

PARALLEL OR DEPENDENT? THE STATE, CHIEFTAINCY AND INSTITUTIONS OF GOVERNANCE IN GHANA

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ABSTRACT

In recent policy frameworks, traditional authorities have been (re) assigned roles of directly representing civil society and local communities as key actors in development, leading to questions about the relationship between the chieftaincy institution and the state in governance. Using the example of a chieftaincy dispute between the Sokpoe and Tefle, a Tongu-Ewe people of Ghana, at the heart of which are claims to paramountcy status, this article argues that chieftaincy and the state are not always parallel institutions of governance that derive their legitimacy from different sources. Struggles over chieftaincy hierarchies have become struggles for the preferential recognition by and access to the state conveyed by membership in the Houses of Chiefs. In effect, the chieftaincy institution may be both parallel to and dependent on the state. The article draws attention to the importance of hierarchy in explaining state-chieftaincy relationships because an understanding of the nuances of legitimacy in chieftaincy will enrich how chiefs are engaged as key actors in development.

THE LITERATURE ON CHIEFTAINCY IN AFRICA, particularly in Ghana, attests to the importance of chiefs as development agents within the modern political systems.¹ Their assistance and cooperation is sought by the state, non-governmental organizations and other donor agencies in executing development projects in their communities. Thus, the nature of

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1. Irene K. Odotei and Albert K. Awedoba (eds), *Chieftaincy in Ghana: Culture, governance and development* (Sub-Saharan Publishers, Accra, 2006); George M. Bob-Milliar, 'Chieftaincy, diaspora, and development: The institution of Nkosuohene in Ghana', *African Affairs*, 108, 433 (2009), pp. 541–558; Nauja Kleist, 'Modern chiefs: Tradition, development and return among traditional authorities in Ghana', *African Affairs*, 110, 441 (2011), pp. 629–647; Carolyn Logan, 'The roots of resilience: Exploring popular support for African traditional authorities', *African Affairs*, 112, 448 (2013), pp. 353–376.

their relationship to the state is important in positioning them as agents of development.

In 2003, the World Bank initiated the 'Promoting Partnerships with Traditional Authorities Project' in Ghana. The project granted US\$5 million 'directly to two traditional authorities in Ghana, the Asanteman Council and the Akyem Abuakwa Traditional Council, bypassing the Ghanaian government', not only to improve health and education in these communities but also to strengthen the administrative capacity of these traditional leaders.² This policy framework that bypasses government and deals directly with chiefs raises questions about the relationship between chieftaincy and the state as institutions of governance, that is whether they are parallel or whether chieftaincy is dependent on the state.

Scholars who argue that chieftaincy is a parallel institution to the state stress the source of legitimacy of the chief. According to Donald Ray, 'traditional authorities (also called chiefs) form a parallel power to the state'.³ This, he points out, is because

Chiefs derive their claims to legitimacy, authority (including that of their own 'customary systems of law), and indeed even sovereignty from their pre-colonial roots. The contemporary African state is a creation of, and a successor to, the imposed colonial state. It is therefore argued that chiefs form a parallel power to the state⁴

Pierre Englebert also argues that 'states recognizing "traditional" sources of authority may well manage to ride on the coattail of their legitimacy.'⁵ This he notes is because

traditional authorities do not exist as a consequence of their recognition and appointment by the governments of sovereign states. On the contrary, they are recognized and appointed to traditional offices, in accordance to customary laws because those offices are legitimated by the beliefs of the people, who expect them to exist in practice.⁶

This article draws attention to the importance of hierarchy in examining state-chieftaincy relations. Using the example of a chieftaincy dispute over Sokpoe's toponym, at the heart of which are claims to paramountcy status between the Sokpoe and Tefle, a Tongu-Ewe people of Ghana, the article argues that chieftaincy and the state are not always parallel institutions of governance in which chiefs and state derive their legitimacy from entirely different sources. Even in cases where the sources of legitimacy are different, this article demonstrates that far from existing as a separate and

2. Janine Ubink, 'Traditional authority revisited: Popular perceptions of chiefs and chieftaincy in peri-urban Kumasi, Ghana', *Journal of Legal Pluralism*, 55 (2007), p. 125.

3. Donald I. Ray, 'Divided sovereignty: Traditional authority and the state in Ghana', *Journal of Legal Pluralism and Unofficial Law*, 37, 8 (1996), p. 181.

4. *Ibid.*, p. 198.

5. Pierre Englebert, *State Legitimacy and Development in Africa* (Lynne Rienner Publishers, Boulder, CO, 2000), p. 190.

6. Quoted in *ibid.*

parallel system from the state, it may be dependent on the state; struggles over chieftaincy hierarchies have become struggles for the preferential recognition by and access to the state conveyed by membership in the Houses of Chiefs.⁷

However, this dependence is not due to the ‘decentralised despotism’ of Mahmood Mamdani.⁸ Rather, this is due to the ‘(re)invention’ of tradition by chiefs in the framing of their discourses on tradition and culture in their competition for hierarchical status. While this is an example of the invention of tradition along the lines that Terence Ranger argued, the framing of the dispute over the toponym is also important, for it illustrates the ingenuity with which chiefly contenders articulate their claims, a point overlooked by the invention of tradition argument.⁹ This article is situated within the work of Ranger, which emphasizes the reframing of tradition and its relationship with the post-colonial state.¹⁰ But the case of Sokpoe shows that traditional authorities carry out the ‘invention of tradition’ to further their political interests in claiming hierarchical status through an appeal to post-colonial authorities, which reaffirms the state’s authority over chiefs.

Through the case study of the Tongu-Ewe, this article provides critical insights into differences and similarities in the history of the chieftaincy institution in Ghana. Studies on chieftaincy in Ghana tend to portray a general view of the institution based on the Akan template where resources, particularly land, controlled by chiefs underlie the importance and contestations over the institution. Chiefs among the Tongu-Ewe do not control such resources, yet similar contestations exist. This article highlights how hierarchical status, particularly paramountcy and appeals to the state for affirmation of such status, shows the dependent nature of chieftaincy on the state. As a historical enquiry, it also problematizes the source of the legitimacy regarding the status of chiefs and reveals the complex relationship between chieftaincy and the state.

The article is based on in-depth interviews and archival sources. Interviews were conducted with three chiefs, one queenmother, two elders

7. The Tongu-Ewe are a part of the Ewe ethnic group. Tongu in the Ewe language literally means, ‘river-dwellers’ or people living along the river. The word derives from the Ewe words *ɔ* meaning river and *ɲu* meaning along. The Tongu-Ewe have 13 autonomous traditional areas: Sokpoe, Tefle, Vume, Agave, Mafi, Bakpa, Mepe, Battor, Torgorme, Fodzoku, Volo, Dorfor and Mafi.

8. Mahmood Mamdani, *Citizens and subjects: Contemporary Africa and the legacy of late colonialism* (Princeton University Press, Princeton, NJ, 1996).

9. Terence Ranger, ‘The invention of tradition in colonial Africa’, in Eric Hobsbawm and Terence Ranger (eds), *The invention of tradition* (Cambridge University Press, Cambridge, 1983), pp. 211–262.

10. Terence Ranger, ‘The invention of tradition revisited: The case of colonial Africa’, in Terence Ranger and Olufemi Vaughan (eds), *Legitimacy and the state in twentieth-century Africa: Essays in honour of A. H. M. Kirk-Greene* (Macmillan Press, London, 1993), pp. 62–111.

and two indigenes of Sokpoe and Tefle. These were chosen because of their historical knowledge about the relationship between the Tefle and the Sokpoe stools.¹¹ Besides the chiefs of Sokpoe and Tefle, five Tongu-Ewe chiefs were also interviewed not only to understand Sokpoe's fractious relationship with Tefle but also the position of Tongu-Ewe chiefs within the Volta Region House of Chiefs and the National House of Chiefs. Archival materials in the Public Records and Archives Administration Department in Accra on the colonial period provide rich detail on the Sokpoe stool because of the protracted internal chieftaincy dispute in Sokpoe between 1912 and 1933 and how it was finally resolved. These archival sources were used to corroborate present claims about the origins of Sokpoe stool in the Sokpoe-Tefle dispute. Archival sources on the post-colonial period also provided context for the present debate and particularly post-colonial governments' relationship with the chieftaincy institution among the Tongu-Ewe.

The first section gives a backdrop to the Sokpoe-Tefle dispute and shows how the conflicting statements over the toponym of Sokpoe illustrate the ingenuity with which chiefly contenders devise methods to articulate their claims within the context of the modern state. The second and third sections interrogate why chieftaincy, particularly the issue of paramountcy, matters among the Tongu-Ewe. The final section analyses the relationship between the state and chieftaincy as parallel or dependent.

Sokpo or Zukpe: the politics of toponyms in chiefly disputes

In 2007, the *fi*a (chief) of Sokpoe, Togbe Zogah I passed away, and as has become an important aspect of funerals in Ghana, a funeral poster was produced to announce the funeral rites. It is important to state that funeral posters of chiefs contain information that indicate historical and hierarchical relationships between deceased and other chiefs. This can be found in the section on funeral posters titled 'Chief Mourners'. These are names of important people in the family of the deceased and they are arranged in an order to indicate seniority. It starts with the paramount chief of his or her village.¹²

In the case of Togbe Zogah I's funeral poster, the name of the *fi*aga of Tefle was not included on the poster. Tefle protested the absence of the

11. Chiefs sit on stools in the southern parts of Ghana and so the stool is synonymous with the traditional state. It is regarded as the symbol of authority of the chief and the embodiment of the people.

12. On funeral posters as an arena of contestation, see Edem Adotey, 'Where is my name?—Contemporary funeral posters as an arena of contestation and (re)negotiation of chiefly relations among the Ewe of Ghana and Togo', *History in Africa*, 45 (2018), pp. 59–69.

name of the Tefle paramount chief on the funeral poster for Togbe Zogah I, because according to Tefle, the Sokpoe stool was subservient to the Tefle stool.¹³ This omission therefore was tantamount to Sokpoe's rejection of its subordinate relationship with the Tefle stool. The Sokpoe were aware of this point and their deliberate omission of the name of the paramount chief of Tefle was to underscore their rejection of Tefle's claims.

In 2010, a new dimension to the dispute between Sokpoe and Tefle over the relationship between the stools was introduced by Togbe Ganu III, *dumega* and then acting head of Sokpoe. Togbe Ganu III argued that the name was not Sokpoe but Zukpe.¹⁴ The importance of the toponym is that it was also linked to the historical relationship between Tefle and Sokpoe. According to the Tefle, the toponym Sokpoe derives from *soti* (fan palm tree) and *kpo* (hill) after the vegetation and topography of the land where Foedze the son of Togbe Dugbazah I, paramount chief of Tefle built a farm house. This later grew into the present settlement of Sokpoe when members of his household and others settled there.

Togbe Ganu III on the other hand argued that the toponym is Zukpe and not Sokpoe. He claimed that the name was derived from the *zukupé* (anvil) left by the Agorvie. The Agorvie, according to Togbe Ganu III, were the original inhabitants of area of Sokpoe but they fled when the Sokpoe arrived. In their flight the Agorvie left the *zukupé*, and the place was named after it. It was *zukupé* that was spelt in colonial records as Sukpe which has been corrupted as Sokpoe. The new toponym was thus a clear statement of Sokpoe's historical independence of Tefle.

The Sokpoe-Tefle dispute first came to a head in 1974 following the establishment of a committee by the government to investigate the nature of stools in the Volta Region of Ghana, particularly which ones were paramount stools or divisional stools, that is autonomous or subservient stools respectively.¹⁵ At the Agyeman Badu sitting in 1974, Togbe Dugbazah IV, *fiaga* of Tefle claimed that the Sokpoe stool was subservient to the Tefle stool, 'Sokpoe are Tefle people. They are the sons of the fiaga of Tefle. They are his servants. They do not serve any other fiaga except the Tefle fiaga'.¹⁶ He maintained '... they still remain, as far as I am concerned, Tefle people according to customs, traditions and history. They

13. 'Protest against poster published by Sokpo traditional council regarding the funeral and interment of Togbe Zoga I devoid of Tefle', 29 March 2009.

14. Interview, Togbe Korku Ganu III, *Dumega* of Sokpoe, Madina, 17 April 2010. *Dumega* is one of the principal chiefs and he is regarded as head of palace staff. It is important to note that Togbe Ganu III was not alone in this narrative. See Togbe Zogah I's funeral brochure 2009, p. 15. [In author's possession]

15. The Volta Region is one of the ten administrative regions of the country. It largely inhabited by the Ewe ethnic group.

16. Public Records and Archives Administration Department (PRAAD), Accra, ADM 5/3/215. 'Proceedings of the Enquiry into Volta Region Chieftaincy Affairs', 50th sitting, 10 May 1974.

should be under the Tefle stool'.¹⁷ Togbe Zogah I, *fiaga* of Sokpoe on the other hand categorically rejected this claim. He argued that the Sokpoe were a distinct group from the Tefle, who only lodged with the Tefle at a point in time in their sojourns.¹⁸ He stated that Sokpoe had always had a chief and Sokpoe people were not the 'children' of Togbe Dugbazah I, but just friends.¹⁹

In 2009, this dispute resurfaced again following the death and funeral rites of the paramount chief of Sokpoe, Togbe Zogah I, and the absence of the name of the Tefle paramount chief on the funeral poster noted above. The symbolism of the new toponym Zukpe is evident when Togbe Ganu pointed out that it was in recognition of the separateness of the Sokpoe from the Tefle that F. G. Crowther, the Secretary for Native Affairs recommended its separation from the Tefle in 1912. Sokpoe appears in the British colonial records as Sopey, Sukpe, Sokpe, and Sukpa. In the 1886 treaty that ceded Sokpoe to her Majesty, it is recorded as 'Sopey'.²⁰ Crowther, in his recommendation on the administration of the Tongu-Ewe, referred to it as 'Sukpe'.²¹

Sokpoe's rejection of Tefle's claims to subservience to the Tefle stool stemmed from its fear of not being recognized as a paramount stool. It is important to note that these contestations occurred within a period when the Tongu-Ewe stools, which were not officially recognized as paramount stools, were agitating for a change in their status. Thus, the debate over the political significance of Sokpoe's toponym between two Tongu-Ewe communities was situated within the wider context of none of the Tongu-Ewe stools being recognized as a paramount stool in the Volta Region House of Chiefs.²² The Volta Region House of Chiefs is one of the ten Regional Houses of Chiefs constitutionally responsible for chieftaincy and customary affairs in Ghana.²³ With the Tongu-Ewe paramouncy issue unresolved and continued agitations for its resolution, who qualified to be made a paramount chief among the Tongu-Ewe was a highly contentious one. Why did the issue of paramouncy become so contested in the Tongu-Ewe case, and what does this tell us about the relationship between the state and chieftaincy?

17. Ibid.

18. PRAAD, Accra, ADM 5/3/215. 'Proceedings of the Enquiry into Volta Region Chieftaincy Affairs', 72nd sitting, 19 September 1974.

19. For a detailed account of origins of Sokpoe chiefship see Edem Adotey, *Chieftaincy in Sokpoe, 1888–1951*, (University of Ghana, unpublished MPhil dissertation, 2007).

20. PRAAD, Accra, MFA 4/1. 'Treaties with Chiefs'.

21. PRAAD, Accra, CSO 21/22/135. 'Sukpe Native Affairs, 1934'.

22. Samuel Agbewode, 'Volta House of Chiefs has only five members ... Agave Paramount Chief protests against convention', *Ghanaian Chronicle*, 10 November 2008 <<https://www.modernghana.com/news/190204/1/volta-house-of-chiefs-has-only-five-members-agave-paramount-chief-protests-against-convention.html>> (23 October 2017).

23. Republic of Ghana, *Constitution* (1992), Article 274.

Chieftaincy, hierarchy and paramount stools

While Ghana is a republic with an executive president, legislature and judiciary, the institution of chieftaincy is guaranteed under the 1992 Constitution. Article 270 (1) of the constitution states, 'The institution of chieftaincy, together with its traditional councils as established by customary law and usage, is hereby guaranteed'. Although the constitution limits their formal roles to chieftaincy and customary issues, this belies the authority and influence of the chiefs on the ground.

As Irene Odotei and colleagues note, chieftaincy 'not only continues to occupy politico-social and cultural space, it also shares that space with modern statal structures and the pan-ethnic institutions that have come into existence since the colonial period'.²⁴ Carolyn Logan's study of 19 African countries, including Ghana, shows that the chieftaincy institution enjoys widespread support and legitimacy: 'the public places considerable value both on the role traditional authorities continue to play in managing and resolving conflict, and on their leadership qualities and their accessibility to ordinary people'.²⁵ Some scholars attribute this to the weakness of the post-colonial state, so that chieftaincy remains significant by default rather than design.²⁶

The numerous chieftaincy disputes in Ghana attest to the popularity of the institution.²⁷ In 2003, President John Agyekum Kufour found it necessary to set up a Presidential Commission on Chieftaincy Affairs to advise him as well as chiefs on the 'numerous succession disputes bedeviling the institution as well as the related problem of land acquisition and ownership which threatens the very survival of the nation'.²⁸ The chieftaincy institution matters because chiefs are the principal brokers of private investment, development aid projects, and government patronage in localities. This stems from the position of chiefs as custodians of traditions, and land in some communities, and thus individuals who wield considerable influence. Chiefs are involved in settling cases and

24. Irene K. Odotei, Albert K. Awedoba and C. Abotchie, 'Perceptions on chieftaincy', in Odotei and Awedoba (eds), *Chieftaincy in Ghana*, p. 103.

25. Logan, 'The roots of resilience', p. 355.

26. For a review of the literature on the reasons for the resilience of the chieftaincy institution, which is outside the scope of this study, see Logan, 'Roots of Resilience'.

27. See for instance for September 2014, Sebastian Syme, 'Veep deplors chieftaincy and land disputes in Greater Accra', *Daily Graphic*, 29 September 2014, p. 32; King Norbert Akpablie, 'Aflao chieftaincy dispute: Torgbui Afla granted bail', 30 September 2014 <http://www.citifmonline.com/2014/09/30/aflao-chieftaincy-dispute-torgbui-afla-granted-bail?wiziapp_back=cat-2> (30 September 2014); Kingsley E. Hope and Gideon Boakye, 'Chief beaten at Offinso palace', *Ghanaian Times*, 19 September 2014, p. 3; 'Bawku chieftaincy feuding factions reluctant to surrender weapons for cash', 3 September 2014, <<http://www.myjoyonline.com/news/2014/September-3rd/bawku-chieftaincy-feuding-factions-reluctant-to-surrender-weapons-for-cash.php>> (12 September 2014).

28. 'Report of overview of activities of Presidential commission on chieftaincy affairs (2003–2008)'. Copy in author's possession.

determining law and property rights. The chief's palace is sometimes the first point of call even in criminal cases such as rape and murder. It is worth noting that in 1999 the Asantehene (king of Asante) ordered chiefs subordinate to the Golden Stool, that is his stool, to withdraw cases before the courts and House of Chiefs, and this was obeyed, with over 500 cases settled in the Asantehene's traditional court, including criminal and civil cases.²⁹

Chiefs also are power brokers, as politicians solicit the help of chiefs in their electoral campaigns to win political office. During election periods, political parties seek the endorsement of chiefs for their candidates for presidency and parliament, believing that endorsements would translate into votes for them from the chief's subjects. Some chiefs have openly endorsed political candidates, contrary the stipulations of the 1992 Constitution barring chiefs from active partisan politics.³⁰ It has been alleged that in return for their endorsements, chiefs have been rewarded with money, cars and houses, amongst others.

Yet, not all chiefs enjoy the same status, authority and power, primarily because the chieftaincy institution in Ghana is largely a very hierarchical one. The Chieftaincy Act of 2008, Act 759 (58), like earlier ones recognizes this hierarchy.³¹ It notes the following categories in descending order, (a) the Asantehene and Paramount chiefs; (b) Divisional Chiefs; (c) Sub-Divisional Chiefs; (d) Adikrofo; and (e) other chiefs recognized by the National House. Among the Tongu-Ewe, these categories correspond roughly to *Fiaga*, *Fia*, *Tefia*, *Hanua*. Furthermore, the recognized institutions under which chiefs operate are in the following hierarchical order: the National House of Chiefs, Regional Houses of Chiefs, Traditional Councils and the Divisional Councils. Membership of the National House of Chiefs, the highest judicial body for the chieftaincy institution, is practically limited to paramount chiefs.³² In addition, in the Regional Houses of Chiefs, which oversees the chieftaincy institution in the ten administrative regions of the country, president of the house is limited to paramount chiefs. The recognition as a paramount chief also comes with the added prestige of having a traditional council with

29. Ubink, 'Traditional authority revisited', p. 145.

30. R.E. Gyampo, 'Chiefs and electoral politics in Ghana's Fourth Republic', *Humanities Review Journal* 8 (2011), pp. 1–23; Kwarkye Gyedu Thompson, 'Chieftaincy and partisan politics: The case of Agona Ashanti traditional area', *Developing Country Studies* 6, 11 (2016), pp. 28–31.

31. See for example Republic of Ghana, *Chieftaincy Act* (1971), Act 370, Section 49.

32. Though Article 271 (3) of the 1992 constitution allows divisional chiefs to be elected to the National House of chiefs in the absence of the required number of paramount chiefs in the region and as all the regions have more than five paramount chiefs it means the chance of a divisional chiefs getting into the National Houses of Chiefs is virtually non-existent.

financial benefits; paramount chiefs as head of traditional councils are paid a stipend by the central government.

The 1992 constitution gives the Regional and National Houses of Chiefs the right to codify customary law and, as shown in several studies, customary law is constantly negotiated and renegotiated.³³ Thus, not being a paramount chief means the inability to participate in these Houses and thus inability to influence the nature of these laws. Such influence is particularly important if one takes into account the commodification of land and chiefs' claim to be allodial owners.³⁴ Most chiefs control land and other resources, which gives them economic and political leverage. Land transactions have become increasingly monetized in recent years as a result of growing land scarcity and increased land values, which in turn increasingly concentrate control of the economic benefits flowing from land in the hands of traditional chiefs.³⁵ Article 267 (1) of the 1992 constitution states that all 'stool lands shall vest in the appropriate stool on behalf of, and in trust for the subjects of the stool in accordance with customary law and usage.' While this clause is just as ambiguous as others pertaining to chieftaincy, it opens a wide door for chiefs to accumulate wealth without being legally held to account for how they use it. As Janine Ubink and Julian Quan point out, 'Traditional authorities display little accountability in the use of monies generated, and most indigenous land users realize little or no benefit from the leasing out of land: they are rarely and then inadequately compensated for land loss; and in most villages only a meagre share of the revenue is used for community improvement'.³⁶

Paramountcy is also about independence from other stools, hence the agitations from some traditional areas in all parts of the country. For example, in 2008, the Omanhene (paramount chief) of the Techiman Traditional Area in the Brong Ahafo region complained against the elevation of some stools to paramount status by the Asantehene, Otumfuo Osei Tutu II, when the Asantehene installed a new paramount chief at Tuobodom, a division within the Techiman traditional area in the Brong

33. See Janine M. Ubink and Kojo S. Amanor, (eds), *Contesting land and custom in Ghana: State, chief and the citizen* (Leiden University Press, Leiden, 2008).

34. Richard Crook, 'The role of traditional institutions in political change and development', *CDD/ODI Policy Brief* No. 4, (November 2005), pp. 1–5.

35. Janine M. Ubink and Julian F. Quan, 'How to combine tradition and modernity? Regulating customary land management in Ghana', in Janine M. Ubink (ed), *In the land of the chiefs: Customary law, land conflicts, and the role of the state in peri-urban Ghana* (Leiden University Press, Leiden, 2008), pp. 39–70. See also Festus Boamah, 'How and why chiefs formalize land use in recent times: The politics of land dispossession through biofuels investments in Ghana', *Review of African Political Economy*, 41, 141 (2014), pp. 406–423; Tom Lavers and Festus Boamah, 'The impact of agricultural investments on state capacity: A comparative analysis of Ethiopia and Ghana', *Geoforum*, 72 (2016), pp. 94–103.

36. *Ibid.* p. 43

Ahafo Region. He protested that the Asantehene was usurping his traditional powers.³⁷ To take another example, in 1994 the conflict between the Konkomba and the Mamprusi, Dagomba, Nanumba and Gonja kingdoms leading to the loss of lives was underlain by the demand of the Konkomba for a Konkomba paramount chief, who was to be recognized by the Ghanaian state and thus 'given a seat in the Northern Regional House of Chiefs alongside the already existing paramounts of the Mamprusi, Dagomba, Nanumba and Gonja kingdoms, and be recognized by these kingdoms, which have been overlords of the Konkombas.'³⁸ Thus, the relevance of hierarchy and particularly paramountcy in chieftaincy within the broader politics of Ghana cannot be ignored. This is evident from the reports of the several committees set up by various governments in post-colonial Ghana to address chieftaincy issues. These include the committee of inquiry into the Volta Region chieftaincy affairs set up by Executive Instrument (E.I.) of 1973 under the chairmanship of Nana Agyeman Badu, which was to find out who according to customary law qualified to be paramount chiefs.

Paramountcy and chieftaincy disputes among the Tongu-Ewe

While the importance attached to hierarchical positions because of revenue derived from stool lands has been a cause of chieftaincy disputes in some parts of the country, this issue largely does not apply to the Ewe.³⁹ As pointed out by A. K. P. Kludze, 'jurisdictional authority and proprietary interest in land are separable among the Ewe'.⁴⁰ There are no stool lands, though some clans have set aside some land for the stool. However, it has been recorded that the introduction of the Local Government Ordinance in 1951 led to some stools among the Ewe claiming the existence of stool lands, for example in Some, Adidome and Kpando.⁴¹ Two kinship groups own *anyigba* (land) among the Ewe. There are *hlo anyigba* (clan land) and *fome anyigba* (family land), and titles to these vary. With *hlo anyigba*, the clan holds the allodium, but members are permitted to use the land or the *anyigba* is divided among the *fome* who own absolute rights. This then becomes *fome anyigba*.

37. *Joy News*, 'Techimanhene: Tuobodom not for Asanteman', 18 March 2008, <<http://news.myjoyonline.com/news/200803/14544.asp>> (29 September 2008). The Brong Ahafo region used to be part of Ashanti region until its creation in 1959.

38. Ray, 'Divided sovereignty', p. 195.

39. Stefano Boni, 'Traditional ambiguities and authoritarian interpretations in Sefwi land disputes', in Ubink and Amanor (eds), *Contesting land and custom in Ghana*, pp. 81–111.

40. *Report of the commission of inquiry into Duffor traditional area* (Accra, 1975), p. 19.

41. Regional Officer, Trans-Volta Togoland to S. R. Thomas, 21 February 1955. Ewe Land Tenure, VRG 1/2/60, PRAAD, Ho.

If chiefs in the Volta Region do not exercise the same authority over land as their counterparts in the Akan regions, how has this altered the character of chieftaincy disputes in Volta compared with those in the rest of Ghana? In the Volta Region of Ghana, Paul Nugent rightly notes, 'as elsewhere, chieftaincy status is a political time-bomb waiting to explode'. He adds that 'perhaps it is time that the legacy of amalgamation policy is confronted any way'.⁴² But, it is not only the colonial legacy of the amalgamation policy that needs confronting regarding status and hierarchy of chiefs, as the Tongu-Ewe case demonstrates.

The issue of paramountcy has resonance for the Tongu-Ewe of the Volta Region because this affects their membership within the Volta Region House of Chiefs. The Volta Region House of Chiefs used to have a membership of 32 chiefs, comprised of 15 permanent members recognized as paramount chiefs and 17 rotating members drawn from 103 traditional areas considered as divisional chiefs. The absence of a 'paramount chief' in the 13 Tongu-Ewe traditional areas meant there was no direct permanent representation in the Volta Region House of Chiefs. They were put into three groups: (1) Agave and Mafi; (2) Fievier, Bakpa, Sokpoe, Mepe, Tefle and Vume; and (3) Battor, Volo, Fodzoku, Duffor and Torgorme. They sat in the Volta Region House of Chiefs in turns from their various groups.⁴³ This rotating representation, the Tongu-Ewe chiefs argued, had led to their loss of prestige, influence and power.⁴⁴

In 2008, a Legislative Instrument introduced by the government (L. I. 1946) changed the number of the Volta Region House of Chiefs from 32 to 64, but the status of chiefs remained the same as before, with only 15 members designated as paramount chiefs.⁴⁵ In addition, Article 13(2) L. I. 1946 states that 'The President of the Volta Region House of Chiefs shall be elected by members from among the members specified in sub paragraph 12(1) a, which are the 15 permanent members, who are designated as paramount chiefs. None of the 13 Tongu-Ewe traditional areas were included in the category of paramount chiefs, so the Tongu-Ewe paramountcy issue remained unresolved.

42. Paul Nugent, 'An abandoned project? The nuances of chieftaincy, development and history in Ghana's Volta Region', *Journal of Legal Pluralism and Unofficial Law*, 37, 8 (1996), p. 221.

43. Interview, Edem Wutoh, Research Officer, Volta Region House of Chiefs, Ho, 2 February 2006.

44. Interview, Togbe Dzraku IV, divisional chief, Adzigo clan, Mepe traditional area, Madina, 25 April 2006; interview, Togbe Afum Asare III, *fiaga* of Fodzoku traditional area, Ho, 26 April 2006; interview with Togbe Akorsu V, *fiaga* of Vume traditional area, Ho, 26 April 2006; interview with Mama Asigble Adokuwa, *nyornufiaga* (queenmother) of Tefle traditional area, La, 6 November 2006.

45. Article 1 states that 'The membership of a Regional House of Chief shall not affect the status of a Chief and shall not be construed so as to confer paramountcy on any chief or prejudice the claim of any chief to the status of a Chief'.

As pointed out earlier, the House of Chiefs, particularly the National House of Chiefs, performs very important functions in the body politic of Ghana. For instance, the president of the National House of Chiefs is also a member of the Council of State, a body that counsels the President of Ghana in the performance of his duties. Additionally, regarding legislation on chieftaincy in Ghana, the 1992 Constitution, states that 'A bill affecting the institution of chieftaincy shall not be introduced in Parliament without prior reference to the National House of Chiefs'.⁴⁶ Furthermore, membership of the Judicial Council, the governing body of the judiciary in Ghana, includes a chief nominated by the National House of Chiefs. Among the functions of the Judicial Council is to (a) 'propose for the consideration of Government, judicial reforms to improve the level of administration of justice and efficiency in the Judiciary; (b) to be a forum for consideration and discussion of matters relating to the discharge of the functions of the Judiciary and thereby assist the Chief Justice in the performance of his duties with a view to ensuring efficiency and effective realization of justice'.⁴⁷

The Regional and National House of Chiefs also have the authority to recognize the status of stools, hence the composition of the Houses could influence who is recognized as a paramount chief. Yet the very composition and structure of the Houses of Chiefs is hierarchical, hence the contentiousness of the paramountcy status. For example, in 1996 the Adonten, Benkum and Nifa divisions of the Akuapem traditional area seeking to break away from the Akuapem traditional area alleged that 'both the Eastern Region and National House of Chiefs have allowed the membership of Nana Addo Dankwa III (the incumbent Omanhene of Akuapem) on both houses to influence their consideration of the matter'.⁴⁸ In the Volta Region House of Chiefs, Nugent notes that in 1986, the 15 permanent members petitioned the Provisional National Defence Council (PNDC) Secretary for Chieftaincy Affairs against the election of a Divisional Chief as President of the Regional House of Chiefs.⁴⁹ As noted above, election for the president of the House in the current legislative instrument is limited to paramount chiefs. Thus, for the Tongu-Ewe chiefs, who maintained their colonial status as divisional chiefs in contemporary Ghana, there was an incentive to change their status to paramount status.

46. Republic of Ghana, *Constitution* (1992), Article 106 (3).

47. See *Ibid.*, Article 154 (1), (2).

48. Kumi Ansah-Koi, 'Dancing to the tunes of modernity and change: Akuapem's litigating chiefs, contested history and the politics of ethnic/state construction', in Odotei and Awedoba (eds), *Chieftaincy in Ghana*, p. 517.

49. Nugent, 'An abandoned project?' p. 222.

Parallel institutions of governance?

This section examines the argument that chieftaincy is a parallel institution of governance to the state. The debate regarding the relationship between the modern state and the chieftaincy institution has examined their sources of legitimacy, and it has been argued that because of their different sources of legitimacy they are parallel institutions. For instance, Donald Ray argues that,

Even a 'complex federal democracy' such as the United States has derived its roots of legitimacy from a single system, i.e. the British colonial state in North America - much changed though the U.S. state may now be through its own experiences. By contrast, Ghana (and many other African states) derive from two sources: the imposed European colonial states and the pre-colonial African polities. There are thus two different bases of legitimacy.⁵⁰

In 1900, Mathew Nathan, governor of the Gold Coast (Ghana) colony argued that 'chiefly powers were not inherent, but derived from the Crown'.⁵¹ To define this relation, in 1902, a Secretariat of Native Affairs was established. In 1910 the amendment to the Native Jurisdiction Ordinance (1883) gave to the governor the power to 'suspend for a stated time, or [to] depose any chief, who shall appear to him to have abused his power, or be unworthy, or incapable of exercising the same justly'.⁵² This bill, just like the 1944 Native Authority Ordinance, as Roger Gocking notes, was a 'fundamental challenge to the chiefs' position that their power was inherent and not derived from the power of the Crown'.⁵³ The 1992 Constitution of Ghana apparently resolved this controversy by stating that legitimacy is derived from pre-colonial polities and their processes. The constitution says that "'chief" means 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'.⁵⁴

At the heart of the Sokpoe-Tefle dispute is the question of whether the Sokpoe stool is derived from a pre-colonial polity and its processes or from the imposed British colonial state. Togbe Amatta III, *fiaga* of Fievie (another Tongu-Ewe polity), at the Agyeman Badu Committee sittings stated about the Sokpoe stool: 'some chiefs originally did not have Fia stools but through political machinations of the time they were made what customarily and traditionally they were not. ... this is one of the people

50. Ray, 'Divided sovereignty', p.183.

51. Roger S. Gocking, *The history of Ghana* (Greenwood Press, Westport, CT, 2005), p. 40.

52. Quoted in *ibid.* p. 41.

53. *Ibid.*

54. Republic of Ghana, *Constitution* (1992), Article 277.

who have been so made chief which traditionally and customarily he was not. Mark him out.⁵⁵

Some accounts by some Sokpoe chiefs and elders as well as colonial officials shed light on the sources of the Sokpoe stool which speak to its status. Adamvor, the *Mankralo* of Sokpoe, at the commission of inquiry held in 1912 by Francis Crowther stated, 'Formerly we were all under the Fia of Tefle'.⁵⁶ A letter from the Acting District Commissioner, Ada, Mr. D.A. Sutherland who took part in the deliberations to resolve the internal Sokpoe chieftaincy dispute between 1912 and 1934 addressed to the Commissioner, Eastern Province dated 30 January, 1934 stated:

There certainly was never a Fia of Sukpe, the position only coming into being with Mr. Crowther's report of his enquiry into the history and constitution of the Ewe-speaking people (vide "Gold Coast Review", Volume III, No. I, January—June, 1927; pages 11–55) ... Sukpes were formerly under the Tefles (the neighbouring division), and gave the Fia of Tefle their allegiance.⁵⁷

Further evidence to this effect is also gleaned from the proposal approved by the State Council of Ada that 'the *Mankralo*'s stool (of Foedja tribe) is [sic] raised to be the Fia-stool of Sukpe'.⁵⁸

These accounts show that the Sokpoe *fia* stool derives its legitimacy from the British colonial state. The Sokpoe *fia* stool was a British 'invention', for if Sokpoe already had a *fia* stool there would have been no need for the 'promotion' of the *mankralo* stool to a *fia* stool in 1933.⁵⁹ That the *mankralo* stool, a subordinate stool, was 'promoted' to become the *fia* stool (paramount stool), brings to the fore the need to qualify the argument about chieftaincy being parallel to the state due to different sources of legitimacy. As is evident in this case, while the *mankralo* stool derived its legitimacy from a pre-colonial source, both the *fia* stool and post-colonial state are a product of British colonialism.

The question of hierarchical status in the Sokpoe-Tefle chieftaincy dispute also shows the dependent nature of the chieftaincy institution on the post-colonial state. It shows how the post-colonial state has used paramount chieftaincy and institutions like the House of Chiefs to exploit chiefly politics. Far from existing as a separate and parallel system from the state, this dispute shows that struggles over chieftaincy hierarchies

55. PRAAD, Accra, ADM 5/3/215.

56. PRAAD, Accra, ADM 11/1/1661. 'Notes of evidence, commission of inquiry, 1912'. He is one of the principal chiefs of the town. He is regarded as the father or owner of the town by virtue of the family being the first settlers.

57. PRAAD, Accra, CSO 21/22/135.

58. Ibid.

59. *Mankralo* is a corruption of the Twi word *mankrado*. Among the Ewe he is also referred to as *afetɔ* or *dutsɔ*. He is the most important chief after the paramount chief. He usually comes from the first settlers and is considered the landlord. He performs important rituals regarding the enstoolment of chiefs.

have become struggles for the preferential recognition by and access to the state conveyed by membership in the Houses of Chiefs.

On the eve of independence in 1956, the Van Lare Commission was set up to examine chieftaincy in the Volta Region of Ghana. The Van Lare Commission recommended that 7 out of the 13 Tongu-Ewe traditional areas be recognized as members of the House of Chiefs. The immediate post-independence government of Kwame Nkrumah established the first House of Chiefs in 1958, as per the independence constitution. It classified some Tongu-Ewe chiefs as *fiagarwo* (paramount chiefs) and others as *fiaawo* (divisional chiefs) in the Trans-Volta Region House of Chiefs. Under the House of Chiefs Bill of 14 June 1958, Fifth Schedule (Trans-Volta Togoland House of Chiefs) Section 4(5), four of the Tongu-Ewe chiefs were to be made permanent members and the other nine chiefs were to be rotatory members, meaning they were to take turns as members of the House. The four permanent members were designated as paramount chiefs while the rotatory members were classified as divisional chiefs. This was approved in the House of Chiefs Act 1958 (Act 20), Fifth Schedule Section 4 (5). The nine rotatory members in groups of three were Mepe, Bakpa and Fievier; Sokpoe, Tefle and Vume; and Volo, Fodzoku, Torgorme. One from each group was to be a member of the House of Chiefs for a two-year period. Battor, Mafi, Agave and Duffor were the permanent members and together with Volo designated as paramount chiefs. Those classified as divisional chiefs protested their classification and also the rotatory principle.⁶⁰

In the same year, due to the protestations from these Tongu-Ewe chiefs, the House of Chiefs (Amendment of Schedules) Order, 1958, L. N. 380 elevated the other Tongu-Ewe chiefs from divisional chiefs to paramount chiefs, but their statuses within the House of Chiefs as rotatory members were not changed. This also elicited another round of protests. The chiefs of Sokpoe, Tefle and Vume in a joint resolution petitioned the Minister of Local Government in 1959 that now that all the Tongu-Ewe chiefs were paramount, the position of permanent members of the House of Chiefs be extended to them as well.⁶¹ This was rejected by the

60. PRAAD, Ho, SOG(D)/C.338. 'Volta Region House of Chiefs. Petition by Bakpa Dukow council to Minister, Local Government, 23 June 1958'; 'Tefle State Council to Minister, Local Government, 23 June 1958'; 'Sokpoe Divisional Council to Minister, Local Government, 23 June 1958'; 'Fievier Dukow Council to Minister, Local Government, 24 June 1958'; 'Vume Dukow Council to Minister, Local Government, 24 June 1958'; 'fia of Torgorme, Togbe Asamoah Nkwanta V to Minister, Local Government, 15 July 1958'; 'fiaga of Volo, Togbe Kwasi Abliza III to Minister, Local Government, 29 January 1959'.

61. PRAAD, Ho, SOG(D)/C.338. 'Resolution by Togbe K. Akorsu V, fiaga of Vume, Togbe J. K. Zogah I, fiaga of Sokpoe and Togbe Tetteh Dugbazah IV, fiaga of Tefle to Minister, Local Government, 29 June 1959'.

government, claiming that the House was not the exclusive preserve of paramount chiefs.⁶²

In 1966, the elevated status of the Tongu-Ewe chiefs to paramount chiefs was abruptly downgraded to divisional chiefs following the overthrow of Nkrumah's government. The new National Liberation Council (NLC) military government ordered that stools which they believed had been wrongly elevated by Nkrumah should revert to their pre-Nkrumah colonial status. The Chieftaincy (Amendment) Decree, NLCD 112 (1) stated that '... stools the chiefs of which were contrary to customary law at various times before the commencement of this Decree elevated or treated as elevated to the status of paramount chiefs by the Government of Kwame Nkrumah, shall ...be deemed to have reverted to the status enjoyed respectively by chiefs of those stools immediately before the said elevation'. But what was 'customary' was not defined, and the Tongu-Ewe agitations began all over again as they claimed customarily that they were paramount chiefs.

To address this lingering issue, the committee of inquiry into the Volta Region chieftaincy affairs was set up by Executive Instrument 31 of 1973 under the chairmanship of Nana Agyeman Badu. It was to find out the origins of traditional areas: how they settled, whether they had a stool, and which kind of stool it was. The committee's inquiries elicited multiple, often conflicting accounts and interpretations from the Tongu-Ewe chiefs eager to advance their own interests. Just as Sara Berry noted regarding colonial attempts in Asante, 'the search for customary rules and historical precedents produced debate rather than consensus about the past'.⁶³ It was at this forum that the Sokpoe-Tefle chieftaincy dispute was ignited. The Agyeman Badu committee did not resolve the Tongu-Ewe paramountcy issue as its report was torpedoed by the 1974 Chieftaincy (Membership of Regional Houses of Chiefs) Instrument, Legislative Instrument 991. Under this legislative instrument, the status of the Tongu-Ewe chiefs remained as under the NLCD 112. Their status was further circumscribed with an amendment in 1987 that restricted the presidency of the House to only paramount chiefs.⁶⁴

62. PRAAD, Ho, SOG(D)/C.338. 'District Commissioner to Togbe Akorsu V, *fiaga* of Vume and two others, 9 September 1959'.

63. See Sara Berry, *Chiefs know their boundaries: Essays on property, power, and the past in Asante, 1896-1996* (Heinemann, James Currey, David Philip, Portsmouth, Oxford, Cape Town, 2001), p. 7.

64. Chieftaincy (Membership of Regional Houses of Chiefs) (Amendment) (No. 3) Instrument, 1987 Legislative Instrument 991 (2) stated that 'The President of the House shall be elected from among the members specified in sub-paragraph (1) (a) of this paragraph'. These were the Omanhene of Buem, Fiaga of Akpini, Fiaga of Anfoega, Osie of Vane-Avatime, Fiaga of Ho, Awoamefia of Anlo, Deiga of Peki, Krachiwura, Likpehene, Santrokofihene, Tapahene, Nkonyahene, Fiaga of Gbi, Fiaga of Ve and the paramount chief of Awudome.

The present law that regulates the chieftaincy institution, Chieftaincy Act of 2008, Act 759 (76) defines a 'paramount chief' as a 'person who has been nominated, elected or selected and installed as a paramount chief in accordance with customary law and usage', yet none of the Tongu-Ewe chiefs are recognized as such. As noted above, the composition of the Volta Region House of Chiefs was changed to 64 members, and 6 of the 13 Tongu-Ewe traditional areas found their way into this list, which sparked another round of agitations. While the Regional House of Chiefs and the National House of Chiefs are responsible for ascertaining which stools are paramount stools, lobbying the state has never been absent because of its role in the process. This is noted in the preamble to the Legislative Instrument 1946 which states that 'In exercise of the powers conferred on the Minister responsible for Chieftaincy and Culture by section 71 of Chieftaincy Act 2008 (Act 759) and with prior approval of cabinet, this Instrument is made this 1st day of October 2008'.⁶⁵ The said powers conferred on the Minister is that 'The Minister, in consultation with the National House, may by legislative instrument make Regulations as may appear to the Minister to be necessary or expedient to give full effect to this Act, including Regulations prescribing fees in respect of anything done under this Act or under Regulations made under this Act'.⁶⁶ This shows the dependency of the chiefs on the state because for the other Tongu-Ewe states to be even included in the Volta Region House of Chiefs, the minister and indeed the government's role cannot be ignored. A draft L. I. to include the other Tongu-Ewe chiefs was yet to see the light of day. According to a prominent chief of one of the Tongu-Ewe states not yet recognized, those that were recognized lobbied government, an indication of where it is that perceived power really lies. Thus, as pointed out by Peter Geschiere, 'As "native" chiefs their power seems to stem from the local forms of organization but in reality, they are in many respects dependent on the modern State'.⁶⁷

Conclusion

While this case study shows that the chieftaincy institution even when parallel is also dependent on the state, this is by no means representative of the entire chieftaincy institution. What the study highlights is the various shades of the chieftaincy-state relationship based on the histories of

65. Chieftaincy (Membership of Regional Houses of Chief) Instrument, 2008 (Legislative Instrument 1946).

66. Republic of Ghana, *Chieftaincy Act* (2008), Act 759, Section 71.

67. Peter Geschiere, 'Chiefs and colonial rule in Cameroon: Inventing chieftaincy, French and British style', *Africa: Journal of the International African Institute*, 63, 2 (1993), p. 152.

various stools. It stresses the importance of the hierarchy of chiefs in understanding the relationship between the chieftaincy institution and the state.

The dispute over Sokpoe's toponym shows that such an apparently arcane issue goes to the heart of a potentially potent source of political instability. The history of Tongu-Ewe stools and the contestations over their hierarchy illustrate how the chieftaincy institution has become dependent on the state for the elevation of its status. As pointed out in the Tefle-Sokpoe chieftaincy dispute by the Tongu Confederacy, a body of Tongu-Ewe polities:

There is NO CUSTOM performable, exercisable and warrantable whatever in TONGU in connection with CONSTITUTIONAL, CUSTOMARY and HEREDITARY OFFICES in CHEIFTAINSHIP for promotion and demoralization of any occupant with his stool of whatever category it be to other as educationally practised by school teachers according to the merits of their class pupils.⁶⁸ (Emphasis in original).

The article further highlights that the chieftaincy institution's dependency on the state derives as much from state intervention in chieftaincy as from appeals from the traditional state to the modern state about traditions and customs regarding their status. By reaffirming or rejecting these appeals as rooted in a valid tradition, the state both defines the nature of incorporation of the chief into the state and defines and redefines what constitutes authentic tradition. It is evident from the Tongu-Ewe case that while the 1992 Constitution guarantees the autonomy of the chieftaincy institution, the chieftaincy institution is by no means independent. This study contributes to the literature on state-chieftaincy relations and points to the nuances in the legitimacy of chiefs, which calls for the modification of the argument that chieftaincy and state are parallel institutions of governance because both derive their legitimacy from different sources, pre-colonial and colonial respectively.⁶⁹ This has important implications on how chiefs are engaged as key actors in development.

68. PRAAD, Accra, ADM 39/1/137. 'Sukpe Division (Tongu Confederacy) Native Affairs, 19 June 1946–2 October 1951'.

69. Ray, 'Divided sovereignty'; Englebert, *State legitimacy*.