



CHIEFS AS JUDGES IN MODERN GHANA: EXPLORING THE JUDICIAL ROLE AND CHALLENGES CONFRONTING THE ASHANTI REGIONAL HOUSE OF CHIEFS

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Abstract

Long before the advent of modern systems of governance and its adjudication arrangement of justice, the Ashantis of Ghana, like other African societies, had their own system of governance and conflict resolution mechanisms which revolved around the chieftaincy institution. However, with the advent of western-styled democracy and its modern court system, the chieftaincy institution of Ghana as in Ashanti, has been incorporated into the legal system of the country. With this development, the chief in modern day Ghana is perceived by many as basically a ceremonial figure who performs religious and cultural functions, with many even questioning the relevance of the whole traditional adjudication system. Against this background, the Ashanti Regional House of Chiefs was used in an explorative case study design to explore the role and the challenges confronting the chiefs in the resolution of conflicts. Using 33 traditional authorities selected purposely, data gathered through in-depth interview revealed that, chiefs as adjudicating members of the Judicial Committee still play an instrumental role in the resolution of chieftaincy conflicts bordering on nomination, selection, enstoolment, destoolment and misappropriation of stool property in the Ashanti Region. The study further revealed that the activities of the Regional House were fraught with challenges including: lack of training for chiefs on conflict resolution, absenteeism on the part of panel members and lawyers to litigants, and inadequate funding. These challenges as the study identified contributed to the delay in adjudication and piling up of chieftaincy cases.

Keywords: *Ashanti Regional House of Chiefs, Chief and Chieftaincy, Chieftaincy Conflict, Conflict Resolution, Judicial Committee.*

Introduction

Chieftaincy is a major heritage of the Ashantis and the chiefship is based on the lineage system traced through the mother (Kouame, 2010; Busia, 1968). Chieftaincy is an indigenous political arrangement by which leaders with good moral standings are selected and installed in line with the provisions of their native customs and laws (Nweke, 2012). Busia (1968) maintains that the procedures regarding the election, installation and destoolment of a chief are traditionally defined. The elders and the chief constituted the government and were jointly responsible for any decisions they made affecting the tribe. All matters of conflicts from the local to the state level were resolved through customary

arbitration by the chief aided by his elders (Brobbeey, 2008, Acquah, 2006; Odotei, 2006).

However, with the advent of modern political systems of governance, the institution of chieftaincy including its authority and power have largely been taken away by the state. Besides, the adjudication of chieftaincy conflicts in Ghana, as in Ashanti, has been transformed and assumed a legal status (Chieftaincy Act 2008, Act 759; Constitution of Ghana, 1992). With this development, some authorities including Abotchie (2006) for instance, have asserted that the chief in the modern state is basically a ceremonial figure who performs religious and cultural functions.

It is against this background that this paper sought to investigate the actual role played by chiefs as judicial officers and the challenges confronting them using the Ashanti Regional House of Chiefs (ARHCs) as a case study. It is envisaged that the findings from the study will help equip the citizenry with in-depth knowledge and understanding about the judicial role played by the chiefs in modern Ghana, and the need to support the chieftaincy institution to enable it fulfill its adjudicatory function.

Literature review

Chieftaincy and adjudication of conflicts

The chieftaincy institution has played and continues to play significant roles in the governance system in Ghana. In traditional Ghanaian societies, before the advent of colonialism, chiefs performed political, religious and adjudicatory roles within their jurisdictions. They administered tributes, court fines, market tolls, and other revenues (Brobbey, 2008; Abotchie, Awedoba & Odotei, 2006). It can thus be seen that in the pre-colonial era, chiefs commanded a great deal of autonomy. However, as noted by Boafa-Arthur (2006), Prah and Yeboah, (2011), the chief ruled with the advice of a council that ensured the continuity of the institution. Where the system functioned well, these institutional checks, as well as the queenmother, safeguarded against dictatorial tendencies. The chief had to keep strictly the injunction that he was to act only on the advice of his elders. He ruled by consensus and, indeed, he could be destooled or dethroned for violating the trust, sanctions or taboos of the state as well as for incompetence.

According to Brobbey (2008), African societies resolved conflicts through arbitration in the various communities presided over by the chiefs, aided by the elders and opinion leaders where decisions reached were based on the customs and practices of the people (Brobbey, 2008). Murithi (2006) and Gyapong (2006) noted that, the process was transparent in that it was open to the public, participatory, restorative, simple, flexible and expeditious, yet, without any legal representation. This allowed the parties to present their own cases and have their witnesses give their versions of events in their own native language

with no risk of distortion through interpretation as done in the normal court system (Acquah, 2006). This is not however, to say that the system was perfect by all standards. As expressed by Brobbey (2008), Gyapong (2006) and Busia (1968), a major challenge confronting customary arbitration as in Asante was internal wrangling among the adjudicators and the denial of justice in some occasions resulting in civil wars. Busia (1968) expressed that in 1884 for instance, there was a civil war over the election of Kwaku Dua as Asantehene, while a similar incident took place in 1890 over the election of King Prempeh I. Busia further noted that the events prior to the arrest of King Prempeh I and his subsequent banishment to the Seychelles Islands in 1896 was a manifestation of injustices and shortcomings embedded in the existing customary practices of resolving conflicts.

Brobbey (2008) noted that, the introduction of courts as a formal way of resolving conflicts by the colonialists did not lead to the abolishing of the traditional system of conflict resolution, but rather, served as additional methods of dispute resolution. The chieftaincy institution is recognised by the 1992 Constitution of Ghana which has devoted a whole chapter to chieftaincy. The Constitution states in Article 270 (1: 164) that *'the institution of chieftaincy, together with its traditional councils as established by customary law and usage, is hereby guaranteed'*. To facilitate the resolution of chieftaincy conflicts at all levels, Traditional Councils, Regional Houses of Chiefs and National House of Chiefs including the Supreme Court have been created as legal bodies responsible for the adjudication of chieftaincy conflicts in Ghana (Chieftaincy Act 2008, Act 759; Court Act 1993, Act 459). Each Regional House of Chiefs has its jurisdiction limited to the Region in which it is established (Chieftaincy Act 2008, Act 759). The number of Traditional Councils however, depends upon the paramountcies within each Region (Chieftaincy Act 2008, Act 759). Ashanti Region for instance, has 35 Traditional Councils covering 35 Traditional Areas with each headed by a paramount chief. It must be noted however, that

the resolution of chieftaincy conflicts through customary arbitration has not been abolished in Ghana (Constitution of Ghana, 1992).

Structure of the Asante chieftaincy

There are four recognizable levels of chieftaincy in Asante defined primarily in terms of the size of the territory over which they have jurisdiction. Thus, the Asante chieftaincy system is hierarchically arranged (Chieftaincy 2008, Act 759; Brobbey, 2008; Gyapong, 2006; Busia, 1968). At the apex of the hierarchy is the Asantehene, the occupant of the Golden Stool (Odotei, 2006; Busia, 1968). The Asantehene is equally the paramount chief of Kumasi Traditional Council (Chieftaincy Act 2008, 759). Though as the head of the Ashanti Kingdom, the Asantehene does not interfere in the activities of the various paramount chiefs who assist him in his administration. The present king, Osei Tutu II, is the nineteenth Asantehene (African Studies Centre, Leiden, 2002).

Next to Asantehene is the Amanhene (Paramount Chiefs). The paramount chiefs are the heads of the component states of the Asante Kingdom. Every Omanhene is autonomous and is the ruler of his state or traditional area of jurisdiction. Each Omanhene (paramount chief) is also assisted by subordinate chiefs and elders. As noted by Busia (1968), the Asantehene only comes in when there is gross mismanagement of a state by the Omanhene and when the case is reported to him by the King-makers of that traditional area for redress. In many cases, the Asantehene appoints a panel to probe, and if settlement is not reached and the paramount chief is destooled, the Asantehene only appoints one of the elders of the state to take charge until a new chief is enstooled.

The third in the chieftaincy hierarchy is the post of Abrempon (Divisional chiefs). The Divisional chiefs are in charge of a number of towns scattered in the Kingdom or a single town with historical importance (Busia, 1968). Next in the hierarchy is the post of Odikro (chief of a town). Odikro is the ruler or chief of a single town or village and is assisted by his town elders (Mpanimfo) (Gyapong, 2006). The elders are selected from individual families of the town.

Odotei (2006) has hinted that every matrilineally inherited chiefly office from the village to the state level has a female counterpart in the person of Ohemaa or Obaapanin (Queenmother) who reigns with the king or chief. The Ohemaa is traditionally regarded as the 'mother' of the monarch and the mother of the state, town or community. She could be the biological mother of the reigning monarch, a mother's sister or cousin, a sister, cousin or niece to the reigning chief (Odotei, 2006).

According to Gyapong (2006), the administrative set up in the Asante Kingdom is the same in all the Akan states. He however, indicated the only difference is that while the other Akan states start the hierarchy from the Omanhene status downwards, that of Asante nation goes a step further to the post of Asantehene (Asante King) who has paramount chiefs under him. The Asante Kingdom extends beyond the modern day political boundary of the Ashanti Region. It is in this regard that some paramount chiefs in modern Ghana including that of Wrawra Traditional Area in the Volta Region and Brekum in the Brong Ahafo Region respectively pay allegiance to Otumfuo (Brobbey, 2008).

The structure of the Asante chieftaincy depicts how governance was exercised and how conflicts involving the chieftaincy institution were resolved from the Odikro (Headman) level through to the state level (Asanteman Council), the highest traditional adjudicating body in Ashanti kingdom presided by Asantehene (See Figure 1 below). The Asante chieftaincy was therefore a manifestation of the socio-political organization which entails power and influence which incumbents wield over a distinct territorial unit occupied by a largely homogenous people sharing more or less a common culture, social values and aspirations and how justice was dispensed.

However, with the advent of modern political systems of governance, and legal adjudication of chieftaincy conflicts, the Ashanti Regional House of Chiefs (ARHCs) has been established as the highest legal body mandated to resolve chieftaincy conflicts bordering on enstoolment, destoolment and misappropriation of stool property among others, within Ashanti Region (Chieftaincy Act 2008, Act 759)

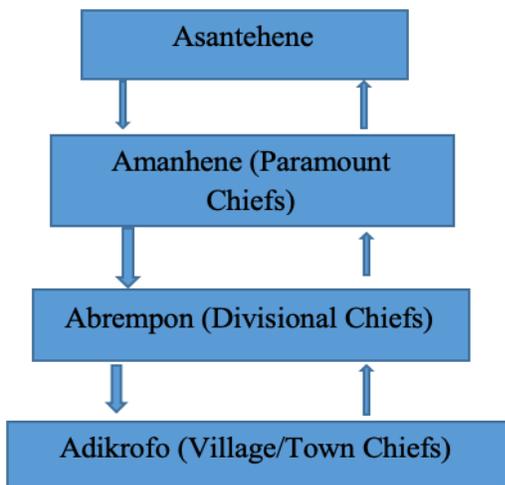


Fig 1: Structure of Asante chieftaincy
Source: Author's Construct (2016)

The ARHCs consists of 39 chiefs comprising 35 paramount chiefs and four Divisional chiefs from Kumasi (Ashanti Regional House of Chiefs Registry, 2016). With this development, the powers of Asantehene as the overlord and the final arbiter in the administration of justice or adjudication of conflicts is largely limited even though Asantehene still wields the power to resolve conflicts through customary arbitration, creation and elevation of stools and making laws which protect the customs and culture of the kingdom.

The ARHCs is one of the ten Regional Houses of Chiefs in Ghana as at the time of the study. It is the only Regional House of Chiefs in Ghana in which the positions of the President and the Vice President are not contested. This probably could be attributed to the fact that the Asante chieftaincy is publicised as an illustrative model of chieftaincy, and often cited as a good example of a centralized hierarchical and stratified institution in Ghana (Abotchie, 2006; Seini, 2006). More so, the President and the Vice President have no fixed tenure of office. Asantehene, the King of the Asante is the President of the House with Mamponhene as the Vice President. Administratively and operationally, a House with a life President and Vice President has much to tell in comparison with those Regional Houses of Chiefs in other parts of the country which experience periodic changes in leadership. This makes the ARHCs peculiar from all the other Regional Houses of Chiefs

in the country (Section 7 of the Chieftaincy Act 2008, Act 759). The peculiarity of the ARHCs makes consideration of such statutory conflict resolution body worthwhile. While a number of chieftaincy cases have been successfully resolved by this body and Asanteman Council, a non-legal body, others have become protracted and destructive. In as much as the ARHCs constitutes the highest legal body in chieftaincy matters in Ashanti Region, it is not the final arbiter of chieftaincy cases.

Theoretical consideration

This study is grounded in Hirsch Theory of Scarcity of Positional Goods to explain the causes of chieftaincy conflicts among the Ashantis and the need for resolution. According to Hirsch (1977) (cited in Mitchell (1981:19-21), in more complex social settings, both intra-national and international conflicts arise from a (possible temporary) scarcity of material and positional goods which existing value system defines as worthwhile or desirable and over which competition occurs. The theory postulates that many conflicts are over issues such as the occupation of particular scarce positions as when conflict occurs over the occupancy of particular decision-making roles for society, or the exclusion of particular others from scarce positions as when one group works to prevent another from occupying positions of political influence within a society. The theory indicates that success in conflicts over position often provides in addition, continued and unequal access to material goods, leading to the development of a social structure based upon a whole set of have and half-not (or half-less) groups. The theory emphasises that given the values of the conflict parties and the inability of that society to produce more of the positional goods in dispute, there would be frequent, repetitive and often intense conflicts across apparently permanent cleavages within the social structure as parties pursue goal incompatibilities.

Nyong (2007) intimates that conflicts are normal to everyday life and that the challenge societies face basically is not about their occurrences but most especially, how these conflicts are resolved when they evolve. In a similar vein, Salim (2002) argues that, where there is a determination to find a peaceful solution to a conflict, no matter how grave the crisis

may be, it is possible to attain peace. Understanding the judicial role of the ARHCs as well as the challenges confronting them, will enable the chiefs in Asante in particular and the government to fashion out a more realistic means of resolving prevailing chieftaincy conflicts in the Ashanti Region, and any other chieftaincy conflicts that may arise in the future.

Methodology

Study locality

Traditionally, Kumasi is the capital of Asante (Ashanti-English) of which Asantehene is the overlord (Busia, 1968) and founded by King Osei Tutu around the 18th century with the assistance of Okomfo Anokye. The people are referred to as Asante (Ashantis) and speak Twi (Schildkrout, 2006). The Ashantis are a matrilineal society and belong to the Akan ethnic group in Ghana. According to Wiredu (1990), the word Akan refers both to a group of intimately related languages found in West Africa and to the people who speak them. As noted by Arhin (1985), the Akan in Ghana consists of many subgroupings including Asante, Fante, Brong, Akyem, Akuapem, Kwahu, Assin, Ahanta and Nzema. Together, the Akan form the most predominant ethnic group in Ghana occupying about five of the ten Regions (Frempong, 2006) and constitutes 47.5% of the population of Ghana (Ghana Statistical Service, 2012).

According to Busia (1968), etymologically, Asante comes from *Osa* (war) and *Nti* (because of) literally meaning, *Osa-nti-fo* (a Kingdom that had been formed for the purpose of making war) which evolved around the chieftaincy institution. As Seini (2006) noted, the creation of the Union brought all the traditional states under the leadership of Kumasi and in modern times they constitute the paramountcies of Asante which now stand at 35. These 35 paramountcies together with four Divisional Chiefs formed modern day Ashanti Regional House of Chiefs (Ashanti Regional House of Chiefs Registry, 2016).

Research design and Sampling techniques

A qualitative case study design was adopted. This research design enabled the researcher to investigate

intensely the challenges facing the ARHCs in the performance of its judicial functions. The objective of the study requires a broader perspective on chieftaincy conflict and resolution. In view of this, a purposive sampling technique was used to select willing and available 13 paramount chiefs from the ARHCs, 16 litigants who have sought the assistance of the Judicial Committee (the court wing) of the Regional House as well as four other key informants who were deemed knowledgeable in the customary practices of Asante and the resolution of chieftaincy conflicts through statutory arbitration. The total number of respondents was 33, with four (12.1%) out of these being female who were all queenmothers in their respective communities. The remaining 29 respondents representing about 87.9% were male (see table 1 below). The discrepancy in the sex composition of the respondents is attributed to the fact that no paramount queenmother is a member of the ARHCs. This however did not affect the findings of the study because the focus was not on gender. As noted by Fayorsey (2006), although the queenmother in Ashanti occupies a very strategic position, the chiefs have formed a conclave of male autocracy which subjugates their female counterparts.

Table 1: Summary of Selected Respondents

Categories	Males	Females	Total
Litigants	13	3	16
Paramount Chiefs	13	0	13
Key Informants	3	1	4
Total	29	4	33

Source: Field Study, May, 2017

Data collection methods and analysis

Primary data was collected through in-depth personal interviews using interview guides and an audio recording device. Given the ethical issues involved, all the respondents were briefed about the rationale for using the audio recording device. On the same ethical grounds, the actual names of the chiefs were avoided in the course of the discussion of findings. On average, each interview session lasted about 80 minutes. This afforded the researcher the opportunity to probe into much detail the issues

raised and also gather the needed information from the respondents. In totality, 33 interview sessions were held at 16 separate locations with the selected respondents between February, 2017 and May 2017. Data analysis was done descriptively by first transcribing the responses recorded with the audio recording device from the individual interviewees. The information was then categorized into themes.

Results and Discussions

(a) Judicial role of the Ashanti Regional House of Chiefs (ARHCs)

This article sought to ascertain the judicial role of the ARHCs. The field study revealed that the judicial role of ARHCs revolves around the Judicial Committee (JC) comprising three chiefs assisted by a lawyer of not less than 5 years standing. As gathered from 13 respondents (paramount chiefs) the JC's role in the resolution of chieftaincy conflicts borders on nomination, selection, enstoolment, destoolment and misappropriation of stool property. Nana Diawuo II for instance remarked:

'Nananom (Chiefs) perform the same role but the processes at different levels create the difference' (April, 2017).

A key informant in support of the views of the members of the House, said that the judicial role of the JC of the ARHCs in matters affecting chieftaincy are specified by law including improper selection, nomination, enstoolment and destoolment of persons. A key informant remarked:

'As a Court, the JC's functions in the resolution of chieftaincy conflicts are specified in the Chieftaincy Act and Nananom are enjoined to abide by them. Nananom cannot go beyond their constitutional mandate' (Key informant Interview, 2017).

The work of the JC of the ARHCs as found in this paper is in accordance with what has been outlined in the Chieftaincy Act 2008 (Act 759). According to Section 76 of the Chieftaincy Act 2008, (Act 759), the Regional Houses of Chiefs by law have the power to adjudicate or deal with 'cause or matter affecting

chieftaincy' which the Act explains as a cause, matter, question or dispute relating to;

(a) Nomination, election, selection or installation of a person as a chief or the claim of a person to be nominated, elected, selected or installed as a chief,

(b) The deposition or abdication of a chief,

(c) The right of a person to take part in the nomination, election, selection or installation of a person as a chief or in the deposition of a chief,

(d) The recovery or delivery of stool property in connection with the nomination, election, selection, installation, deposition or abdication of a chief, and

(e) The constitutional relations under customary law between chiefs.

The responses from all the 15 litigant respondents showed that all the six cases which they brought before the Regional House for consideration bordered on installation of persons either as chiefs or as queen mothers. According to Section 76 of the Chieftaincy Act 2008, (795), conflict over enstoolment or installation of a person as a chief or a queen is a 'cause' or 'matter' affecting chieftaincy which falls within the mandate of the JC of the ARHCs.

All the members of the House (13) as well as two key informants indicated that the JC has both Original and Appellate Jurisdiction. Explaining further, these respondents stated that the JCs of the various Traditional Councils (TCs) (lower legal bodies) within Ashanti Region have no jurisdiction (power) over matters affecting chieftaincy where the stool of a paramount chief is involved. In view of that, as indicated by the respondents, the adjudication of such chieftaincy conflict is initiated by the Regional House. This, as the researcher was told, constitutes the Original Jurisdiction (OJ) of the House. By implication, a party to any chieftaincy conflict where a paramount stool is affected in any Traditional Area, may petition the JC of the ARHCs but not the Traditional Council (TC) in which the case originated. Information gathered from the key

informants and corroborated by all the members of the House, indicated that the JC of the Regional House's Appellate Jurisdiction (AJ) involves the adjudication of matters affecting chieftaincy which had been dealt with by the JC of the various TCs within the Ashanti Region and aggrieved parties have appealed to the Regional House against the decisions made by the TCs.

Probing further, information received from all the 15 litigant respondents showed that out of the six cases brought before the House for redress, five were Appeal cases while only one was a Petition case. What this information implies is that for the five cases, the JCs of the various TCs where the cases originated have decided on them but the parties were dissatisfied, hence, appealing against such decisions at the ARHCs. The only Petition case also suggests that in principle, the chieftaincy conflict involved a paramount stool and could only be adjudicated first by the ARHCs but not the Traditional Council where the case originated. The researcher gathered that four of the six cases were successfully resolved by the ARHCs while the decision on two had been petitioned before the National House of Chiefs by the parties involved.

The information received from the 15 litigant respondents suggests the JC receives more Appeal cases than Petition cases. This revelation was supported by secondary data from the House (Ashanti Regional House of Chiefs Registry, 2016) which showed that from 2002 to 2016, of all the 57 chieftaincy cases brought before the House for consideration, 31 cases representing 54.0% were Appeal cases whilst Petition cases amounted to 26 representing 46.0%. This study further found that the Appellate jurisdiction of the House has been quite functional than the Original jurisdiction. Of all the 18 purported successfully adjudicated cases, 12 of them were Appeal cases whilst only six were Petition cases. In comparative terms, it could be seen that the House through its JC has purportedly resolved about 39% (12 out of 31 cases) of all Appeal cases brought before the House for consideration, whilst resolved Petition cases stood at 23% (6 out of 26 cases).

The information gathered in relation to the Appellate and Original Jurisdictions of the Regional House suggests that the focus of the JC of the ARHCs is not

solely on the resolution of the substantive issues or matters in contention brought before the House by litigants, but equally, it is keen about the procedure involved. In finding out how cases are brought before the JC, 11 chiefs representing 84.6% indicated that Plaintiffs/Petitioners first have to file their complaints in the form of a motion with the Registry of the House. The Registrar then sends a copy of the motion to the Defendants/Respondents to respond to the issues as specified in the motion. The researcher was informed that thereafter, a date is given to the parties for hearing of the case by a 3-member committee comprising three chiefs assisted by the counsel to the House which is composed by the President of the House with the assistance of the Registrar.

In support of the information given by the chiefs, a key informant indicated that the resolution process of chieftaincy cases by the JC at least has seven interconnected phases namely; (1) filing of motion, (2) service of motion, (3) panelling of members, (4) notice of hearing, (5) hearing, (6) discussion of proceedings and (7) pronouncement of verdict. This is what the key informant said:

'It is the onus of any Petitioner in case of a matter affecting a paramount stool, or Plaintiff who is dissatisfied with the decision of any TC within the Ashanti Region to first lodge his or her complaint with the Regional House in the form of a motion and pay the filing fee accordingly. A copy of the motion is then served on the Defendant (if it is an Appeal case) or the Respondent (if it is a Petition case) to respond to the issues raised in the motion filed by the Plaintiff or the Petitioner respectively. Thereafter, panel members comprising three chiefs assisted by a counsel is composed by the President of the House with the assistance of the Registrar to constitute the JC to adjudicate the case. Both the Plaintiff and Defendant or the Petitioner and Respondent are notified in writing to appear before the panel for the beginning of the hearing process on the date and time specified in the notification. Parties represented by their lawyers cross-examine each other. The proceedings are

recorded by the counsel who guides the chiefs to reach a verdict on the basis of evidence presented by both litigants. The processes involved in the adjudication of cases by the JC are rigorously followed to ensure that natural rule of justice is not perverted' (Key informant Remark, 2017).

The key informant further stated that at the end of the proceedings, a discussion is held and a decision in the form of a verdict or judgment given by the chiefs with reasons and a cost normally awarded where appropriate. Asked how much was charged as a fee for the filing of a fresh motion, the chiefs and the key informant could not give a specific amount but indicated that the fee charged varied depending on the nature of the case and the proximity of the panel members. Information gathered from 10 litigant respondents was that the fee charged for the filing of a fresh motion ranged between One thousand five hundred Ghana Cedis (GHC 1,500.00/about 300 dollars) and Three thousand Ghana Cedis (GHC 3,000.00/about 600 dollars). The litigants expressed that the fee charged was substantial. Seven of the 10 litigants however, admitted that the fee is realistic to cater for the cost of the adjudication whilst three litigants were of the view that such fees create a financial burden on the poor who seek justice from the House. All the 15 litigants admitted that the processes as outlined by the key informant were duly followed by the House when they were brought before the JC. The litigants indicated that they were given the opportunity to be represented by their lawyers, and more so, were given the right to call witnesses. Six litigants also admitted that they had the right to appeal against the decision of the JC to the National House of Chiefs.

This finding in respect of the procedure used by the JC is in line with the work of Anamzoya (2014) and C.I. 27 (1972). As noted by Anamzoya (2014), the actual judicial proceedings involve the appearance of both parties and their counsel before the Judicial Committee. The petitioner is led in evidence by his counsel, cross-examined by the counsel of the other party, and re-examined by his own counsel, and if there are witnesses, they each go through the same cycle. Then the defendant also presents his case and goes through the same process of examination, cross-

examination from the counsel of the petitioner, and re-examination. Sections 1 and 2 of the C.I. 27 (1972) for instance, clearly stipulates that action brought before the JC by any person in the form of a motion should contain concise and brief detail of the petitioner, the claim made, and the details of the witnesses to be called and persons against whom the claim is made. The C.I. 27 further indicates that a copy of the motion filed should be served on the party against whom the claim is made for same to respond to the issues raised as well as notice to the parties about the date and time to appear before the JC for action to be heard. The findings also suggest that the House in exercise of its judicial function has not deviated from its mandate.

As gathered from the study, in the absence of any standard filing fees, the arbitrary charges by the House could give room for unethical practices such as corruption. Even though Section 32 of the Chieftaincy Act 2008 (Act 759) approves the award of a cost by the JC, ironically, the Act does not specify any amount but rather leaves the power of the determination of the cost to the JC which is seen by this paper as a defect.

Probing further, all the respondents indicated that the decision or verdict - 'guilty' or 'not guilty' in each case before the JC is given by the chiefs whilst the counsel gives legal guide or direction which is even not binding on the chiefs. This is what Nana Asempa Asa II said:

'The JC is like a trial with a jury where the jury determines question of fact and the judge determines question of law. In our case, the counsel directs Nananom as to the legal issues involved but Nananom give verdict and they are not bound by the directives of the counsel (May, 2017).

All the key informants corroborated the responses given by the respondents and indicated that the decision in any case before the JC is determined by the chiefs but not the counsel. A key informant remarked:

'The presence of the counsel is a must. The counsel guides Nananom as to the

legalities involved in a given case. Nananom cannot sit without the counsel. However, Nananom have the right either to accept or reject his advice' (Key Informant, 2017).

Buttressing the point, the key informant indicated since September 21, 2016, the House has not been able to perform its judicial function because the only counsel to the House had gone on retirement and there had been no replacement yet. As indicated by the key informant, due to the absence of a counsel to the House, all fresh Appeal and Petition cases are filed pending the appointment of another counsel. The chiefs confirmed this information given by the key informant.

Another key informant explained that judgement in each case is given by the chiefs and a cost is awarded at the end of each proceeding. He, however, added that, any judgment given by the chiefs can only be enforced by the High Court which serves as a supervisory Court to the Regional House. This is an implication that the decision of the JC of the ARHCs is not final. Confirming this assertion, two litigants who lost their cases had this to say:

'The Court requested us to pay two thousand Ghana Cedis (GHC 2, 0000) (about 400 dollars) to the defendants when we lost the case but we refused and have since appealed to the National House of Chiefs against the decision of the JC of the Regional House' (April, 2017).

The award of cost by the JC instead of punishment implies that the JC models any other civil Court in Ghana. This finding shows that the judicial role of the ARHCs in the resolution of chieftaincy conflicts is in consonance with the Chieftaincy Act 2008 (Act 759) which precludes the JC to adjudicate criminal cases where judgment given at the end of the proceedings takes the form of punishment or sanction. The findings from this paper show that chiefs still play instrumental roles and wield much power in the resolution of chieftaincy conflicts in modern Ghana, notwithstanding the transformation of the chieftaincy institution into a legal body. This finding contradicts Abotchie's (2006) assertion that the chief in the modern state is basically a ceremonial figure who performs religious and cultural functions.

(b) Challenges confronting the ARHCs in the performance of its Judicial Functions

The study revealed that the House faces five broad challenges in carrying out its judicial role namely: absenteeism, inadequate funds, vested interest, lack of training on conflict resolution for chiefs, and perception of bribery among some panel members. This according to the respondents has affected the smooth functioning of the House (see Table 1 below).

Table 2. Challenges confronting the ARHCS

Issue	Litigants	Members (chiefs)	Key informants	Total
Perception of bribery	7	5	3	15
Lack of conflict Resolution skill for chiefs	0	13	1	14
Absenteeism	12	7	3	22
Inadequate funds	0	9	1	10
Vested interest		5	1	6

Source: Researcher's Field Study, May, 2017

Perception of Bribery

Seven litigants representing 44.0% perceived that some panel members obtain bribes to influence their judgment. This is what two litigants had to say respectively:

'The hen does not lay in the public but I can tell you money has perverted justice in the House' (Remark by a Litigant, 2017).

'In present times it is not about justice but your financial status will determine whether you will win or lose a case in the House' (Litigant remark, April, 2017).

Two other litigants however, disagreed with the assertion of the seven litigants. This is what one litigant expressed:

'Dea odi nkoguo biara se yeasisi no (Anyone who loses a case assumes that he/she has been cheated). I don't know any bribery case levelled against any panel member of the House' (Remark from a Litigant, 2017).

In support of the assertion of the two litigants, five chiefs and three key informants also indicated that they were not aware of any panel members who have accepted a bribe to influence their decision. They however, expressed that it is rumoured that some panel members accept bribes.

The findings from this paper is not different from Busia's (1968) observation. Busia (1968) noted in

his field study in 1942 that bribes were given and received by members of the Confederacy Council at Kumasi who adjudicated constitutional disputes to influence their decision. As argued out by Busia (1968:189), these sums of money were decorated as 'presents'. This according to Busia, was so widely practiced that 'everybody knew about it' and 'everybody talked about it' and it was a major source of distrust and suspicion. A perceived bias judgment due to the influence of a bribe is likely to be challenged by parties. Six of the litigant respondents who were parties to two cases but lost the cases before the JC of the Regional House perceived that the decisions of the chiefs were influenced by money. These respondents informed the researcher that they had appealed against the decisions of the Regional House at the NHCs.

Lack of Conflict Resolution Training and Skill for Chiefs

Acquah (2006) stresses the need for chiefs working in statutory courts to have training in customary law and basic principles of procedure and evidence to enable them adjudicate cases successfully. In the course of the interview, all the chiefs (13) and one key informant acknowledged that lack of training for chiefs on conflict resolution skills was a major challenge confronting the House. The chiefs admitted that they had never received any conflict resolution training to sharpen their skills in the adjudication

of cases as members of the House, even though they have had some form of workshop at their respective Traditional areas. This is what Nana Asembeba I said:

Lack of training and workshops for chiefs on skills of conflict resolution is a problem. To be a paramount chief and a member of the House does not make a chief an automatic expert in the resolution of conflicts. You need some form of training and working knowledge of conflict resolution. Yet the House has not organised anything of that nature for us' (A chief's Remark May., 2017).

Keltner (1994) stresses that, skills are not intuitive and must therefore be initially acquired through training and honed by experience. It could be premised that effective chieftaincy conflict resolution through the JC of the Regional House may be constructive, protracted or otherwise depending upon the training and skills (expert power) of the panel members. This is a critical consideration and demands that the chiefs have to be trained so as to acquire the prerequisite expert knowledge and ethics in conflict resolution.

Absenteeism

Conflict resolution demands commitment by all the people who are involved in the processes. In an interview, 12 litigant respondents mentioned absenteeism either on the part of the panel members, counsel to the House or lawyers to the litigants as a major challenge confronting the adjudication of cases by the JC. This is what a litigant expressed in an interview:

'If today a panel member is not absent, then it is that of the lawyer to the opponent or the counsel to the House. This delays the adjudication process' (Remark by a Litigant, 2017).

The responses given by the litigants were confirmed by seven chiefs and three key informants. This is the remark given by one of the key informants in an interview:

'It is quite worrisome that cases have to be postponed several times due to the absence of either a panel member or a

lawyer to the litigants. This development prolongs the adjudication process of the JC. I wish something could be done to make them more committed to the Court' (Key informant interview, May, 2017).

Absenteeism as gathered from the respondents does not only delay the adjudication process but could compromise justice. The adjudication of chieftaincy conflicts is a process and demands some time as admitted by all the respondents. However, an overtly prolonged adjudication process due to absenteeism on the part of panel members, counsel to the House and lawyers to litigants in the name of personal interest as gathered from a key informant and four chiefs is unacceptable.

The issue of absenteeism as found in this study supports Anamzoya's (2009) work. Ananzoya's (2009) study on the RHCs in Ghana revealed that quite often, members of the panel come late or fail to attend the meetings and the committee would thus be forced to adjourn the case. Anamzoya's study found that chiefs are often quite busy engaging in several private ventures including farming, trading, and other professional duties, and this leads to frequent adjournment of cases.

Inadequate Funding

Nine members (69.2%) of the House were of the view that inadequate funding was a major challenge facing the House in terms of its operation. In an interview with the chiefs this is what two of them said respectively:

'It appears the House has been created without a budget. The little sitting allowance for Nananom is always in arrears' (Remark by Nana Odumgya, 2017).

'Not every chief is endowed financially, yet they find it difficult to pay the little sitting allowance. Should our services to the state now turn to be an indebtedness?' (Remark by Nana Kodiawuo II, 2017).

The responses given by the chiefs were confirmed by a key informant. This is what the key informant said in an interview:

'Funding is a major challenge facing the House. I can tell you as at now (May, 2017) the first quarter budgetary allocation for 2017 to the House has not been released by the government. Nananom sitting allowance is in arrears. We find it difficult even to pay this sitting allowance, and Nananom keep on calling to find out the development' (Key informant Interview, 2017).

The responses from the chiefs and the key informant could explain why some chiefs apparently absent themselves often from the Court. Whilst sitting allowance may not meet all the financial obligations of chiefs, regular payment of such allowance may serve as a motivation for the chiefs to commit themselves to duty. Irregular payment of sitting allowance will in effect create room for chiefs who want to embark on their own profitable businesses to absent themselves from the Court and ironically blame their absenteeism on the House for not honouring its financial obligation. Administratively, inadequate funds is a disincentive to efficiency as virtually every activity carried out by any entity such as the JC entails money.

Vested Interest

Conflict resolution thrives on cooperation. In the Regional House, the chiefs and the counsel to the House are expected to work as a team to ensure effective adjudication of chieftaincy conflicts. Ironically, five chiefs expressed that vested interest on the part of the counsel to the House has been a bane to the House in the performance of its judicial function. In an interview, this is what Nana Ansuro Awia III said:

'The counsel is not cooperative. Where Nananom disagreed with him, he often refused to write the judgment and asked Nananom to write on their own. The inability for Nananom to do that meant

no verdict was given in such cases' (April, 2017).

A key informant supported the information given by the chiefs and remarked that:

'Where the counsel is able to convince Nananom to accept his view point he quickly writes the judgment. However, if he has no interest in the case he sometimes refuses to write the judgment. This delays the adjudication process' (Key Informant Interview, 2017).

Conflict resolution is a shared responsibility. In a situation whereby panel members are divided on the basis of personal interest but not on evidence available as revealed in this study, it could have a disastrous consequence on the resolution process. The finding from this study could explain why there had been few successfully resolved cases whilst so many cases continue to be dragged before the JC for many years with apparently no meaningful resolution.

The chieftaincy conflicts in the Ashanti Region of Ghana fit into the Theory of Scarcity of Positional Goods. As indicated by Brobbey (2008) and Hagan (2006), the chieftaincy conflicts in Ashanti involve competition mainly between members of the same royal families and or over a traditional political position, the chiefship. Such limited positional good (chiefship) is considered valuable and fashioned out by the society. Whilst the system values the position of chiefship with its attractive economic and religious benefits and other privileges (Awedoba, 2009), access to such coveted positions is much limited to only one person at a given time thereby engendering the spirit of rivalry and competition which occasionally degenerates into violent confrontation between competing royal families or members of the same royal family (Hagan, 2006). The contention over such traditional positions and the attendant deep cleavages between competing royal members of the same lineage (and in few instances between two royal clans), and the violence associated with it could not be attributed to any deep historical ingrained hatred as espoused by primordialists. The position of chiefship therefore is

a covetous one, and besides material benefits, the occupant has the prerogative to superintendent over religious festivals such as Adaye and Odwira festivals. The theory of scarcity suggests that chieftaincy conflicts as in Asante are both realistic and mostly arise from a realistic pursuit of goals, no matter how odd these goals appear to be selected.

Conclusion and Recommendations

As Hirsch Theory of Scarcity of Positional Goods suggests, given the covetous and limited position of chiefship, contention over selection and installation of people as chiefs are common phenomena associated with the Asante chieftaincy institution. This study found that the Judicial Committee of the Ashanti Regional House of Chiefs with its Appellate and Original Jurisdiction has helped in the resolution of a number of chieftaincy cases which border on nomination, selection and enstoolment of traditional leaders within the Ashanti Region of Ghana. Despite the reported successes, the judicial functions of the House were also found to have been fraught with challenges including lack of training for chiefs on conflict resolution; absenteeism on the part of panel members, counsel to the House and lawyers to litigants; inadequate funding and perception of bribery involving some panel members. These challenges as the study gathered have contributed to the delay of adjudication and piling up of chieftaincy cases. On the basis of the findings, the following are suggested:

At the national level, the Ministry of Chieftaincy and Cultural Affairs with the assistance of the Attorney-General Department should organize a more inclusive and socially acceptable training periodically for the chiefs and the legal counsel to the Ashanti Regional House of Chiefs. With this the issue of bribery, absenteeism and skill deficiency as identified in this study will be diminished if not addressed completely.

In order to reduce the financial constraint on the Ashanti Regional House of Chiefs, it is recommended the leadership of the House should lobby with the various industrialists and successful traders within the Ashanti Region for assistance both in cash and in kind to augment the

inadequate and erratic funds received from government. Chieftaincy conflicts are among the things that threaten the peace and security of people. The effective role played by the Ashanti Regional House of Chiefs in the resolution of chieftaincy conflicts is a major key to the economic progress and success of businesses. Making these entities collaborators in the peace process is in the right direction. Financial support from these entities however, should not be used as a basis to influence the decision of the JC.

It is recommended that the Parliament of Ghana should review the Chieftaincy Act 2008, Act 759) to make provision that will enable any person whose act of commission or omission undermines the smooth conduct of the JC to be sanctioned. By this the issue of absenteeism and unhealthy power struggle would reduce, which in turn would curtail undue delays in the adjudication of cases.

To be able to reduce the act of perceived bribery involving some panel members, it is recommended that the media, especially Radio and Television should take keen interest in the operation of the ARHCs and report on the issues and proceedings of the JC of the House in the same level as they have been doing to the mainstream courts in Ghana. Through such platforms, experts could engage in informed debates that would expose any corrupt practices among any adjudicating member of the House which would improve the administration of justice by the Judicial Committee.

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