid their compensation. But as a township, it keeps growing, and now it is growing beyond certain limits, therefore affecting the university's occupation of the land. And so a lot of cases have come up; some cases to do with claims for compensation probably believing that the records are not there to show that their predecessors have already collected their compensation and so on and so forth. The University authorities are in a fix because you are dealing with human beings. The township needs to grow; you need to have space for schools and whatever. The land belongs to the University authorities and they will have to come to terms with them. Many a time, it results into some kind of conflict and sometimes they go up in arms.*

(I: Really?)

*Yes, I know of a number of cases, I was handling the University cases as their external solicitor, so I am very much aware of these developments. It's been really tough. The other thing is that the chiefs, despite the fact that they know that government has compulsorily acquired those lands, continue to sell to people. And the people too are not on their guard, because when you go to buy*

*a piece or parcel of land, you must get a site plan drawn up, conduct your search at the Lands Commission and satisfy yourself that the person who is purporting to be selling to you is the recorded or registered owner of the land. You go there and conduct a search, it will show that it is University land, and yet they go ahead and buy. And so they don't prepare building plans, which would have to be sent to the Assembly for building permits. They build without permits, so it's quite a problem. (June 19, 2010).*

In contrast to a DA official's opinion who attributed the encroachment into University land by the residents of the villages to ownership of land, the MP was of the view that population expansion had triggered this infringement. But key is central government inaction to relocate the villagers, which has situated the bargaining field not only between the villagers and central government but also between the villagers and the University authorities. Caught in this double negotiation dilemma, the chiefs resort to the tactic of indulging in multiple sales to confuse an already bizarre situation. It is also unfortunate that buyers include members of the University community, as the DA official stated. This latter bit can further frustrate fruitful and impartial negotiations between the University and the villages. Suffice it say that central government's inaction from the First Republic to the present has contributed to this intractable problem in an otherwise conflict-free metropolis, when it comes to traditional land management. Yet, individuals, who constitute the bulk of the players when it comes to traditional land management in Cape Coast, cannot be absolved from blame. Failure to abide by the regulations requiring one to seek for a building permit from the District Assembly cannot be said to be resistance to formal rules in the sense of this dissertation; this is sheer lawlessness.

Community leaders here essentially confirmed the cases of multiple sales and boundary disputes due to undefined demarcations (*June 16, 2010*). The University of Cape Coast land

case was first broached by the focus group comprising Assembly members on June 10, 2010. They were emphatic that heads of families were liable for the multiple sales of lands. From their discussion, it was apparent that the multiple sales come about because of the many branches (divisions) of the same family. This creates a situation where some of the lower heads sell land without the knowledge of the entire family. They supported their assertions with various cases that were pending at the Department of Attorney General's office, which showed that the conflicts mainly emanated from family heads.

The Assembly members also dwelt at length on government acquired lands, on which compensations had not been paid, and which situations also resulted in multiple sales and undefined boundaries. A large tract of land on which the Central Regional Hospital is located was cited as an example amongst others. Apparently, no compensation had been paid to the Ebiradze clan, which was then claiming same in court. They also cited a majority of cases concerning government acquired lands, resulting in boundary disputes that had come about between families and high schools. It appears the boundaries of the government acquired land for schools were not properly defined. Consequently, family heads had been selling lands to individuals. The heads sometimes were vindicated based on searches conducted at the Lands Commission, which turned out the genuineness of their claim. Such lands were proven to belong to the families, and yet schools were still laying claim to them. This finding, which supported the opinion of one chief, had a different twist though. This time round, the chiefs were right.

By and large though, what the discussants also contributed to the emerging picture in Cape Coast was that both undeveloped and uncompensated government acquired lands were the main sources of land conflicts. These conflicts subsequently manifested in multiple sales and undefined boundaries. These lands were meant for infrastructural development for the public

good. Further, from the discussion, another finding was that surveyors from the Lands Commission, as well as quack surveyors, sometimes connived with family heads and chiefs to resell already sold lands that have lain fallow for long periods of time, say, fifty years and above. Unlike the Kumasi situation where chiefs had the right to reenter after a stipulated period, here in Cape Coast, we find corrupt practices crafted between chiefs and agents of central government.

Cape Coast had a peculiar type of land conflict, which the Municipal Chief Executive and the Municipal Coordinating Director discussed. The conflict was between Cape Coast metropolis represented by the Cape Coast Metropolitan Assembly (CCMA) and two other DAs of adjoining districts: Abura-Asebu-Kwamankese district (AAK) and Komenda-Edina- Eguafo-Abrem district (KEEA). This is how one of the officials explained the problem.

*While some districts are demarcating their boundaries using the LIs, others are using traditional boundaries. For instance, in Cape Coast, e.g., Greenhill land is being claimed by Abura-Asebu-Kwamankese District. AAK claims residents of the area owe allegiance to the Abura Asebu state; a similar argument is made to their claim on Moore. Meanwhile Yamoransa, which lies between Greenhill and Moore, belongs to Mfantseman District and not to AAK. This has been a bone of contention...One can even say Aggrey Memorial Senior Secondary School land is part of Cape Coast as spelt out in the LI, and does not belong to AAK. However, since CCMA does not want to be litigating land, we are waiting to see the outcome of the LAP. It may be that the land belongs to another family or another district. Another example is the Eguafo land owned by Komenda-Edina-Eguafo-Abrem District (KEEA). We have heard that Eguafo in time past owed allegiance to Cape Coast. It is even said that when the Fetu festival is being celebrated, the citizens of Eguafo are the ones to bring yams. On that basis, can we claim Eguafo as belonging to Cape Coast? For traditional purposes, that would be ideal. However, as at now, I don't know the outcome of that issue. (June 8, 2010).*

According to this official, the Land Administration Project (LAP), an offshoot of the Ministry of Lands and Natural Resources was specifically addressing the disputed boundaries arising within traditional lands, indicating which family has ownership of which land, but did not extend to district boundaries. However, because of this peculiar problem in Cape Coast and her sister districts, the CCMA was invited to a workshop organized by LAP personnel. The boundary dispute between adjoining districts was the result of the inaction of some local governments to go by the legislative instruments establishing district boundaries. Rather, such districts continued to use traditional boundaries, which may not coincide with legislative borders. In Cape Coast therefore, we see a new type of institutional bargaining emerging; one across local government actors in different districts. We encounter local governments, which are resisting the very formal rules they are supposed to champion. However, this will be good grounds for a future research.

Beyond this conflict between districts, some of the land conflicts in Cape Coast could actually be attributed to frequent re-demarcation of regions (provinces) and districts. Central region, of which Cape Coast is the capital, previously belonged to the Western province, with the capital at Sekondi. Consequently, any conflict that would, in all probability, have made the Lands Commission equally culpable is craftily dodged. The MP explained this:

*But if we should be able to get the Lands Commission to be upright, then we wouldn't have too many of such problems. They also give the excuse that the Lands Commission used to be in Sekondi. Sekondi used to be in charge of the Western province, which included Central (region). So when Central was carved out of the Western province, they had to create a new Lands Commission. So the documentation had to be moved from Sekondi to Cape Coast. According to them, a lot of documents got missing. But if you go to the deeds registry in Accra, you have all the records there. So I don't see any substance in that excuse. (June 19, 2010).*



Besides this lack of effective communication between government institutions in the center and the districts, failure to locate land records has implications for the use of modern mapping techniques. Recall that a respondent complained about the rift that the use of cadastral plans vis-à-vis antiquated survey mapping causes. Indeed, a key DA official here also lamented the shoddy work of surveyors, which could indict the Town and Country Planning department and the Survey department.

*Sometimes the problem emanates from the surveyors if they do not perform their duties accordingly. An example is a particular land issue at Abura, where a building has encroached the road. After our technical committee investigated the issue, we discovered that it is rather the road that has encroached the building. Apparently, an initial survey problem has sent ripple effects across the land in that area, with every subsequent builder shifting their demarcated area because of the initial problem. (June 8, 2010).*

It is well-known in Cape Coast that residents “are very much awake as far as their rights are concerned” (*Cape Coast MP*). Consequently, many refuse to employ the services of quack surveyors, but would rather engage personnel of the Town and Country Planning department and Survey department to map out their lands. Therefore, it is highly likely that these two wings of the DA may be implicated.

#### *7.1.2.1 Actors in the Cape Coast Land Conflicts*

Based on the Cape Coast interviews and focus group discussions, there is no doubt that some sub chiefs and their royal families cannot escape blame in precipitating the land conflicts here. What did the Cape Coast respondents say in respect of the role of the traditional leadership and the District Assembly on the Cape Coast land conflicts? Pretty much straight to the point,

that whereas the District Assembly was not a party to the conflicts, the traditional leadership could have been, but instead, were impotent. This is because management of land was firmly in the hands of family heads and individuals. A traditional leader expressed it in this way:

*Chiefs are not allowed to meddle in stool lands. Stool lands belong to the whole stool owners, and are very little. The chief alone cannot sell any portion of the land without the consent of the stool members.*

(I: Do the chiefs meddle in family conflicts of land?)

*Every chief belongs to a family...In the case of stool lands, it is the Abusuapanyin who is the most targeted person. (June 21, 2010).*

Rather than being a party to the conflicts, the traditional leadership could only mediate conflicts. The District Assembly was also not cited as a party to the conflict as occurred in the case of Kumasi. Rather, the services of the Assembly would be sought by families for clarifications regarding the approval of permits. Below are the opinions this DA official offered on the role of the traditional leadership and District Assembly.

*[T]he chiefs have an internal resolution mechanism...where residents could bring their displeasures to be resolved, as one family did on citing of a kiosk...Still on (chief's) mediation efforts, sometimes when one of the feuding parties is not happy with the outcome of that mediation effort, the case may come to the Assembly because the Assembly is the institution responsible for citing of structures. There is a case in point where the citing of a kiosk is in contention. Our initial response is to request the building inspector to investigate the issue. Where the case appears to be dicey, then we rope in the technical committee of the Statutory Planning Committee to come in from a purely professional point of view. Even though government or the Assembly has no land, we determine whatever the land is being used for; that*

*is why you come for permit. The Assembly does not meddle in chieftaincy or family affairs. We come in on technical grounds. (June 8, 2010).*

Finally, during their discussions, Assembly members conceded that chiefs and family heads were the key actors driving the conflicts regarding multiple sales and compensation-related demands on government acquired land. Both the Assembly members and community leaders cleared the CCMA of any guilt.

In sum then, unlike the land conflicts in Kumasi, where chiefs, families and probably DCEs were the major actors, in Cape Coast, the key actors were heads of family, sub chiefs in the outskirts of the town – but especially within the University of Cape Coast community – and individuals. That notwithstanding, I contend that that the Lands Commission, as well as the Town and Country Planning department and the Survey department cannot escape blame. Seemingly insignificant actions of these institutions, if not arrested in due course, may implicate the District Assembly, and this can affect any emerging institutional bargaining between it and the traditional sector, which is largely controlled by family heads and individuals.

Moreover, the different categories of respondents in Cape Coast appeared to be speaking the same voice regarding the causes of conflicts and actors of the traditional land administration in Cape Coast. Not so in Kumasi, where the categories of respondents were speaking past each other. This divergence of opinion, especially between the implementers of local government laws and the custodians of the land, is one indicator of the parallel operation of formal and informal rules. That this observation is seen in the heartland of the Asante kingdom is interesting. What would be the state of affairs in Tamale, the administrative capital of Dagbon kingdom, a kingdom that is already plagued by the parallel operation of formal and informal rules in chieftaincy succession rules?

### 7.1.3 Traditional Land Management Conflicts in Tamale

In Tamale, the king of Dagbon is the approving authority for all land transactions. With the chieftaincy succession dispute worsened by the murder of the Ya Na in 2002, it is not surprising that the leading cause of conflicts in traditional land management is chieftaincy disputes (Table 4). A regent is in place at Yendi. However, the Otumfuo Committee has disallowed the regent to approve land-related documents. At the Lands Commission, I learnt that there are about 11, 000 pending applications awaiting endorsement because of the absence of a substantive king. Whether it has been nine years since the death of the king or by omission, I discovered that very few of the Tamale respondents categorically linked the prevailing conflicts in Tamale lands to the absence of the king. Perhaps, the hierarchical and delegative structures were firmly institutionalized such that business went on as usual, until it got to the documentation stage, which needed the final approval. If so, this was a very good indicator of decentralization within the traditional system, also evident in the Asante kingdom. Would the absence of the king of Dagbon indirectly affect the manner in which conflicts evolve in Tamale?

A chief attributed land conflicts in Tamale to the presence of many chiefs. Land boundaries under the custody of the chiefs were indeterminate, and this precipitated conflicts (*July 20, 2010*). In the process, double allocations of land had become the order of the day, as explained by a District Assembly official, whose outfit was intimately associated with a land department.

*For the past 10 years, I would say yes, there have been some conflicts...Most of them are centered on boundaries. It's been difficult to locate the right boundaries for maybe, adjoining piece of land. This chief may say he owns, so for that matter, at times, they do double allocations, because they cannot locate their boundaries very well. There are problems with some allocations, because he thinks that place belongs to him. He allocates, and the other chief*

*thinks the same plot belongs to him, and he will also allocate to a different person. These problems have come about because of indeterminate boundaries between landowners, whether at the village level or at the paramountcy level. It's all because skin boundaries or traditional boundaries between paramountcies or village chiefs have not been mapped – there are no maps to show who owns which part of the land. The bottom line is there are no maps. Those who have some form of maps, the maps are not accurate. In most cases, I can say that 95% or thereabouts of the lands are not mapped. The boundaries have been oral, and it's been one of the basic problems that confront land administration, not only this part of the land, but the whole country. Most of the traditional lands have not been surveyed and mapped. The landowners – the chiefs know that it is this tree and that stream – where there are streams, well, but if the stream dries up, there is a problem. You know that there are trees, from this tree to that tree, but when you go to the ground, then there is also another problem. Which tree are you talking about? (July 21, 2010).*

Indeed, the bottom line was the absence of maps for the whole country. This revelation meant that the issue of boundary disputes and ownership would be an issue for a long time to come. This would be the site for land negotiations well into the future, and indeed, across the three metropolises, boundary disputes ranked first (Table 4). But whereas in Kumasi and Cape Coast definition of boundaries appears to be in a more advanced stage, the situation in Tamale seems to be very dismal. This is because either the demarcations have been handed down orally across generations or natural signposts define boundaries.

When I probed for recent land boundary conflicts in Tamale, this official mentioned two prominent ones: - between 1) Savelugu and Bavim paramountcies and 2) Gulkpegu and Nanton paramountcies. Two chiefs and two other DA officials also brought up these two conflicts. These two DA officials were members of the Metropolitan Security Committee, and indeed, one

of them mentioned another conflict between the Dakpema and Bolon-Na (*DA official July 21, 2010*). At this point it is worth noting that Tamale has two chiefs, the Gulkpe-Na and the Dakpema. The Dakpema has custody – jurisdiction – over the southern part of Tamale, and the Gulkpe-Na has jurisdiction for the northern part of Tamale. The Dakpema is *the* chief of Tamale, while the Gulkpe-Na is the ‘regent’ of the Ya Na *in* Tamale. Technically speaking though, the Dakpema, just like the Bolon-Na, is a tindana (*DA official July 21, 2010*), which confirms respondents’ earlier assertion that land could also be managed by priests. The struggle over land was therefore not only between paramountcies of equal status, but also between earth priests, in which apparently, the Bolon-Na is senior to the Dakpema.

But this conflict within the hierarchy was not limited to priests; it was also among the chiefs. The agents and the children of chiefs were also contributing to the conflicts, which aggravated the problem, as explained by another DA official.

*In the past, it was just war, war. I own the land, I carry the majority, if anybody does something I have the people to come and support me to clear off these people. So it creates tension. But secretly, it isn't only the chiefs who create this, like the sub, sub chiefs I have been talking about...They have secretaries, they have sub chiefs. The chief himself doesn't go to see what is on the (ground), but he has a secretary or a committee, who go to sell, or he has children who are well versed in those things and they have the power. It belongs to their father. They can go and decide to sell the land. Of late, around here, they go and sell land to two or three people. It has been creating so much tension all over, in the courts, in the chiefs' palaces and so on and so forth. Another, because lands have become sweet (valuable asset), it has become money. You see, you are the senior chief, you have given me my area, and this area, I am for it. So when it comes to that I want to develop my area, because it has become money, you want to interfere, and it is creating a whole lot of problems for the chiefs. Or chief may give a land to somebody and*

*later on, because it has become money or something of that sort, he may find it to be very big, and he wants to resell. (July 15, 2010).*

The monitoring capability of chiefs was brought into question here, and this has implications for abuse of power. Indeed, the power of secretaries of chiefs in Tamale is similar to that of linguists of chiefs in Cape Coast and Kumasi. Any attempt to see a chief would not materialize unless one interacted with the chief's secretary; an issue that dawned on me during the research in Tamale. Indeed, my inability to interact with the 'real' regent of the Ya Na at Yendi was because I could not get his secretary to confirm a suitable schedule for the regent.

But more importantly, what is emerging is that secretaries were also key to the negotiations within the management of land. The managers of the land therefore went beyond families, heads of families, compound chiefs, title holders, tindanas and women chiefs. And this was significant, because the chiefs had delegated their power to secretaries without putting in place any checks and balances. This ultimately created "problems in the name of the chief" (*DA official July 15, 2010*). One chief succinctly expressed the dilemma this way, "Multiple sales by the chiefs and their agents is a big problem" (*July 19, 2010*).

It is noteworthy that chiefs in both Kumasi and Tamale were concerned about land conflict causes that chiefs were intimately involved in. Indeed, the opinion of a DA official was a pointer to the role of chiefs in land conflicts in Ghana.

*Most of the land conflict issues surface out as chieftaincy conflicts, because I have my domain, you also have your domain. Supposing you take part of my land, people will see two chiefs fighting. But what is the underlying cause? We are fighting over land. Even if you look at the intra-tribal or chieftaincy conflicts within the same clan, I presume mostly land is the underlying factor...Why are we struggling? Because we have access to sell land. You take land from chiefs,*

*and see whether there will be conflicts any more. That is the truth. Down south or up north, it is the same thing. If government nationalizes lands today, all chieftaincy issues will cease. Nobody will be interested in going there. (July 16, 2010).*

While we cannot rule out the selfish motives of chiefs in the conflicts, their own colleagues were calling into question the misbehavior of chiefs. Traditional land administrators were sidelining laid down regulations. Consequently, the conflicts tend to show a breakdown of the norms and principles underlying traditional land management, rules distorted by the very people who are to ensure same. This chief, who spoke out against multiple sales by chiefs and their agents, was equally displeased with some of his colleagues who were even venturing into government land.

Hear him:

*[T]here is a lot of encroachment into government lands, especially school lands by the chiefs. It is true government didn't pay for those lands, but as an objective chief, I know that it is our children that they have done it for, and they shouldn't pay. But when land is now gold, people have encroached. There are even people who have bought their lands and traditional rulers have sent them to court, even universities such as the Islamic University you passed by on your way here. And boundary issues even within Dagbon – for instance, Tamale, Gulkpe-Na has a problem with the Nanton-Na, he has a problem with Savelugu chief, he has a problem with Zugu chief or something like that on boundaries. And all this borders to people are no more telling the truth. Even here, I have land dispute with my neighboring chief. So some of the land, the Nanton-Na is trying to vest it. (July 19, 2010).*

The greed of chiefs cannot be ruled out. However, the opinion of this outspoken chief was that chiefs were not only altering the rules within the customary sector by not “telling the truth,” they



were also extending their playing field to land reserved for public goods. But this infringement into public land could derive from the ineptitude and inaction of central government, similar to the Cape Coast scenario. Nonpayment of compensation for acquisition of public lands was becoming a central issue for land conflicts in Ghana. What is gradually emerging is that central government's failure to honor part of its institutional bargaining on traditional land acquisition creates avenues for chiefs to capitalize on promoting their self interest.

This inference can be deduced from the outlook of a third chief, who could not fathom why central government was stalling on implementing a constitutional provision directing that land seized by the British should revert to the customary sector (as in Article 257 (3 and 4)). This was the conversation I had with him.

*The causes are mismanagement and central government being aloof to the traditional rulers. The law has even determined that lands which were assigned should be reassigned to the traditional people. It hasn't happened.*

(I: It's in the 1992 Constitution. It hasn't happened?)

*No, it hasn't happened. It was first mooted in 1972 by the Busia regime and nothing happened. That's why '92 reinforced it, and it hasn't happened. The fault lies with central government administration. They have neither time to determine which lands are to be returned (n) or even notify the landowners of this fact that their land has to revert to them. Chiefs have appealed to President and central government. They always promise when they come for electioneering (campaigns) that when they go back they will do something about it, they do nothing. I've got correspondence here that I can show you and I've got correspondence which indicate meetings the Dakpema has had with ex-Presidents Rawlings and Kufour and Kufour's Vice and the present President...They have never even gone back and given a holding letter saying, "I'm looking into it." Once they get what they want, they forget you.*

It is clear that when it comes to central government's claim on traditional land there is no history and acceptance of institutional bargaining within the formal sector. Too many incidences of nonpayment of compensation and outright display of power in holding on to lands that have been constitutionally designated as traditional lands, show that central government disregards the decisions of the legislature; decisions that have been debated on by the representatives of the people. It stands to reason that one major issue driving land conflicts, much as in chieftaincy succession conflicts, is the role of central government itself in failing to honor its part of the negotiations. Certainly then, government as a third party enforcer of the law would be called into question. Else, chiefs and their agents would not be having a field day in perpetuating conflicts (both succession and land management). Clearly then, interaction among the two groups – chieftaincy and government – will be minimal and mediation among state and traditional actors would definitely fail. The outcome then is a parallel operation of formal and informal rules.

I decided to probe to find out how central government's incompetence was really captured on the ground. Below is the continuing part of my conversation with the chief.

(I: The central government has not played its part. What are the conflicts that really come on the ground?)

*To give an example, the Kaladan barracks was assigned to the military. They have moved out of that land before '72, but since then, they've got ex-servicemen staying in some of the dwellings which were not pushed (pulled) down. But the Busia regime had declared that all the lands should be cleared and handed over. They haven't cleared it, and they've got their men there. Because of that, they are now telling us, the citizens of Tamale, "Where we've got buildings we want it for our ex-servicemen, where we haven't got buildings, you may have that." Now, the thing is mine, give it to me, and then you could then come back and say, "I want this." But they*

*are now making it conditional that you agree for me to hold this, and I'll hand over to you, which is outside what the law or Constitution of Ghana has determined. That is an example of a conflict. That conflict has not resulted in a demonstration or fire burning houses and all that, but it's a conflict between two gentlemen – agents of the government and agents of the people, that is the chief.*

(I: Meanwhile, that land belongs to...)

*...the indigene. It was not sold; it was only allocated for a purpose. The purpose has ceased and they say with the seizure (cessation) of the purpose for which this land was given, it reverts to the indigene. And government agents are reluctant to have the land revert to the indigene. Where they are able to covertly assign the land to certain people, they are the immediate beneficiaries and the chiefs are kept out. And the chiefs have not yet come together to mobilize themselves to fight it. (July 22, 2010).*

With this revelation that the chiefs had made no concerted efforts to confront the government, and equipped with previous information from earlier respondents, I pressed him to talk about the multiple sales of land occurring in Tamale.

*When that comes, they need the central government agents to cover up for them. So it is 'scratch my back, I scratch your back.'*

The expression he had used connotes connivance between any two entities, such as people or institutions. He was emphatic that this collusion was between the Lands Commission and managers of traditional land, but did not specify who the land managers were. This was the third time the Lands Commission was being implicated. Earlier, a DA official and Assembly members in their focus group discussion had equally mentioned the complicity of the Lands Commission. Consequently, I felt this was a perfect opportunity to inquire of any complicity by

local government represented by the District Assembly in the emerging conflicts relating to traditional land administration. It turns out that the then Tamale Municipal Assembly (TMA) was indeed responsible for conflicts in Tamale.

*I will give you another example. Zenith Bank at the taxi rank is on my land. When the Municipal Assembly sold the land, they didn't tell me, Before I realized, there was a conflict between the drivers and some people who were sitting in that unbuilt patch of land, when they got to know the Municipal Assembly had sold the land to whatever. So they (Municipal Assembly) then had to come to the chief to ask for the chief to plead to allow the project to go ahead, because it is something that will bring development and revenue to Tamale. That's when we got to know about it.*

(I: That's ridiculous, because the Municipal Assembly has no land. So why do you go ahead and sell?)

*The Lands Commission, who still think that that land is state land.*

(I: Because of the non execution of the government's part?)

*That's right.*

What this means is that the Municipal Assembly had been brought into the loop because of inaction of central government in not only returning lands seized by the British to the indigenes, but also the Lands Commission was selling lands; lands that if anything at all, have been vested in the state! This is unpardonable, and speaks to abuse of power by central government agents at the local level. The abuse of power and opportunistic tendencies of the Lands Commission officials resonates with the emulation of similar colonial practices by local government officials in Zambia (Myers, 2005, 2011). The complicity of the Lands Commission had already been alluded to by one DA official. This is what he said:

*The experience I have had is that the bureaucrats or the land managers in the Land Commission also contribute to the problems we have, in the sense that those who are working there they have the documentations of the lands. Sometimes, you find out that they tamper with some of the records. At certain other times, you cannot find the documents on the lands. That is one, from my personal experience. Apparently, they collect money from their cronies and it becomes a big problem. (July 21, 2010).*

The chief proceeded to give another example, which showed that the TMA was probably not only becoming more daring, but also did not value participatory consultation in their approach to good governance. Apparently, together with his elders, a decision had been made by the chief to allocate a parcel of land to their indigenous women to enable them sell firewood, charcoal and other things to support and supplement their husbands' incomes. Meanwhile, unknown to him, the TMA had also tabled a resolution at one of their meetings to allocate the same land to taxi drivers. It was when the TMA was gravelling the land that information got to the chiefs that the indigenes were planning to take up arms against the TMA. As he put it, he had to calm tensions down "because we've got fragile peace in Dagbon." He negotiated with the TMA, and subsequently, the TMA relocated the charcoal and firewood sellers to another place. This is how he concluded this lengthy dialogue with me regarding my question on the incidence of conflicts over management of land in the Tamale community over the past decade.

*Once our women folk have not been disadvantaged, the taxi drivers have gained; so let sleeping dogs lie. And that's how that was done. But liaison between the Assembly and the chiefs is appalling.*

My last Tamale respondent confirmed the complicity of the District Assembly. The DA was indeed becoming arrogant and resorting to abuse of powers. This DA official told me about a conflict that had occurred in the previous year.

*I remember about a year ago, the difficulty was with the Assembly and a sub chief somewhere. Usually, when they do allocations, they leave out public lands. But having designated a place as a public land doesn't mean that the Assembly or government naturally has right over that land. You have to acquire it from the traditional ruler. There was a community, they did their allocation and earmarked a place as a market. The Assembly has never paid for it. The Assembly has never approached the chief to say that they will buy the land and develop it into a market. So the chief, through his deliberations with his subjects, felt that they needed to convert that land for some other purpose. They sent surveyors to the place to do a rezoning. The Assembly man for that area got involved, because residents drew his attention to what was happening on that parcel of land. So he came and protested. Fortunately or unfortunately, the chief's eldest son is also highly educated. He told the Assembly man that, "No, this is our property; this is for our palace, so we would decide what we would do with it." The Assembly man kept protesting. They took the matter to the Assembly. The chief asked the Assembly to produce documents to indicate that it was ours or it was for government. We didn't have, all we did was to provide the site plan of the area, which showed the place being earmarked for a market. But the chief indicated that a site plan doesn't give you the right of ownership. "Let's go to Lands Commission – Lands Title Registry to see if you have deed or title to that land." We couldn't do so, because we have never acquired it. At the end of the day, the chief went ahead to do the rezoning, and it is now being developed for private use. The Assembly lost it. If they demarcate an area as public land, you have to go and acquire it from the chief. You don't own it.*

I thought this story was very interesting. It demonstrates that traditional leaders can not only accept the formal procedures, but that they can fully understand and use the procedures to their benefit. This is an example of using formal (central) laws to protect traditional (local) interests. Since no respondent other than one connected with a department that deals with land, had so far linked the death of the Ya Na to the incidence of land conflicts in Tamale, the political capital of Dagbon, I decided to pursue that grey area.

(I: With the Assembly not being able to acquire it, would you not say that it is because of the fact that, when I went to Lands, I was given the information that because of the death of the Ya Na, all titles are pending and I was a little bit frightened that they were over 11,000 cases pending. Without resolving the chieftaincy dispute in Dagbon, people cannot have titles. Was that possibly one of the reasons why the Assembly couldn't acquire it?)

*Earlier, I indicated that if you want land, you are first given an allocation from the chief who owns the land. We didn't go to get that. It wasn't allocated in the name of the Assembly. So you can't claim ownership. You have to have an allocation letter, open a register for the land at the Lands Commission. Then if there is a substantive Ya Na, then he would provide title to the land, because the Lands Commission has a board; they will look through all the cases, make recommendations, and forward it to whoever is occupying the skin at that particular time, and he will issue title. But that wasn't done, so you can't claim ownership. Even then, the arrangement we have presently, the allocation letters that we have, people think that that is the final (document). A lot of people are not aware that it doesn't give you title to the land, because the overall land owner is absent. (July 29, 2010).*

The formal laws may have been accepted by local and traditional elites, but not the people. It could also be the case that the people may either not fully understand the laws or have chosen to continue in the traditional practices that they are familiar with.

Similar to the focus groups in Cape Coast and Kumasi, the focus groups filled me in on interviewees' omissions, but generally the groups tended to go into more detail. The Assembly members and community leaders' discussions corroborated the causes of land management conflicts that the key informants had expressed. For instance, Assembly members confirmed the role secretaries of chiefs played in the conflicts. For them, because many of the chiefs were illiterate, they were compelled to defer to their secretaries. Ironically, many of the secretaries were school drop outs. Consequently, they did not have the minimum expertise to document the sale of plots leading to multiple sales. However, with the piloting of the Land Administration Project, all Gulkpegu skin lands had been documented, and subsequently forwarded to the Lands Commission.

The related causes of multiple sales were many. While in agreement with Assembly members that illiteracy of chiefs was a major cause of multiple sales worsened by their secretaries,' community leaders went further to include relations of chiefs in the fray. Community leaders were particularly concerned about regents who disposed of land previously sold by their predecessors. In addition, their candid opinion was that chiefs feigned ignorance in multiple sales; they were party to the deals. They illustrated their point with chiefs who chose to reenter lands that had been sold, but not developed within a stipulated period. Chiefs would resell such lands out of plain greed.

Greed was also driving chiefs to encroach on government (public) lands. Community members described a recent case where many buildings were demolished because they were



found to be on an existing school land. The Assembly members were more forthright on the role of the chiefs and their agents. They pointed to a lack of proper definition of the rules within the chieftaincy institution at the bottom of greed and multiple sales. For instance, title holders could sell lands where they had none.

For Assembly members, a leading fourth cause of conflicts resulting in multiple sales was undefined boundaries. Making reference to a protracted case of boundary dispute between Gulkpegu and Nanton (two districts, two paramountcies), they showed their displeasure with how demarcation of boundaries was done by merely placing pillars in the ground. This positioning of the pillars would almost invariably lead to a confrontation between two chiefs because it turned out that boundary demarcations were done without the expert knowledge of surveyors. The community leaders reiterated that it was unfortunate that during the night, surveyors from the Town and Country Planning department (Assembly officials) could re-pillar lands that had previously been demarcated. Even worse were the actions of officials of both the Lands Commission and District Assembly. The Assembly members narrated an interesting case to me.

The Lands Commission reallocated land that had been assigned to a community to be used as a site for sanitary purposes. According to the discussants, this was a clear case of falsification of documents, since the Commission has records on both public and traditional lands. Further, they informed me about recalcitrant officials of the Lands Commission, who sometimes connived with some chiefs in such reallocations. This would enable the chiefs allocate such lands to willing buyers, who would be requested to start developments on the land without recourse to conducting searches at the Lands Commission to verify the authenticity of the lands. In the process, such buyers would also not go to the District Assembly to obtain

building permits. The Assembly members partly blamed the District Assembly for failing to put in place a mechanism to stop such development, because some officials of the Assembly had also acquired lands in the same manner and were also building. When implementers of the law at the local level disregard the law and connive to escalate the incidence of land conflicts, it makes management of traditional land very difficult and problematic.

This complicity of the District Assembly is similar to the case of the University of Cape Coast lands, where members of the University community had purchased government acquired land. In fairness to the Tamale Assembly, a DA official who was with a department associated with land told me about the constraints of the Tamale Metropolitan Assembly. This conversation took place after my interview with him. This official showed me a sample of allocation letters, whereupon I asked him whether it was not problematic that buyers proceeded to develop their lands once they had allocation letters. This was his answer:

*Yes. There are other issues with development permits. Some people, when they get the allocation note, the land is shown to them and they start developing without getting any building permit. I am told that the District Assembly is not so much resourced to have building inspectors going round to inspect every project or development or building going on, on a piece of land. So people have taken undue advantage of that. Immediately the land is shown to them, they start developing and nobody will tell them to stop. That is one of the problems, one of the challenges in the set-up here. I have also been told that in some parts, it is so difficult for the building inspectors to go to, because you go there, your life will be threatened...That's one of the challenges the District is facing, to be honest with you. Currently the Assembly has only one building inspector. (July 21, 2010).*

I also wanted clarification on whether the problem of indeterminate boundaries had a link with the Dagbon chieftaincy issue, which led to multiple sales. This is because leases were not being granted, which to me, seemed to be the opportunity chiefs were taking advantage of. His answer suggested that the death of the Ya Na was tangential to the conflicts within the administration of traditional land in Tamale.

*It might be true, and I wouldn't say that is restricted to Dagbon because of this (situation). All over the country, it is done. People in Accra, in Kumasi have leases, but it happens. It's become part of the land market in the whole of the country.*

This was a revealing statement. A lease document, though legal, was not a guarantee that both formal and informal managers of land would not create conditions for multiple sales to thrive. It also calls into question the supposed authority of the Ya Na and Otumfuo as final approvers of land transactions. Two things are suggestive here. In Ghana, when it comes to land transactions, either there is complete disregard for the rule of law, or the interaction of formal and informal rules creates avenues for corruption in both governmental and chieftaincy institutions, as well as diminishing the authority and respect of chiefs as 'custodians' of the land. The latter argument could be emerging, as seen from the observation of the community leaders. They claimed that prior to the legal procedure that required that owners had to process lands in order to have proper documentation, land problems were very few. This was because chiefs were regarded as the bonafide owners of the land. Discussants mentioned instances in the past where chiefs even wooed prospective builders to develop their areas.

Continuing with the Assembly members' discussion, they touched on a more serious issue with some of the District Assembly officials, which suggested that corruption was rife in the system. They recounted how aggrieved persons often spent two to three months just to get

Assembly officials to go on site to resolve problems bordering on multiple sales or boundary issues. Officials expected complainants to pay for any related expenses, such as providing “fuel money” (gas) despite the fact that such expenses would be reimbursed by the Assembly. Further, there was no fixed fee for obtaining a building permit, upon which DA officials capitalized to extort money from genuine new landowners. The processing of building permits was considered very lengthy, and this also frustrated buyers. Consequently, buyers would tend to bypass the documentation process at the District Assembly.

These corrupt practices of Assembly officials had also been extended to the negotiations between chiefs and the Assembly. Officials would demand money from chiefs before demarcating skin lands, a duty expected of them. Chiefs also recouped their expenditure from buyers by inflating the price of land. Prospective buyers would be informed about the reasons leading to the high price. Buyers would therefore be emboldened to build on such lands without recourse to the District Assembly because the District Assembly had already compromised its position on accountability. Discussants felt that the District Assembly and the Lands Commission were the major drivers of problems in the District. They buttressed their views with other examples.

One dealt with the ‘numbering’ of lands at the periphery. Such lands had apparently been plotted in the overall scheme, but were yet to be validated. Officials at both the Lands Commission and the District Assembly sometimes duplicated the numbers of these peripheral lands and sold them, irrespective of whether such lands had been earmarked as public lands or not. At other times, they demarcated stool lands as public lands and sold them. Problems arose when a chief decided to sell a plot of land or a genuine buyer commenced building. Theodore Trefon has also shown that the bargaining between formal and informal rules is hottest at peri-

urban zones in the search for housing plots and agricultural ventures; “peri-urban space is thus clearly an arena where competing claims are constantly re-negotiated” (Trefon 2009, 18) between traditional authorities and state actors.

Disagreements within the District Assembly structures had also led to conflicts. A case in point was when the Town and Country Planning embarked on rezoning some Tamale lands. This was challenged by the Assembly chamber, but the rezoning was effected. In the process, plots were re-demarcated into smaller dimensions, which resulted in conflicts because the pillars were wrongly positioned for original owners of the land, which made some plots unbuildable – pseudo buffer zones. In ending their long discussion on the traditional land management conflicts in Tamale, the Assembly members described their frustrations with all these problems, because they happened to be the ones who were inundated with complaints from their communities, and yet, they had little power to address the situation.

In sum then, the land conflicts in Tamale appear to be more complex than what obtains in Kumasi and Cape Coast. In Cape Coast, the major causes of conflicts did not lie with chiefs, but central government inaction in terms of nonpayment of compensation for acquisition of traditional lands. We see emerging conflicts that could be emanating from the District Assembly and the Lands Commission, but evidence is very little. In Kumasi, the traditional authorities and the District Assembly were both culpable in deepening the conflicts. Chiefs and their relations indulged in multiple sales without regard for the authority of Otumfuo. The District Assembly showed disdain in the implementation of local government laws, and had increasingly imposed its powers in land administration. In Tamale, chiefs, District Assembly and Lands Commission were all equally liable for land conflicts. There was clear evidence of the culpability of these three managers of land, and this evidence came from all four categories of respondents. What is

difficult in Tamale was that unlike Kumasi where the District Assembly was intruding more into traditional land management, this time around, chiefs were openly conniving with both the Lands Commission and District Assembly to mess up the accepted norms in traditional land administration. The discussion also suggests that in Tamale, many players had come to assume positions of power within land negotiations. Besides chiefs and their relations, title holders, tindanas, and secretaries were looming large. District Assembly and Land Commission officials could also sell lands, where they had none or were not legally permitted to do so.

The formal rules in the management of traditional land appeared to have been accepted by both local and traditional elites. However, the different players were manipulating the structures to serve their individual preferences and motives. Consequently, it becomes very difficult to determine which link in the whole complex chain was the weakest, as well as where to locate the most corrupt point. Were they within the traditional chieftaincy institution itself? Were they across chieftaincy and governmental institutions? Or were they within and between the central and local government agencies? In other words, who could mostly be blamed for the Tamale conflicts?

#### *7.1.3.1 Actors in the Tamale Land Conflicts*

Both assembly members and community leaders were emphatic that the main actors triggering conflicts in the administration of traditional land were within the chieftaincy institution and the District Assembly. With the exception of one DA official, whose focus anyway was on the culpability of the District Assembly, all the officials were of the opinion that chiefs were the major actors driving conflicts in Tamale. Besides, the District Assembly's role was to enforce the government regulations on land and mediate where necessary. Two of the

three chiefs blamed their colleagues for the rise in land conflict cases, and corroborated the assertion by DA officials that the District Assembly mediated conflict cases, and generally did not fuel conflicts. However, it is noteworthy that these chiefs did not talk about DA complicity. The third chief came down hard on the District Assembly, and much in agreement with the community leaders and Assembly members, reiterated his claim that the liaison between the Assembly and the chiefs was sickening. Unlike his colleagues who felt that central government had little to do with the conflicts, he was very forthright about the inaction of government to implement a constitutional directive to return land to the traditional rulers. On the contrary, the Tamale regent praised central government for the boundary demarcation between paramountcies. He was referring to one outcome of the LAP

What is emerging in Tamale then is that there is the presence of parallel operation of formal and informal rules as Kasanga and Kotey (2001) have suggested, and which I now have further evidence to confirm. However, the customary sector is not weakened because of the application and enforcement of state machinery. Rather, it is more of a redefinition of continuous bargaining and renegotiation (Amanor 2008) as we can see in Tamale. The interaction that was previously between chiefs and community, this time round, is between local chiefs and the state (center and local). However, the negotiations are more nuanced, because of collusion between some chiefs and local government actors versus the community as well. The pattern reinforces Tonah's suggestion that the involvement of post-independence governments in local power structures and customary land management has created a different parallel land management regime. However, this regime goes beyond opportunistic chiefs and state officials on one hand against the earth priests who were the religious and political leaders of settlements, but were displaced with the introduction of chiefs during the colonial period. We now have three

scenarios: one, collusion of opportunistic chiefs and state officials; two, opportunistic chiefs and state officials outdoing each other; and three, percolation of opportunism at all levels of the chieftaincy institution.

All three scenarios were absent in Cape Coast, but variants were increasingly being seen in Kumasi, where the District Assembly and DCEs were usurping the powers of chiefs. It is therefore apparent that when it comes to traditional land management, parallel operation of formal rules would be more evident in localities where the institution of chieftaincy continues to be strong in landholding assets. It seems this control of land tenure system is better entrenched where we have a hierarchical and delegative land administration system. We see this happening both in Kumasi and Tamale, representing existing kingdoms. In Cape Coast, an erstwhile kingdom, we see a greater likelihood of a mix of formal and informal rules. The brush with colonialism seems to have moved Cape Coast a step forward in accepting formal rules, and this may have contributed to this mix. This encounter of the British with Tamale does not seem to have left a positive lasting legacy that would have increased the propensity for the acceptance of formal rules in traditional land management.

More importantly, where central government inaction is exacerbated by complicity of, and corruption in, local government, the parallel regime comes to be even more accepted, because it is more likely for both traditional players and state actors to find openings within their respective institutions. This appears to be a major finding in traditional land management in Ghana, as can be inferred from the three cases of Cape Coast, Kumasi and Tamale. In Cape Coast, a mix of formal and informal rules is apparent in traditional land management. In Kumasi, it is the presence of “Little Man politics” and the opportunistic avenues open to chiefs and their agents that brings to the fore the parallel operation of formal and informal rules. In



Tamale, the collusion of chiefs and government officials, coupled with emerging authoritarian tendencies of the then Municipal Assembly makes the community manifest parallel operation of formal and informal rules. The Tamale scenario should be exacerbated by the absence of the king, because he is the approving authority for land documents, just like in Kumasi. Neither is there a traditional authority that can intervene to mediate in land conflicts. But would this vacancy of a king really be important in resolution of Tamale land cases? First, I look at resolution and mediation efforts in Kumasi and Cape Coast.

## **7.2 Land Conflicts and Extent of Resolutions**

In Kumasi, land conflicts had either been resolved or not. In Cape Coast and Tamale, the resolution of the conflicts ranged from affirmative through partial to negative. How were these conflicts resolved or potentially avoided, and why have some not been resolved? I examine each of these situations in the three communities.

### **7.2.1 Land Conflict Resolution Patterns in Kumasi**

Majority of the land conflicts relating to traditional management had been resolved. The resolutions had been through the efforts of the traditional leadership, who invariably resorted to history. This is how a chief explained these resolutions:

*Sometimes, they will go into locus inco, go on site and look at the boundary features. Somebody might say, "A river is the boundary," somebody might say, "No, it's not a river, it's a coconut tree," and then the traditional rulers will say, "In Ashanti, we don't use a coconut tree to be a boundary feature, but rather a river." So, based on that, they can determine the cases. Each person will give a historical account of how the land was acquired by that person. The historical account will also help the adjudicators to settle the case easily, because sometimes, if you are telling the truth, we know and if you are telling lies, we also know. (July 8, 2010).*

Another traditional leader described another traditional method of resolving conflicts. One party to the conflict would swear the ‘great oath’ and that ends the issue. The erring party gives in, because it is believed that if it did not, curses would fall on that party. In the event that invoking the great oath did not resolve the conflict, a goat was slaughtered and the matter referred to Otumfuo (July 9, 2010). Indeed, the main reason for the successful resolutions was the presence of structures put in place by the king of the Asante kingdom, Otumfuo. A DA official had this to say concerning the role of Otumfuo:

*Most of them, as I said, in Ashanti region, Otumfuo plays a lot of (mediation). If the conflict is just small, fine, they have a way of (resolving it). But if it’s something (big), it will be reported to Manhyia. Manhyia will set its own committee on it, look at it. We also have a lot of chiefs who have the land acumen. I know some of them are land economists, others are architects, others are lawyers, and so on. So it can set a committee involving some of these – surveyors – and look into it, factor in the traditional and historical background as to who settled here first, where he settled, etc. and finally decides who owns it. So if even that place belongs to you and based on Otumfuo’s own investigation, he decides that here is this person’s other than you, you have no other (resort). (July 2, 2010).*

The successful resolution of land conflicts could also be attributed to the professional background of Kumasi chiefs. Indeed, the two chiefs I interviewed were testimony of this assertion; one was an architect, while the other had both an accounting and law background. But beyond that, this official corroborated the role history plays in the resolution of conflicts. Otumfuo had resolved eighty percent of conflicts in the Asante kingdom, both in chieftaincy and land disputes (Chief July 6, 2010). In addition, proceedings at Manhyia were video-recorded.

Consequently, the recoding would be played back where a disagreement surfaced again after the Otumfuo adjudication (*Traditional leader July 9, 2010*).

The only times adjudication moved beyond the traditional level was when a party believed there was an “error in law” (*Chief July 8, 2010*). Then, the case would go to the Regional House of Chiefs through to the National House of Chiefs and ultimately to the Supreme Court for a final decision – if not resolved before it gets to this law court.

Apart from issues finding their way to the Supreme Court, central government or District Assembly involvements in mediation were almost absent in the Kumasi land conflicts. The best the District Assembly could do was for a DCE to appeal to the Asantehene to expedite resolution of chieftaincy and land disputes to ensure the maintenance of peace (*Chief July 6, 2010*). Another chief wondered how the laws of Ghana could allow law courts to settle land disputes when “the orthodox courts do not know the traditional history” (*July 8, 2010*). This is how he explained this tricky issue.

*Assuming a judge is an Eve in Kumasi and is settling a dispute on land, and doesn't understand how the land was acquired, it will be a problem. Whereas in Eve land, inheritance is through the father, here, inheritance is through the mother, you know. So that person will be a bit confused, and it will be difficult for that person to really settle that land dispute very well. That's my thinking. Whereas, if I am settling a dispute on land, I know how the Ashanti system works. And so it will be much easier for me to settle that issue than the courts. Sometimes it goes to the courts, but sometimes, the traditional courts settle it.*

A traditional leader also questioned how governments formed by political parties that have terms of office and different policies, could know the history of towns enough to mediate traditional land conflicts. For him, “No party can also say it desires to know the history of a town from the

chiefs. Even if it does, it will go away, and power falls into the hands of another political party” (July 9, 2010).

When I asked him why the few remaining conflicts had not been resolved, this traditional leader told me that such cases may not have reached the stage where Otumfuo would have to give a final verdict. However, the MP’s version was that non resolution of land conflicts stemmed from the fact that the verdict by the Asantehene had not been ratified by the National House of Chiefs. This was interesting, given the assertions by most Kumasi respondents that Otumfuo had the final say. Either the MP’s view was an outlier or the other respondents did not know the details of such resolutions, which would have been a far cry from the truth. A more plausible reason for the MP’s opinion could be that he was more interested in the proper disbursement of revenue from stool lands. One DA official gave an exceptional reason for the non resolution of the conflicts – lack of public education on traditional land management processes (July 6, 2010). Consequently, buyers were unaware that only chiefs and their elders could allocate land. Subsequently, ignorant buyers could not even differentiate impostors from genuine land managers, and frequently fell prey to the tactics of impostors.

The Asantehene’s structures had preempted many potential conflicts in Kumasi. Three DA officials spoke about this strategy. As one of them said, the land secretariat at Manhyia is a carbon copy of the Lands Commission and the Town and Country Planning department. He further stated that top senior officials of these two state institutions in Kumasi were chiefs (July 7, 2010). The apparent inference was that such professional chiefs would lend their expertise to the Otumfuo structures. Therefore, it would be safe to conclude that in Kumasi, besides chiefs who have professional backgrounds that can deal with land management, government officials at the local level help to professionalize the land secretariat at the Asantehene’s palace. The

absence of involvement of the District Assembly and the Lands Commission in mediation efforts in Kumasi may well be compensated by the advisory role of such chiefs who work in these two government institutions. A remote link between these institutions and chieftaincy exists though, as one DA official pointed out.

*Besides, there is a representative of the Regional House of Chiefs on the Lands Commission. So there's the communication channel. (June 30, 2010).*

Article 261(b) of the 1992 Constitution directs that membership of each Regional Lands Commission should include a representative each from the Regional House of Chiefs, each District Assembly within the region and the department responsible for Town and Country Planning.

Assembly members largely confirmed the views of the traditional leaders and the DA officials. When I requested the Assembly members to describe the steps in the resolution process, it turned out that it was a bottom-up approach, and highly decentralized. The process starts at the town or community level, and may go through about two levels of sub chiefs before even getting to the chief himself. From there, it may go to other levels before finally reaching the Otumfuo. The case only reached Otumfuo when the lower levels failed to resolve it. But once it got to Otumfuo, this was the end of the process. The Assembly members indicated that Otumfuo's judgment was like the judgment of a court, because he thoroughly investigated cases. Further, the whole process was video-recorded.

At the Otumfuo's palace, the case is first heard at a lower level of sub chiefs, who belong to divisions; these divisions were Akom and Krontire amongst others. Similar to the community resolution, cases moved through the hierarchical divisions until it finally reached the

Otumfuo. A chief who was found guilty would be destooled or warned and fined appropriately. Otumfuo would also direct payment of compensation for the victim (complainant).

On why some conflicts have not been resolved, community leaders confirmed the education factor suggested by one DA official. Besides this, they added two exclusive points. First, some chiefs did not involve community leaders who were very knowledgeable with respect to the history of the land. Second, they were definite that the Town and Country Planning department did not follow legal requirements based on three main reasons. One, the department issued out permits to multiple people for the same plot of land. Two, the department rezoned lands without informing the community in blatant disregard of the law which requires that intent to rezone should be published. Three, it connived with chiefs and sub chiefs to rezone plots.

Community leaders, while agreeing to some extent with the views of the traditional leaders and the DA officials, accused building inspectors of the District Assembly for inconsistency in their duties. These officials who were to ensure that building specifications and related matters on the safety of buildings were adhered to, rather delighted in ordering illegal developers to cease their construction works, and yet other structures falling into the same illegal category were allowed to be developed. They attributed this practice of the building inspectors to corruption. They also did not spare the Lands Commission for their corrupt practices.

It is interesting that only the community leaders implicated the District Assembly and the Lands Commission. Being neither traditional elites nor local government officials nor Assembly members, their inputs came from a detached view relative to the other categories. The view from afar has so far provided very fine distinctions. But for the community leaders, the complicity of the DA and Lands Commission would have escaped reference.

### **7.2.2 Land Conflict Resolution Patterns in Cape Coast**

The law courts were the most preferred method to resolve land conflict cases in Cape Coast. A chief described one such case, which was at the periphery of the town (*August 3, 2010*). This was a boundary dispute that the traditional leadership had failed to mediate. Consequently, the parties to the conflict litigated over the issue in the law court. In my discussion with Assembly members, they confirmed the opinion of this chief. Attempts are initially made to settle cases out of court between the lessor and the lessee by chiefs. This initial attempt would be made, because in Cape Coast, it turns out that it is a closely knit community where almost everybody knew each other in the town. An example of this first line process would be to offer another parcel of land to an aggrieved party at a reduced price. The Assembly members lauded almost every high school in the metropolis for constructing fence walls to define their boundaries. In all these cases, the District Assembly did not participate in the resolution. Community leaders also suggested that collaboration between central government agents (Land Commission) and chiefs had helped to resolve some boundary issues. In one instance at Ekon, the Lands Commission provided archival documents to resolve a case when the Regional House of Chiefs forwarded the case to the Commission. This action of the traditional leadership shows that acceptance of formal rules in traditional land management may have been tentatively institutionalized to the extent that mediation of conflicts was being done in partnership between chiefs and central government agents.

Cases that had been partially resolved included the famous University of Cape Coast land dispute. All such cases were at the law courts. According to the Assembly members, the irony of the land cases in the law courts was that it created peace in the town. They explained that in Cape Coast, there is a belief in the courts to resolve the land conflicts, which virtually eliminated

the escalation of conflicts into violence. Once a case was in court, chiefs would not even intervene; this respect for the courts suppressed violence that could have erupted despite the delays in court judgments. Generally, the enlightenment of the Cape Coast citizens predisposed them to seek peaceful solutions, and that was how come there was a lot of litigation at the courts.

This belief in the law courts was interesting, because Kumasi traditional leaders had no faith in the law courts, because the judges may not be knowledgeable about their traditional history. In another breadth, here was Cape Coast where a lot of confidence was placed in the law courts. A plausible explanation could be the incidence of the education status of the residents. Recall that colonialism and the introduction of Christianity both started virtually at Cape Coast. Alongside these came education, and as previously noted in this dissertation, Cape Coast boasts of the best schools – especially high schools – in Ghana. It appears the brush with education has socialized the citizens of Cape Coast to live within the rule of law. It is therefore no more a surprise that Cape Coast recorded fewer conflicts, both in chieftaincy succession and land disputes. However, the fewer conflicts in traditional land management could be due to the relative absence of major landholding assets by stools in Cape Coast.

Yet, a DA official alluded to this docile attitude of Cape Coast citizens when I posed the question of how the potential conflicts had been avoided and mediated in Cape Coast. This was what he said:

*The nature of the people. That is a factor. In a sense, we are not like others, but that is a plus...Fantis have been termed to be timid, but that has been a plus in terms of conflict. (June 17, 2010).*

A chief confirmed this cooperative nature of the citizens. He stated, “I find it that people compromise” (June 17, 2010). So did the community leaders (June 16, 2010). Generally



however, the most popular method for preempting land conflicts was traditional mediation done by elders, failing which the law courts took over. Again, none of the respondents mentioned any role of the District Assembly, with the exception of one, who suggested that a harmonious relationship existed among the District Assembly, traditional rulers and family heads (*DA official June 9, 2010*).

These opinions by all the categories of respondents here, coupled with one, the confidence in the law courts; and two, the virtual absence of interference by the District Assembly in the management of traditional land but rather, collaboration between the traditional sector and government agencies; is a validation of the symbiotic relationship between formal and informal rules in Cape Coast. Indeed, one chief advocated that any future potential land conflict should “be discussed by both the traditional rulers and government” (*June 27, 2010*). The legacy of British rule may have served to propel the enlightenment of Cape Coasters, making the local elites – both traditional and state – accept formal rules within an informal system of land management. It could be argued that chiefs hold very little land in Cape Coast. Yet, in so far as customary lands embraces stool, family, clan and individual lands, the minimal incidence of conflicts in this sector is worth lauding. The Cape Coast scenario could be said to be the reverse of the Kumasi situation.

Many respondents suggested reasons for the non resolution of some conflicts. Expectedly, the major constraint was the problem at the University of Cape Coast. The responses of two respondents showed the general feeling. They suggested that the inability of government to amend the legislative instrument was a huge obstacle to that resolution. Consequently government has to expedite an amendment of the acquisition instrument, which would allow a new cadastral plan that would narrow the land acreage of the University of Cape

Coast (*DA official June 16, 2010*) and release portions of the acquired land to enable the townships to grow (*MP June 19, 2010*). Chiefs living on the land should also desist from selling the disputed land.

Besides central government inaction, delays in the approval of permits at the District Assembly contributed to the non resolution of land conflicts. The Municipal Chief Executive had noticed this anomaly on the assumption of duty barely a year previously. To alleviate this hardship, he had directed that the Statutory Planning Committee meet monthly instead of quarterly. A traditional leader suggested that improper documentation at the Lands Commission should be reversed for land conflicts to be resolved, essentially echoing an earlier suggestion by the MP. He considered land demarcation by natural indicators anachronistic and unsustainable. Finally, the Metropolitan Coordinating Director was of the opinion that as long as some districts would not concede that administrative boundaries superseded tradition boundaries, border issues between Cape Coast district and her sister districts would persist.

Again, it can be observed that most of the factors driving the non resolution of conflicts are correlated with those causing the conflicts. What is extraordinary though was the call by two respondents for a constitutional amendment of land acquisition as a means of reducing conflicts, and by implication, promoting effective local government. Indeed, the MP had earlier advised His Excellency the President of Ghana to test this suggestion on Accra lands. At Teshie-Nungua, a bustling and fast growing suburb of Accra, a portion of the acquired land that government no longer had an interest in, had been given to the community, to enable the town to contain its population growth. This action of government had brought some respite to Teshie-Nungua. However, the MP, who was also a state minister in charge of legal matters, indicated to

me that his office was patiently waiting for recommendations to that effect from the Ministry of Lands and Mineral Resources.

Cape Coast has shown that formal and informal rules can coexist. Such a constitutional amendment would make the place a haven for effective local government, given that the current conditions had already put that into motion to a fairly large extent. In Kumasi, majority of the conflicts had been resolved. The Otumfuo structures in traditional land mediation would have been a model for best practice. Yet, the relationship between chiefs and local government was short of being harmonious. Issues hindering a cordial mix of formal and informal rules included marginalization of history and lack of confidence in the law courts. The marginalization of history has come about because chiefs, who resort to history in the management of land, were sidestepping their elders who had a good grasp of the unwritten rules. This is important given that one of the reasons why I could not interview many chiefs in Kumasi was that many of them were 'new.' A registrar at the Kumasi Traditional Council gave me this information, when he indicated to me that many of the senior chiefs who used to be encyclopedias of traditional norms and customary usages were dead (about 90%), and that majority of the existing chiefs were now learning the traditional norms and usages. In addition to this, central and local government agencies were increasingly failing to follow the rules of the game. Further, both chiefs and buyers showed ignorance in land acquisition negotiations, and impostors were having a field day in Kumasi.

These constraints were all in place despite the professional background of prominent chiefs coupled with the experience brought to bear at the Manhyia land secretariat by chiefs working at government agencies. Corruption was becoming rife at the Lands Commission, Town and Country Planning department, and within the Kumasi Metropolitan Assembly.

Authoritarian tendencies of the KMA were gradually coming to the fore. Finally, the opinions of the different categories of respondents concerning different facets of traditional land management in Kumasi were more divergent than the situation in Cape Coast. All these observations one would least have expected in a renowned and famous kingdom.

Consequently, two indicators of parallel operation of formal and informal rules could be detected in Kumasi. These were the marginalization of history of the norms of traditional land management and divergence of opinions among the respondents, where they were speaking past the other. What would be the situation in the Dagbon kingdom regarding resolution of traditional land disputes arising from land management issues as represented by Tamale? Would the pattern be any different from Kumasi, the heartland of the Asante kingdom?

### **7.2.3 Land Conflict Resolution Patterns in Tamale**

Similar to Cape Coast, land conflicts in Tamale have either been resolved or partially resolved, or more likely not resolved. Two DA officials indicated a successful resolution of land conflicts in Tamale. In one scenario, chiefs resolved conflicts by accepting blame and made amends to offer buyers parcels of land other than the initial ones (*July 15, 2010*). This was where agents and relations of chiefs had contributed to the conflicts. In effect, this ancient resolution tactic by traditional rulers was based on a norm in the community, as the MP explained to me.

*[P]robably, it is precisely because traditionally, they think that people should not quarrel over land, because land is an ancestral birthright. It is believed that anybody who dabbles in land issues does not end well. So people are willing to let go even if there is an infracture. (May 27, 2010).*

Community leaders told me that sometimes, chiefs would not be able to offer alternative lands, because land may not be available. In such circumstances, most litigants would “give it to God,” i.e., just throw in the towel, especially where a structure had been erected on the land. For them, this resignation was in line with what the elders say, that, “The cola that enters the chief’s pot doesn’t come out.” In other words, money paid to a chief is not refundable. Aggrieved persons would give in, but as to whether they would be satisfied or not was another matter.

The other resolution came about when the Tamale Municipal Assembly gracefully bowed out of a case for failing to properly acquire land to be designated for a public good. While the Assembly obviously participated in the mediation in this latter case, traditional mediation was the norm in achieving successful mediations, at least, in these very few instances. Assembly members talked about a similar case, when the Lands Commission sold a piece of land, which a chief had also previously sold. Interestingly, a pastor was at the center of attention. He had purchased the land from the Lands Commission, but was unable to produce documents to that effect as against the testimony of the chief.

The partial resolutions mainly dealt with paramountcy boundaries among chiefs and spiritual leaders. The absence of the Overlord appeared to be key to the successful resolution of these boundary issues among the chiefs. A DA official explained it this way:

*It’s partial because the leader here is a regent. So technically, he is not a chief. The Overlord is regent. Technically, he is not a king. If he were the king, he would just rule. He can do it, but because of his situation, he doesn’t need to overstep. He has contained it in that manner. If he is a substantive king, he will just declare that I have seized the land, period. And there’s nothing anybody can do, because he is the Overlord. (July 21, 2010).*

At long last, the vacancy of a substantive Ya Na had factored into the Tamale land conflicts. Another DA official alluded to this vacancy that same day, which I show below in examining the suggestions relating to the non resolution of land conflicts in Tamale. It would be interesting to undertake a second research after a Ya Na is finally enskinned to examine whether more land conflicts could have been resolved. For now, the vacuum has compelled the District Assembly to play a more mediating role in chieftaincy boundary disputes. A chief confirmed the role of the District Assembly.

*I have already mentioned that in the traditional land management it is our responsibility. But when there is confusion, then we involve the District Assembly. It is because they have these petty problems, that is why the DCEs are involved. The two Assemblies (Nanton and Tamale) have sat several times to resolve the boundary issue to come out with a solution. If they were not to be involved, by now, it would have resulted into serious or violent conflict. (July 20, 2010).*

This was very exciting for me to learn that chiefs had come to accept the mediating role of the Assembly in conflict resolution, at least, even if it was an interim measure. That further conflicts had been preempted through this cooperative relationship between the Assembly and chiefs of very high standing is a plus for a community that was fast manifesting the operation of a parallel regime in traditional land management. The DA official described the mediating role of the Assembly in this evolving symbiotic partnership between formal and informal rules. On the dispute between Savelugu and Gulkpegu paramountcies:

*In fact, both the Savelugu Assembly and this Assembly had made sure they mediated between the two, to the extent that the issue reached the Overlord<sup>36</sup>. Somehow, we have been able to contain*

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<sup>36</sup> The regent at Yendi.

*the situation. We just placed an embargo saying that nobody can develop that piece of land. Some gentlemen even attempted, and we disciplined them.*

On the dispute between the Dakpema and the Bolon-Na:

*We have tried our best to make sure it doesn't degenerate into ungodly situations. In the middle of June, these parties were invited for the Overlord to mediate, and there it was made point blank to the Dakpema that he has no business contesting land belonging to the Dagomba land. Of course, he didn't take kindly to that.*

When I pressed the official to explain why this latter case appeared not to have been settled from the reference to the discontent the Dakpema showed, this was what he said:

*For us, we will say it has not been resolved, but as far as the Overlord is concerned, it has been resolved. The Assembly facilitated their meeting in Tamale, because we want to ensure security, so we find a way of ensuring that at least the demands that they make can be contained, just to keep them at bay. We have deployed security personnel to keep monitoring, so the least hint, we get inside. The Security Committee will sit and approach him. Even last Friday, we went to address him at his palace (the Dakpema). He has allocated a certain parcel of land, sitting right in front of the residence of the Deputy Regional Police Commander; somebody has mounted a metal container, which is quite unacceptable...for security reasons. He claimed he didn't know the place had been reserved for security reasons...That's how we interact with the chiefs.*

Another DA official confirmed the meetings between the Assemblies and the chiefs. He also alluded to the vacuum created by the murder of the Ya Na.

*If Dagbon has a paramount chief and the Ya Na is in place, the land management will be resolved, because he has the final authority to even take the land from any of the chiefs and own it. He can place ban on a land and nobody can develop or cultivate anything in it.*

When I asked him for further suggestions, he called for more education of chiefs in order to completely resolve land conflicts in Tamale.

*Another suggestion is that we should have more education to the chiefs and their elders. At times, you realize that it is even the elders or the land caretakers, who cause the problem. They are supervising the land. They go back to say certain things that most at times, are untrue. (July 20, 2010).*

The TMA had already initiated such an educational drive as I learnt from another DA official, when I asked him to suggest reasons for the non resolution of land conflicts secretaries of chiefs were accused of, as well as the conflicts emerging within the hierarchy of chiefs. This was the conversation we had:

*About a month or a couple of months ago, Assembly invited almost all the sub chiefs. They wanted to put some measures in place and to educate them as to how they should go about some of these things. Ignorance still came in, because at that meeting, they wanted to say that part of the officers were part of the problems.*

(I: What did they mean? The officers, they don't sell the land? Is it the permit?)

*Not the permit. We have quack surveyors, who go to create problems that Town and Country Planning may not have an idea. Or an officer somewhere goes to plot something behind the office.*

(I: This is corruption.)



*That is part of corruption, OK. Then part of this thing is given to that fellow. Before the office can get to know something of this sort, then it becomes a very serious problem. They say those people are officers, or the office itself goes to plot. We have government lands. I just want to give you a small example. We want to make things clear. After all, we don't know whether out of this discussion how things can be carried out and problems can be solved. That is why I am trying to be very frank on what I know about it. An example is government land. There is a vast land around the Regional Office known as government land. The people themselves don't have land to stay in. They are just packed to a very small corner. All along, they have been fighting for part of the land. They are not given. At times, they come out among themselves and they take the land themselves by force. It is said to be government land, but of late the buildings which are put there are not government buildings. They are for personal use. So the people get to know of these things and they say the officers are part of the problems. It came out at that meeting. (July 15, 2010).*

Whether education would succeed or not, remains to be seen. But definitely, the sub chiefs would not easily give in when they know that the government was a willing player in the conflicts. Recall that a senior chief had also complained about the unwillingness of the military to leave a parcel of land that had outlived its usefulness to the government, and yet would not hand it over to the indigenes. Here also was a case about releasing undeveloped government lands to cater for population growth, and which the government would not do. Insofar as the sub chiefs were concerned, a blind man had no mandate to lead another blind man down an unknown terrain.

Yet another DA official suggested that the “unavailability of relevant maps showing the boundaries between the paramountcies” was constraining the resolution of land conflicts. Further, he emphasized that the king of Dagbon was the final authority in land resolution.

*I am aware that the Overlord is aware that these problems exist. In some cases, some have been referred to the Overlord for resolution. In the traditional set-up, the Overlord says this is it; there might be some undertones, some misgivings here and there, but they are mostly resolved at this stage. Otherwise, they go to court. I am not aware if any of them have gone to court, but that will be one of the avenues open to any chief who is not satisfied. But in areas where you have an overlord, one of his (responsibilities) is to see to the settlement of some of these issues that come up.*

(I: During my interactions, it came up that because of this unfortunate incidence about the murder of the Overlord, there have not been any approvals of lands since his death, because the regent is not authorized to do that and settle issues. I don't know whether that is true?)

*Yes, that is true. It is because initially, I said it is the paramount chief and the Overlord who append their signatures to any lease document that is prepared. There is no Overlord to do that, so since the departure of the last Ya Na in 2002, no lease document has been prepared in any of the Dagbon lands, because somebody as a Ya Na would have to (sign) and there is no (Ya Na). That has been one of the problems that even the Lands Commission is having – everybody, everybody, investors, prospective developers – nobody, nobody has been able to have any formal grant to any piece of land because there is no Ya Na to append his signature to any grant in the Dagbon area. The Gonjas, the Mamprusis and the Nanumbas can have their (documents) processed, but not the Dagbon.*

So indeed, the enskinment of a substantive Ya Na would help in the resolution of land conflicts. But beyond that, this official bemoaned the loss of revenue to the Dagbon skin due to the absence of a king. At the time of my research, more than 11, 000 applications for land documents were pending at the office of the Lands Commission. The Commission had duly drawn the attention of the Regional Coordinating Council and the TMA to this huge problem,

and requested these two institutions to be supportive of any mediation efforts that would resolve the Dagbon crisis. For him, this would be the first step to allow the office of the Lands Commission to clear the backlog. Not only that, but also development of Tamale and its environs would proceed faster.

A contagion effect was also leading to the non resolution of the conflicts. Accra, Ghana's center is where land conflicts abound. Greed and the propensity to acquire wealth through land sales have made Accra a very conflictual area in terms of traditional land management. According to yet another official (the fourth), who dealt with legal matters, relatives of Tamale residents in Accra would tell the residents about strategies making the most out of land sales in Accra, which they also attempted to copy at Tamale (*July 21, 2010*).

However, in contrast to the opinions of Assembly officials, a chief complained about the distortion in the traditional land management rules. Greed again, was driving the distortions, and he was amazed that truth was no more a virtue in Dagbon (*July 9, 2010*). Unlike the Tamale regent who praised the Assembly for their role in mediating land conflicts, another chief decried the "poor liaison between the Municipal Assembly<sup>37</sup>, government and chiefs" (*July 22, 2010*). He believed that consultation, monitoring and implementation were lacking in the interaction between chiefs and the Assembly. Hear him:

*Until we have proper consultation, the problem will always be there. There must be constant consultation and reference to the chiefs. On the Land Commission, the chief must have a representative.*

(I: I got the impression that all the stakeholders are represented?)

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<sup>37</sup> Note that even though Tamale is now a metropolis, it is not uncommon for people to refer to it by previous names, such as District Assembly or Municipal Assembly.

*They exist on paper. If I am to come to a Commission meeting, and you meet without me; you manage to get a quorum, the meeting goes ahead whether it is my fault or not that I don't come. So this is how they bypass the chiefs. Chiefs get to know of things after they have happened, not before.*

(I: That's another major reason?)

*Yes. The suggestions I have is that a system should be created and monitoring exists to show that procedures that have been established, resolutions that have been arrived at, are implemented. At the moment, that is not happening. And if there are potential conflicts, how do we mediate? You appeal to them, they will apologize and say they would make amends, they never do. If you persist, they then sideline you.*

Two questions come to mind immediately. 1) Would the Lands Commission intentionally maneuver to sideline chiefs? If that was the case, then it was very unfortunate. 2) Do chiefs make time to attend meetings of the Regional Lands Commission? These are areas that require further examination over time. However, the key elements of a development cycle – consultation, monitoring and implementation – when missing, would compromise a harmonious relationship between chiefs and state actors. This is because feedback is an essential element in any development cycle. And if the chief is to be believed, then the apparent mix of formal and informal rules, which paradoxically, appears to be emerging with the death of the Ya Na, would probably be unsustainable.

The focus group discussions were very entertaining, but very fruitful. Each group's suggestions on the non resolution of traditional land management conflicts either corroborated previous opinions of the traditional elites and the DA officials or put up novel reasons. In sum, community leaders outlined these views: -

1. The secretaries of chiefs lacked enough education to enable them address the complexity of land transactions; secretaries and linguists were not minimally literate to record transactions, but would mentally store them.
2. Greed (corruption) and ignorance influenced the decisions of people. Previously, Dagomba lands were not sold. Sales started after the land reverted to the traditional authorities, and this precipitated the land problems.
3. The land agencies – Lands Commission and Town and Country Planning department – had not educated chiefs on proper land management and land use. Discussants highly commended a recent forum organized by the Assembly involving all stakeholders – chiefs, Assembly and relevant decentralized departments.
4. Not all gazetted chiefs were paid stipends, and they were the ones more likely to engage in multiple sales.
5. Buyers did not bother to investigate the authenticity of their acquisitions; they did not make thorough searches at the Lands Commission, and appeared to be gullible.

The ensuing are the summarized views of the Assembly members: -

1. The policy of the 1992 Constitution reverting unused government lands was the cause of the land conflicts. Consequently, discussants suggested that the government should reverse the policy in all traditional lands experiencing conflicts, and take over; this would resolve the issues.
2. The Lands Commission was not well resourced to effectively execute their duties.
3. Chiefs capitalized on the clause that an original owner of land had the right to enter undeveloped government lands if it was not developed after a stipulated period.

4. The Assembly had failed in its duty to educate the communities on the process of legalizing ownership of acquired land, and especially in obtaining building permits. Further, the Assembly was not enforcing the land law.
5. Education of chiefs, their secretaries and their children was lacking. This did not make chiefs accept responsibility for the actions of their agents, but would rather feign ignorance.
6. Lack of proper documentation of demarcated plots.

Finally, I examined how potential land conflicts were avoided or mediated in Tamale. Any potential conflicts that could arise would be preempted by resorting to natural boundaries and the knowledge of the elderly, who could relate to the traditional history in the communities. A traditional leader described how this was done in the case of a boundary dispute.

*There have been minor, minor conflicts, which have been resolved by the local chiefs. When they are making a layout, it is the Town and Country Planning, which is approached by the local chief. When the Town and Country Planning people go to the place, the local chief will say, "This is my boundary," which he points out. Then the neighboring chief will also come there, let's say Gulkpegu (Tamale) and Saneregu that share physical boundaries. The other man will come and say, "No, this tree or hill or stream is our boundary." They will bring our old local people to find out who is right. They will normally judge it by using mostly dawa dawa trees in this area, because dawa dawa trees, even though they are trees, they are harvested only by the landowners. This man will say, "I was with chief so, so and so since 1956. We always harvested this particular dawa dawa tree. If you are claiming that your boundary is beyond that one, it is not true, because you were not harvesting the dawa dawa trees." If you can prove that, that will be a way forward to settle the dispute. If it's small stream; in our streams here, during the raining season, little children can go with their fishing hooks to throw it into the river or the stream and pick fish. It is common property; nobody will say, "Why are you doing that?" But*

*when it comes to dry season and water is not running again, it is now cut. It is not flowing right away. There is somebody who is a chief or who is an elder, who alone can send his people to take the fish from that place. So they will have to find out who is the person who takes the fish from that river or stream. When they say, "I am the person, who takes the fish from here, so you cannot claim that this area belongs to you," then if it's true, they will agree. That is the way to resolve the disputes from coming, even though from time to time, people who always want to use red herring will always come and raise red herring. (July 16, 2010).*

One DA official put it aptly, "Chiefs know their boundaries, and would not want to embarrass their skins" (July 15, 2010). What is emerging is that land conflicts could be avoided and mediated within the traditional system, provided chiefs did not distort the land management rules, as previously mentioned by another chief. This finding resonates with what scholars such as Larbi *et al* (2003) and Abdulai *et al* (2007) have found to be distortions in traditional land management for Accra and other places. From Appendix 3, the leading cause of traditional land management conflicts in Accra is chieftaincy disputes. Indeed, the MP's view on preempting conflicts summarized the importance of playing the game according to the rules. He put it simply:

*[E]very traditional community has some semblance of rules...We should all endeavor to obey them.*

So simple, and yet so difficult leading to the many incidences of land conflicts in Tamale. People were consciously 'raising red herrings' and this was the difficulty. The District Assembly played no part in the avoidance and mediation of potential conflicts, save that the TMA would be in readiness for any breach of peace.

To conclude the issues on traditional land management, it is obvious that all three communities experienced land conflicts. Conflicts were more likely in communities where the chieftaincy institution was very strong, as seen in Kumasi and Tamale. These conflicts arose not only within the customary sector, but also between the chieftaincy and state institutions in all three communities. Tamale had comparatively more players negotiating the management of land within the traditional system, which had led to numerous shades of conflict. Kumasi followed closely, with virtually no conflicts in Cape Coast, except the frays associated with government acquired lands where no or little compensation had been paid. All lands in Tamale had been constitutionally vested in the traditional sector, but inaction of central government had made it impossible for the customary sector to be in charge of reverted lands. This situation has led to dual infringements, whereby chiefs intrude into government lands and government officials do same with traditional lands. Beyond these, opportunistic avenues had opened up for collusions between chiefs and government officials in Tamale.

District Assemblies in Kumasi and Tamale were guilty of bending the rules of the game of traditional land management more than in Cape Coast. In Kumasi, recalcitrance had won the day for the District Assembly, which had shamefully been brought to check by the rule of law. By a twist of fate, the death of the Ya Na in Tamale had ironically brought the District Assembly and the chieftaincy institution into a kind of partnership, where mediation of land conflicts was the goal. The climax of the expectation that would have shown evidence of the parallel operation of formal and informal rules in Tamale has been disappointing, albeit temporary, by the death of the king; temporary, because pockets of corruption within, and between, chieftaincy and state institutions have not been totally eliminated. But for the lack of education in traditional



land management in Tamale, Tamale would have, perhaps, resembled Cape Coast. Education was becoming a major constraint to the resolution of land conflicts.

The acceptance of formal rules in land administration by the local elites that has to come to exist, has worked to some extent in Tamale, largely in Cape Coast, but minimally in Kumasi. “Little Man politics” within the KMA appears to have won the day in Kumasi, and this was increasingly challenging the authority of the traditional managers of land. Diversity of opinions prevailed in Kumasi more so than Tamale or Cape Coast. From the evidence then, Kumasi becomes the community that manifests parallel operation of formal and informal rules, when the struggle for space between state and tradition plays out in traditional land management. Whether Tamale, known to be in a region that operates a parallel land regime (Tonah 2008) would have shown parallel operation of formal and informal rules, has been shrouded by the ghost of the Ya Na. The potential may exist, but not as crystal clear as chieftaincy succession rules showed. Again, an emerging observation is that where formal rules are uniform within the customary sector as seen in traditional land management, we need to examine the behavior of actors in constraining the integration of formal and informal rules.

## CHAPTER EIGHT – SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

In this concluding chapter, I reiterate the rationale for the dissertation and present the summary findings and conclusions. Secondly, I suggest some policy measures to policy actors, both within the formal and informal institutions. These recommendations, I believe, can assist in resolving the persistent and numerous conflicts in succession rules and traditional land management. I argue that once these conflicts arising from the struggle in the space between the state and chieftaincy are reduced significantly, the parallel operation of the formal and informal rules can transform into a harmonious mix for effective local government to function within the ambit of the decentralization process in Ghana.

### **8.1 Summary and Conclusions**

I set out to unravel issues regarding levels of interaction between formal and informal rules that allow for effective local government while implementing a decentralization process as in post-independence Ghana. I started off by arguing that for local governments to be effective, we need successful resolution mechanisms in Ghana and more generally, in Africa because conflicts due to the interface between formal and informal rules not only have the potential to escalate into violence at local levels, but could also spill over into national politics. Such a state of affairs not only compromises development service delivery, but also has implications for political order. This is because countries that use both statutory and customary laws in governance are in principle, employing a mix of formal (state) and informal (chieftaincy) rules. In the process, a struggle for space between formal and informal is bound to occur.

Subsequently, I examined two such conflictual spaces, chieftaincy succession rules and traditional land management practices.

Concerning Ghana, previous literature had noted that the struggle in these spaces were very prominent in the northern part of the country, especially in the Dagomba kingdom. Post-independence governments in Ghana had one by one fallen into the trap of following the prevailing discourse about the Dagomba conflict as yet another intra- or inter-ethnic conflict. The discourse had been framed as a clash between institutions and culture. Rather, I wanted to investigate this protracted Dagomba conflict and similar others that successive governments had failed to consider as institutional problems. Governments, political scientists and policy makers alike have all failed to take note of the distinctive histories of the traditional areas predisposing conflict that arises from the struggle between chieftaincy and state in a search for solutions. Chiefs, who are the local heads of their traditional areas, would not only contend with internal power struggles, but they would also face intimidating intrusions from the very establishment (Constitution) that seeks to protect them. This is because institutionalization of informal rules requires adaptation and flexibility of the formal rules by both regional chiefs and national leadership.

Rather than a harmonious mix of formal and informal rules, my dissertation attempts to show that what drives the persistent conflicts in the struggle for space between the state and chieftaincy is a parallel operation of formal and informal rules. Institutional theory (e.g., Knight 1992) suggests that formal rules can change the relative bargaining power of individuals or groups. Acceptance of rules is the result of bargaining and negotiation among political elites within a group. The acceptance of the informal rules (traditional) rules is the result of continuous bargaining and renegotiation between chiefs and community, which ultimately

becomes customary law. Formal laws are also the bargaining between political actors.

Literature further suggests that persistent conflicts are a demonstration of subjugation of informal rules. Paradoxically, it is rather an interaction between formal and informal groups – the result of the bargaining and negotiation within and among customary (chiefs) and constitutional (state) actors – that is the key to conflict management and resolution. This is especially important for countries that have introduced the dynamic of decentralization (or any kind of federalism) and yet their Constitutions do not abolish the institution of chieftaincy or other forms of traditional and customary rules and regulations. Decentralization means local political heads (District Chief Executives) have to institute a different kind of institutional bargaining with local traditional heads (chiefs), a playing field that was previously between central government and chiefs. Indeed, if the real intention for effective decentralization is meant to be devolution, Robert Putnam reminds us that at the end of the day, devolution is a bargaining process, not just a juridical act (Putnam 1993).

Following the ethics of research, this dissertation is not rejecting the core institutional theory underlying the interaction between formal and informal rules. Rather, as postulated by Imre Lakatos (1970), I suggest both a theoretical and empirical problem shift of the existing theory, and state that persistent conflicts are a demonstration of the parallel operation of formal and informal rules, especially in countries that seemingly protect or attempt to integrate traditional institutions within a democratic dispensation of governance. Consequently, in this dissertation, I placed Ghana within the larger context of sub-Saharan Africa to investigate this notion of parallel operation of formal and informal rules, in order to add to existing institutional theory. This is because Ghana's institutional structure of governance allows for the institution of chieftaincy to operate side by side with local government, both of which are situated at the local

level. To explore this idea of parallelism demonstrated within formal and informal rules, I invoked four objectives. First, I searched for probable causes relating to the conflicts regarding chieftaincy succession rules and traditional land management. Second, I examined how formal rules, informal rules, or the interaction of both have an influence on these conflicts. Next, I collated successful conflict resolution measures while exploring factors contributing to unsuccessful attempts of resolutions. Finally, I will suggest some strategic conflict resolution mechanisms, success of which could inform a consideration of constitutional amendments to ensure effective local government.

I focused on three metropolises in the Ashanti kingdom, the Dagomba kingdom and Cape Coast – an erstwhile kingdom, to represent the Ashanti, Northern and Central regions. They were Kumasi, Tamale and Cape Coast respectively. These three sites constituted a useful sample to investigate the variation of both the independent variables (the level of decentralization operating in a district and acceptance of formal rules within a group, either formal or informal) and the dependent variable (conflict resolution success or failure). In line with Ghana's decentralization structure of governance, I started the research at Accra, the center and capital city of Ghana. My total sample comprised 55 key elites and 60 focus group discussants; I selected these respondents through quota and snowballing sampling techniques.

The causes of conflicts in chieftaincy succession rules and traditional land management varied according to the three sites. Conflicts are an indication of the breakdown of the institutional bargaining and negotiations that go on within and between formal (central and local governments) and informal (chieftaincy succession rules and traditional land management) rules. The findings clearly indicate that these conflicts were the result of 1) the increasingly constraining interaction between formal and informal institutions of state and chieftaincy, and 2)

a breakdown of the institutional negotiations within and among the two institutions. Where both local and traditional elites accept the formal rules as the evidence from Cape Coast shows, there is a harmonious mix of the formal and informal rules, and mediation processes succeed. British influence and negotiations with chiefs largely explains the relative absence of conflicts here both within chieftaincy succession rules and traditional land management.

This absence of conflicts could be traced to the Bond of 1844, when the Fanti chiefs negotiated with the British to accept their system of governance. Unfortunately, the British then introduced indirect rule and authoritarian tendencies in Ghana. However, my data suggests that Cape Coast has had a long history in terms of bargaining with formal rules. An evidence of the cooperative relationship between chiefs and the state was demonstrated when chiefs freely offered traditional land to the British colonial masters for infrastructural development and the public good. A legacy of this gesture has led to chiefs owning very little lands in Cape Coast, which also explains the relatively few land conflicts in Cape Coast. Chiefs work in partnership with central and local government officials in the management of the few traditional lands at their disposal. Despite few instances of corruption among some government officials, for the most part, there was no evidence of “Little Man politics,” but a mutual cooperation appears to be in place between the institution of chieftaincy and the state agencies. A chieftaincy succession conflict that surfaced over the past decade has quickly died. Ironically, it was an attempt to remedy the *distortion* in the succession rules that brought about the conflict; the dynasty of one house in the royal family has now been effectively halted, bringing to the fore the instrumental role of history in succession rules.

Chiefs in Cape Coast, and indeed, the people of Cape Coast appear to have a history of acceptance of formal rules, which started from colonial days and carried through the current

democratic dispensation. With the exception of the infamous University of Cape Coast land and the recent skirmish within the succession rules, both chiefs and the people appear to be very law abiding, and seek redress at the law courts failing traditional mediation. Indeed, one respondent pointed to Cape Coast as the political thermometer for the country, when he stated that “all political parties look at Cape Coast, that if you win Cape Coast, you might even win the whole country” (*July 7, 2010*) during presidential and legislative elections. Cape Coast Assembly members, who deliberated on chieftaincy succession rules, also expressed a similar sentiment in their pre-discussion session.

This relatively harmonious relationship in this erstwhile Fanti kingdom can be attributed to a history of institutional negotiations between the traditional sector and the state, which started with the British and has continued into the contemporary period. Both local and traditional elites have come to accept the intrusion of formal rules into the informal domain. Implementation of the decentralization process does not also seem to be in contention with the local authority of chiefs. These happy states of affairs do not seem to be prevalent in the existing kingdoms of Dagbon (Dagomba) and Ashanti. Both kingdoms have hierarchical and delegative systems in place both for succession rules and traditional land management. These systems fit in with the decentralization process currently in place in Ghana. Yet, it is in the kingdoms where kings (representing chiefs) wield absolute to almost dictatorial powers, that conflicts are prevalent. The Ashanti kingdom fought a long war with the British until their defeat, but the British never seized their land. Yet, in 1890 after the British conquered the Ashantis and took over Dagbon, they not only instituted indirect rule in the 1930s, they also claimed all Dagbon lands. Further, the British interfered in the succession rules of Dagbon, especially in the enskinment of a Ya Na. Paradoxically, no major conflicts existed under British rule, because indirect rule did not

decimate the authority of chiefs (Odotei and Awedoba 2006). Rather, the British used chiefs to indirectly dominate the colonized. Dagbon citizens also respected the history and customs relating to the enskinment of a Ya Na and other chiefs. It was as if traditional norms and usages coexisted in harmony with formal British dictates.

However, with the advent of democracy, conflicts continue to persist in Dagbon both in the succession rules and traditional land management practices. On traditional land management, it is very tempting to say that the inability of democratic governments to return lands to Dagbon as per the 1972 and 1992 Constitutions could be the reason for the strained relationship between government and the state. However, with a nuanced investigation, it turns out that in addition to central government's inaction, democratic governments interfere into Dagbon's traditional norms, just like the British did under indirect rule. We find this interference more poignantly in chieftaincy succession rules.

What the British began in the colonial days in succession rules now expresses in the form of alliances between the two main political parties in Ghana. Once the New Patriotic Party controls government and legislature in Ghana, by extension, the Abudus would be in "power." Similarly, Andanis "reign" when the National Democratic Congress is in power. It was when the NPP assumed power in 2000 that a parallel authority came to be firmly established in Dagbon. As per the interviews and focus group discussions, as well as from secondary data, events leading to the death of the Andani king, Ya Na Yakubu Andani II portrayed an unnecessary distortion of the succession rules and a blatant challenge to the Ya Na's authority. These interferences are unsupported by any historical precedence. The events also demonstrated a breakdown of negotiations between the Ya Na on one hand, and the government (central and local actors) as well as the pseudo king in the person of an Abudu prince on the other hand. Well



before 1953 and after, it is becoming apparent that the Abudus initiate distortions in the Dagbon succession rules. For instance, the Abudus once lobbied the British to institute a selection committee to elect a Ya Na. This was against the customs and history of Dagbon. Naturally, the Andanis fiercely resisted this move by the Abudus, and the establishment of a rotation system finally resolved the issue.

In 1953, the Abudus sought to perpetuate their line of ascendancy, but again, in 1969, the rotation system was upheld, much in line with history and tradition. But when the NPP assumed power in 2000, the Abudus decided to resort to “war,” reminiscent of the past where leadership was obtained through cavalry. Thus, the absence of acknowledging history in the institutional negotiations within the succession rules has brought about a parallel authority system in Dagbon. The connivance of NPP loyalists – both in government and the Abudu gate – contributed in no small measure to further institute a parallel operation of formal and informal rules. The conflict did not only end there, but the Ya Na and about forty of his elders were killed in cold blood after mediation efforts failed. By this action, the Abudus have marginalized history and custom. But the Andanis have equally marginalized custom after the death of the king. The marginalization of customs by the Andanis is interesting, because they know custom could resolve the Dagbon crisis, but the Andanis first want central government’s covert and overt involvement in the murder of the king to be exposed, else there will be a repetition and precedence would be set.

Ironically, the death of the Ya Na has brought the central and local government actors on one hand, and chiefs on the other to bridge the parallel regime that previous research and mine demonstrate has come to exist in traditional land management in Tamale. This has come about through attempts at mediation efforts. Where the Tamale Municipal Assembly erred in forceful acquisition of lands, they had subsequently either renegotiated with the chiefs or let go of the

land. However, the apparent persistence of the parallel operation of formal and informal rules in traditional land management occurs because of the opportunistic avenues that have opened up for collusions between chiefs and government officials and within the chieftaincy institution itself in Tamale. The emerging conflicts appear to be more of District Assembly actors' manipulation of the rules, rather than a breakdown in the institutional bargaining processes. Meanwhile, the formal sector has also failed to introduce a history of formal land transactions through education, and therefore the citizens continue to be ignorant of the bargaining procedures beyond the traditional allocation of land.

Surprisingly, one can observe a more pronounced parallel operation of formal and informal rules in traditional land management in Kumasi, the capital of the Asante kingdom. Surprising, because there is a decentralized land administration system in place, and the king of the Asante kingdom, Otumfuo, wields absolute power both in succession rules (in Ashanti region) and traditional land management (in Kumasi). The counterfactual in Dagbon is very difficult to test while the king's remains lie inert in the bowels of the earth and no successor has been enskinned. In Kumasi, we have a living Otumfuo, whose powers appear to be more dictatorial than the Ya Na. Unlike Dagbon where destoolment is taboo, Otumfuo has the right to destool chiefs. Unlike Dagbon where the Gundo-Na and women chiefs can institute checks on the Ya Na, the Otumfuo remains virtually unchallenged in his pronouncements on succession rules and traditional land management. And yet, conflicts in traditional land management demonstrate the parallel operation of formal and informal rules here.

This has come about because of a couple of factors. One is that Otumfuo is only the chief administrator of lands, but the Gyaasehenes (heads of palace administrations) of chiefs are the custodians of traditional land. Individuals and families, however, own lands in Kumasi. This

scenario is in sharp contrast to Tamale and Dagbon generally, where land and even people are all vested in the Overlord or the Ya Na. Thus, to some extent, in Kumasi, Otumfuo cannot be said to hold absolute power on land. There is a weakening of his authority here despite the aura surrounding the position of the Asantehene. It is in mediation that the Otumfuo structures in place at Manhyia project the authority of the king. In practice however, the actual traditional land transaction negotiations gives him power only at the documentation stage. The second factor arises from the “Little Man politics” tendencies of the Kumasi Metropolitan Assembly in land negotiations. Unlike Tamale where the DA accepted their complicity of wrongdoing, in Kumasi, it took the law courts to apprehend the KMA on its unnecessary interference into traditional land management. At a point in time, a DCE was even cited as the culprit of land conflicts; DCEs were being used as indirect tools for government interference in land issues. In Kumasi then, it is the presence of “Little Man politics” and the opportunistic avenues open to chiefs and their agents that bring to prominence the parallel operation of formal and informal rules. A third factor highlighting the parallel operation of formal and informal rules is that it was only in Kumasi that the four categories of respondents spoke past each other at various times, in contrast to the corroborations and complementarities of opinions that we see in Cape Coast, and to a lesser extent in Tamale. And this divergence of opinions is a key indicator of the parallelism in formal and informal rules.

These conflicts in succession rules and traditional land management persist because the formal rules and informal rules do not converge during the institutional bargaining and negotiations between state actors and traditional actors. Further, the lack of successful mediation of conflicts within chieftaincy succession rules and traditional land management has implications. Failure to resolve the emerging conflicts compromises effective local government.

I have also thoroughly discussed the factors promoting non resolution of the conflicts in this dissertation, a reversal of majority of which informs policy strategies.

The major conclusions we can draw from the evidence so far are:

1. In Ghana, central government and District Assemblies representing local governments (**formal**) appear not to be involved in the selection of chiefs (**informal**), but were largely implicated in the succession conflicts. The conflicts have come about because of distortions in the succession rules. Matrilineal systems of succession appear to be less conflictual than patrilineal systems.
2. The key constraints to resolving succession rules conflicts in Ghana are i) inactions of actors in government and traditional institutions and related political involvements, ii) marginalization of history and custom, and iii) personal interests of actors.
3. It appears that involvement of formal rules in customary usages is differentially accepted, probably more so with traditional land management than succession rules.
4. The key constraints to resolving traditional land management conflicts are government inaction and political involvement on one hand, and inaction of various levels of actors within the chieftaincy institution on the other hand.
5. **Parallel operation of formal and informal rules** is acutely evident under two conditions: -
  - i) When there is marginalization of history and custom as observed in succession rules in Dagomba kingdom. This is where we observe a high resistance to government interference in the informal setting; and
  - ii) When “Little Man politics” comes to the fore as observed in traditional land management in Kumasi (Ashanti kingdom). Under this scenario, there is a large variation in the opinions of the public (divergence in opinions) as to what constitutes the tenets of traditional

land management, and which type of actors – formal or informal – have the authority in land transactions, as well as mediation of traditional land conflicts. Essentially then, the bargaining process that one would expect from implementing devolved decentralization fails. The corollary of this failure is that the authoritarian tendency of local leaders in the formal sector becomes a stumbling block to harmonious interactions with traditional elites.

At this juncture, I can now fit the empirical evidence to my hypotheses.

*Succession rules in Asante kingdom* confirms hypothesis 1.

(H1: High level of central government interference and a high level of acceptance of institutional bargaining will result in relatively mutual interactions and conflict resolution mechanisms succeed).

*Succession rules in Dagomba kingdom and traditional land management in Kumasi* confirm hypothesis 2<sup>38</sup>.

(H2: High level of central government interference and a low level of acceptance of institutional bargaining will result in conflictual interactions and conflict resolution mechanisms fail).

*Both succession rules and traditional land management in Cape Coast* confirm hypothesis 3.

(H3: Low level of central government interference and a high level of acceptance of institutional bargaining will result in relatively mutual interactions and conflict resolution mechanisms succeed).

*Traditional land management in Tamale* confirms hypothesis 4.

(H4: Low level of central government interference and a low level of acceptance of institutional bargaining will result in relatively mutual interactions and conflict resolution mechanisms succeed).

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<sup>38</sup> From my pilot study, succession rules in Winneba also confirms hypothesis 2.

By way of contributing to the literature, it is apparent that parallel operation of formal and informal rules can arise in a country that constitutionally does not create well defined boundaries between the formal rules of governance and the informal norms associated with chieftaincy and traditional matters. This allows a nebulous gray zone for institutional bargaining and meaningful negotiations that will preempt conflict situations. Institutional conflicts do not arise because of interpenetration of formal and informal rules, but rather, when formal and informal rules run parallel to each other. Further, this parallel operation in such dual political systems is more likely where the institution of chieftaincy and customary usages is strong. This is because the parallelism is not evident in traditional areas, **but** kingdoms in Ghana. We see this parallelism in succession rules in the Dagomba kingdom and traditional land management in Kumasi located in the Ashanti kingdom. But for the ghost of the murdered king, Tamale, located in the Dagomba kingdom, would have exhibited a parallel operation of formal and informal rules in traditional land management as well. A related issue is that there is a higher tendency for the parallelism between formal and informal rules – and by inference, conflict – to emerge and be sustained when traditional practices are weak or diluted **and** the central government laws on succession and traditional land management are weakly enforced or marginalized. Again, since devolution is a bargaining process, the presence of “Little Man politics” at the local level can create a platform for the parallel operation of formal and informal rules to thrive, and this compromises effective local government. This state of affairs is most evident in traditional land management where the local traditional leaders have come to accept the formal rules, and which should have created the environment for a mix/integration of formal and informal rules.

Secondly, we can revise the literature that contends that in parallel land regimes, government interference weakens the customary sector to create a different parallel regime. It is

**not** the collusion of opportunistic chiefs and state officials against earth priests in the northern parts of Ghana, **but** rather, opportunistic chiefs and state officials outdoing each other and a percolation of opportunism at all levels of the chieftaincy institution that has come to be. A related third contribution to the literature is that where complicity of, and corruption in, local government exacerbates central government inaction, the parallel land regime comes to be even more accepted, because it is more likely for both traditional players and state actors to find openings within their respective institutions. Further, in traditional areas where there is an intimate linkage between land and chieftaincy, the complicity of central and local government actors in what should have been purely traditional norms in succession rules, heightens the power struggle among groups vying for successors to thrones. This complicity seen in political involvement and personal interests of both state and traditional actors thereof can lead to not only marginalization of histories and customs, but also criminal behavior. The net effect of this parallel operation of formal and informal rules is that marginalization of histories and customs of traditional areas, as well as the emergence of “Little Man politics” in chieftaincy succession rules and traditional land management in dual systems compromises the institutional bargaining and negotiations that should be in place for government actors (both central and local) and actors within the chieftaincy institution (traditional). Authority relations become fussy as to which actors wield control in the struggle for space between state and chieftaincy. Conflicts emerge, and because there are no institutional mechanisms for resolving these conflicts, this compromises effective local government.

What remains is how to identify the avenues through which the prevailing conflicts, some of which have been persistent for decades, can be resolved. Consequently, a key component of

the interaction I had with the focus group discussants<sup>39</sup> was to invite them to deliberate on strategic conflict resolution mechanisms specific for conflicts in their communities. Further, I gave the discussants the liberty to address other conflicts of national importance to them. The idea was to come out with policy measures that could be forwarded to central government, which would not only come from the findings of the research, but also from what *Assembly members* and *community leaders* believed could work, if adopted. These two groups are key actors at the local level beside the traditional elites and district assembly staff (i.e., DCE and staff).

Following the focus group discussions, I also held workshops in all three research sites, where all the four categories of respondents (local government officials, Assembly members, opinion leaders and traditional elites) met to deliberate on the preliminary findings of the research and suggestions they had to address permanent resolutions to the conflicts arising out of the breakdown of the institutional bargaining and negotiations between the formal and informal sectors that occur in chieftaincy succession rules and traditional land management in Ghana. I designed the workshops to be an opportunity for all respondents in the research sites to tackle the emerging themes from both the interviews and focus group discussions. However, before I introduce these policy prescriptions, an interesting puzzle is government's response over the past decade to these conflicts that I have identified are attributable to the parallel operation of the formal and informal rules within chieftaincy succession rules and traditional land management.

As can be predicted, what have most attracted the attention of Ghanaian governments are the conflicts arising from chieftaincy selection rules. This is because it is in this area of contention that the local politics has the potential to spill over into the national politics, unlike traditional land management. The fray in the Dagomba kingdom is an example that not only succeeded in this direction, but also criminals purporting to uphold tradition, but in reality

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<sup>39</sup> I also include the suggestions by Winneba respondents during the pilot study.



marginalizing tradition and conniving with political elites, prematurely halted the life of a prominent king in the person of Ya Na Andani II in very horrific and mysterious circumstances. Over the years, the response of governments has been to set up commissions of inquiry to investigate such succession conflicts with a view to resolving them. In addition, pursuant to the provisions of the Emergency Powers Act 1994, Act 472, government may impose a State of Emergency to preserve the peace in the conflict area. This is normally in the form of imposition of a curfew, which, depending on the circumstances, may extend beyond the normal curfew hours of 6:00 pm to 6:00 am. However, the conflicts recur or persist as in the Dagomba kingdom, Winneba, Bawku and Accra, among others.

To examine government's response to the latest and most recent crisis in the Dagomba kingdom, I turned to Hansards, which are the parliamentary records of proceedings. Essentially, the government of the National Patriotic Party of John Kufour reacted to the 2002 regicide in three ways: - 1) it established a Commission of Inquiry headed by Justice Isaac Wuaku to investigate the criminal aspect of the disturbances that occurred between March 25 and March 27, 2002. Indeed, the government considered the events leading to the death of the Ya Na as of "great local and national sensitivity;" 2) it established a Committee of Three Eminent Chiefs chaired by the Asantehene to mediate the conflict between the Abudus and the Andanis; and 3) it instituted a protracted curfew in Tamale and Yendi. As at March 2011, what have been the outcomes of these measures put in place? First, government through Parliament has lifted the curfew. There is an apparent fragile peace as I observed during my data collection though. The second outcome is in jeopardy since the investigations by the Committee of Eminent Chiefs have virtually ground to a halt because the leadership of the Abudus has refused to collaborate with the Committee. They are dissatisfied with the emerging findings, which appears to put the blame

on their ineptitude to uphold custom. This conscious effort to reconcile the Abudus and Andanis has thus failed. The rationale that the Dagbon crisis concerned traditional rule and therefore traditional rulers could resolve it has met a blank. Indeed, Yakubu (2005) analyzed this hollow line of thinking on the part of government considering the apparent involvement of politicization of the Andani-Abudu crisis, an issue my research *now* clearly reveals. Consequently, Yakubu prefers a political solution, not a customary one, which my research rejects. For one, using ‘external’ traditional rulers to resolve a conflict, which largely for the Dagomba people is an ‘internal’ issue, will not produce any peace. The bait for peace is, paradoxically, to leave matters in the hands of the Dagomba people to fall back on their own self-enforcing mechanisms that govern their informal settings.

As per the final measure, the Commission of Inquiry presented its 150-page report to the President of Ghana on November 6, 2002. Subsequently, government gazetted a ‘White paper’ on the report in December 23, 2002. However a large section of the public has questioned the credibility of the Commission’s findings, majority of which the government endorsed. Notably, Mahama (2009) – an attorney, politician and farmer – has painstakingly analyzed the modus operandus of the Wuaku Commission and its findings. He examines, from a legal viewpoint, the whole appointment of the Commission right up to the publication of the government White paper on the Yendi crisis. Mahama highlights the biases in the Commission’s proceedings, as well as the truncation of credible evidences that would have nailed key government officials as accomplices to the crime. He shows how coincidences mentioned by my key informants were actually organized negligence on the part of the military and police, who were receiving instructions from key ministers of state, with initial information obtained from the Yendi District Chief Executive.

While the Commission recommended specific measures against some public officials involved in the crisis for dereliction of duty such as the then Regional Minister, Prince Imoru Andani (criminal negligence), the Yendi District Chief Executive, Mohamed Habib Tijani (transfer), and some security officials, it exonerated the then Minister for Interior, Hon. Alhaji Malik Yakubu Alhassan, MP, the then National Security Advisor, Lt.-General Joshua Mahamadu and others from any complicity in the disturbances and killing of the Ya-Na (White paper 2002). The then government claimed in the White paper, that criminal negligence was “unknown to our law” and therefore could not sanction the then Regional Minister, while the then Yendi DCE was never transferred. Significantly, the Commission also absolved the Bolin Lana, Mahamadu Abdulai, the head of the Abudus in Yendi. This is the same person who brought about a parallel authority in Yendi. Consequently, the Commission really erred in exonerating the Bolin Lana, in blatant disregard of one of its own terms of reference – to identify and recommend appropriate sanctions for *those responsible for or been involved* in the violence and resultant deaths and injuries of the three dark days spanning March 5<sup>th</sup> to 27<sup>th</sup>, 2002.

Clearly, the findings of my dissertation support Mahama’s claims. Indeed, the government’s veiled bias could be seen in their acceptance of the ‘light treatment’ of sympathizers of the Abudus and security agencies, while reprimanding the Commission for not dealing harshly with Ibrahim Mahama, an Andani, for recruiting and sponsoring warriors for the Ya Na, as well as attempting to influence a witness to give a favorable evidence for the Andani gate. Mahama is the same person who has shamed the findings of the Commission from a legal perspective, and who, incidentally, was one of my key elite respondents. The legacy of inept governance and non-enforcement of the rules demonstrated by the Kufour-led NPP government regarding the covert and overt interferences in the Dagbon succession rules will forever remain a

dent in the political history of Ghana. The ghosts of the colonial masters regarding divide-and-rule tactics continue to manifest in the politics of post-independence Ghana. Consequently, it appears that the parallel operation of formal and informal rules will be with Ghana for some time to come, unless strategic conflict resolution mechanisms are put in place to promote effective local government. This is imminent and timely before local conflicts in traditional land management, as well as any other formal-informal nexus, also spill over into national politics.

## **8.2 Policy Recommendations**

What ensue are some suggested resolutions that could inform policy measures in Ghana in order to promote effective local government devoid of conflicts that emanate from the interaction of formal and informal rules. Chiefs play some sort of governance role, and therefore should be involved in local government. They represent the people, and they are highly respected in the various communities and localities, where the decentralization process is operating. Their significant role in traditional land management also calls for chiefs as major stakeholders in local government, since land is a major commodity in the political economy of local governments. Chiefs promote development through local participation and consultation. Through their arbitration, chiefs play a major role in conflict resolution; their involvement in local government will therefore preempt any related conflicts that may arise in the course of implementing development projects.

Specifically, on succession rules, policy makers will have to consider the following.

1. **Documentation of history and succession rules, and upholding custom.** If done in all traditional areas, these measures will forestall the emerging distortions in succession rules. The absence of conflicts in the Asante kingdom is because the Asantehene has all the documents of

history and chieftaincy succession rules in his archives. Consequently, the National House of Chiefs has to expedite action on the 1992 constitutional provision that empowers the House to codify all the succession rules and traditional practices in Ghana. Following a successful codification of traditional practices, documentation of history and succession rules should also extend to queen mothers and heads of families. In the interim, kingmakers should strictly follow prevailing succession rules that have been legislated, such as LI 59 guiding the selection of a Ya Na. A related issue is that efforts should be made to record the customs and traditional encyclopedias residing in the minds of elderly and prominent traditionalists. These records should then be validated in books, and subsequently deposited at the various Houses of Chiefs. Finally, where custom has proved in the past to resolve succession conflicts, custom must be allowed to do so. The documentation of history and succession rules will therefore serve to boost the role of custom. For instance, the insistence of the Bolin Lana to perform his destooled father's funeral in the Yendi palace would not arise because there is precedence of a former Ya Na's funeral not performed in the palace. This is especially relevant because the destooled Ya Na was elected and enskinned, in contravention of the traditional methods of selection of a Dagomba king. This first policy measure would indirectly contribute to resolution of conflicts in traditional land management because there is an intricate linkage between land tenure systems and chieftaincy.

2. **Independent mediators.** Alongside the codification of traditional practices, an independent body of mediators should be instituted to consider current and emerging succession conflicts. While the membership should largely comprise distinguished religious leaders, internationally acclaimed personalities such as Mr. Kofi Annan (former United Nations Secretary General) and retired Supreme Court judges, chiefs could be invited to be members of such an

independent body. The apparent ineffectiveness of the Committee of Eminent Chiefs is because government appointed it, and the likelihood of one faction in a conflict to perceive the manipulation of government is very high. In the absence of the government appointing such a body, the Council of State would have been the most appropriate appointing body. However, the Council of State also has members appointed by the President. This compromises its legitimacy as a non-aligned institution. It stands to reason therefore, that the National House of Chiefs will be the most suitable institution to appoint the members of independent bodies of mediators. It is important that persons appointed to these independent bodies demonstrate, or should have demonstrated, strong facilitation skills in mediation. A key function of these independent bodies will be to interact with kingmakers of various traditional areas to *reconcile* the documented history and customs of their respective traditional areas.

3. **Enforcement of laws and rules.** Parliament must amend the Constitution and make the implementation of the codification of traditional norms that will come out of the National House of Chiefs' project explicit. The National House of Chiefs should also enforce its internal rules and dispose of complaints impartially. This will preempt the Supreme Court overturning judgments the National House of Chiefs makes. The House should also be bold to sanction erring chiefs, who may blatantly disrespect regulations of the House. In the same line of thinking, all Regional Houses of Chiefs should establish laid-down power structures as exists in the hierarchy of the Asante kingdom. Where criminal intent and activities are clear due to succession conflicts, government must punish the perpetrators following the due process of law. This is especially urgent in the wake of the murder of the Ya Na; it must be apparent to every citizen that nobody can manipulate the traditions and customs of an area and get away with it. Finally, just as the Constitution spells out that chiefs are not supposed to take part in active

politics, a similar Act should ban politicians from interfering in chieftaincy affairs. There must be a provision in this Act to appropriately sanction any politician found to influence succession conflicts.

4. **Government intervention.** Following the codification of traditional practices undertaken by the National House of Chiefs, the Ministry of Chieftaincy and Culture should establish a body to define the roles and responsibilities of actors associated with succession rules. Simultaneously, the government should adequately resource the National Commission for Civic Education (NCCE), to enable this department effectively collaborate with the Ministry of Chieftaincy and Culture to organize educational workshops at the local traditional areas. The NCCE should also be empowered to organize workshops for the youth in matters of culture and tradition, again, with the assistance of the Ministry of Chieftaincy and Culture. This is because “conflict contractors” easily manipulate the youth to join factions as observed in the Bawku conflict.

5. **Linking chieftaincy with land resolution.** Related to this linkage is that some traditional and administrative demarcations do not coincide. This is because of the arbitrary divisions done in the colonial era. For instance, the current Asante kingdom traverses regions to include not only Ashanti, but portions of Brong Ahafo and Eastern regions. With modernity has come different allegiances, and this has implications for succession rules and self-determination as occurred with the Techiman-Tuwobodom episode. Government must therefore revisit these anomalies of land boundaries.

6. **Poverty eradication.** There are “conflict contractors” who thrive on the perpetuation of succession conflicts. While it is sometimes difficult to identify such contractors, their self interests in monetary gains and financing parties to the conflict override both the local and

national interests. Government should therefore adopt a two-pronged approach of eradicating poverty as well as instituting mechanisms to expose conflict contractors and deal with them according to the law. Efforts to eradicate poverty stem from the observation that the persistent succession conflicts tend to be more pronounced in regions that are relatively impoverished.

7. **Process from family level through government institutions.** At the traditional level though, the first line of action in any succession conflict should be mediation at the family or house or gate level. Failing an amicable resolution, the traditional councils, Regional House of Chiefs and National House of Chiefs would successively take up the matter. Cognizant of the growing body of evidence that religious leaders are gaining the confidence and credibility of Ghanaians, they should attempt to mediate any unyielding issues before the government institution, i.e., the Supreme Court attempt to adjudicate such cases. The point is that where practicable, the National House of Chiefs should consider alternative dispute resolution mechanisms of redress before involving the state courts. Traditional authorities should also put in place independent research committees to monitor and audit all chieftaincy succession disputes. Members of the committee should not be known or identified by any of the disputing factions since intimacy with the factions may either bias them towards one faction or they may be influenced in other ways (e.g., monetary) by the factions. These independent members will covertly conduct their investigations, such as sitting in at hearings of other committees set up to resolve disputes. Their reports will then be compared to those of the overt committees. Finally, there should be video coverage of all mediation proceedings, which the traditional authorities should subsequently archive.

On traditional land management, the issues up for consideration are the following.



1. **Documentation (mapping) and computerization.** This measure is key to the resolution of most of the conflicts in traditional land management. Land use should be explicitly specified and not be subject to arbitrary changes, unless there is a real need. There is also an urgent need to reconcile the ownership of all traditional lands, following which government should clearly demarcate land meant for public goods. Mapping should use state-of-the-art technology to reconcile all disputed boundaries. There must be a constitutional provision that allows elected District Assembly members to participate in the mapping process. This will ensure that as representatives of the localities at the District Assembly, not only have they been involved in a consultative and participatory process, they have also come to appreciate the principles underlying traditional land management that would eventually assist them in legislating effective local bylaws.

2. **More collaboration between chiefs and government agencies.** In line with the ideals of the Land Administration Project, Parliament should consider passing a bill that will allow for the creation and decentralization of customary land secretariats to every traditional area. Further, the government should not only adequately resource CLSs, it should give them institutional capacity to deal with conflicts on the ground. To ensure effective mapping of all lands, chiefs should collaborate with the Lands Commission and all District Assembly agencies. Government is hereby commended for the recent placement of all land agencies under the new Lands Commission. This will streamline the operations of central and local government land agencies, and make them more effective to enter into more focused institutional bargaining with traditional actors.

3. **Legislative enactment and enforcement of land instruments.** A legislative instrument should be passed to declare that it is unlawful to dispose of lands that are in dispute. In the hope

of expedited resolutions of traditional land management conflicts, government, through the District Assemblies, should halt all development projects in traditional areas with protracted conflicts, as a way of “punishing” the conflict areas. The LI should define a time after which government would take over **all** traditional lands that fail to resolve their conflicts. Where either the central or local government is a party to the conflict, the LI should spell out an independent mediating body or adjudicating body, which may not necessarily be the Supreme Court. In the event of a disputed boundary between districts or between district administrative and traditional land boundaries, the Lands Commission must be mandated to set up committees to investigate such conflicts, with a view to amending obsolete LIs. Finally, the law should deal with corrupt government officials appropriately to curb the incidence of opportunistic interests gradually becoming endemic among government officials associated with land affairs.

The Office of the Administrator of Stool Lands should collaborate with the National House of Chiefs to ensure transparency in traditional governance of land, because there is a linkage between chieftaincy and lands on one hand and conflicts on the other. One suggestion is that all revenues accruing from land resources – sale, “permission money” to win sand, etc. – should be deposited in a common pool at a central point, for example, the traditional council treasury, and this revenue is apportioned appropriately to chiefs based on hierarchy, and *all* other traditional stakeholders (earth priests, queen mothers, heads of family, etc.). This measure, previously used before the advent of democracy, could address the greed factor fueling the conflicts in traditional land management. A memorandum of understanding signed by all relevant traditional land stakeholders and government actors should back this suggested mechanism in order to allay any fears of government interference into traditional land management.

Government should also expedite the payment of compensations to the traditional authorities and landowners whose lands it compulsorily acquired for the public good. Following that, government should enforce the relocation of the former residents, and make it criminal to continue to reside on such lands, even if not developed. Where it is clear that government has paid compensations, it should eject the squatters. Finally, government should also be accountable in returning all the northern lands to the traditional owners as per the 1992 Constitution.

4. **Traditional mediation.** Traditional resolution of land disputes similar to ADR mechanisms should be encouraged. Membership of ADRs should include not only chiefs, but also key local opinion leaders. One good model to emulate is the Otumfuo structures at Kumasi, because there is substantial evidence to suggest that land conflicts are resolved and all disputants accept the outcomes. This model has worked effectively because of the professional expertise of chiefs in land matters. Consequently, it would be efficacious to professionalize the mediation process by inviting land-related experts where chiefs have no such skills. In the event that the hierarchical structure of chieftaincy is not respected in some traditional areas as obtains in the Asante and Dagomba kingdoms, traditional councils or Regional House of Chiefs or National House of Chiefs should sanction chiefs found culpable of promoting land conflicts. Such chiefs should pay appropriate reparations and compensations to victims. This internal house cleaning will signal to residents of communities the dignity of the chieftaincy institution and the credibility of traditional mediation.

5. **Education of traditional norms/Involvement in land management.** This calls for the collaboration of the Ministry of Lands and Natural Resources, the Ministry of Chieftaincy and Culture, and the Ministry of Local Government as well as the NCCE to thoroughly educate *both*

land allocators and users of the principles underlying traditional land management in respective traditional areas. Ignorance of buyers and lack or paucity of simple traditional land expertise by Assembly members, Unit Committee members, Area Council members and the “land administrative offices” of chiefs are very instrumental in precipitating traditional land conflicts. In the interim, government should resource the Land Administration Project to empower the CLSs to add education of traditional land norms to their portfolio.

6. **Process from family through government institutions.** The recommendations here follow the principles similar to (7) above for succession rules.

7. **Video recording of mediation process.** The key point here is that resolutions, once recorded, can always be played back when the conflicts recur, or be used as models for resolving similar traditional land management conflicts in the future.

I humbly suggest that government actors and chiefs seriously consider these policy guidelines I have enumerated. For one, they bring to the fore the role of chiefs in promoting effective local government. The return of chiefs in the decentralization process is now more than imminent. The issues of local government (and accompanying expressions of governance) and conflict resolution structures (embedded in a mix of formal and informal rules) are key for improving the quality of life of people. This dissertation reinforces my previous findings about the unequal effects of decentralization geographically within a country as the Ghana case suggests (Aikins 2007). This has the tendency to create a gap between policy goals and outcomes. One way to reduce this gap is greater local participation and development of local institutions, with a “correct blend” of formal and informal rules. This we can achieve from some of the policy measures I suggest.

However, I believe we need more research to examine whether devolution of power to local units as we observe in the current meaning of decentralization in Ghana and some developing countries confers federalism, because local bodies may not be active participants in the amendment or alteration of the constitution. My research did not identify substantial significant concerted opinions for suggesting that central government incorporates regional units – let alone district assemblies – in its decision procedures on some constitutionally entrenched basis. Any suggestions for constitutional amendments did not broach the involvement of the district assemblies. It appears that there is no proper understanding of decentralization as a basis for effective local government. For federalism to take root in African countries, the decentralization process must take into account local differences (Dikshit 1971, Knight 1982) and consider pre-existing institutional structures (Watts 2003, Ouedraogo 2003). It will be interesting to replicate this research in other African countries such as Nigeria, Uganda and Botswana, to examine the prospects of federalism as a means of deepening local government, whereby the space for struggle between the state and chieftaincy becomes even more localized. Nigeria, because it has a strong chieftaincy institution and British indirect rule started here. But more importantly, Nigeria *is* a federal state, and it will be interesting to see how the tensions between formal and informal rules play out. Uganda, because it has strong kingdoms and the struggle is still on to adopt *federalo* or regional government. The country has only partially permitted decentralization because of a compromise during the third term bid of President Yoweri Museveni (Tangri 2006). Botswana, because it has traditional institutions incorporated into formal governance and touted as one of the best democracies in Africa, besides Mauritius. Yet, without being federal, it has maintained continuous democracy without any interruption since independence. Ultimately then, it may turn out that it is the integration of formal and

informal rules that are key to stability and peace, and not the rush into federalism. At the end of the day, African countries need effective participatory and accountable local government that is instrumental in providing development services. One constraint to such effective local government is the parallel operation of formal and informal rules.

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**Appendices**  
**Appendix 1**

**Interview Schedule**

**PART I**

1) How are chiefs chosen?

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1a.) Is the central government in Accra involved in the process or rules? Yes\_\_\_\_No\_\_\_\_\_

If yes, then explain how? \_\_\_\_\_

*If the answer is No, then skip to question 2*

2) Do you think the central government rules or involvement is a hindrance to the selection process? Yes\_\_\_\_\_No\_\_\_\_\_

If yes, then explain how? \_\_\_\_\_

*If the answer is No, then skip to question 3*

3) Is the District Assembly involved in the process or rules? Yes\_\_\_\_No\_\_\_\_\_

If yes, then explain how? \_\_\_\_\_

*If the answer is No, then skip to question 4*

4) Do you think District Assembly rules or involvement is a hindrance to the selection process? Yes\_\_\_\_\_No\_\_\_\_\_

If yes, then explain how? \_\_\_\_\_

5.) What are the main principles underlying traditional land management in this community?

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5a.) Is the central government in Accra involved in the management? Yes\_\_\_\_No\_\_\_\_\_

If yes, then explain how? \_\_\_\_\_

*If the answer is No, then skip to question 6*

6.) Do you think the central government rules or involvement is a hindrance to the management of land?

If yes, then explain how? \_\_\_\_\_



*If the answer is No, then skip to question 7*

7.) Is the District Assembly involved in the management process? Yes\_\_\_\_\_No\_\_\_\_\_

If yes, then explain how? \_\_\_\_\_

*If the answer is No, then skip to question 8*

8.) Do you think District Assembly rules or involvement is a hindrance to the management process? Yes\_\_\_\_\_No\_\_\_\_\_

If yes, then explain how? \_\_\_\_\_

## **PART II**

9.) Have there been any conflicts over the succession of chiefs over the past ten years?

Yes\_\_\_\_\_No\_\_\_\_\_

If yes, then explain how? \_\_\_\_\_

*If No, then skip to question 18*

10.) If yes, then what role did the traditional leadership play in the conflict? \_\_\_\_\_

11.) If yes, then what role did the central leadership in Accra play in the conflict? \_\_\_\_\_

12.) If yes, then what role did the District Assembly play in the conflict? \_\_\_\_\_

13.) Has the conflict been resolved? Yes\_\_\_\_\_No\_\_\_\_\_

If yes, then explain how the conflict was resolved? \_\_\_\_\_

*If No, then skip to question 17*

14.) What role did the traditional leadership play in mediation? \_\_\_\_\_

15.) What role did central leadership play in mediation? \_\_\_\_\_

16.) What role did the District Assembly play in mediation? \_\_\_\_\_

*Go to question 22*

17.) Do you have any suggestions why the conflict has not been resolved? \_\_\_\_\_

*Go to question 22*

18.) If no, then how were the potential conflicts avoided and mediated? \_\_\_\_\_

19.) What role did the traditional leadership play in mediation? \_\_\_\_\_

20.) What role did central leadership play in mediation? \_\_\_\_\_

21.) What role did the District Assembly play in mediation? \_\_\_\_\_

22.) Have there been any conflicts over management of land in this community over the past ten years? Yes\_\_\_\_\_No\_\_\_\_\_

If yes, then explain how? \_\_\_\_\_

*If No, then skip to question 31*

23.) If yes, then what role did the traditional leadership play in the conflict? \_\_\_\_\_

24.) If yes, then what role did the central leadership in Accra play in the conflict? \_\_\_\_\_

25.) If yes, then what role did the District Assembly play in the conflict? \_\_\_\_\_

26.) Has the conflict been resolved? Yes\_\_\_\_\_No\_\_\_\_\_

If yes, then explain how the conflict was resolved? \_\_\_\_\_

*If No, then skip to question 30*

27.) What role did the traditional leadership play in mediation? \_\_\_\_\_

28.) What role did central leadership play in mediation? \_\_\_\_\_

29.) What role did the District Assembly play in mediation? \_\_\_\_\_

*End*

30.) Do you have any suggestions as to why the conflict has not been resolved? \_\_\_\_\_

*End*

31.) If no, then how were the potential conflicts avoided and mediated? \_\_\_\_\_

32.) What role did the traditional leadership play in mediation? \_\_\_\_\_

33.) What role did central leadership play in mediation? \_\_\_\_\_

34.) What role did the District Assembly play in mediation? \_\_\_\_\_

*End*

**BACKGROUND CHARACTERISTICS/PRE-INTERVIEW INFORMATION**

Date of Survey:      Month\_\_\_

   Day\_\_\_

Start Time:

Location ID:

Position/Status of Respondent\_\_\_

Sex:    Male\_\_\_\_\_ Female\_\_\_\_\_

Age:

- a) 20-29 years    b) 30-39 years    c) 40-49 years    d) 50-59 years    e) 60 years and above

Length of working period: \_\_\_

Length of stay in office: \_\_\_\_\_

Educational background:

- a) None            b) Primary        c) Middle/JSS    d) Secondary/SSS  
e) Post Secondary    f) Tertiary

Marital status:

- a) Single        b) Married        c) Divorced        d) Widowed        e) Separated        f) Consensual  
g) Remarried

Occupation: \_\_\_

Professional background: \_\_\_

Family size (nuclear family in a household): \_\_\_\_\_

Ethnicity:

- a) Akan                            b) Ewe                            c) Ga/Adangbe                            d) Hausa/Mole-Dagbane  
e) Other (specify\_\_\_\_\_)

Religion:

- a) Catholic        b) Protestant        c) Other Christian        d) Muslim        e) Traditional  
f) No Religion        g) Other (specify\_\_\_\_\_)

## Appendix 2

### Roundtable Discussion Issues

#### 1. ROLE OF TRADITIONAL AUTHORITIES IN LOCAL GOVERNMENT AND DECENTRALIZATION

- a) Should chiefs be involved in local government? State reasons why or why not.
- b) What are the potential conflicts that may arise with involvement of chiefs in local government?
- c) Categorize these conflicts, if any (types)
- d) Do these conflicts manifest in chieftaincy succession rules and traditional land management? Give supporting evidence.
- e) Do chiefs have any role in the decentralization process? If so, what are they?
- f) How can the impact of chiefs be felt in local government if they are to abide by the Constitutional provision that forbids them to stay out of politics?
- g) Is there a need for a constitutional amendment to allow for the active participation of chiefs in local government?

#### 2. CONFLICT RESOLUTION MECHANISMS FOR CHIEFTAINCY SUCCESSION DISPUTES

- a) Outline the strategies that must be put in place to **resolve outstanding** chieftaincy succession disputes in your local community (or Ghana) to promote effective local government
  1. Role of the traditional authorities
  2. Role of the District Assembly
  3. Role of Members of Parliament
- b) Outline the strategies that must be put in place to **prevent potential** chieftaincy succession disputes in your local community (or Ghana) to promote effective local government
  1. Role of the traditional authorities
  2. Role of the District Assembly
  3. Role of Members of Parliament
- c) Is there a need for a constitutional amendment to legislate resolution mechanisms to forestall future chieftaincy succession disputes?

### 3. CONFLICT RESOLUTION MECHANISMS FOR TRADITIONAL LAND MANAGEMENT DISPUTES

- a) Outline the strategies that must be put in place to **resolve outstanding** traditional land management disputes in your local community (or Ghana) to promote effective local government
  - 1. Role of the traditional authorities
  - 2. Role of the District Assembly
  - 3. Role of Members of Parliament
  
- b) Outline the strategies that must be put in place to **prevent potential** traditional land management disputes in your local community (or Ghana) to promote effective local government
  - 1. Role of the traditional authorities
  - 2. Role of the District Assembly
  - 3. Role of Members of Parliament
  
- c) Is there a need for a constitutional amendment to legislate resolution mechanisms to forestall future traditional land management disputes?

### Appendix 3

Table showing causes of conflicts mentioned by Accra respondents (government officials)

Causes	Accra	
	No.	%
Boundary/Ownership	5	29.4
Multiple/Indiscriminate sales	3	17.6
Revenue generation and distribution	2	11.8
Encroachment into government land	-	-
Central/local government mismanagement	1	5.9
Chieftaincy disputes	6	35.3
Total number of respondents within sample at location	9/11	81.8