

**UNIVERSITY OF GHANA
COLLEGE OF HUMANITIES**

**QUEENMOTHERS AND DISPUTE RESOLUTION AMONG THE AKAN IN GHANA: A
STUDY OF THE ASANTEHEMAA'S 'TRADITIONAL' COURT IN KUMASI.**

by

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to

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DECLARATION

I, Lydia Amoah, hereby declare that this thesis titled '*Queenmothers and conflict resolution among the Akan in Ghana- A study of the Asantehemaa's court in Kumasi*', is an output of my independent research carried out under the supervision of Professor Emerita Takyiwaa Manuh, Professor Ebenezer Ayesu, and Professor Seidu Mahama Alidu. As far as I know, no part of this thesis has been published or submitted to any institution previously. References to other works have been duly acknowledged.



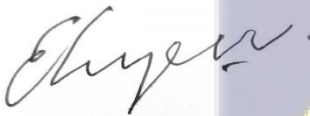
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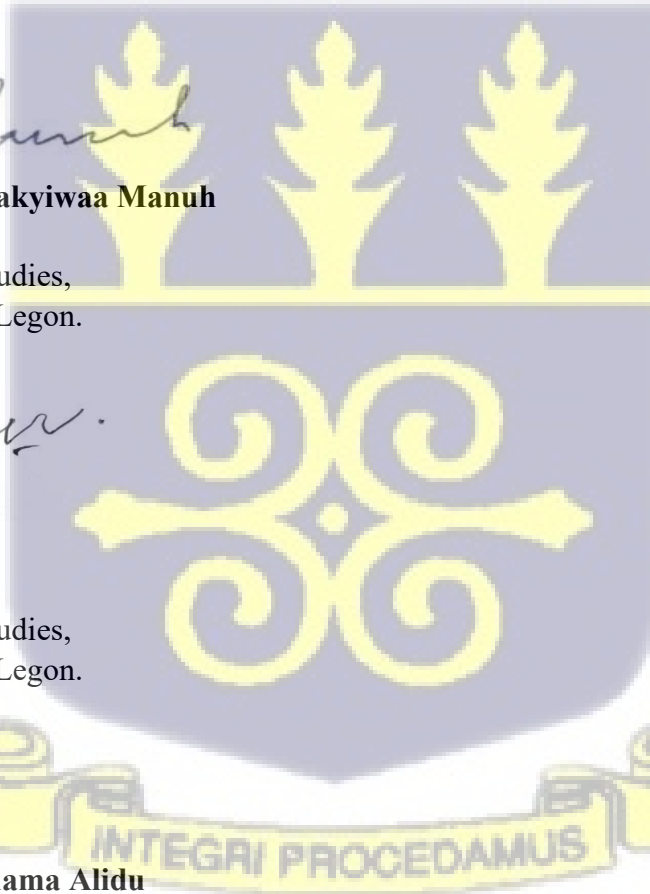
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DEDICATION

I dedicate this thesis to God Almighty. To my family: Nana Agyeiwaa Mmerepa (daughter), Mrs. Dinah Amoah (mum), Nana Mensah (husband), and my siblings: Freda, Maureen-Barbara, and Paa Kwesi. My late grandmothers, Abena Akomaa, Adwoa Serwaa and Mrs. Alberta Amoah, my late grandfather, Mr. John Emmanuel Amoah, and my late father, Mr. John Kyeremateng Amoah. To my goddaughter, Clarabelle Adu Abankroh, and my niece, Lawrencia Konadu Afranie, I hope you achieve far more than I have done so far.



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KEY TERMS

- *Abosom* – tutelary gods
- *Abusua* – family, clan, or lineage; also used to refer to one of the eight groupings within which every member of society belongs: *Aduana*, *Asenie*, *Asakyiri*, *Asona*, *Bretuo*, *Ekuona*, and *Oyoko*.
- *Abusuapanin* – male head of a family, clan or lineage
- *Asantehemaa* – Female ruler of the Asante Kingdom and co-ruler with the *Asantehene*. All *Amanhemaa* in Asante are under her authority. This includes *Adikro fuo* of some towns and villages.
- *Asantehene* – Male ruler of the Asante Kingdom. He is the occupant of the golden stool (*Sika dwa Kofi*)
- *Akondwa* – Stool which usually symbolises the authority of an Akan chief or queen mother.
- *Baamufuo* - A select group of people in charge of the Stool room and mausoleums of dead chiefs and queenmothers of *Asanteman*. The *Baamuhene* is the male head, whilst *Baamuhemaa* is the female head who resides at the *Asantehemaa*'s palace.
- *Kokoniwa* - The oath attached to *Asantehemaa*'s stool. This oath is read by the *Okyeame* and repeated by the litigants and witnesses before deliberations can commence at the court. The oath can also be invoked just as the *Ntam kese*.
- *Nkonnwafieso* – a stool house where blackened stools of past chiefs and queens are stored. This is where the rituals and prayers of ancestors usually take place.
- *Nkonnwasuafuo* – male and female stool carriers.
- *Nsumankwahene* – Head priest in charge of human and spiritual matters.
- *Ntamkese* - The great oath attached to the 'gold stool'. Once invoked, it is considered to have consequences for the one who invoked and the other on whom it is invoked. *Ntam* means to swear or invoke an oath.
- *Obaapanin* – the female head of a family, clan, lineage. Female leaders of smaller villages or towns are also referred to as such. They are usually subordinate to an *Omanhemaa*.
- *Odikro* (pl. *Adikro*) – Male head of a small village or town. Subordinate to an *Ohene*.
- *Ohemaa* (pl. *Ahemaa*) – Akan term used to refer to queenmothers.
- *Ohene* (pl. *Ahenfu*) – Akan term used to refer generically to chiefs.
- *Okyeame* (pl. *Akyeame*) – refers to both male and female linguists of a chief or queenmother. The chief does not speak to subjects directly, and it is his *Okyeame* who is responsible for relaying his words to subjects and vice versa.
- *Omanhemaa* (pl. *Amanhemaa*) – queenmother of paramount status.
- *Omanhene* (pl. *Amanhene*) – chief of paramount status.
- *Sika Dwa Kofi* – “Gold Stool born on Friday,” the political symbol of the Asante.
- *Suman* – charms, amulets and medicines.
- *Yeko bisa Abrewa* – means seeking counsel from the old woman. This concept explains the consultation role of the Queenmother and her position as the wise old woman and repository of knowledge.

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ABSTRACT

The chieftaincy institution in Africa, which has existed since the pre-colonial, colonial, and post-colonial periods, has proven formidable and more enduring than several modernist scholars anticipated. The institution has survived precisely because it is susceptible to change and reforms, by adapting and adopting Western modernity, which drives political, social, and economic changes in Ghana. In Ghana, the role of women in traditional governance keeps changing. In this thesis, I explore the position of the Asantehemaa of the matrilineal Asante through the rejuvenation of the role of her court. A significant role of the Asantehemaa is the arbitration of disputes in her court, and the study examines the role of the Asantehemaa's court in resolving community disputes that arise in Asanteman. In Ghana, legal pluralism is recognised, and citizens have the choice of seeking justice at either the state or traditional courts. I interrogated the various mediation and resolution practices employed in the Asantehemaa's court as an aspect of the politico-judicial roles of the Akan queenmother. I also examined changes at the court, its position on changing national legislation, and respondents' experiences and responses to the court rulings. The study employed ethnographic research and participant observation, the collection of oral histories, and in-depth interviews with Asantehemaa's court officials and patrons of her court. The study revealed that the Asantehemaa's court employs customary arbitration techniques and customary law (Ammamere) to mediate, adjudicate and resolve disputes. These disputes cover domestic issues such as imprecation, insults, and marital challenges, to conflicts around the use of resources, including access to land and land use, disputes from markets in Asanteman, and other forms of moral wrongs or spiritual or ritual-related disputes. The Asantehemaa's court is evidence of legal pluralism in Ghana. The Court serves as a legal institution that interacts within the state. An important finding is that Asantehemaa's role in dispute mediation and resolution has not declined, but faces changes fueled by socio-economic factors such as rapid urbanisation and access to natural resources such as land. Through the use of indigenous dispute resolution mechanisms such as negotiation, fines (bo ne ka), mpata (pacification) and forgiveness are critical practices at Asantehemaa's court that align with the three main principles of restorative justice, which are acceptance of guilt, repairing harm caused by offences and forgiveness.

Keywords: Asantehemaa's court, Customary Arbitration, Dispute Resolution, Restorative Justice



CHAPTER ONE INTRODUCTION OF STUDY

1.0 Background

This study is located in debates about the relevance of traditional leadership in Africa, specifically, the visibility of female-occupied spaces of traditional leadership in Ghana, and in particular, the role of the Asante Queenmother (the *Asantehemaa*) in resolving disputes among indigenes of the Asante traditional territories (*Asanteman*). Generally, traditional authorities in Africa continue to play a role in dispute resolution (Ray, 1996; Ghebretেকে & Rammala, 2019; McQuoid-Mason, 2021). These authorities, which are often headed by chiefs or elders, use a variety of methods to resolve disputes, including mediation, arbitration, and adjudication (Acquah, 2006; Kariuki & Kariuki, 2015; Sander, 2021). In many cases, not only do male traditional rulers engage in this practice of resolving disputes using traditional or customary methods, but Queenmothers, who are female traditional rulers, also play a significant role in traditional dispute resolution (Owusu-Mensah et al., 2015; Rukuni et al., 2015). Female Traditional Leaders are often consulted on matters of customs and tradition. They are also involved in the settlement of disputes, particularly those involving women and children (Muriaas et al., 2019; Klaas-Makolomakwe & Raniga, 2021). According to Owusu-Mensah et al. (2015), there are several reasons why Queenmothers are well-placed to play a role in dispute resolution. Firstly, like male traditional rulers, female traditional rulers have a deep understanding of local customs and traditions, which complements better with their inherent persuasive posture (Muriaas et al., 2019; Karimi, 2024). This understanding can be helpful in mediating disputes and finding solutions that are acceptable to all parties involved. Secondly, Queenmothers are often respected and trusted members of the community. This can make them more effective in resolving disputes, as parties are more likely to accept their decisions.

The specific role of Queenmothers in dispute resolution varies from one community to another (Moyo, 2018; Marfo, 2019). However, some of the most common roles include Mediating disputes between individuals or groups; Arranging arbitrations between disputing parties; Adjudicating disputes, particularly those involving women and children; providing advice and counselling to disputing parties; and overseeing the implementation of dispute resolution agreements. In the view of Asante, the role of Queenmothers in dispute resolution is important for several reasons. To begin with, it helps to uphold traditional values and norms. Again, it provides a forum for resolving disputes peacefully and equitably. Also, it empowers women and gives them a voice in the decision-making process (Obeng & Stoeltje, 2002; Owusu-Mensah et al., 2015). In Ghana, queenmothers are involved in resolving disputes over land, inheritance, and marriage. They also play a role in mediating conflicts between farmers and herders. Furthermore, Queenmothers are involved in resolving disputes over domestic violence, child marriage, inheritance, and other cultural practices that infringe on the rights of women. They also play a role in promoting peace and reconciliation in communities affected by conflict, as well as economic development and social welfare in their communities (Ray & Van Rouveroy Van Nieuwaal, 1996; Wilfahrt & Letsa, 2023; Momoh, 2023).

The role of Queenmothers in dispute resolution is not without its challenges. In some cases, Queenmothers may be seen as biased or favouring one party over another. They may also lack the resources or training to effectively resolve complex disputes. However, the role of Queenmothers in dispute resolution is essential for maintaining peace and stability in many African communities (Atuoye & Odame, 2013; Kariuki, 2015; Sugh & Ikwuba, 2017). In the case of the Akan, the *Asantehemaa*'s traditional court in Ghana is a traditional authority that has been resolving disputes

for centuries. The court has a rich history and cultural significance in the Asante chieftaincy structure.

However, with the changing economic value of land in peri-urban Kumasi and its environs, the court has had to adapt to new trends and challenges. This has led to a shift in the types of land-related disputes reported to the court, with more cases involving building or commercial lands rather than farmlands (Manuh 1988; Ansah & Chigbu, 2020; Sumbo et al., 2023). The court's role in resolving disputes is influenced by the spiritual beliefs, perceptions, and worldviews of the litigants. Respondents in a study conducted by Owusu-Mensah, Asante and Osew (2015), Majeed (2014) and Eze (2021) view justice as establishing truth and believe that any physical dispute has a spiritual side to it. This notion of justice fed into the kind of disputes they believed should be settled at the *Asantehemaa's* traditional court. The litigants, therefore, know that ritual-related disputes can only be resolved at *Asantehemaa's* traditional court due to their spiritual beliefs. The court's ability to resolve disputes is also influenced by the conflict environment. Such a conflict environment influences the kinds of disputes reported and the resolution strategies used.

Also, attributable to the Chieftaincy Act of Ghana, the recognition of Queenmothers as part of the chieftaincy institution, and the roles of female traditional leaders in customary dispute resolution are largely noticeable at the community level. Regarding the place of female leadership within traditional authority structures, Stoeltje (2021) maintains that the position of Queenmothers in Africa is more ceremonial, as all authority resides in the king. Diabah & Appiah Amfo (2015). Busia (2018) also mentioned the position of the Akan queenmother as a complementary ruler to the chief and discussed factors that influenced changes in the roles of the *Ohemaa*. Again, Stoeltje (2021) explains how Asante queenmothers are considered females who wield their power and

authority and function as a parallel authority with the *Ohene*. She also mentions two key roles of the queenmother as being in charge of women's affairs and the main advisor to the chief.

In the foremost study of the *Asantehemaa's* court, Manuh (1988) discusses the role of the *Asantehemaa's* court within the framework of legal pluralism in Ghana and its relationship with the national legal system. Manuh (1988) again mentioned some of the vital and indispensable roles of the *Asantehemaa* and expounded some of the dispute resolution mechanisms employed by the *Asantehemaa* in resolving disputes in her court. Stoeltje's (2006 & 2013) and Marfo's (2019) study also examines the Asante Queenmother's court as an important space for the resolution of disputes and the performance of litigation. However, the question of the change in roles of the *Asantehemaa*, most especially in conflict mediation and resolution, needs further examination. Historically, the *Asantehemaa* has always been involved in mediation that may arise from succession claims, domestic or family disputes, and allocation of resources such as land. Therefore, the position and roles of the *Asantehemaa* could be a cause for disputes (Owusu-Mensah, Asante & Osew, 2015). Both the *Asantehemaa* and *Asantehene* play complementary roles; nevertheless, they both have different spaces within which they operate (Stoeltje, 2021).

The *Asantehemaa* has her traditional court, which is **Asantehemaa's traditional court** is composed of *Akyeame*¹, as well as female and male councillors who assist her to decide, resolve and settle cases that involve the sacred oath [*Ntam*] of *Asanteman* and other domestic affairs. The *Asantehemaa's* traditional court also has jurisdiction over women and, in certain cases, refuge for litigants from the *Asantehene's* court (Manuh 1988). She also has her own *Ntam*², distinct from

¹ Linguists

² In the Akan context, is the form of an Oath spoken as an evocation of a past unpleasant experience(s) of a people or state (Agyekum, 2004; Kelley, 2022).

but similar to what is done in the *Asantehene's* court (Arhin, 2023). Studies such as Odotei (2006), Stoeltje (2019), and Ansah & Chigbu (2020) looked at the place of female traditional leadership within the male-dominated traditional authority structures of Ghana and the roles of Queenmothers in the development.

On the other hand, Aidoo (1981 & 1985) and focused on the position of women among the Akan and Arhin (2023) discussed the military and political roles of Akan women and the place of the *Ohemaa* as central to the whole political organisation among the Akan. Owusu-Mensah, Asante, and Osew's (2015) study of selected Akan groups shows how the major role of the selection of a chief by the *Ohemaa* could be a cause for succession conflicts. They argue that, in such situations, this negates the role of the *Ohemaa* in mediation and resolution of conflicts in her court. Amoah's (2011) case study of the *Ejisuhemaa* showed that the roles of the Akan queenmother keep changing due to contact with factors of globalisation, such as changing socio-economic structures. Her mediation and resolution roles had, however, not changed. This was enabled through improved communication networks such as the mobile phone (Amoah, 2011; Brempong, 2019). Both Owusu-Mensah, Asante and Osew (2015) and Brempong (2019) mention the political roles of the *Ohemaa*, which include mediation in her court. However, neither of the studies specifically explored how socioeconomic changes and transformations in female traditional rule influence the mediation and resolution roles of the Akan Queenmother today. This study, which combines oral histories, prolonged observation, and existing literature on Asante traditional authority, examines the *Asantehemaa's* court and its dispute resolution function among the Asante in Ghana.

1.1 Scope of Study and Literature Gaps

My research on *Asantehemaa's* court is centred on the status of the court and its ability to deliver justice to a populace that prefers to seek alternative forms of justice or non-formal justice to settle

their disputes. In my discussion, I make historical references to the Asante cultural and political system and the place of *Ohemaa* within the system.

Because of the similarities in kinship and political systems among the Akan groups, a lot of generalisations have been made regarding the roles of Akan queenmothers (Owusu-Mensah et al., 2015; Arhin, 2023). However, I am of the view that exploring the roles of Asante queenmothers will highlight some of the important judicial functions they play within their areas of jurisdiction. Although there have been various studies on the Akan or Asante chieftaincy system, an in-depth examination of the judicial dispute resolution roles of Asante *Ahemaa fuo* is rare. In Rattray's Ashanti (1923), he explains that women are the centre of power in the family; this accounts for the reason why the *Ohemaa* is central to the whole chieftaincy institution. He further explains how Asante's succession rules apply to the position of the *Ohemaa* as a 'senior female of the ruling clan'. He concludes that even though the female stool is senior, the male stool is the one that is given more political recognition. Again, in Ashanti law and constitution, Rattray (1929) describes the position of the Asante chief as revolving around the *Ohemaa*'s nomination, as the *Ohene* does not rule in isolation. His council includes the *Ohemaa* as his chief advisor. Asante laws are the guiding principles of the organisation, and recognition of sacred days, which are used for mediation and resolution of all disputes at both the *Ohene* and *Ohemaa* courts.

Although a few sources on Asante chieftaincy have focused on the male rulers, a few, such as McCaskie (2007); Hale (2013); Asante (2016); Busia (2018), Stoeltje (1997; 2006; 2021); Brempong (2019) and Day (2019), and have discussed some selected Asante queenmothers and their roles within the Asante society. Wilks (1975) focused on the structure and changes within the

Asante political institution. He explains the central role of women in the survival of the lineage in Asante, the *Asantehemaa*'s position as part of the *Asantehene* council, and her involvement in decision-making regarding the Asante state.

In the book chapter titled The Military and Political Roles of Akan Women, Arhin (2023) discusses the complementary nature of female stools and their roles in the political administration of the state. Arhin asserts that the Asante political structure relies on the strength of the matrilineal system of inheritance, which places women at the centre of political authority. This assertion is further reiterated in Wilks' (1993) essay on Akyaawa Oyikwan, in which he gives an account of her diplomatic mission to the coast, successfully negotiating peace treaties with the Danes and British on behalf of her father, the *Asantehene* Osei Kwadwo (1764–77). Other authors, such as Owusu-Mensah et al (2015), Brempong (2019), and Busia (2018), discuss the Akan chieftaincy system, how the matriarchal system works, indicating the central role of women in the social organisation and the important position of Queenmothers within the political system. The most common roles are those of nomination, installation, ritual functions, chief advisor, and membership of the chiefs' court and council, etc. They mention that every Ohemaa has her court, assisted by male and female councillors, where she adjudicates on most domestic matters.

Busia (2018) explains the position of *Asantehemaa* as a female leader of all the *Ahemaa* in Asante. This includes some *Adikro* of towns and villages that owe allegiance to her. She is viewed as an embodiment of motherhood for the whole of Asante. Her main politico-legal role involves dispute mediation of a domestic nature at her court. Stoeltje (2021) further discusses how the *Asantehemaa*'s court forms part of a traditional legal system that provides space for women to seek justice in a system that is deemed to privilege women over men. She discusses the processes

of litigation at the *Asantehemaa's* courts and also draws examples from *Juabenhemaa* and *Asantehemaa* courts in the Ashanti region and concludes that the court does protect the rights of women in Asante, especially around marriage and property rights.

Obeng and Stoeltje (2002) further assert that there is a link between gender, language, and power as Asante women use the court as a space to express and challenge male ideas of dominance, employing the language of politeness, use of soft language, showing respect, etc, to their favour. The Asante chieftaincy system is centred on the stool as a symbol of authority and a link between the Chief or Queenmother and ancestors. Prempeh (2022) discusses how religion has affected the role of the Akan chief, which includes the Queenmother. In Adzei 's (2018) thesis, he argued that the sacred basis of a chief's authority is related to the act of installation on the stool of his ancestors. This act positions the chief as the link between the people and the ancestors. As the intermediary between her people and the ancestors, the Queenmother performs ritual duties of pouring libation and giving offerings to her ancestors to maintain the link of life between them and the state. She is to ensure the spiritual sanity of the state, which she does through consultations with *Abosom* and her priests.

Some sources on Asante's history, chieftaincy, and the roles of queenmothers have been published. Many of the colonial accounts and literature are male-focused. More often than not, *Asantehemaa* is subsumed in the narrative of the Akan queenmother as part of the Akan chieftaincy system. Asante historians have also dwelt on the male versions of Asante chieftaincy to the neglect of female spaces of power. Though the female position is usually mentioned, an in-depth analysis of their roles specifically in dispute mediation and resolution has not been widely considered. This **thesis**, therefore, acknowledges that there is limited research on the *Asantehemaa* court and traditional female leadership in Ghana, and the literature did not cover all aspects of traditional

female leadership within the Asante chieftaincy structure, leaving room for further exploration. Again, this **thesis** seeks to capture the respondents' notion of justice within a cultural context and the observation and incorporation of restorative justice theory in their dispute resolution processes.

1.2 Statement of the Research Problem

The exercise of traditional authority by chiefs in Ghana and among the Asantes in particular covers a wide array of activities, including dispute resolution, which in most cases is central to the day-to-day engagements within the chieftaincy domain at the community level (Falola and Amponsah, 2012; Marfo, 2019). The exercise of traditional authority in dispute resolution among the Asantes is widely known to be a male-dominated function by male **chiefs'** traditional rulers (Sumbo et al., 2023). It is worthy of note that, among the Asantes, the exercise of traditional authority in dispute resolution is not the preserve of the **chief's** male traditional only but is also an integral component of the functions of the **queenmothers**, female traditional rulers (Akan Queenmothers). Despite this, most studies on dispute resolution through Asante traditional rulers are male-focused, while very little work exists on the role of **the queenmother's roles or** female traditional rulers (Akan Queenmothers) in resolving disputes.

While some studies have highlighted the importance of female traditional authority and the recognition of Queenmothers under the laws of Ghana (Odotei, 2006; Stoeltje, 2019; Ansah & Chigbu, 2020), there still appears to be very little study on the relevance of female voices in terms of disputes such as those related to matrimony, property rights and inheritance among the Asantes. Notwithstanding the above, the position and roles of Queenmothers in most instances have been defined within the larger male context of traditional rule (Abotchie et al., 2006; Motasa & Nortjé-Meyer, 2021), thereby leading to a situation where the role of female rulers generally is overshadowed. Interestingly, the office of Queenmothers among the Akan, especially the Asantes,

is very prominent and with established institutions and powers, especially for resolving disputes (Owusu-Mensah et al, 2015).

A key reference here relates to the Queenmother of the Asantes (the *Asantehemaa*), who not only has dispute resolution powers as part of her traditional functions, but as a complementary stool to the *Asantehene* (Rattray, 1929; Sugh & Ikwuba, 2017) and also operates a traditional court (The *Asantehemaa's* Court) where disputes such as matrimonial, inheritance, property rights, as well as issues of curses (*duabɔ*) are handled. Traditionally, the *Asantehemaa* is involved in both 'political' and 'judicial' processes, which include decision-making and the daily traditional administration of *Asanteman* (Arhin, 2023). Studies such as Rattray (1929), Wilks (1975), Sugh & Ikwuba (2017), Busia (2018), and Kutin & Kwarteng (2018) revealed that, despite the central position of the *Asantehemaa* within the Asante political structure, earlier studies on Asante, such as the one done by Bowdich (1819), did not explore the position and roles of the *Asantehemaa* in general. During Bowdich's visit to Asante, he observed the *Asantehemaa* sitting behind the *Asantehene*; as the 'whisperer' behind the stool signifying the complementary role and relevance of the *Asantehemaa* to the success of the *Asantehene* and the royal throne (Bowdich, 1819).

The *Asantehemaa*, as the dual authority with the *Asantehene*, performs judicial functions such as conducting mediation and resolution of disputes in her court. Just like the *Asantehene*, she has her council, court, and *Ntam*. She uses this space to settle disputes that are largely domestic in nature. However, with increasing socio-economic trends in *Asanteman*, the *Asantehemaa's* court also resolves non-domestic disputes. Disputes that border on economic resources, such as access and use of land and market-related disputes, are also reported to her court for resolution. Despite the

evidence above in terms of the role of the *Asantehemaa*, scholarly work on her functions and the role of her court, especially in offering an alternative dispute resolution platform to *Asanteman*, remains sparse.

Also, there is very little knowledge available on whether or not the *Asantehemaa*'s traditional court and its functions are influenced by the provisions of formal state laws on marriage and inheritance such as the Interstate Succession Act, 1985 (PNDC Law 111), Marriage Act, 1884-1985 (CAP 127) as well as the Matrimonial Causes Act, 1972 (Act 367). Also, as much as information on the evolution and traditional functions of the *Asantehemaa*'s court is available, most of it is in oral literature and without much account of the changes that have occurred over the course of history, as well as the practical challenges and the inherent limitations that confront it in the ordinary discharge of its duties.

Finally, while some researchers such as Owusu-Mensah et al., (2015); Aidoo (1985) and Stoeltje (2021) explained the 'political' and 'judicial' roles of female Asante rulers in managing succession conflicts and other social disputes, very little is known about the notion of fairness of the *Asantehemaa*'s court from the perspective of those who patronize it, their level of satisfaction of its processes compared to the civil courts of the state, as well the limitations critical social demographics like gender and age may impose on the ability of people to access the court.

From the above, therefore, the need to explore the role of the *Asantehemaa*'s traditional court, its dispute resolution mechanisms, as well as its recognition and adherence to relevant state laws in its operations as a means of fairness, underscores the urgency of this study. The study is further situated in debates about the relevance of traditional leadership in dispute resolution in Africa

generally, and explores the visibility of female-occupied spaces of traditional dispute resolution among the Asantes of the Akan ethnic group in Ghana.

1.3 Research Objectives

Generally, the objective of the study is to explore the role of *Asantehemaa's* court as a space for customary dispute resolution. Specifically, the study seeks to:

- i. Examine the function of the *Asantehemaa's* traditional court as a medium for dispute resolution.
- ii. Examine the changes that have influenced the role of the *Asantehemaa's* traditional court in resolving disputes.
- iii. Explore the *Asantehemaa's* traditional court's observance and adherence to national legislations on disputes arising from marriage and inheritance within the Asante customary spheres.
- iv. Explore respondents' notion of fairness and how critical social demographics influence their access to a fair resolution of disputes.

1.4 Research Questions

- i. How does the *Asantehemaa's* traditional court function as a medium for dispute resolution?
- ii. What changes have influenced the role of the *Asantehemaa's* traditional court in its dispute resolution function?
- iii. In what ways does the *Asantehemaa's* traditional court observe and adhere to national legislations on marriage and inheritance in resolving related disputes among Asantes?
- iv. What is respondents' notion of fairness, and how does critical social demographics influence their access to a fair resolution of disputes in the *Asantehemaa's* traditional court?

1.5 Methodology

My study of the *Asantehemaa's* court through data collection took place over three years (2018-2021). Among others, I did fieldwork, archival research, and internet searches. For instance, I conducted intermittent fieldwork as time would permit me. I had to travel from Accra to Kumasi to conduct fieldwork, which meant I had to plan my time well to enable me to meet respondents and get the information that I needed. My fieldwork at the *Asantehemaa's* court was conducted in separate months in 2018, 2019, and 2020. Between 2018 and 2019, I did what I call 'familiarisation visits' to Manhyia Palace and conducted archival studies at Manhyia archives. I was hoping to come across any records about the *Asantehemaa's* court, but I got nothing. The archivist, Mr Maaseg, explained that colonial records were not concerned with the spaces of women at the time. But at the time of my inquiry, the National Houses of Chiefs had commenced keeping records of the *Asantehemaa's* court proceedings and judgements.

I struck up acquaintances with some palace functionaries attached to the *Asantehemaa's* court, such as *Baamuni* Nana Owusu, *Ahenkwa* Mathew, and *Ketehene* Nana Boateng. My doctoral colleague, Rev Amoah, who doubles as Ashanti regional peace council coordinator, introduced me to key members of the court, such as *Nsumakwahene*. On one of my visits, I submitted an introductory letter from my institute detailing the reason for my visit to the court. I was subsequently introduced to the court. During these visits, I was able to observe the celebration of *Adaε* ceremonies at the palace. I started preliminary court observations of the *Asantehene's* court and later moved to the *Asantehemaa's* court. I did this to enable me to distinguish between the two courts. I used this period to observe proceedings and map out what kinds of cases were reported and how the court operated.

After my ethical clearance went through, I was able to conduct longer observations and commence interviews with litigants and other respondents whom I had selected to speak to.

From October to December 2019, I continued with the visits to Manhyia Palace and met with some key respondents. I employed the assistance of George Owusu to help me map out key respondents whom we felt were valuable for my research. George also acted as my translator, leading me to elderly respondents, mostly chiefs, who were knowledgeable about what I was researching. Due to the novel COVID-19, the court went on intermittent breaks, and this affected my plans to observe proceedings at the court. However, I was able to observe proceedings from February-March 2020 before the court went on break due to COVID-19 and the lockdown. The break lasted till October 2020. I continued observations and commenced interviews from October 2020 to February 2021. Data collection involved both phone and face-to-face interviews with queenmothers, chiefs, palace functionaries such as *Ahenkwa*, and litigants who brought their cases to court. These interviews were conducted mainly in the Ashanti region. On a few occasions, however, I had to travel to some communities on the outskirts of Kumasi. I engaged respondents mainly in the Asante-Twi language and sometimes in English.

1.6 Significance of the Study

This study contributes to the discourse on the resurgence of traditional institutions, the place of female traditional authority, and their roles within such institutions in Ghana. It also contributes to the broader frame of the United Nations Security Council Resolution 1325, which recognises the role of women in promoting peace around the world. This Resolution calls for state support for local women's peace initiatives and indigenous processes for conflict resolution. Because most records of women's roles in peace efforts are at the local level, this role has not been given enough attention. Conclusions and recommendations from this study will serve as relevant policy information to policymakers in their decisions regarding the role of Chieftaincy in Ghana. It will

also highlight the changes in traditional authority in Ghana and how it affects culture, politics, and development in Ghana.

1.7 Organisation of the Study

The study is organised into seven chapters. Chapter One forms the introductory chapter of the study, outlining the background to the study, its scope of literature, the statement of the research problem, questions, objectives, methodology, and the expected outcome of the study.

Chapter Two discusses various works of literature and scholarly arguments about the chieftaincy institution in Africa, Ghana, and among the Akan, which is the focus of the study. I further examine the Asante chieftaincy system, the place of the Asante Queenmother, and her political, economic, and sociocultural roles. The study also explores the functions of the *Asantehemaa's* court.

The Third chapter, which is the conceptual and theoretical framework for the study, explains the various concepts and how they relate to each other. The study discusses the various arguments on conflicts and disputes, conflict mediation, and resolution. The study then explains how these concepts are expressed at the *Asantehemaa's* court. It finally explores how the *Asantehemaa's* court employs restorative justice as the best alternative to retributive justice.

Chapter Four gives a detailed description of the research methodological approach, the study area, and the research site. In this chapter, the study explained how my positionality as a young female Asante student influenced how I reflected upon my data collection process.

Chapter Five is an analysis of the *Asantehemaa's* court as a medium for conflict resolution. The study first describes her as an institution, her roles, and then the court. I further explain how the court operates, the mediation process, and the understanding of the whole court system.

Chapter Six examines the court's position on national legislation, such as property rights and marriage, explores respondents' notion of fairness and explains how citizens access the court, their

acceptance of the court rulings, and the barriers associated with accessing justice within an informal institution such as this.

Chapter Seven is a summary of the research and key findings, as well as key contributions and the conclusion of the study. The limitations of the study are also discussed in this chapter.



CHAPTER TWO LITERATURE REVIEW TRADITIONAL AUTHORITY IN AFRICA

2.0 Introduction

This chapter discusses literature pertaining to traditional authority in Africa and dispute resolution in Africa. The chapter also explores the emerging role of female leadership in a traditionally patriarchal Africa. The chapter further explores the dynamics of traditional authority in Ghana, focusing on the Asante. It concludes with *Asantehemaa*, her roles, and her court.

The existence of traditional leadership in Africa predates the colonial era (19th century - mid-20th century). African societies were organised based on kinship ties or according to ethnic groups. Each ethnic group operated its own system of governance. Thus, the governance system relied on an unwritten constitution that was derived from custom and tradition passed on over generations. These establishments employed indigenous systems of governance to organise their societies. These indigenous systems were rooted in the socio-political, religious, and economic structures of the society (Fortes & Evans-Pritchard, 1987; Basheka, 2015; Adeoye, 2019). African people have long lived and interacted within their ethnic clans, lineages, units, and villages before the establishment of colonial rule by Europeans. Africans in the process expressed their identity and culture through indigenous institutions such as chieftainships.³ These chiefship systems consisted of leaders of families, clans, or ethnic groups that governed the daily affairs of their societies. Therefore, African societies believed that the status of traditional title holders derived their authority and legitimacy from a divine or sacred source, which is different from where modern political leaders derive their legitimacy, such as the constitution (Ghebretkle & Rammala, 2019).

³ I will be using the word interchangeable with traditional leadership.

They claim legitimacy because the indigenous political institution embodies the history, identity, culture, values, and laws of the people (Ghebretkle & Rammala, 2019).

2.1 Dispute Resolution in African Traditional Settings

Traditional authority plays a significant role in local governance in most African societies. These traditional leaders manage the affairs of their communities. They act as the link between the state and local populace, providing goods and services to areas where the reach of the state is weak or non-existent (Keulder, 2010; Mershon, 2017; Honig, 2019; Henn, 2022). Their suitability in dispute resolution is tied to the fact that they are familiar with the norms of the local people. They are deemed closer to the people; thus, they are the true grassroots representation of the people (Warwantkar, 2024). This makes them more effective in performing duties of customary adjudication, land allocation, and advocating for their communities (Ray & Van Nieuwaal Van Rouveroy, 1996; Ahene, 2020). It is further argued that traditional leaders are more easily accessible to the local community, their mediation role is more transparent and participatory as compared to the bureaucratic nature of the formal court systems (Logan, 2008; Warwantkar, 2024). Therefore, the roles of chiefs as dispute settlers of different kinds make them the central persons who uphold the traditional local legal system (Wilfahrt & Letsa, 2023). Traditional leaders are expected to arbitrate, mediate, resolve, or adjudicate on issues that affect the daily lives of the people (Abotchie et al, 2006; Mboh, 2022). They are expected to be knowledgeable in the customary law of the society, neutral, not prone to monetary or gift influences, have a good listening ear, and be trustworthy (Tadesse, Tesfaye & Beyene, 2010; Baker, 2013; Papayannis, 2016; Siregar, Harap, & Lubis, 2016). Secondly, traditional leaders are expected to have a better understanding of the values and morals of the society. This makes it easier for them to put measures in place to maintain law and order in their communities (Abdulsalam et al., 2020).

This recognition of the roles of traditional leaders and the types of cases that they arbitrate differs from country to country and depends on the statutory law that guides the activities of traditional leaders and their courts. In Malawi, Power states that the chiefs make it possible for the state to control its local populace through the roles that they perform in conflict management, dispute settlement, and crime prevention more effectively than the formal government agencies would do (Power, 2020). Another example can be found in the case of Ethiopia, where there are four informal dispute resolution avenues available to the citizenry. These include 1) customary mediation performed by court elders who mediate on family disputes, land use, domestic disputes, and insults. 2) Social courts: an informal dispute resolution avenue provided by the Ethiopian state for local-level resolution. Social courts deal with minor claims and disputes such as domestic violence, family disputes (husband vs wife, children, parents, extended family), divorce, childlessness, custody, boundary disputes, marketplace, business or work-related disputes between employer and employee. The difference between the customary court and the social court is interest in mediation and settlement, whilst the social court is focused on adjudication. Social courts can refer cases to elders for mediation, as well.

Another difference is they have to report to the *woreda* court, which is the formal justice system where the government has some form of oversight and control over their activities. 3) Community policing panels for crime prevention at the community level, and provide support to the police. Policing committees are to report cases such as violence against women and sexual harassment of girls in the community. 4) Sharia or Muslim religious court that settles disputes about divorce, polygamy, maintenance, and domestic violence using religious laws (Baker, 2013; Siregar et al., 2016).

In the case of Zimbabwe, Rukuni et al (2015) believe that traditional leaders need to be abreast with conflicts that are related to human rights abuses and attain formal training for traditional leaders with regard to state laws and their interpretation or intersection with customary laws. There is also the need for traditional leaders to know when to reconcile state laws with customary laws when arbitrating disputes (Rukuni, et al, 2015). Traditional leaders play a key role in economic activities such as controlling access to resources and harnessing such resources for community development (Honig, 2019; Kurebwa, 2018). One key resource is land. As custodians of land and natural resources of their communities (such as land used for agriculture and mining), traditional leaders play a key role in supporting economic activities. In most cases, access and use of such resources are controlled by them (Ubink, 2007; Jauro & Ibrahim, 2016; Honig, 2019; Chanakira, Mujere & Spiegel, 2019; Kurebwa, 2018; Motasa & Nortjé-Meyer, 2021). When disputes arise because of the scarcity of these resources, community members expect traditional leaders to employ traditional mediation mechanisms to resolve such disputes (Baker, 2013; Siregar, Harap, & Lubis, 2016).

In Ghana, chiefs are custodians of land and natural resources (i.e., for agriculture and mining) of their communities (Ubink, 2007; Jauro & Ibrahim, 2016). For pastoral communities such as those in Northern Somalia, the citizenry has always depended on their elders to deal with disputes that relate to their livelihood, such as access to water for their cattle, pasture, land, and caravan routes (Kariuki, 2015). An example is that of Ethiopia's Somali region, where the Ethiopian state formally recognised the role of the elders as peacemakers who settle and resolve communal conflicts (Hagmann, 2007; Kurebwa, 2018). Hohne (2007) explains how the position and roles of elders in Northern Somalia have changed from pastoral to state politics. Affi 2007 states that in

the precolonial period, traditional leaders such as *Aqils* were involved in pastoral “politics”. They dealt with regulating access to water, pasture, land and caravan routes. Currently, they are central in maintaining peace and contributing to state-building. Keulder’s example of rural Namibia shows how state control over predominantly rural communities revolves around traditional leaders’ control over land, natural resources, communal labour, and sometimes law and order (Keulder, 2010; Henn, 2022).

Another important role of traditional leaders is presiding over disputes in their local courts and a defender of tradition that consists of legitimised norms (Wilfahrt & Letsa, 2023). Marfo argues that the chief’s legal role does not end at dispute resolution in the court. This includes how his court is an avenue to express social relations and cultural concepts shared by the local people. The chief and his court represent local traditions employed to handle present needs, interests, and values (Von Trotha, 1996; Marfo, 2019).

In Namibia and Mozambique, the legal obligations of traditional leaders include dispensing informal justice and community policing (Kyed & Buur, 2006; Honig, 2019; Hanlon, 2016). In Northern Somalia, elders have become central figures in processes of peace-making (Affi, 2020 Kariuki, 2015). In Namibia, traditional leaders assert their authority informally at the local level by providing justice through their local courts (More, 2021). The result of African traditional justice systems is to achieve reconciliation, restore peace between parties and harmony in the community (Tadesse, Tesfaye & Beyene, 2010; Papayannis, 2016; Rukuni, et al, 2015). One of the reasons why most Africans still resort to traditional and informal justice forums is because, despite the growing rate of rural-urban migration, some Africans still live in rural communities

where the state justice system is limited and cannot handle minor community disputes or local conflicts (Rukuni et al, 2015).

There is also the issue of accessibility, familiarity with the dispute process, and time and cost involved. Most traditional mediation forums are free or less costly as compared to formal courts (Baker, 2013; Siregar, Harap, & Lubis, 2016).

2.2 Female Traditional Leadership in African Societies

Historically, the roles of African women have often been stereotyped. Yet, it is evident that women played various roles within their societies (Falola and Amponsah, 2012; Marfo, 2019). African women have always had formal leadership roles in matrilineages and were influential in decision-making in patrilineages (Sudarkasa, 1986; Fuseini & Kalule-Sabiti, 2016). Women were not limited to reproductive roles or married off to cement political alliances (Xie, 2021). They participated in daily activities, and in some cases, they complemented the roles of men and partook in decision-making that influenced the development of the societies they belonged to (Thebe, 2018). African women have always had rights and responsibilities towards their kinsmen or lineages that were independent of men (Thebe, 2018). In precolonial times, women occupied positions of power. They also had economic autonomy outside their domestic lives (Fuseini & Kalule-Sabiti, 2016). They were holders of titles and occupied positions of power, such as queens, princesses, and female chiefs in communities (Sudarkasa, 1986; Fuseini & Kalule-Sabiti, 2016). Berger (2016) asserts that African women had political and religious power, but their status was always misunderstood and misrepresented.

Some historical works of literature on women refer to African women as backwards, rural, and having no agency (Sheldon, 2017). This misrepresentation is sometimes attributed to centuries of

oral records passed on to generations and the lack of written sources. Therefore, there is a need to ‘decolonise’ African women's experiences and histories (Allman, Geiger & Musisi, 2002; Diala-Ogamba, 2021). Since African women's histories were presented and interpreted through a European and masculine lens, women are represented in masculine terms as non-active agents of political power (Wafawanaka, 2021). The worst part is their limited understanding of how most African societies worked concerning gender roles (Ejim, 2017). They failed to acknowledge that each African society had its systems through which women expressed political power and managed their affairs (Skinner, 2018). For example, among the Igbo of Nigeria, women exercised ‘collective’ political autonomy through *Mikiri* (Van Allen, 1972; Thebe, 2018). Mbom & Kah (2025) further narrate how women in the northwest province of Cameroon operated a traditional court known as *Nkwuyi* and took part in resolving conflicts. The court was successful because women were feared as belonging to the secret society called *Djudju*. Among the Akan of Ghana, women’s voices are heard, and they participate in dispute resolution through the *Ohemaa*’s court (Owusu-Mensah et al., 2015).

Not much is said about female traditional leadership in pre-colonial times; however, Nympha & Ngozi (2023) argue that matriarchy, just like patriarchy, has always been common within African social structures. This male-dominated system, coupled with European notions of patriarchy, assumed that headship to always male. Yet, female traditional authority operated even within this male-dominated system (Stoeltje, 2021). In the example of the Pabir, Cohen (1977) explains that the position of the Queenmother ‘*Maigira*’ is more ritualistic than political. She is responsible for the ritual processes before the installation of a new King. She legitimises the King by providing him with the mystical power of the sacred objects of the state. Another example can be found

among the matrilineal Asante of Ghana. Women have always had a say in family decision-making. This is also exhibited in the position of the *Ohemaa*⁴ as a dual political authority with the *Ohene*⁵ (Arhin, 2023). In other patrilineal societies, like among the Dagomba, the institution of female chiefs was not new to them. Women could and did rule over towns, and had male councillors and servants (Odotei, 2006; Ansah & Chigbu, 2020). There are also records of female traditional leaders such as Amina of Zazzau (1533-1610) of northern Nigeria (Jones, 2000), Yaa Asantewaa (1840 – 1921) of Asante, Ghana (Brempong, 2019), Queen Nzinga Mbande (1583 – 1663) of Angola (Foncesca, 2022), Queens Nandi (1760 – 1827) and Monase (1797 – 1880) of the Zulu Kingdom, South Africa (Shamase, 2014; Bracks Fonseca, 2022). These examples prove that women did occupy leadership positions and performed certain leadership roles in their societies.

Notwithstanding the effect of colonial rule and the creation of modern ‘democratic states in Africa on the chieftaincy institution, it has found ways to maintain relevance and survive. Although male spaces of power struggled to maintain relevance, so did those of females. Not only did the colonial authorities recognise male authority, but they also ignored female spaces of traditional control (Thebe, 2018; Mawuko-Yevugah & Attipoe, 2021). Colonial interference may have sidelined or ignored their activities, but did not completely erode them. Thus, female title holders such as queens, queenmothers, female chiefs, rain queens, warriors, priestesses, etc., though ignored, continued to survive with them (Stoeltje, 2021; Mawuko-Yevugah & Attipoe, 2021; Bauer, 2016).

⁴ Akan queenmother

⁵ Akan Male traditional leader

Throughout the years of colonial occupation on African soil, colonial authorities sought ways to control the local populace. Thus, they turned to traditional leaders and used them as intermediaries. Their focus was mainly on male leaders, not female leaders. This also affected female leadership systems even in societies that recognised them as a dual political authority (Stoeltje, 2021) or had their own spaces of authority (Thebe, 2018). Colonialism also sought to impose European gender ideals on African societies to the detriment of women. This imposition and discrimination affected women's political, economic, and social standing and barred them from the rights that they enjoyed before colonial occupation (Marfo, 2019; Stoeltje, 2021).

Not only did they ignore women's active participation in local governance, but no efforts were made to understand how women utilised family and kinship ties to express political power (Thebe, 2018). Neither were they concerned with the various ways or positions women occupied within the traditional system of governance.

2.3 Chieftaincy In Ghana

Traditional leadership in Ghana comprises indigenous stool and skin occupants who trace their ancestry to a founding ancestor or ancestress and authority to a divine status. These positions include title holders such as family heads, elders, queenmothers, and female chiefs. Other forms of traditional leadership in Ghana include priestesses and priests, such as *Tendana* (Ansah & Chigbu, 2024). There are two main types of traditional leadership systems in Ghana. The Priest-ruler relationship among the Ga and northern regions of Ghana, or what Danquah (1928) refers to as a '*Fetish or religious system*', and the Akan model, which is kinship-based. In Ghana, traditional leadership titles have been lumped into one category: chieftainship (Denisova, 2020).

Chieftaincy is thus defined as “the medium of expression” of social, political, religious, and, to some extent, the economic authority vested in traditional leaders such as chiefs, queens, earth priests, etc. in Ghanaian communities (Ansah & Chigbu, 2024). It remains an important institution of traditional governance in contemporary Ghana. The institution is saddled with norms and traditions depending on the area in question. These include statuses and roles, sets of duties, privileges, and rights accorded to traditional leaders once they are enskinned or enstooled (Ansah & Chigbu, 2024). The 1992 constitution of Ghana refers to traditional authority as a collection of indigenous title holders who are nominated, enstooled, or enskinned as the indigenous leaders of a group of people or community following the customary law of the area.

The Chieftaincy institution has been resilient in the face of subsequent regimes throughout the political history of Ghana. Chieftaincy in the pre-colonial era was the main system of government that combined legislative, executive, judicial, religious, and military responsibilities; and these functions were replicated at the appropriate level of the traditional governance structure (Owusu-Mensah, 2014; Marfo & Halidu, 2018). During colonial and post-colonial eras, the institution was faced with manipulations, where successive governments in one way or another interfered with the workings of the chieftaincy institution (Rathbone, 2010; Kutin & Kwarteng, 2018). The imposition of colonial rule was to strengthen social control and manage the public affairs of the native population. For instance, colonial authorities created a form of centralised authority (chiefships) in acephalous societies such as among the non-centralised Ga in the Greater Accra region, and Kokomba, Nawuri, and Nchumuru in the Upper West and East regions (Tieleman & Uitermark, 2019). This interference meant a loss of sovereignty for minority groups. According to Abokyi (2018), this interference contributed to the recurring succession-related conflicts experienced in some parts of northern Ghana. Colonial interference also influenced the economic

hold of chiefs. They further added administrative roles, such as tax collection, to the already sacred duties that traditional leaders had. This move disintegrated units and aided in secularising an office that was once deemed sacred (Brempong, 2019).

By 1960, Ghana became a republic and adopted a new constitution. Kwame Nkrumah, the first president, and the Convention Peoples Party, the ruling party, wanted a unitary government. They were of the view that this would fasten the socio-economic development of the country while citizens directed their allegiance to Ghana as a country and not to their ethnic groups (Rathbone, 2000; Sefa-Nyarko, 2019).

In the early years of the CPP government, Nkrumah sought to cut down on the powers of chiefs due to perceived corrupt tendencies of the chieftaincy system resulting from years of use by colonial authorities. Nkrumah's government employed a combination of formal (constitutional) and informal activities in dealing with chiefs. This way, they were able to minimise the hold that traditional leaders had over the local populace and move on with their nationalist agenda (Rathbone, 2000; Sefa-Nyarko, 2019). In the end, Chiefs were left with performing arbitration, community mobilisation, and ritual or religious roles (Brempong, 2019). Subsequently, during the military regimes, the constitutional provisions of 1969, 1979, and 1992 progressively favoured chiefs. The 1992 Constitution Amendment Act 527 specifically denied the legislature the power to withdraw recognition of a chief. Instead, the Constitution of the Republic of Ghana (1992) is supposed to protect the institution from the influences of the government. Subsequently, the advisory role of chiefs to the government is guaranteed through the institution of the regional and national houses of Chiefs (Brempong, 2019). Notwithstanding these histories of interactions between colonial regimes and nationalist and post-colonial governments, the chieftaincy

institution in Ghana has resurged and maintained relevance till today (Busia, 2018; Brempong, 2019). This resurgence includes the position of female traditional authority.

2.3.1 Chieftaincy among the Asante: History, Continuities, And Changes

The Asante chieftaincy system is modelled according to the Akan chieftaincy system. It has a few differences in ranks as compared to other Akan chieftaincy areas of Ghana. The Asante chieftaincy system operates according to a monarchical hierarchy from the divisional level, with paramount and top hierarchy being the *Asantehene* and *Asantehemaa* (Danquah, 1928; Imam, 2015; Marfo & Halidu, 2018).

The heads of all these territorial divisions or *Amanhene* fall under the authority of the *Asantehene*⁶ (Busia, 2018). This distinction cannot be found in any other Akan traditional setup. The resurgence of chieftaincy in Ghana includes that of Asante chieftaincy, and these changes include the position of Asante queenmothers (Stoeltje, 2021). The Asante chieftaincy system is multifaceted. It is a combination of a religious, kinship, political, legal, and ritual system. The system acknowledges gender roles, which are all integrated, although it is affected by modernisation (Teiku, 2020).

2.3.2 Asante Chieftaincy Structure

The Asante chieftaincy was originally a military coalition of states transformed into a political union operating under a unified Asante monarchy that emerged in the 17th century (Wilks, 1993; McCaskie, 2022). Rattray (1929) describes the position of the Asante Chief as one who traces descent through the female line from an ancestress who is believed to be the founder of his matrilineage. The Chief is revered as the intermediary between ancestral spirits and his subjects

⁶ King of Asante

and is required to perform the customary ceremonies at the *Adaε* festivals. His stool is sacred, and his judgements are held as descending from the ancestors (Ampene, 2021).

The political organisation begins with *Abusuapanyin*⁷, who is the senior man in the lineage. He is required to ensure that the lineage members are at peace with each other. He is the custodian⁸ of abusua/lineage assets. This shows the regard given to even the basic unit of authority within the Asante political structure (Busia, 2018). Several families make up the clan, and some clans make up the community.

Hence, the levels of headship begin with the *Abusuapanyin*, followed by the clan chief or divisional chief, mostly referred to as *Odikro*, and his female counterpart, the *Obaapanyin*. A collection of towns and villages makes up *Oman*, meaning state, nation, or people. A collection of independent *Aman*⁹ make up *Asanteman*, which means Asante nation (Busia, 2018). The *Abusuapanyin* fuo of several families make their pledges¹⁰ to *Odikro* or divisional chief, who in turn, swear to the *Amanhene*. The *Amanhene* then pledges allegiance to the *Asantehene* (Hagan, 1968; Busia, 2018). The Akan term for *Ohene* and *Ohemaa* is derived from the combination of the name of the location or stool and the title of a chief or queen mother (Stoeltje, 2021). That is, *Ejisuhene* is the short form of ‘*ejisu man hene*’. So is the Ohemaa of Ejisu called *Ejisuhemaa* (Brempong, 2019).

2.3.3 The Asante Chief and the Stool

Among the Asante, just like any other Akan group, the basis for hereditary succession to the stools is matrilineal. The chief is the link between the lineage and the *sikadwa* (Busia, 2018). The Asante

⁷ Family head

⁸ In most mediation cases I observed, *Nananom* would ask if the issue was first reported to the abusua panyin and would inquire what steps were taken to resolve the issue.

⁹ Plural for Oman or state

¹⁰ *Nsuae*

recognises authority as dual, hence the chiefly position is shared by both males and females; the rulership is complementary. According to (Hale, 2013), the Asante royal matrilineage of the 19th century formed the economic elite as they were heirs to the stool wealth, i.e land, gold, and labour in the form of slaves. The stool or *Akonnwa* is viewed as an ancestral property or *Agyapadiye*¹¹. The concept of *agyapadiye* means that the stool comes along with immeasurable wealth and is a source of income for the occupant. The stool property includes revenue from farmlands, gold mining, direct levies, and *Aseda* from court cases.

This *Aseda*, for instance, is distributed among the chief, queenmother, *Akyeame*, elders, *Abusuapanyin* of the royal lineage, stool carriers, and other palace functionaries. This is evident in Ashanti's wealth and power and involvement in dispute resolution (Owusu-Mensah et al., 2015; Busia, 2018).

The stool is of social and political significance in the life of the Asante and symbolises the Asante's identity. The stool is the symbol of the political authority and identity of the Asante and Akan in general (Danquah 1928; Hale, 2013; Boaheng, 2025). The stool is a symbolic link between the ancestors and the living, while the occupant of the stool is the living representative of the ancestors (Danquah, 1952; Hagan, 1968; Stoeltje, 2021). Therefore, as the occupant of the stool, the chief or queenmother is guaranteed rights, obligations, and duties that he or she performs within the confines of Asante customary laws. The chief's stool is deemed sacred, and his judgments are held as descending from the ancestors (Sugh & Ikwuba, 2017).

¹¹ Interview with Kokofuhene, Kokofu, Ashanti region, 2021

The stool means two main things to the Asante: a seat and a sign of chiefly authority. It symbolises the unity of Oman¹² and contains the soul of Asante, showing the connection of the stool with the chief who sits on it.

“the stool is the channel through which the departed souls sanctify the chief so that he, in turn, can be able to render worthy cult to them. As soon as a chief-elect is placed on a stool, he starts to command respect. The whole enstoolment process performed in the stool house is evidence that he has been brought into the closest possible contact with the ancestors. The stool, therefore, is considered to hold the most important place in a chief's life (Sarpong, 1967).”

Sarpong argues that in Ashanti, the stool goes along with an oath. Therefore, every Ashanti village or town has at least one oath.

The Ashanti oath is employed on many occasions for various purposes. The chief's court employs the oath for dispute resolution and is used to determine the punishment of a guilty person. When a new chief is being enstooled, he swears the oath to defend his subjects and state (Osafo, 2018).

Among the Asante, the highest seat of authority is the 'gold' stool. Popularly referred to as '*Sika dwa kofi*'. The 'gold' stool represents the highest level of authority of the Asante nation and Asante sovereignty (Abaka and Kwarteng 2021). The Gold stool is superior to the occupant (Hagan, 1968). It is a symbol of collective Asante identity. It represents the collective sentiments, hopes, and aspirations of the Asante people (Busia, 2018). The 'Gold' Stool is so sacred that no one is allowed to sit on it, not even the *Asantehene* himself. It only appears in public on certain occasions and under strict security (Osafo, 2018). *Asantehene* is the sanctioned custodian of the symbol of Asante unity, the Golden Stool. The stool is the symbol of power, so as *Asantehene*, he legitimises and expresses that '*tumi*', thus the name '*Otumfuo*' (Hale, 2013; Stoeltje, 2021).

¹² State or nation

The Asante worldview is controlled by the belief that ancestors reside in *Asamando*. The living communicates with the dead through rituals they perform on the stool of the ancestors. Hence, the Ohene acts as the intermediary and is expected to perform the ritual of libation at the stool house on each of these ritual days (Osafo, 2018). Sarpong again seeks to show the connection of the stool with the chief who sits on it. He states that

“the stool is the channel through which the departed souls sanctify the chief so that he, in turn, can be in a position to render worthy cult to them. As soon as a chief-elect is placed on a stool, he starts to command respect. The whole enstoolment process performed in the stool house is evidence that he has been brought into the closest possible contact with the ancestors. The stool, therefore, is considered to hold the most important place in a chief's life” (Sarpong, 1967).

The stool is of crucial importance; it holds a ritual position such that a special group of people is required to guard it when a chief is alive and assist the chief to perform rites on the stools occupied by dead kings. These dead kings are then referred to as their ancestors. Once a chief passes on, his stool is blackened. The blackening of the stool involves using the blood of a sheep, soot, and eggs. Once a chief dies, it is believed that his *sunsum*¹³ inhabits the stool; hence, it needs to be consecrated for him to achieve ancestor status (Boaheng, 2025).

The chief or queenmother's stools are cared for by *Baamuhene*¹⁴ and his attendants. At the *Asantehemaa*'s palace, she has the *Bamuhemaa*¹⁵ in charge of the stool house/room. Both attendants hail from a specific matrilineage that is chosen to care for the stools of the Asantehene

¹³ Spirit

¹⁴ Male Grave priest. In charge of stool house.

¹⁵ Female grave priest.

and *Asantehemaa*. Those allowed in the stool house are stool *Nkonnwasuafo*¹⁶, *Akyeame*¹⁷, and *Baamufuo*.¹⁸ These groups are known to perform certain duties for the stool house. During one of my observations at the *Asantehemaa*'s court and subsequent interviews with *Baamufuo*, it was clearly explained to me that no one would ever touch the *Asantehemaa*'s stool if they were not part of the group of stool carriers.

2.4 The Asante Queenmother¹⁹

Traditionally, in the Akan setting, females were deemed more important than men, as the propagation of the matrilineage depends on the women. Thus, the importance of women rests within the matrilineal family system (Diabah & Appiah Amfo, 2015).

Women form an integral part of the Akan political structure. They participate in legislative and judicial councils and decision-making in their communities (Tandoh, 2023). The Asante, just like any other Akan group, practises the matrilineal system of inheritance as the basic social and political organisation (Stoeltje, 2021). The Matrilineal system ensures that stools belong to the females, hence they are keepers of stools and leaders of matrilineages, while the men are deemed caretakers (Boaheng, 2025). According to Hale, (2013), the position of the *Ohemaa* fits directly into the role of women as responsible for the continuity of matrilineage in the Akan worldview. The Asante queenmother is the female counterpart of the ruler of a village or town in *Asanteman*²⁰. The Asante practice what Stoeltje (2021) calls a *dual gender system*. Hence, among the Asante, stools are hereditary, and authority is parallel, where the *Ohene* and *Ohemaa* complement each other. The female ruler of lower status is referred to as *Obaapanyin* (female elder). Asante

¹⁶ Stool carriers

¹⁷ Spokespersons or linguists.

¹⁸ Grave priests

¹⁹ Here I attempt to distinguish the *Ohemaa* of the Asante. Because of the type of hierarchical system practised among the Asante, the Asante Queen mother even at the paramount level still answers to the *Asantehemaa*.

²⁰ *Asanteman* refers means Asante empire. Asante empire grew in strength between the 16th to 18th century. Now the empire stretched from Ashanti region to parts of Bono, Bono east, Ahafo, Oti and eastern regions of Ghana.

Queenmothers are female monarchs who operate in a hierarchical social system under a centralised authority (Stoeltje, 2021).

Every *Ohemaa* in Asante is addressed by the name of her town or village²¹. For example, the Queenmother of the Ejisu paramount area is addressed as *Ejisuhemaa*, while the Queenmother of the *Onwe* traditional area under the Ejisu paramountcy would be addressed as *Onwe Obaa panyin*. This distinguishes their position and ranks with the *Asanteman* umbrella. Subsequently, the Queen of *Asanteman* is addressed as *Asantehemaa*. As dual authority to the *Ohene*, the *Ohemaa* performs a combination of political, social, cultural and ritual roles as discussed below.

2.4.1 Political Roles

In the Ashanti political system, there are two stools. One is occupied by the senior woman, and the other belongs to her kinsmen²² (Hale, 2013; Boaheng, 2025). As a dual political authority, Teiku (2020) asserts that the presence of the *Ohemaa* signifies a traditional institution that allows women equity in governance and space for their concerns to be heard. However, the male stool is given more political recognition²³.

The Asante queenmother has her stool as a symbol of her authority. The *Ohemaa* stool is referred to as *Akonnwa panyin*²⁴ (Manuh, 1988). Therefore, the *Ohemaa* is the senior female of the ruling clan (not necessarily age-wise) (Stoeltje, 2021). The status of the senior female is in line with her position as mother of the royal matrilineage. Therefore, as a senior female, she must commit to

²¹ This is the same with the male stools.

²² that is the stool the male occupies

²³ Inclusion of women in House of Chiefs requires dialogue – President
<https://www.ghanaweb.com/GhanaHomePage/714602>

²⁴ Senior stool

memory, the genealogy and lineage of the royal house. This includes the history of the community at large. Thus, the resolution of minor succession disputes, such as customary successor or *Abusuapanyin* position within a lineage rests on her knowledge of family genealogies. This is to ensure that strangers do not get in the line of succession to royal stools (Ansah & Chigbu, 2020). As the senior female of the royal matrilineage, she is saddled with the responsibility of nominating the *Ohene* from the pool of eligible males and enstoolment of a chief. Selection is normally done in consultation and discussion with clansmen (Rattray, 1923; Stoeltje, 2021). The Chief's position revolves around the queenmother's nomination and acceptance by kingmakers (Owusu-Mensah, Asante & Osew, 2015).

Rattray (1929) asserts that the next person of importance in the Asante state is the queenmother. He refers to her position and role as the Chief as the 'whisper' behind the stool. She is the Chief Advisor to the *Ohene* and can rebuke him when he faults.

The Akan *Ohemaa*, just like the *Ohene*, co-represents the identity of her people, especially since she is the representative of women in her community. Apart from accompanying the *Ohene* on travels or sitting in state with him on special occasions such as festivals, she is also expected to attend durbars with the *Ohene* and his elders, as these are important events for public display (Stoeltje, 2019). Just like any other Akan queenmother, menstruation is a barrier for a woman to occupy the male stool. However, in the history of Asante, women have occupied male stools and still do. Thus, when a female ascends the male stool, she is deemed to have attained the authority of the stool and hence acts as the *Ohene*. The story of the famous Yaa Asantewaa is a classic example. She was both queenmother and acting chief of Ejisu in the 1900s because her grandson Afranie was in exile. Once a queenmother ascends a male stool, she acts as chief. The *Ohemaa*

participates in judicial and legislative processes. This explains why she was present at the meeting where the governor was requesting the golden stool. This also explains why she questioned why all the other chiefs were silent and pushed them to war against the British (Brempong, 2019; Day, 2019). The kings or chiefs did not automatically choose her to lead them. That role indirectly became hers to perform because she was the one who touted them for being quiet as the white man insulted the Asante kingdom by requesting *sika dwa*. Her taunts are what would ginger the men to acknowledge that they had to fight for the stool or risk losing the soul of the Asante. Yaa Asantewaa's role in the resistance is in line with the military and political roles of women in the Akan political system (McCaskie, 2007).

2.4.2 Religious (ritual) roles

When an Ohene has finally been nominated and approved, the *Ohemaa* must ensure that the installation process goes on smoothly. She, together with *Nkondwasofohene*²⁵, *Akyeame*, and selected elders, proceeds to the *Nkondwafieso*²⁶ where the *Ohene* elect is placed on the selected stool of renowned chiefs thrice. This ritual process confirms his position as *Ohene* and solidifies his contact with the ancestors (Osafo, 2018). Before the celebration of ritual days, the *Ohemaa* ensures that food to be used for feeding the gods is prepared by the royal cooks, and the gods are fed in the stool house. The celebration of *Adaε*²⁷ is symbolic of the position of the *Ohene* and *Ohemaa* as spiritual leaders of the people (Sarpong, 1967; Osafo, 2018; Denisova, 2020). Thus, she superintends the blackening of the stools of departed Queenmothers and the performance of the rites associated with *Awukudae* and *Akwasidae* ceremonies (Busia, 2018).

²⁵ Head of stool carriers

²⁶ Stool house

²⁷ These ritual days are celebrated every fortieth Wednesday and Sunday according to the Akan calendar.

The only limitation to the performance of her ritual roles is menstruation (Akelaitis, 2020). In such instances, the *Ohemaa* can delegate her *Akyeame* or *Nkonuasuafohene* to perform the roles during that period. When calamity befalls the community and ritual cleansing is needed to appease the gods, the *Ohemaa* is to lead elderly women in her community to offer sacrifices and pray for forgiveness (Stoeltje, 2021). On the chief's deathbed, the *Ohemaa* is his confidant. He discusses his final wishes and leaves his will with her (Rattray 1929). When the chief passes on, she ensures that a befitting burial is conducted, and associated rituals are performed to ensure his smooth passage into the land of the ancestors. The *Ohemaa* and *Ohene* must ensure that the funerals of royals are performed according to custom (Agana et al., 2025).

2.4.3 The Ohemaa and her Court

The Asante chieftaincy structure places the *Ohemaa* as an automatic member of the *Ohene*'s court and council. It is common practice among Akan and mostly Asante to find the *Ohemaa* seated in the *Ohene* court during court or council meetings. He is expected to rule his subjects in consultations with his councillors, which includes the queenmother. The queenmother is therefore entitled to a portion of the fines and fees from the Chief's court (Stoeltje, 2021). Her presence at the chief's court reiterates her role as the chief advisor to the chief. She therefore takes part in governance and decision-making (Stoeltje, 2021). The *Ohemaa*'s main legal role is the settling of disputes. She has her court, and this system of settling disputes is replicated throughout Asante (Diabah & Appiah Amfo, 2015). As the head of the royal matrilineage, she uses this space to settle disputes between her attendants, between the *Ohene* and his wives, and between the royal matrilineage.

The *Ohemaa*'s court consists of both male and female stool or title holders comprising *Adikro* and *Mbaa Panyinfuo* of smaller communities who are under her jurisdiction (Stoeltje, 2021). The

choice of who serves as an official in her court is up to her. The *Ohemaa* has her own *Ntam*²⁸, *Akyeame*, and *judicial panel members* in her court, just like the *Ohene* does in his court. There are a few variations as to the members or number of officials in her court as compared to the *Ohene*. Also, apart from the *Ohemaa* being the only female admitted to the *Ohene* court, the *Ohemaa's* court comprises both male and female members. Her court is where she settles disputes that are domestic in nature or *efisem* (Manuh, 1988).

The cases range from marital conflicts, spousal maintenance, neglect of children, market-related disputes, *Abusuasem*²⁹, imprecations or *Duabɔ*, witchcraft accusations³⁰, to some resource-related disputes. The *Ohemaa* has jurisdiction over certain cases where males are litigants. Her position as ‘pleading queen’ means that male litigants can seek the assistance of the *Ohemaa* to plead on their behalf on matters at the *Ohene* court (Stoeltje, 2021). Also, Asante’s customary law permits the transfer of cases from the *Ohene* court to her court,³¹ where the court fines are lower compared to the *Ohene* court (Manuh, 1988).

2.4.4 The Ohemaa and women

The *Ohemaa* is regarded as an embodiment of motherhood and therefore represents the women in the community. She is also a defender of women’s rights, especially regarding marital disputes. Asante laws, for instance, permit polygyny; however, the man is supposed to pacify his wife and seek her consent before he can marry another wife. He is also expected to continue to fulfil his duties as husband to her and father to her children when he marries another wife. Failure to do this

²⁸ oath

²⁹ Family related disputes

³⁰ Why do we have the Asantehemaa's Court in Asante? Interview with Sumakwahene Baffour Asabre Ababio Kogyawoasu, March, 2020.

³¹ In my interview and observation, it has been stopped by current Asantehene. Key informant N.K explains that Asantehene felt this practise was being abused by the populace most especially his sub-chiefs when they break the customary law tend to use the concept of *Dwantoa* to plead for leniency. He feels it inhibits him from cracking the whip on his sub-chiefs and subjects.

accounts for *kwasiabuo* or ‘high’ cheating in marriage. Therefore, the *Ohemaa* court affords women this protection and marital rights within a union. As head of the royal lineage, the *Ohemaa* is concerned with the propagation of the royal lineage. Thus, she would be involved in arranging royal alliances between her lineage and others. As co-ruler, she is also in charge of the wives of the *Ohene*. If the need arises, she would be counted upon to suggest a wife for the *Ohene* (Stoeltje, 2021).

The *Ohemaa* is supposed to be a role model for the women under her jurisdiction; greatest influence over women, therefore she is interested in preserving the moral standards of the female population (Prempeh & Amoah, 2021). She is also interested in the welfare of women (Stoeltje, 2021). Her role as guardian of women is exhibited when domestic disputes, such as marriage and spousal maintenance, are reported to her court. As Stoeltje puts it

“The Asante woman is assured of justice when the *Ohemaa* is involved because Asante laws of inheritance dictate that women’s property is solely hers and hers alone. The *Ohemaa* court, therefore, provides a legal system that privileged women over men; even within a society that is deemed highly patriarchal, women still have a voice and can assert power” (Stoeltje, 2021).

In times past, the *Ohemaa* was responsible for maintaining the moral stature of women within her jurisdiction. She performed this role through *biragoro* and *kyiribra* rites. Sarpong labels these rites as ‘girls’ nubility rites. *Biragro* comprises puberty initiation rites performed for young girls who have reached puberty (Stoeltje, 2021). When a girl does not go through these rites and gets pregnant, the *kyiribra* rites are performed on her. *Kyiribra* rites are for cleansing her from committing the taboo of getting pregnant before marriage (Sarpong, 1977; Crentsil, 2015).

Therefore, the *Ohemaa* is also involved in marriage rites and payment of bride price for girls who have gone through these rites³² (Rattray, 1923).

2.4.5 The Ohemaa and the Market

In all Akan jurisdictions, it is the norm that the markets belong to the *Ohemaa*. Among the Asante, this is so entrenched that all market women present a portion of their foodstuffs to the *Ohemaa*'s palace as *Aseda* for permitting them to do business in her market.

In this role, she also supervises the economic activities of the market through the assistance of her headman or what is popularly referred to by Clark 2018), Scheiterle & Birner (2021) as 'market or commodity queens'. The *Ohemaa* is also in charge of stool property. The major one is the stool occupied by the *Ohene*. The administration of stool lands has always been the duty of the *Ohene*, but he does that in consultation with the *Ohemaa*. I observed that this land administration is one area of contention between some Asante *Ahemaa fuo* and their *Ahenfu*. The *Ahemaa fuo* believe that their *Ahenfu* is neglecting their economic duties to them and is not safeguarding stool assets for the communities, but for their selfish interests. The *Ohene* is mandated to take care of the needs of the *Ohemaa*. He does that with proceeds from his court and stool assets. In the past, the *Ohemaa* owned lands and villages, but that cannot be said of today. Except for the *Asantehemaa*, who still own some towns and villages within the Ashanti region³³.

2.5 The Asantehemaa's Court

The *Asantehemaa*'s court sits within the broader space of the Manhyia palace in Kumasi. The name Manhyia, which translates as "*Oman ahyia*" to mean "the Gathering of the state", embodies

³² In an interview with Juabenhemaa, she explained that that sometimes parents come to her to request that she performs the *biragoro* rites for their daughter privately and she does. She further narrated a private ceremony organized for the daughter of a prominent woman in Kumasi. In her opinion, the girl listened to all the advise given her so when she was getting married, she was called on again to officiate her traditional marriage. (*Juabenhemaa, Kumasi, 2019*).

³³ Interview with Baamuni Nana Owusu and Ahenkwa Matthew. Names of Towns under Asantehemaa's Authority, May, 2020.

the visible and socio-political importance of the edifice in the life of the Asante people (McCaskie, 1995; Quampah et al., 2022; Ayamdoo, 2024). The palace, which houses the Golden Stool, is often referred to as the “soul of *Asanteman*”, which makes it the spiritual powerhouse of the people (Hagan, 1968; Busia, 2018). The Manhyia Palace is the seat of traditional government and ceremonial power for the Asante people of Ghana. The palace remains the site for both ritual performances and the demonstration of the political authority of both the *Asantehene* and *Asantehemaa*. The palace also signifies the pride, identity, culture, and symbol of a centralised traditional authority for the Asante.

The *Asantehemaa*'s court, which is housed within the Manhyia palace, demonstrates gender duality as a complement in the governance of *Asanteman*. As an open space, the palace space is also a social space. The road that separates the palace from the houses of chiefs is constantly plied by minivans called *trotro* and tricycles³⁴ daily. The entrance is surrounded by story-building edifices that house a combination of shops, offices, and residential facilities. The next building houses a bank and a retail shop that sells *kente*³⁵, different types of clothes, and accessories. The third building has another kente shop, a restaurant, a ground-floor pharmacy, and residential space on the top floor. The fourth building after the pharmacy shop has residential space on the top floors and ground floor shops selling a variety of drinks, food, and clothes. Another visible activity happening in front of the retail shop and directly opposite the palace are the several male artisans making and repairing different designs and sizes of locally worn slippers called *Ahenemaa*³⁶. These

³⁴ A popular means of transport called ‘Mahama bamboo’ or ‘Pragya’. The first name was given to these tricycles because the president at the time these were introduced to the transport system was called John Mahama. At that same period, a popular Indian series was ongoing on one of the major tv stations called pragya. In this series, these tricycles were very much used.

³⁵ Native woven silk or cotton cloth. Historically this cloth was worn by royalty and used only on special occasions.

³⁶ *Ahenemaa* slippers accompanies the traditional cloth worn by royalty, *Ahenfu* and *Ahemaa fuo* in some cases the elderly or aged. It is the preferred form of footwear when visiting the chief's palace, especially for traditional formal occasions. It is also widely worn by men for funerals. This slipper is designed differently for men and women. Both

slippers are mostly worn by Akan traditional leaders and, in some cases, the aged who prefer traditional slippers.

The ongoing economic activities were suited to the needs of various visitors to the palace. Similarly, with brisk socio-economic activities taking place close to the palace, it enhances the visibility of the palace to the public.

In the case of the *Asantehemaa*'s court, the easy accessibility of the palace reiterates the role of the *Ohemaa*. To the visitors of the court, the seemingly open access to the court makes it easier for litigants to report their cases on any given day. Returning to the building as a space for the demonstration of Asante's dual political governance, the palace comprises both private residences and courts of the *Asantehene* and *Asantehemaa*, office spaces, parking lots, sheds, drinking spots/bars, and eateries. With the two non-binary but mutually inclusive political heads operating from the same space, the *Asantehemaa* exerts her traditional roles, albeit with some significant changes, as the women's voice in Asanteman (Arhin, 2023; Diabah & Appiah Amfo, 2015; Stoeltje, 2021).

The palace has an archives unit, offices for the administration of stool lands, administrative offices that handle the affairs of the *Asantehene* and *Asantehemaa*, the Manhyia palace museum, two radio stations, namely, Sika FM and Opemsuo radio³⁷, a police station, a medium-security prisons unit, and living quarters for both male and female attendants of the *Asantehene* and *Asantehemaa*. The

men and women can wear it for other ceremonial functions such as weddings, naming ceremonies etc, once they are in traditional wear.

³⁷ Opemsuo runs programs largely in Asante Twi, but also occasionally in English to appeal to the non-Twi speaking audience. But more of the programmes are in Twi to enhance the logic of language as the site of cultural storage, fluidity, and transmission.

social services available at the palace reflect the complex interaction between “modernity” and “tradition”. The archives owned by the palace and managed by the Institute of African Studies, University of Ghana, since May 1963, have both socio-religious and political significance. Both the archives and museum remind Asante of their history and “past”, which becomes the documentation of rituals connecting them and their real and putative ancestors.

The archives and museum³⁸, therefore, remind the Asante people of how far they have come, including progress and challenges encountered. At the same time, the presence of the *Opemsuo* radio demonstrates a complex continuity between the past and present and Asante’s quest for modernity. The radio serves as the mouthpiece of *Asanteman* that broadcasts Asante's history, culture, and visions for postcolonial Ghana’s development³⁹. The modern police station and mini prison reinforce the traditional political authority of the *Asantehene* and *Asantehemaa* as promoters of peace and social order. Historically, pre-colonial chiefs owned prisons, especially after the British abolished slavery in the 19th century (Balakrishnan, 2020).

I explored the role of the *Asantehemaa* in adjudicating cases such that no one falls victim to being imprisoned or falling into difficult legal disputes with the state. For this reason, my research disclosed that the *Asantehemaa*’s court remains a busy arena for discussing several complex social issues. These issues usually border on kinship ties and are dispassionately discussed within the

³⁸ the old living quarters of the *Asantehene* are now used as the Manhyia palace museum where rare artefacts that speak to the history of the Asante kingdom and its chieftaincy can be seen. Strategically reserving the old palace for such historic artefact is to whip cultural interest and desire for evoking the imagined golden era of the social and political order of Asanteman. The museum opens from Monday to Fridays Opening from Monday to Friday except on public holidays, the museum signifies the past, present, and quest for continuity of Asante chieftaincy and culture. Significantly, therefore, the museum has an outhouse that houses the offices of the museum curator, other staff, and an art/gift shop. The museum curators, curate Asante's history and therefore reinforce Asante's historical presence and relevance in contemporary Ghana.

³⁹ Interview with Nana Owusu on November 15, 2019, and Ketehehene Nana Boateng February 02, 2021.

hubris of kinship ties to make sure no one gets incarcerated. But more importantly, the presence of these state edifices points to the political authority of the Asante political elites (Arhin, 2023).

At the *Asantehemaa's* court, I observed severally times that the court often fell on the police to summon a recalcitrant disputant who refuses to turn up for adjudication⁴⁰.

At the entrance of the *Asantehemaa's* court, one could find several women and young men engaged in brisk economic activities. Several people are trading in branded *Asanteman*⁴¹ paraphernalia such as car stamps with pictures of the *Asantehene*, *kente* cloths, and *Ahenemaa*⁴² slippers. With the advent of COVID-19 in Ghana, the social distancing and safety protocols added to the texture of rendering the Asante culture visible. As the World Health Organisation (WHO) prescribed and universalised the use of facemasks to ward off the rapacious spread of the COVID-19 virus⁴³, several fashion designers invested in producing branded facemasks with Asante royal insignias embossed on them. As part of my research, I observed that it was commonplace to see people trading in *Asanteman*-branded facemasks and hand sanitisers usually placed at the entrance of the court. Most of the individuals who undertake these trading activities are children or grandchildren of royals or palace functionaries affiliated with the palace⁴⁴. This is an indication that attendants were allowed to hold personal economic ventures on days when they were not immediately required to perform a role in the palace.

⁴⁰ The chieftaincy act stipulates that chief can perform dispute resolution on matters that border on customary law. In my observation the *Asantehemaa's* court was aware of its limits on the kinds of cases it can sit on and applied some aspects of civil law to pass rulings.

⁴¹ Asante kingdom

⁴² Locally made sandals mostly worn by royals and aged.

⁴³ <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public/when-and-how-to-use-masks>

⁴⁴ I had a conversation with a woman who sells books on Asante history. She mentioned how they got permission to mount stands to sell within the palace walls. This was because on her case, her father was once a curator of the Manhyia palace museum.

Figure 1: The Asantehemaa's Court



2.5.1 The Role of the Asantehemaa's Court as an Institution for Conflict Resolution

The *Asantehemaa* is required to perform a set of social, legal, political, and economic roles. As the mother of all, her major legal and political role is to ensure the peaceful coexistence of subjects within the traditional state. One main feature and symbol of the *Ohemaa*'s authority is the court, set to complement that of the *Ohene*⁴⁵. To be able to execute this duty, she is required to arbitrate and resolve disputes in her court.

The *Asantehemaa*'s court, just like any other traditional court, employs customary arbitration techniques by employing Negotiation skills like offering compensation⁴⁶, encouraging forgiveness⁴⁷, and reconciliation⁴⁸ to resolve disputes.

⁴⁵ Interview with Kokofuhene, Kokofu, 2019

⁴⁶ mpata

⁴⁷ fakye

⁴⁸ siesie

Asante history tells us that the laws of the Asante nation were designed by *Okomfo Anokye* and Osei Tutu (Abaka & Kwarteng, 2021). Asante laws, normally referred to as *Ammammre*, are employed in the court as the basis or guidelines for settling disputes (Rattray, 1929; Ayamdoo, 2024). These laws are accompanied by the sacred oath that accompanies her stool⁴⁹. This is the basis for resolving disputes that range from cheating allegations, adultery, verbal abuse, inheritance, access to land and boundary disputes, and imprecations (*Duabɔ*), to mention but a few (Stoeltje, 2013).

Cases are reported to the court any day of the week; however, the deliberation days are fixed on Tuesdays and Fridays between 9 am and 4 pm except on ritual days, weekends, and public holidays, while the Asantehene's court sits on cases every Monday and Thursday. These ritual days are calculated with the Asante calendar called *Nnabuo*. Days such as *fofie*, *dapaa*, and *awukuda*⁵⁰ are observed or celebrated with ritual performances under Asante customs. The court would be unable to sit on cases when on public holidays or upon the death of a member of the family⁵¹.

At the time of my study, the *Asantehemaa* never made an appearance at the court during deliberations⁵². The court still functions in the absence of the *Asantehemaa*. However, some cases can and have been said to be deliberated away from the view of the public in the inner chambers

⁴⁹ This oath is sworn by disputing parties and witnesses before a case is deliberated on and after ruling has been given. The oath reads as follows

⁵⁰ Ritual days set aside to remember our ancestors and to feed the gods.

⁵¹ At such instances, members of her court are expected to be in attendance in support of the *Asantehemaa*. Their participation in activities as such relates to the concept of *esom* or service to the stool.

⁵² During an interview with one of her stool priests, he explained that her advanced age was the main reason for her absence at the outer court. However, she was visibly resolving some disputes in her inner chambers as observed.

of the *Asantehemaa*. Sometimes, such cases are deliberated on days other than the assigned Tuesday and Friday for public deliberations.

2.5.2. Court Composition

The *Asantehemaa*'s court is rooted in the Asante political structure. The court, just like the stool she occupies, signifies the reach of her authority and the trust the Asante people place in her. As the head of the tribunal, the *Asantehemaa* has her own *Ntam* for swearing an oath, *Adikro*, *Mmaa Mpanyinfuo*, *Akyeame*⁵³, who are her judicial panel members, court functionaries such as *Ahenkwa*, whose main job is to serve summons, keep witnesses at bay during deliberations and bring them when called upon, and finally assist the court to execute final judgements as ordered. *Abrafuo*⁵⁴ are responsible for keeping the peace during deliberations, *Mbogwafuo*,⁵⁵ female attendants who sit in front of her stool and observe proceedings. This includes other palace functionaries, such as *Baamufuo*, *Nkonuasuafo*,⁵⁶ who do not participate in the court proceedings but are considered part of the court composition. As the chief arbitrator, the *Asantehemaa* is supposed to sit in state and give final decisions. But as I observed, the chairman of the tribunal makes the final decisions after the panel members have made their submissions. On specific days that the *Asantehemaa* was involved in dispute resolution, she summoned her elders in the court into her inner chamber. The current *Asantehemaa* was never in the court during my observations.

⁵³ Linguists who are also stool holders under her authority. The head of the Akyeame or Akyeamehene is Eseresohemaa. The *Asantehemaa* has four female 2 male linguists. At the time of my study, there were two Akyeame operating in her court. The rest stayed with her in her inner chambers.

⁵⁴ More like court guards

⁵⁵ The *Mbogwahemaa* is the leader of this group her duty is to ensure the *Asantehemaa*'s residence and court is clean and ready prior to any court or ritual day.

⁵⁶ Grave priests in charge of stool house, Stool carriers.

I was made to understand that because she was well advanced in age, she sat in her inner chamber to resolve disputes that were of importance to her. Such disputes as surrounding the succession of stools under her authority, for example, were resolved by her⁵⁷.

The judicial panel is classified into three groups. First is the *Akyeame*, next is the *fekuo*, namely, *Nkonson* and *Nkutimso* (Manuh, 1988). This setup has been in place since time immemorial. However, with the dissolution of the court due to allegations of bribery against some members of the judicial panel,⁵⁸ the current tribunal comprises two linguists, *Ejisu-Asawase* (male) and *Bomso no 2* (female), the chairman of the tribunal, *Kaasehene* (male), *Ofoase* (male & female), *Nhyiaeso* (male & female), *Abankro* (female) and *Kwasoa* (male & female).

According to Obeng and Stoeltje (2002), court officials, who include the court crier, wield power over disputants, and disputants' status does not supersede the court officials at the court. For example, when a chief has been summoned, he would be given the respect of a chief and asked to wear one foot of his slippers in deference to the *Asantehemaa* as a superior authority. During deliberations, the *Okyeame* is somewhat more powerful than the chief who has been summoned with a case. He can be called to order by the *Okyeame* if the court feels he is making false

⁵⁷ I observed a succession dispute of a stool closest to the royal matrilineage. She chastised the Omanhemaa of favoritism and renominated another male to occupy the stool. This was her veto power at display.

⁵⁸ <https://starrfm.com.gh/2019/05/otumfuo-dissolves-asante-hemaas-court-over-corruption-claims>

News about Asantehene's dissolution of the court surfaced in May 2019. Subsequent investigations revealed that it was required due to claims of corruption and bribery made by certain plaintiffs who used the court. Some of the chiefs and elders who arbitrated conflicts at the court were blamed for collecting bribes and subverting justice. One of the informants claims that Asantehene chose to reassemble the court with individuals he believed to be fresh and impartial after receiving evidence against some of the court's elders. Until he declares otherwise, the court is considered transitory.

statements or disrespecting the panel. During proceedings, it is the *Okyeame* who points out which panel member can speak at certain moments⁵⁹. He directs the whole court process.

Membership of the court does not necessarily mean you can speak or interfere with arbitration proceedings. It may seem that there is almost an equal number of male and female members of the court (including the audience); however, the composition of the judicial panel is male-biased as power and status at the court are centred in the male panel members. Female members of the court are usually silent except if the female is the *Okyeame* or has been nominated as *Dwanetoahemaa*⁶⁰ for the day. The court setup is done in such a way that women⁶¹ have relinquished the power of public speaking to men (Obeng and Stoeltje 2002). Despite the male bias, the *Asantehemaa* is the final arbitrator, and her judgment is not challenged (Stoeltje, 2021). In her absence, the court still settles disputes (Obeng & Stoeltje, 2002). With the current tribunal set in place by the *Asantehene*, *Kaasehene* is the chairman of the tribunal and is responsible for the final judgments passed⁶².

As I observed, *Adikros* are the ones mostly seen conducting deliberations in the court. Their female counterparts hardly spoke during proceedings. They were mostly seen observing and making comments. Other times, they yelled at complainants or witnesses who were not making their submissions straight. They act as the disciplinary body of the court⁶³, a form of social control. Thus, public speaking was not only concentrated in the men. Men took the lead, but in instances

⁵⁹ During observation, the *Okyeame* interfered with the speeches of panel members including the chairman, insisting he had to speak before anyone else.

⁶⁰ Pleading queen

⁶¹ I am referring to the Queenmothers and female courtiers in the court. This excludes the female *Okyeame*.

⁶² In some instances, I noticed the chairman requested proceedings to be halted whilst he and the panel sought the view of the *Asantehemaa*.

⁶³ Interview with Kokofuhene Barima Offei Akwasi Okogyasuo II at Kokofu, June 03, 2020.

where the case being deliberated on concerned women, the women in court took over amidst insults.

I observed an ongoing deliberation that was practically halted by the women in court. It was a case of an ex-wife who invoked curses (*duabo*) on her pastor ex-husband due to a dispute over the share of the assets as directed by the divorce court. What angered the women in the court was the fact that the ex-husband mentioned that she abandoned her children (the last one at 9 months old), with him claiming that she was not interested in caring for them, even when the state court had granted her custody of the children. In the Akan social organisation, children belong to a woman's family, so for her to abandon the children meant she had no motherly instinct. In this instance, the *Okyeame* and male judges stopped talking as the women in the court took over. They hurled insults at the ex-wife that she had no choice but to leave the court. The women followed her amidst insults and threats that the curse would be reversed upon her because she was a wicked woman who had no feelings for her children⁶⁴. The spokespersons and chairman had no choice but to allow the women to take over the court proceedings and subsequently reschedule the case.

2.5.3 Police Presence

A Ghana Police Station is operating within the Manhyia Palace establishment. This police presence can be interpreted as a convergence between the state apparatus and customary institutions. The police station is not the property of the Manhyia Palace but the state-run security agency. The police service, *Asantehemaa* and the court enjoy a cordial working relationship as observed. For instance, when the court serves a summons to litigants, they expect a response even if they do not intend to appear before the panel. There are fines and punishments pronounced on litigants who

⁶⁴ When I asked a key informant why the women were allowed to take over the case, His response was that the women were performing their role as the collective form of social control and that this case was a clear example of their role and representation of women in the court.

refuse to respond to summons, especially when the dispute involves *duabɔ*. The court falls on the police officers to arrest such litigants and to enforce such summons and fines. The court has on several occasions fallen on the Manhyia district police, as I observed. Subsequently, the police station appoints a female police guard who is always stationed at the inner chambers of the *Asantehemaa*'s residence. The police are also called upon when the dispute is perceived to be sensitive or when physical altercation ensues. The court then falls on the police to ensure security and adherence to court rules.

2.5.4 Court process and dispute resolution

According to Manuh (1988), a complaint is made to the court through any of the *Okyeame*, who, in turn, leads the litigant to the registrar. However, as observed, the court registrar⁶⁵ performs this role of receiving complaints, booking deliberation days, and recording disputes reported. He also takes records of summons fees paid and issues receipts as evidence of a case being reported.

Complainants can come to the court to report their cases on any day of the week. The registrar takes note of the case and requests the complainant to pay the summons fee.

He then sends a palace functionary, available; *Mbogyafo* or *Ahenkwa*, to *Nsaman*⁶⁶ to inform the defendant that a case has been brought against him or her. When the accused reports to the court, a court date is set for deliberation after the accused listens to his or her *Nsaman* and agrees to the deliberation process. He or she does this by paying what is called *Mpiisoo*⁶⁷. This payment is the defendant's agreement to have the case heard and resolved by her court. When the case is called

⁶⁵ At the beginning of field work in 2017, the court had an appointed registrar, assisted by two registrars appointed from the regional house of chiefs. By the mid of 2019, Asantehene has dissolved the court as a result of corruption allegations levelled against some judicial panel members. The court was reconstituted in some months later with new panel members. According to a panel member they are a temporary tribunal. By this time, the court appointed an Ahenkwa to act as registrar for Asantehemaa's court.

⁶⁶ summon

⁶⁷ Literally means top up. Signifies agreement for deliberation to commence.

on the set date for deliberation, both parties are to pay *ntadwom*⁶⁸. Deliberation days at the court are on Tuesdays and Fridays except for public holidays or on the death or funeral of any royal related to both the *Asantehene* and *Asantehemaa*. When the court opens for the day, all members of the court are expected to be seated in their designated spaces. The *Okyeame* then announces that the session is about to start. The *Nkonuasuafo*, while carrying the *Asantehemaa* stool, announces her arrival. Once the announcement is made on everyone in the court is required to stand in reverence. When her stool is placed in the designated spot, the chairman sits with the panel members.

Before deliberations commence, the *Okyeame* starts the proceedings by calling the cases as provided to him by the registrar. He or she then verifies that the parties standing in front of him are the ones coming for resolution. They are asked to provide their witnesses if they have any. He also requests that the witnesses be brought in to see and then asks the *Ahenkwa* to take them outside, so they do not listen to the deliberations before they give their witness accounts. Each litigant is expected to make good use of their witnesses to prove the authenticity of their case.

If anyone has any documentation of some sort as evidence, he or she can admit it in court to aid his or her case. I also noticed that video and audio recordings were also admitted into court to aid one's case or as evidence. A complainant or defendant can also request someone to represent them in court, but a letter of attorney is needed as evidence of delegation of duty.

Once the case is called, the *Okyeame* leads the complainant to swear the *Asantehemaa*'s oath (*kokoniwa*) to tell the truth.

⁶⁸ what I refer to as deliberation fee.

The Oath reads as follows.

Me srɛ Nana hemaɔ kokoniwa ka kokoniwa, se asem a merebeka yi se meka nokware trodo na se menka nokware ah me to Nanahemaɔ kokoniwa.

In English, it means I plead on Nanahemaɔ's sore foot that what I am about to say, I am going to say the truth only. If I do not tell the truth, then I have disrespected the sore foot.

To force all parties to comply with the proceedings, the plaintiff, defendant, and witnesses are all made to swear the sacred oath attached to the *Asantehemaɔ*'s stool. The oath once sworn is binding on parties to speak the truth (Agyekum, 2004) and ensures that disputing parties are compelled to accept that the final ruling is backed by the power of the sacred oath that her stool occupies.

It is the *Okyeame* who gives the litigant the microphone and orders the person to speak. The whole order of the court depends on the *Okyeame*'s control. The *Okyeame* acts as an intermediary, spokesperson, and linguist for the court. Not only does he receive statements and repeat them in a manner suitable for the court, but he is also responsible for the smooth running of deliberations that take place at the court. As observed, the chairman of the tribunal spoke to the litigants through the *Okyeame*, and the litigants also were required to speak to the chairman through the *Okyeame*⁶⁹. The basic requirement for the court is truth (Obeng & Stoeltje, 2002; Stoeltje, 2013) and one's ability to present his/her case truthfully without false witnesses⁷⁰ and show evidence as I observed. A litigant who beats about the bush during his narration of events and does not go straight to the point is considered not truthful⁷¹.

⁶⁹ To ensure that litigants spoke through the *Okyeame*, he was always facing them whilst addressing the court. In several instances, he repeated the words, 'look at me' or 'speak to me' to ensure order.

⁷⁰ *Adanse krumu*

⁷¹ On various occasions I observed the *Okyeame* ask the complainant to make their statement short by telling the court why they are there. The *Okyeame* gives examples such as tell us if he has stolen your goods, insulted you, lied on you, cheated you. Then later explain how the person offended you.

The deliberation process commences with the complainant narratives called *Nkrobo*. He mentions the reason why the defendant has been summoned. After the complainant's statement, the *Okyeame* then asks the defendant if he or she is guilty of the charges brought against him. When the defendant responds, the defendant is now supposed to cross-examine the complainant's narrative to prove or disprove the allegation. The panel members can interject with questions for clarity. After that, the witnesses for the complainant are brought in and asked questions concerning the matter at hand. The defendant is given another chance to interrogate the witness statements. One attribute required of elders during deliberations is to use their good ears to listen and judge (Hagan, 1980; Ayamdoo, 2024). During this back and forth, the panel members are presumed to be listening to the narrations and building their questions. Now is the turn of the defendant to *bo ni nkuro* or give his narrative. The complainant is then asked to interrogate the account of the defendant to prove or disprove what they said. After that, his witnesses are also brought in to give their accounts. The complainant is now required to interrogate the witness statements. As mentioned earlier, the panel members can at any time intervene with their questions to ascertain clarity and the truth. After cross-examinations by panel members, a final decision is reached. Each panel member is allowed to say what he or she thinks. Followed by the chairman of the tribunal, who gives his final verdict. The *Akyeame* present for the day also have their say on the matter. The lead *Okyeame* delivers the final verdict given by the chairman to the hearing of all in the court.

At each sitting, an appeals chief in the person of Nana Kwaso was present. Yankah (1989) refers to this person as the 'chief intervener'. On the days that he could not make it to court, another chief or *Obaapayin* at the court acts as *Dwantoahene* for the day. The role of *Dwantoahene* is to seek

redress for those found guilty and plead to the court for a reduced fine (Obeng & Stoeltje, 2002). A litigant's refusal to seek a reduced fine can be termed as disrespectful to the court. It is enshrined in the customary proceedings that one must seek redress or a reduced fine, no matter what happens. As I observed, sometimes Nana Kwaso will intentionally refuse to give in to the request for leniency whilst the litigants hold on to his feet. He then goes out of the court with them to address their pleas before coming back to plead on their behalf. This is how the plea statement goes:

Nana Okyeame, mani tu Nananom se womu ma womu di bim, ma Nanahemaa dibim.

“Let it reach nananom that the faulters have agreed that they are at fault. They are pleading for a reduced fine”.

The verdict at the court must be accepted by both parties. Hence, the chairman of the tribunal must ensure fairness in deliberations. Once a verdict is passed, it cannot be overturned. No one is permitted to challenge the verdict after it has been passed⁷².

The adjudication process is performed in a group where stakeholders involved in a case, i.e the complainants, defendants, witnesses, and panel members, have their say during the whole process. This shows the democratic nature of the process and the precision employed in deliberating a case. This group participation ensures that everyone participates; however, this can lead to prolonged discussions and rescheduling of cases because of lengthy deliberations. And because the stool is of symbolic significance in Asante kinship and revered as a sacred object with ritual validation to the authority of the *Asantehemaa*, a combination of the stool and the sacred oath consolidates the power of both the *Asantehene* and *Asantehemaa* (Busia, 2018). The stool also symbolises her reach

⁷² As observed not all litigants agreed with the verdict but had no choice or could not argue further. In instances where conflicting parties did not agree with the verdict, they were permitted to take the matter to the civil court. The registrar explained that once the court writes to them, they make a copy of the proceedings available and send it with one of the judicial panel members to explain why they arrived at such verdict.

and power to settle disputes. That is why even in her absence from the court, her stool is required to be placed in the court before deliberations can commence.

Disputes are aimed at settlement and reconciliation, even though in some cases, some complainants or defendants grudgingly accept reconciliation. To ensure reconciliation is effective, the judicial panel led by the *Okyeame* once again employs the customary rule of swearing the oath (*kokoniwa*) to the *Asantehemaa*'s stool. The court is very keen on how one presents their case or defends the allegations made against them. The Asante structure is hierarchical; hence, a litigant's knowledge of the hierarchy and how they employ it in the court also matters. Litigants, before making statements, are expected to address the *Asantehemaa* or, in this case, the chairman of the tribunal, *Nananom* and *Okyeame* before commencing their speeches. A rude litigant can be fined for disrespect. Until that fine is paid, the deliberations cease. This is supposed to conform the litigant to their authority (Obeng and Stoeltje, 2002). I observed instances where other sub-chiefs who have been summoned to the court were fined for insubordination or for utterances deemed disrespectful to the court.

I noted that it was an acceptable practice to have one's case rescheduled more than four times. Some reasons could include the defendants' refusal to appear at the court, unavailability of witnesses, illness, seeking to reappear at a different date, inability to pay summons fees, or tight work schedules. Cases can be adjourned when the principal witnesses do not appear in court. Here again, the litigant whose witness fails to show up is required to politely ask for a rescheduling of the case to enable him or her to compel the witness to appear. However, if the panel feels that their time is being wasted or the litigant keeps requesting rescheduling of the date, they make it clear to the litigant that no further change of date would be granted to him or her. In the likely event that a

defendant is proving stubborn, the police are brought in to accompany the *Ahenkwa* to arrest the said person. This action, amongst others, is evident in the court's relationship with the modern structures of government. Not only does the chieftaincy act guarantee traditional authority the space for dispute resolution, but it also gives the customary arbitration body some power to enforce its judgments.

I also noticed that enforcing judgments was a 50-50 chance. However, once judgments were passed, it was recorded by both registrars from the *Asantehemaa's* court and the houses of chiefs. This made it difficult for a court of competent jurisdiction to overturn such judgments. However, in some cases, defendants or litigants have taken a case from the *Asantehemaa's* court to the state court. In such cases, the judgment is admitted, and any panel member from the *Asantehemaa's* court can be called upon to give evidence as to why the judgment went in favour or not of a litigant or defendant. I also observed that some cases were requested to be moved from the state court to the *Asantehemaa's* court for amicable settlement. Both defendants and plaintiffs in these cases, I observed, requested for amicable settlement at the *Asantehemaa's* court.

Some respondents mentioned the swift response of the customary tribunal as compared to the state court to be one of the main reasons for requesting a move from the state court. Others mentioned the high cost involved in hiring lawyers, the use of the English language as opposed to the native *twi* language, time spent on their case, the cost involved, and the specific nature of the case.

During my prolonged observation, I realised that sometimes the panel is strung on what legislation to accept and which one to ignore. It is evident that the court still acknowledges the reach of the state over their affairs; however, there is still the populace that holds on to the moral authority that the stool represents.

Court proceedings are kept in a record book and on video. These records are kept in storage by the court for further admittance in case the case comes up again. A copy is also kept by the registrar appointed from the house of chiefs. Sometimes, litigants do not accept the ruling of the court and choose to appeal to the state court. This is where the recording of proceedings is admitted as evidence to resolve the case.

2.5.5 Language use at the Asantehemaa's court

Language can be used as a tool to influence and convey meaning. Language is employed to invoke status and express the power of the *Asantehemaa* and the authority of the court (Obeng and Stoeltje 2002; Stoeltje, 2021; Watson-Nortey, 2020). The court also employs the use of euphemisms as a shield against the offensive nature of taboo. Euphemisms are meant to replace taboo words. When a taboo word is spoken in the court, the perpetrator is fined. Taboo words are treated in varying degrees of forms (Agyekum, 2010; Tampos-Villadolid & Santos, 2019).

The main language employed within the *Asantehemaa* court is Asante-Twi⁷³. The language of the court is slightly different from everyday spoken twi as the use of proverbs and intertwining of words takes precedence to convey a meaning. The language employed within the court space depicts unequal power relations that arise in the court. Thus, power relations are also exhibited between the litigants and the panel members or among panel members at the courts (Stoeltje, 2006).

⁷³ I noticed that most of the litigants who visited the court were either Asante natives or had a working knowledge of the language and could express themselves in twi. I observed a case where the defendant claimed she was a non-Asante and hence may make mistakes in her submission. When she started her narration, she used a proverb to explain her position. The Okyeame interrupted by saying you claim you are non-Asante, yet you are introducing your case with proverbs? This showed that non-Asante visitors such as her were able to express themselves in the local dialect. IN instances where the litigant could not express themselves properly, an interpreter was sought among his or her followers to assist with the narration.

In Stoeltje's (2013) study, she posits that both male and female litigants can access the court and speak for themselves. Also, Akan women use language differently at customary courts or for different purposes as compared to men. Women use their position and perceived ideas of themselves as weak, powerless, and having low economic status to seek sympathy and express themselves as vulnerable to their advantage (Obeng and Stoeltje, 2002). Female litigants display powerlessness in their speeches to their advantage. i.e *Nananom munka bi mame*⁷⁴. Women use the perceived idea of their weakness to convey the language of politeness and to seek the support of the panel members, while men use the language of power, which is always deemed rude. And because women employ more polite strategies in their speech at the court as compared to men, according to Obeng & Stoeltje (2002), this soft speech goes to their advantage as it favours them before the elders.

Furthermore, both male and female litigants have to be knowledgeable in customary law because that influences the litigant's ability to present their cases well in court. In my observation, knowledge of customary law did not directly affect the outcome of proceedings; however, litigants were assured of finding the truth of the matter as the right basis for judgment.

2.5.6 The political economy of the court

Before I began my fieldwork, it was reported in May 2019 that *Otumfuo Asantehene* had dissolved the *Asantehemaa's* court due to bribery and cheating allegations⁷⁵. *Asantehene* has secured video evidence that some of the panel members were collecting monies from litigants to avert the cause of justice. In other instances, these panel members were seen giving litigants advice as to how to proceed with their narratives when called to speak in court.

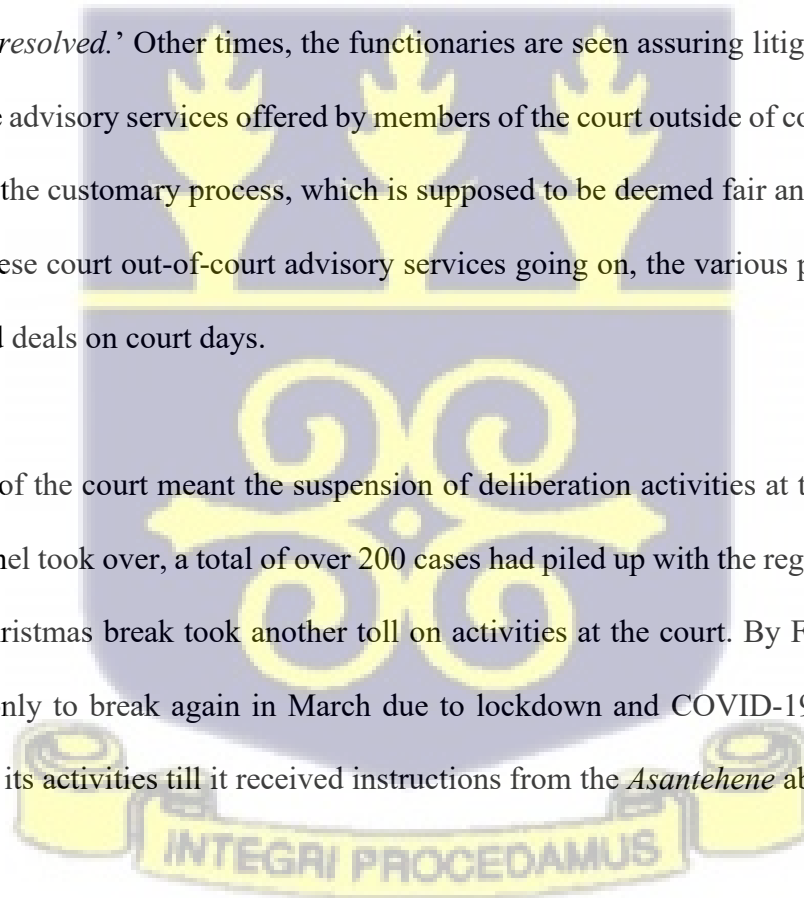
⁷⁴ Nananom say some for me.

⁷⁵ <https://starrfm.com.gh/2019/05/otumfuo-dissolves-asante-hemaas-court-over-corruption-claims/>

During my prolonged observation, I realised the court days were lively and bustling with economic activities. The vendors had good sales due to the number of visitors to the courts. The court also made some economic gain from fines and charges meted out to faulting litigants. I, however, describe the scene of court functionaries attempting to advise litigants before their cases were called for deliberations. I term this as ‘*Court outside the court*’. This goes both ways, as visitors to the court are sometimes weary and seeking quick justice. Sometimes they are seen trying to explain their case to a palace functionary in the hope that justice would go in their favour. At times, the functionary would mention, ‘*Wait, when they call you, just mention what your case is to them, and it would be resolved.*’ Other times, the functionaries are seen assuring litigants of favourable outcomes. These advisory services offered by members of the court outside of court activities have implications for the customary process, which is supposed to be deemed fair and just.

In addition to these court out-of-court advisory services going on, the various petty traders at the court make good deals on court days.

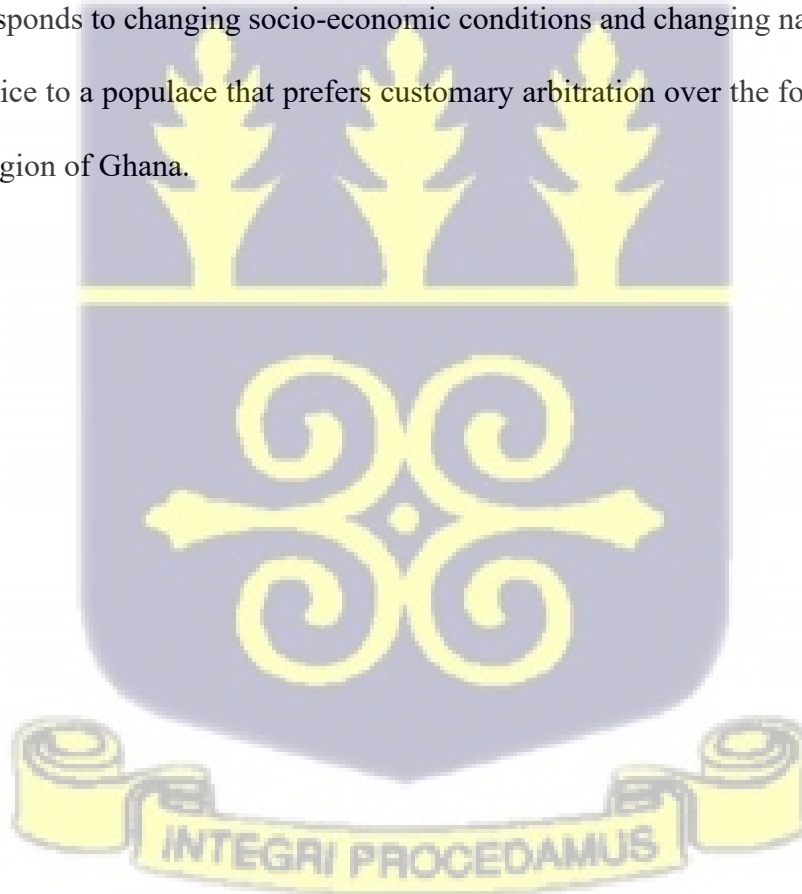
The dissolution of the court meant the suspension of deliberation activities at the court. After its reconstituted panel took over, a total of over 200 cases had piled up with the registrar. Then by the end of 2019, Christmas break took another toll on activities at the court. By February 2020, the court resumed only to break again in March due to lockdown and COVID-19 restrictions. The court suspended its activities till it received instructions from the *Asantehene* about the reopening of the court.



2.6 Conclusion

In this chapter, I examine the Asante chieftaincy structure as a centralised authority, matrilineal hereditary succession to stools, and the position and roles of the Asante Queenmothers within this structure. Using the *Asantehemaa* and her court as my case study, I show how Akan Queenmothers perform the judicial function of customary arbitration in their communities.

In this section, I discuss the socio-cultural and political significance of the Manhyia palace and the connection between the *Asantehemaa*'s court, changes in her roles, and her position within Asanteman. I also discuss the *Asantehemaa*'s court as a site for dispute resolution, the composition of the court, the cases reported and the resolution processes that take place. In all of this, I show how the court responds to changing socio-economic conditions and changing national legislations in providing justice to a populace that prefers customary arbitration over the formal court system in the Ashanti region of Ghana.



CHAPTER THREE CONCEPTUAL FRAMEWORK

3.0 Introduction

This chapter discusses concepts such as conflict (dispute), conflict mediation, and conflict resolution and how these are enacted in the *Asantehemaa*'s court. This chapter examines how the court applies restorative justice to achieve justice and reconciliation as a result. The chapter analyses some concepts that relate to customary arbitration among the Asante. I explain the types of disputes reported and the resolution strategies the court employs to resolve disputes brought before the court.

Restorative justice is an alternative theory to retributive justice, which is a traditional method of justice critiqued for punishing offenders (trying them and jailing them) for committing crimes or breaking the law (Gavrielides, 2020) rather than considering the effect the crime has on the victim or society at large. Another critique of retributive justice is that offenders are most likely to end up re-offending (Monday, 2020).

The term restorative justice was initially used in criminal justice literature and practice in the 1970s, according to Gavrielides (2020). It was coined as a response to crime that emphasises mending the harm caused by criminal acts and restoring the dignity of all parties involved (Gade, 2018). Evidence, however, suggests that the idea's origins are ancient, and it has been used in some traditional societies. According to authors like Fry (1951) and Cares (2015), victims in countries such as Britain were disregarded by the criminal justice system, and as a result, the formal usage of restitution was recommended.

The phrase "restorative justice" is typically attributed to Albert Eglash. Eglash (1977) asserts that among the three categories of justice systems - retributive, distributive and restorative, the first two prioritise the criminal conduct while excluding the victim from the process. The third, on the other hand, involves all parties in the criminal process and aims to repair the negative impact of the harm caused. Other scholars, such as Gade (2018), rather suggest that Eglash's contributions to retributive justice as a technique for punishment of crime and restorative justice as a technique of restitution actually laid the groundwork for future scholarship on restorative justice. Thereby birthing scholars such as Howard Zehr, who maintained that since crime damages relationships, steps should be taken to restore and mend them. Thus, restorative justice should be implemented as a new paradigm for justice (Monday, 2020; Zehr & Mika, 2017).

Restorative justice, therefore, complements the traditional methods of justice rather than caters to the victim's needs alone, ensuring the offender is aware of the damage caused and takes responsibility for repairing the damage done (Johnstone & Van Ness, 2013). This process ensures that victims, offenders, and stakeholders affected by a dispute, crime, or offence have a safe space to discuss and deliberate the outcomes of an injustice or crime committed (Palermo, 2025).

Zehr (2014) argues that the Western criminal justice system's approach to crime or injustice has its strengths, limits, and failures. The failures have to do with how victims, offenders and the community feel about their need for justice. The Western justice system seeks to criminalise offenders without looking at the social or psychological wounds created by the crime committed. Restorative justice, therefore, contributes to the healing process and ensures lasting peace. It also ensures that offenders take responsibility for their actions, which may include payments of

compensation or rendering an apology to affected persons, and to prevent the causation of further harm.

Restorative justice is most effectively applied to offences that involve social injustice, as it takes a holistic view of justice. Furthermore, each society needs to practise Restorative justice in ways that align with its own traditions and cultures, recognising the need for cultural and context-specific approaches. Restorative Justice has roots in indigenous justice systems that focus on communal rather than singular, and a bottom-up approach for resolving community disputes. It is commonly applied in societies where traditional justice and conflict resolution processes are widely known and applied (Monday, 2020). I address the application of restorative justice at the *Asantehemaa's* court, which deals with interpersonal disputes and issues that border on social justice with respect to Asante customary laws. The focus of the court is on broken relationships that may have been harmed due to a dispute or offence.

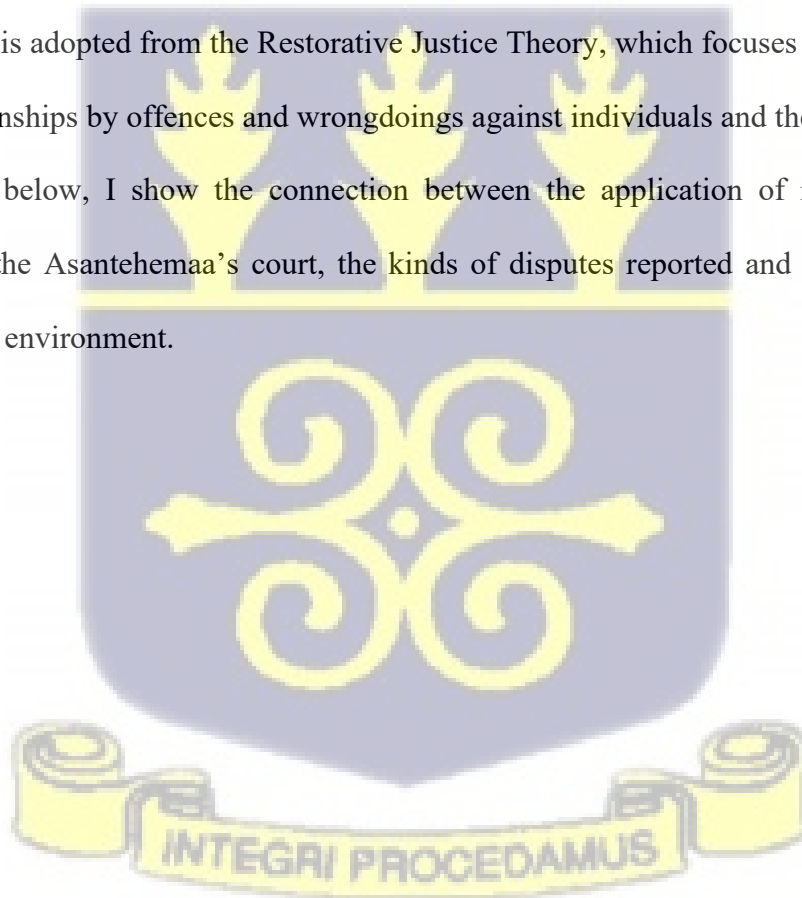
Notwithstanding the positives of restorative justice mechanisms for resolving disputes, the process is critiqued as having minimal effect on achieving justice as compared to the punitive justice system, which punishes offenders for their crimes.

Restorative justice is deemed exploratory because it does not resolve the offence or crime committed. It is rather limited in application, especially when the crimes committed require harsher punishments to deter repeat offending. For example, appeasement may work in a family feud but not in a sexual assault situation when the person deals with psychological trauma. Another is its applicability to serious crimes (felonies) such as murder, rape and robbery.

Bulatović & Fatić (2024) express that restorative justice can, in some cases, be explored as a possibility even with serious crimes (felonies) while punitive justice is applied as the last resort. Thus, it can be employed at the micro level where crimes are petty, such as theft, destruction of property, etc. and where the parties affected are few. He further argues that the effect of applying restorative justice to crime is minimal and only effective when all parties involved or affected by the crime have an opportunity to narrate their stories, recounting how the injustice or the offence has affected them. Thus, values such as forgiveness and apology are effective only if accepted by those involved and when the offender admits liability for the offence (Braithwaite, 2003; Zehr and Mika, 2017).

This framework is adopted from the Restorative Justice Theory, which focuses on repairing harm caused to relationships by offences and wrongdoings against individuals and the community.

In the diagram below, I show the connection between the application of restorative justice mechanisms at the Asantehemaa's court, the kinds of disputes reported and how they interact within a conflict environment.



The influence of the conflict environment and application of conflict resolution strategies on varied disputes reported to the Asantehemaa's court.

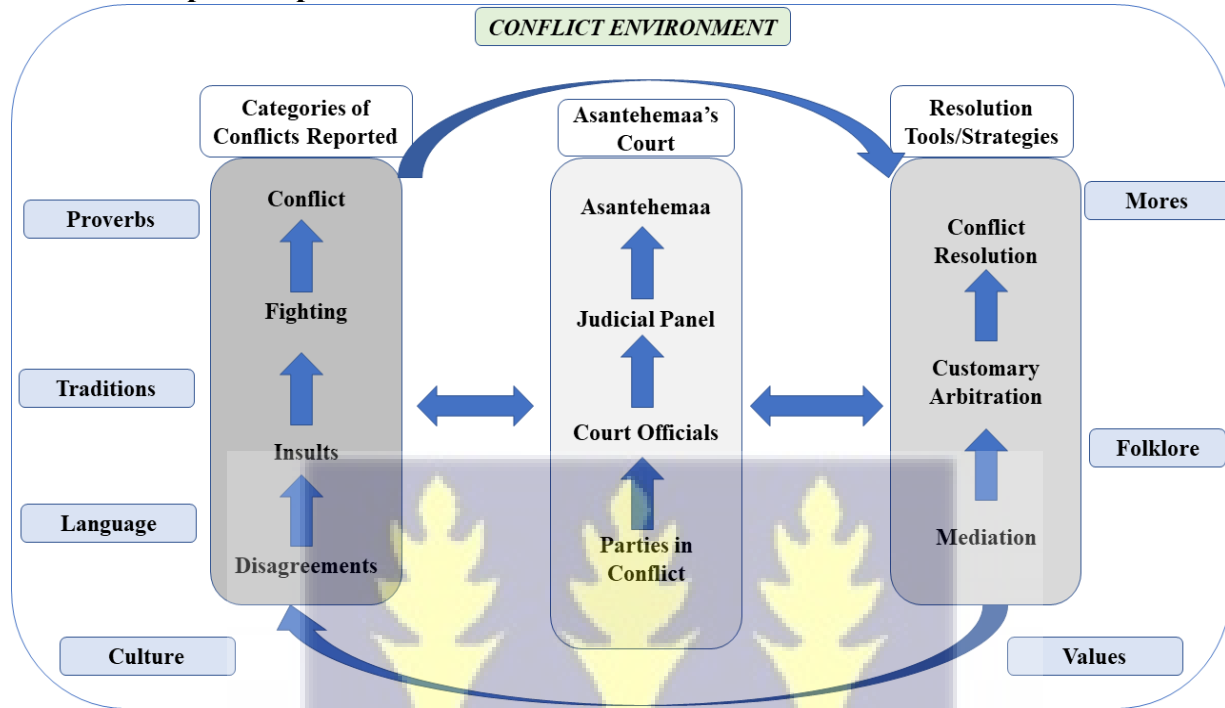


Figure 2: Conceptual Framework

Source: Tseer, Kuusaana, & Sulemana (2023); Bulatović & Fatić (2024); Takagi & Shank (2004) Appiah-Thompson (2020); Issifu (2020); Honig (2019); Asaaga (2021); Appiah-Boateng & Kendie (2022); Rukuni, Machingambi, Musungafi, & Kaseke (2015); Zehr & Mika (2017).

3.1 Conflict Versus Disputes

Conflict is an expression of differences in ideas, beliefs, opinions, wants and needs of individuals, groups, or people. It is also defined as a violent situation between two persons, groups, or countries, which can be instigated by human actions and behaviours (Brew et al., 2022). Conflicts are influenced by the social, economic, and institutional environment in which they take place. Conflict is a vital aspect of social change and cannot be avoided. Conflicts can occur due to

domestic situations and can occur within or between communities or families (Appiah-Boateng & Kendie, 2022), individuals, groups, or countries (Tieleman & Uitermark, 2019) or at an interpersonal level (Abokyi, 2018; Siregar & Zulkarnain, 2022). It can be communal (Fisk, 2019; Issifu, 2015) or sparked by ethnic or state interests (Tonah, 2007). The major causes of conflict, according to Appiah-Boateng & Kendie (2022), include ethnic or cultural differences, underdevelopment, class differences, population growth, world economy, migration, environmental degradation, rapid social change, and distributive justice. Kimemia (2021) further claims that the root cause of most of Africa's conflicts includes scarcity of resources, poor governance, lack of strong institutions, ethnic polarisation, and colonialism.

There is a subtle distinction between conflict and dispute. Both terms refer to situations involving disagreements or differences of opinion, interest, belief, or position. However, conflict is often used synonymously with dispute. Unlike disputes, which are more amenable to resolution, conflicts are typically characterised by concrete measures and high levels of severity. Conflicts are usually defined in tangible terms and seen as more intense compared to disputes, which are often subject to negotiation. Frequently, deep-seated disputes can escalate into conflict.

Disputes are temporary disagreements that can be more easily resolved through legal processes like arbitration and mediation, whereas conflicts are long-term and challenging to resolve solely through negotiations unless the underlying causes are addressed (Brew et al., 2022).

In addition to the conceptual distinctions between conflict and dispute, one notable aspect is that both involve some form of disagreement or different ideas, yet they are both oriented toward resolving disputes. In the Ashanti region of Ghana, Various factors such as modernisation and

capitalism have brought about changes in the family system, inheritance practices, asset acquisition, and religious beliefs, amongst others. These changes have influenced the types of disputes that are brought before the court. For instance, the definition of family has shifted from extended to nuclear units, which has implications in the culture that traditionally defines family ties through matrilineage (Vellenga, 1983; Mercanti, 2015). The Asante people perceive conflict as both a feeling and an action encompassing physical and or spiritual dimensions. Given that individuals belong to family units, have siblings, and interact with others, conflicts are more likely to arise; consequently, conflict is seen as necessary for society as it ultimately leads to resolution and social cohesion. The Asante employ different terminologies and definitions for conflict based on its intensity.

Once you belong to a family unit, have siblings, and go out to meet people, you are more likely to have a conflict with someone. Therefore, achieving a comprehensive resolution of conflict within society can ultimately foster social cohesion in the end. The Asante terminologies and definitions for conflict differ according to the intensity. For instance, disagreement is referred to as *Nkyinuwua*, whilst a heated argument is *Nkyinuwua shi*. Insults are referred to as *atenndie*, whilst any disagreement that leads to physical altercation is referred to as *ntokwa*.

And because the smallest form of conflict, if not resolved, can lead to full-fledged conflict, the court employs these resolution strategies to prevent the smallest form of argument from escalating to larger fights. Hence, conflict is deemed both constructive and bad for the Asante society since Asante customary law allows for disputes to be discussed and resolved. Asante customary law, known as '*Amammere*' (Ayamdoo, 2024), covers a wide range of issues, including lineal inheritance, family affiliation, lineage or origin, and religious and social affairs. It serves as the

basis for resolving disputes such as theft, adultery, verbal abuse, inheritance conflicts, and ritual issues such as *duabɔ*, access to land and boundary disputes, to mention a few (Stoeltje 2013).

However, some studies on the customary law of indigenous societies like the Asante do not fully capture the theoretical understanding of these societies. Through field data analysis, this study examines the indigenous practice used during mediation at their *Asantehemaa's* court, highlighting the Asante's varying conceptualisation of conflict and their different terminologies for conflict at different stages. The study also explores the daily perceptions and experiences of ordinary people who visit the court to resolve their disputes. Additionally, considering the role of gender in decision-making at the court, the study investigates how women and men experience the customary court and how this experience influences their choice of dispute resolution mechanisms.

3.2 Conflict Mediation

Conflict mediation refers to a process where a neutral third party intervenes in a conflict situation by assisting the disputants to discuss or negotiate their issues (Horowitz, 2007). The mediator creates the condition for dialogue between parties, negotiates in the best interest of both parties, and empowers both parties to decide for themselves (Kariuki, 2015). He or she aims to facilitate or assist the conflicting parties to arrive at an agreement that meets their needs and interests (Brew et al., 2022).

In mediation, the facilitator(s) try to suggest compromises leading to an agreement between both parties (Brew et al., 2022). The facilitator helps both parties to arrive at a common goal and discover options that are satisfactory to all involved. To maintain neutrality, the mediator needs to know the local customs and practices where the mediation takes place (Kariuki, 2015). However,

this has its limitations, particularly when one party has more bargaining power, which can result in unfair settlements and compromises that may harm a weaker side (Kariuki, 2015).

Mediation is practised in various forms around the world. In some societies, elderly individuals are the ones involved in mediation to resolve family disputes. Over the years, mediation has been utilised to resolve conflicts in companies, industries, civil issues, or client-owner disputes (Saundry et al, 2014; Jamaluddin, Taher & Wong, 2023). On the international level, diplomats are known to serve as mediators between their countries of representation and others. Mediation is commonly used in international situations where a mediator, usually the UN secretary-general, would move between parties and try to get them both to make compromises (Brew et al., 2022).

In the *Asantehemaa's* court, the *Asantehemaa* or the chairman of the tribunal, serves as the impartial third party. In the absence of *Asantehemaa*, the chairman of the tribunal sits on cases and gives final decisions. Depending on the type of cases reported to the court, the chairman decides if a case should be moved to *Asantehemaa* to be resolved personally, whilst he presides over others. In my observation, disputes that involved members of the royal family and chiefs under *Asantehemaa's* authority were sent directly to her for resolution.

During deliberations, conflicting parties are permitted to tell their tales to the court panel, led by the chairman of the tribunal, who serves as a facilitator throughout the mediation process. The parties in conflict are given a chance to interrogate each other. Then, tribunal members take turns to cross-examine the parties involved and witnesses to guarantee a fair hearing. The court may allow parties to complete their mediation at home or may interrupt the procedure at their request,

depending on the type of dispute handled. The court typically has the final say in how the disagreement should be settled.

3.3 Conflict Resolution

Conflict resolution involves intervention among states or people to resolve conflicts or disagreements. In the international arena, different approaches are used that require ethical consideration so as not to cause harm but do good. Conflict resolution includes mediation between parties and other actors who are directly and indirectly affected by the conflict itself. Conflict Resolution refers to the techniques employed to deal with conflicts when they arise. Conflict resolution seeks to arrive at a more sustainable resolution to the problem, which results in changes because the process takes note of the needs of individuals or groups and the changes needed to satisfy those needs (Baboolal-Frank, 2025).

Disputes differ according to source, effect, and factors that influence them. No matter how similar disputes may be, they cannot all be resolved with the same type of resolution process. Some disputes are resolved through a formal process of adjudication (Siregar, Harap, & Lubis, 2016). Others are resolved through negotiations for peace agreements or compensations, for injuries or losses. Sometimes, disputes are resolved by a neutral third party, usually a mediator, whose focus is to reduce tension between parties, leading them to understand the gains that can arise when an agreement is made (Honig, 2019).

So, conflict resolution processes may involve formal or informal procedures depending on the nature of the conflict in question. The neutral third party could be a group of elders or a chief or queenmother who understands the nature of the dispute between the disputing parties. When applying indigenous methods of dispute resolution, it is common for traditional leaders such as

chiefs or queenmothers and a panel of elders to conduct a mediation and resolution process that they deem fit to resolve the dispute at hand (Rukuni et al, 2015). For neutrality, the chief who acts as the mediator has to understand the issue at stake, consider the implications of the dispute at hand, and be aware of the conflicting concerns and interests of the disputing parties, and this would in turn determine the process to use in resolving the dispute (Anam, 2020).

Avruch (2019) argue that even though the origins, practices, and theories of conflict resolution point to the West, every culture and society has its own form of resolution that applies to its contexts and situations. The conflict resolution field has been too Western in approach and application. Therefore, there is the need to broaden the scope of conflict resolution approaches, grassroots and community-level participation, and the importance of involving or engaging with indigenous and local actors. Thus, a shift from third-party intervention from external agents to acknowledging 'internal' third parties or indigenous peacemakers. Emphasis should be on the need to build capacity within societies and learn from domestic cultures how they have been able to employ home-grown approaches to manage conflicts and sustain peace in their societies. These approaches can involve bargaining and compromise that lead to a settlement.

According to Brew, Asante-Hanson, & Boateng (2022), Conflict resolution can be applied to conflicts that are interpersonal, communal, or international. This includes complex and violent conflicts. Relating Burton's argument to the Asante reality, I agree with Burton's explanation of how conflict resolution is applied at different levels. When the conflict seeks to destroy social relationships, then mechanisms such as negotiation, compromise, and polite and accommodating

language are used (Brew et al., 2022; Stoeltje, 2021). The Asante understanding of conflict informs the methods used in resolving the conflict to restore harmony (Stoeltje, 2006; Marfo, 2019).

This thesis limits itself to disputes reported and the mediation observed at the *Asantehemaa*'s court. These disputes include family-related such as marriage, spousal maintenance, customary succession, and funeral/death of a relative; economic and resource-related such as inheritance and land sale, access or use, disputes emanating from the kejetia, central and race course markets; religious/ritual disputes, such as imprecations (*duabo*) and witchcraft allegations.

3.4 The Asantehemaa's Court and the application of restorative justice

In chapter three, I discussed the roles of chiefs in dispute mediation and resolution. This includes the Queenmother. The *Asantehemaa*'s court, therefore, exemplifies Asante customary law, the chieftaincy structure, and its implications for access to justice. The *Asantehemaa*'s court employs aspects of restorative justice mechanisms, such as addressing the harm done to people, relationships, and the community at large, to resolve disputes. The second is to set obligations, and the third, engage both parties involved in the dispute. This process involves the offender, victim and sometimes a community collectively finding ways to identify needs, obligations and harms caused to arrive at healing for whatever harm has been done (Zehr, 1985; 2014; Monday, 2020).

The foundation of the Asante social structure is matrilineal kinship and hierarchy, where a person's affinity for their mother's lineage determines their descent and succession (Fortes, 2015).

The Asante honor their ancestors and believe in a supreme being. Adaye ritual cleansing procedures are required to honor the ancestors, who are said to be keeping watch over the activities

of the living. Social interactions and social behavior are influenced by this idea and practice (Hagan, 1980).

Amamere (customs and traditions) that have been passed down through the generations form the foundation of the Asante legal system (Ayamdoo, 2024). According to the Asante, wrongdoing disturbs the balance between humans and the divine. Thus, to maintain harmony, oaths, taboos, and ancient sanctions must be invoked. In order to make sure that individuals follow traditions and customs and that those who do not are punished, a customary court had to be established. The family is the first level of address when disagreements occur, and the abusupanyin, or head of the family, is supposed to settle them. The Odikro court comes next, followed by Omanhene and Asantehene/Asantehemaa's court (Danquah, 1928; Ayamdoo, 2024).

An act of wrongdoing committed by an individual is assessed from the perspective of mutual interdependence and communal effect because the Asante social structure places a strong emphasis on communal wellbeing. Additionally, one should conduct themselves in accordance with the moral precepts of honesty and respect. The ancestors' beliefs and their influence on the living uphold this moral code. Under the guise that procedures are conducted by the living and in witness with the ancestors, the court functions. For instance, kokoniwa oath and purification rites that follow imprecation (duabo) disputes is consistent with this belief system.

The *Asantehemaa's* court resolves varying degrees of conflicts that range from disagreements to insults to fights that can become full-fledged disputes. The purpose of the court is to make sure disagreements do not escalate to become full-fledged conflicts. Hence, the use of customary

arbitration techniques such as *dwanetoo*⁷⁶ or *mpata*⁷⁷ to resolve disputes reported to the court. The court therefore performs a combination of mediation, arbitration, and resolution techniques. Family-related disputes, for example, are usually resolved through mediation to enable parties to iron out their differences and restore the family bond. In such instances, an option is given to the family head or members to take the matter home to finalise the process if they so wish. With Resource-related disputes, arbitration is employed to determine the original owners of assets..

This method can also employ mediation techniques; however, it is geared toward finding the truth and then ending the process by restoring relationships if need be (Bulatović & Fatić, 2024). The traditional court is not focused on punitive justice, nor is it empowered to carry out a punitive justice system such as imprisonment. Hence, the court employs conciliation strategies and mediation between conflicting parties through dialogue. In some instances, *mpata* is required for reconciliation. The *Asantehemaa*'s court, in its resolution strategies, employs these aspects of restorative justice to achieve a justice system that allows victims and perpetrators space to dialogue and resolve their differences.

3.4.1 The Asantehemaa's court and the application of conflict resolution tools and strategies

Conflicts exist as part of human existence, and the level of escalation is determined by the conflict environment. Therefore, when the appropriate resolution strategy is applied, the effect of the conflict is negated. The *Asantehemaa*'s court serves as the institution that applies resolution strategies to end conflicts and create positive outcomes in negative situations. In the Akan sense,

⁷⁶ pleas

⁷⁷ settlement

conflict is not just an action but a process. It is not a one-time event. Conflict can progress from a disagreement and escalate to fights. This can be in progress as we interact daily. Every daily interaction generates conflict. '*Asem nti na ye si akonnua*'. This proverb explains that disputes will arise no matter what, hence the need to sit down and deliberate on issues when they arise. Thus, the Asante society recognises that as humans we offend each other directly or indirectly, which can lead to disputes or conflict.

Conflict in the Asante language is referred to as *asem*. The process involved in dispute mediation and resolution is what is known in Asante as *Asem di* or *Asem ka*. Dispute resolution refers to the process of deliberations '*asem ka*' which would eventually lead to reconciliation '*asem sie sie*', where the issues are dealt with in a manner that a pronouncement is made to lead both parties to amend relationships. This does not mean that the faulting party would not be punished. Punishment is given to the faulting party as a means to make amends, hence the concept of '*dwantoo*' or pleading one's case for reduced punishment. The dispute resolution tool used depends on the kinds of conflict reported or on the gravity of the issue. *Asem di* or mediation is usually applied to domestic-related disputes, such as family-related disputes between spouses or siblings, and extended family members. *Asem di* is also applied to disagreements and insults.

When disagreements or insults become intense, they can escalate, leading to fights that can get physical. Arbitration is best applied. Ritual-related disputes are regarded as disastrous and can lead to death; hence, rituals form an integral part of the resolution process. As observed, disputes are a common phenomenon and a part of Asante's socio-legal life. Disputes are necessary for societal cohesion. In attempting to analyse disputes resolved at the *Asantehemaa*'s court from the position of the litigants, I then get a clearer understanding of the features of Asante society and its

dispute resolution practices. One important aspect of dispute resolution in Asante is the need for compromise, forgiveness, and finally reconciliation. Resolution strategies employed include deliberation, cross-examination, dialogue, apology, compromise, ritual-related fact-finding⁷⁸, forgiveness, and *dwanetoo*.

Burton argues that some conflicts are protracted because traditional processes of mediation are used (Brew et al., 2022). Such methods often lead to settlements without solving the root causes of the conflict. In the case of Asantehemaa's court, indigenous mediation techniques referred to as '*ye ka asem*' relate to a chief or queenmother being in the middle of both parties to try to make them come to an understanding. In the traditional mediation practice of Asante, the mediator does not leave the parties to agree as is widely known or done in international mediation circles. However, the chief or queenmother facilitates dialogue and negotiates a truce while he or she makes both parties understand who is at fault and why. When the faulting party accepts his or her fault, the offended party is also required to accept his plea for forgiveness.

Indigenous resolution practice of the Asante court seeks to get to the root cause of the dispute and resolve it. Conflict in the Akan sense is not only visible or physical but can also be spiritual. Thus, a resolution is achieved by applying both physical mediation methods and spiritual or ritual processes. The ritual processes, in most cases, are what bind the agreement that the issue has been resolved. In *Asantehemaa's* court, these ritual processes can include the swearing of the oath (*kokoniwa*), slaughtering of sheep, and payment of a fine accompanied by pleas for forgiveness.

⁷⁸ *Ye ko abisa* literally means we are going to consult. Consultations come in different forms. Sometimes, the Asantehemaa or Asantehene or Nsumankwahene can be consulted on certain matters if the panel is not sure of which direction to go. Another is the spiritual consultation where priests, diviners or medicine men are consulted to ascertain truth. This features in most ritual related disputes such as witchcraft allegations and imprecations.

And because the Asante worldview is influenced by the belief in the spirits of the dead, once this ritual is performed, it is believed that the ancestors bear witness that the issue has been resolved; hence, their blessings are needed as such. Sometimes the ritual aspect is needed to pacify the offended party or cleanse his or her soul.

Table 1: Types of Reported Conflicts⁷⁹

RELIGIOUS/ SPIRITUAL	SUCCESSION/ STOOL RELATED	DOMESTIC RELATED	RESOURCE RELATED
Imprecations (<i>Duabɔ</i>) or Swearing of Oaths. i.e invoking Kokoniwa or <i>Ntam kese</i> ⁸⁰	Chieftaincy matters, i.e Destoolment of chiefs or queenmothers, etc.	Disputes between extended family members, in-laws, siblings, parents and children.	Land-related disputes, such as ownership and share of proceeds from farmland, and the sale of land for commercial purposes.
Witchcraft accusations	Disputes within a royal lineage	Funeral disputes	Access, sale or use of assets such as residential and commercial buildings, machinery, etc.
Accusations of manipulating someone spiritually	Allocation of stool resources, i.e. land, allocation of mining or farming lands, etc.	Marriage disputes (spousal neglect, abuse, child neglect, sexual issues, divorce settlements)	Market-related disputes, such as the allocation of trading space, disputes between market women and KMA, disputes among market women, between market or commodity queens. Nomination of market and commodity queens.

⁷⁹ In the diagram I categorise the types of conflicts reported to the *Asantehemaa*'s court as observed

⁸⁰ Kokoniwa is the *Asantehemaa*'s oath sworn before deliberations commences at her court. *Ntam kese* is the great oath of the golden stool.

Spiritual illnesses	Power struggles among chiefs/ queenmothers and other subordinate stool holders.	High Cheating (<i>Kwasiabu</i>)	Inheritance of property and its distribution.
Indigenous priests		Customary succession	Other business-related disputes
		Insults (<i>atenndie</i>), ie insults that denigrate a person's body, accusations of bareness and prostitution.	

Source: Authors' Field Work (2019-2020)

3.5 Conflict Environment

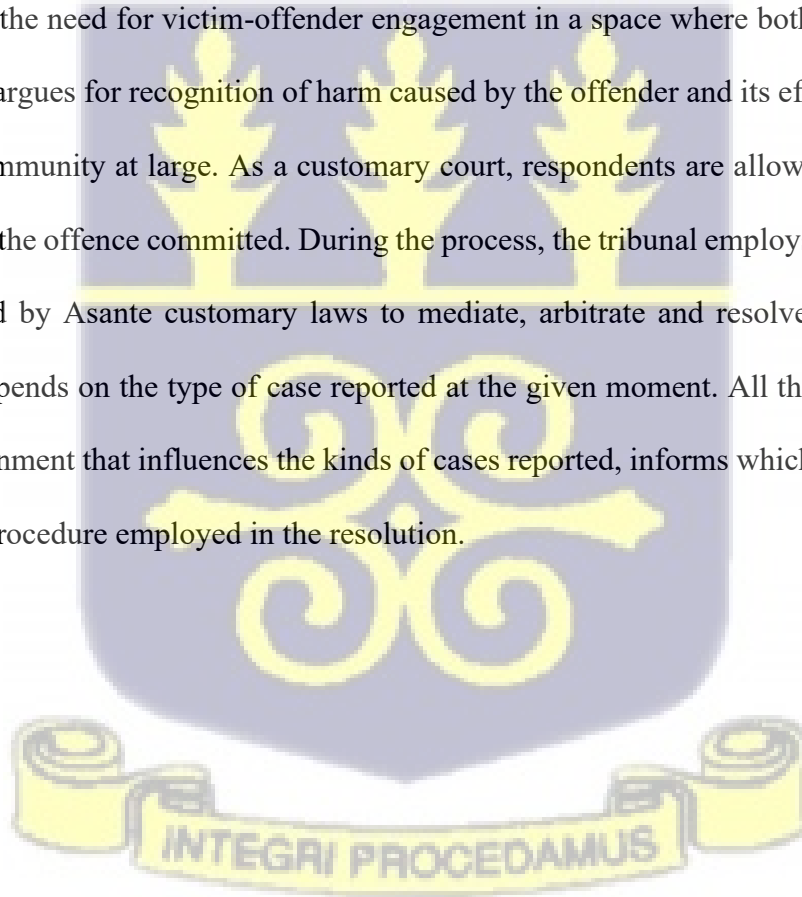
Before conflict occurs, certain conditions contribute to the conflict. These conditions or factors, such as culture, tradition, beliefs, language, and proverbs of the society in question, make the environment either conducive or non-conducive for the escalation of conflict. The court applies the appropriate tools and strategies based on their experience, skills, knowledge, cultural context, and use of Asante customary laws known as *Ammamere* to negate conflict into a positive outcome. When the appropriate tools are not applied, the conflict escalates, leading to the recurrence of the conflict, and until the appropriate tools are employed, the conflict continues to persist.

All these processes are embedded and underpinned by a particular cultural environment. Within this context of the study, I am limiting the cultural environment to the Asante cultural setting. The *Asantehemaa's* court resolves issues that dwell on an interpersonal nature. Crimes against the state or criminal in nature are not resolved in the court. Interpersonal conflicts can occur between two persons, arising due to human interactions, incompatible goals, and scarce resources. It can be caused by poor communication or mere misunderstanding. Because the court focuses on conflicts

that are based on grievances, it ensures that they restore friendships and families or attempt to bring the parties to a place of understanding. The nature of the conflict and the resolution strategy used to resolve the conflict are conditioned by the conflict environment. This includes the actions of the disputing parties and how it is influenced by the culture, values and beliefs of the people involved. Likewise, the court resolution processes are dependent on the culture, language, beliefs, value systems, customs and conventions, traditions, culture, values, etc. of the people.

3.6 Conclusion

In this chapter, I examine restorative justice theory as the basis for my conceptual framework. In the framework, I explain that the *Asantehemaa*'s court employs some aspects of restorative justice, which advances the need for victim-offender engagement in a space where both parties dialogue. The theory also argues for recognition of harm caused by the offender and its effect on the victim, offender and community at large. As a customary court, respondents are allowed to narrate their experiences and the offence committed. During the process, the tribunal employs varied resolution strategies guided by Asante customary laws to mediate, arbitrate and resolve the dispute. The strategy used depends on the type of case reported at the given moment. All these happen within a conflict environment that influences the kinds of cases reported, informs which resolution forum to use, and the procedure employed in the resolution.



CHAPTER FOUR METHODOLOGY

4.0 Introduction

The research design interrogates the gender dimension of traditional leadership and enables the examination of indigenous dispute mediation and resolution methods and how the citizenry responds to the use of such spaces to resolve disputes of all kinds. This chapter explains how the researcher constantly re-negotiated access to the *Asantehemaa's* court and, in some cases, key respondents. I also highlight some of the challenges I faced and how I sought ways to overcome them. The research design used was ethnography and oral history research on chieftaincy and customary courts. I also give reasons why I chose the ethnography study design for this study. I further discuss the data collection and fieldwork in general, sampling, characteristics of respondents, and methods. Finally, ethical considerations and data analysis are discussed.

4.1 Research Design

In choosing a suitable research method, the researcher is informed by philosophical beliefs and guiding theory (Handema et al., 2022). Qualitative Research employs methods that will help to understand the culture or group of people being studied (Denzin & Lincoln, 2011; Storr & John, 2018). Qualitative research is best used for the study of complex relationships between people and groups or within a group of people (Handema et al., 2022:1), and to understand the aspects of social life and give meaning to people's actions and activities. Reflecting on my research topic, Qualitative research was best suited for my work as I sought to understand, describe, explain and document the social life of an institution, the *Asantehemaa's* court. With qualitative research methods, the researcher seeks to record what they observe as accurately as possible. They choose methods that make it easy for them to understand and make meaning of what is being observed (Tarin, 2017; Sapkota, 2024). Therefore, I observed the institution (court) in its natural setting and took note of events at the court (writing field notes) and palace.

This was to enable me to establish social reality. I sought to understand the institution of queenmothers in Asante and how they perform mediation roles from the perspective of the *Asantehemaa's* court participants and the litigants.

4.2 Ethnography as a Research Method

Although anthropology has been the most commonly used method when studying cultures, I felt ethnography was best suited to the objective of my research work. Since the days of Malinowski, when he set out to study the Melanesian people on the Trobriand Islands (Malinowski, 1926), ethnography evolved out of the practices and field techniques that anthropologists like him used to learn about distant cultures. Credited as the founder of modern social anthropology, he advanced the technique of prolonged and intensive fieldwork over armchair research in the study of new cultures or cultural phenomena. He is also credited with advancing the practice of participant observation, which is central to ethnographic methods of inquiry (Malinowski, 1979).

Ethnography used to be the groundbreaking method used to study distant places and cultures. Now, ethnography is used to study more complex cultures and institutions to make sense of the social life and the social actors themselves (Harrison, 2014). I chose to study an aspect of a whole institution. I sought to make sense of the *Asantehemaa* court. In doing that, I had to study the whole institution itself by observing the day-to-day life of the institution under study. Ethnography, as a critical method of seeking data, dwells on already existing information or historical facts to unearth new ideas. Ethnography is also an evolving research practice where the researcher moves beyond reported or recorded events to make discoveries (Harrison, 2014; Qutoshi, 2024). Ethnography enables the researcher to discover new information/knowledge from the field that may not have

been initially documented/ or detailed in previous research. Ethnography enables the researcher to personally verify data and reflect on the theory proposed by other authors (Bortolami, 2021).

With the use of ethnography, I hoped to generate theories at the local level that reflect the local reality of the institution under study. Before starting the actual fieldwork, I had to drop my earlier assumptions about the court and open up to a new set of experiences from the perspectives of those who operate and those who visit the court. I had to learn, observe and stick to the rules governing the court. I did these to open myself up to the learning process.

The goal of ethnographic research is to represent reality in a way that is understood by both the researcher and members of the institution studied. With ethnography, the researcher can immerse themselves in the daily lives of the people under study (Bortolami, 2021). Ethnography enables the researcher to examine behaviour, attitudes, and activities going on in their lives and their community (Van Dooremalen, 2017). Ethnography involves direct experience with the institution concerned; it gives the researcher a direct and personal knowledge of the object or institution of study. This increases personal involvement as the researcher continues to observe the ways of communication, listen to what they say, observe rituals, activities, and other events (Fine and Abramson, 2020; Qutoshi, 2024). Intimacy may contribute to a loss of objectivity as the researcher may be influenced by the beliefs of the persons involved in the study and may not question their opinions nor give room for multiple perspectives (Bortolami, 2021:18).

Ethnographic methods, such as observation, help to identify unique social or cultural features of the institution under study (Handema et al., 2022). Continuous engagement enabled me to obtain first-hand information about the organisation of the court and the dispute mediation activities

performed. Every Tuesday and Friday, which were days for dispute resolution at the court, I spent time observing the activities of the court.

To learn and understand the local culture, it is important to build relationships. Continuous exposure or engagement with the community or institution under study enables the researcher to make accurate reports of what is seen or heard. And since second-hand accounts may vary from what is being observed, firsthand accounts are useful to prove the validity of the information received (Bortolami, 2021).

In the study of institutions such as the Asantehemaa court, ethnographic methods, which included prolonged observation, taking of field notes, and in-depth and semi-structured interviews, were used to obtain data. This included the use of Oral history. Oral histories are stories designed to teach the history of a people. These accounts are usually passed on orally. It has been the main way of record-keeping for most African peoples (Dillard, 2018; Kalpakian & Asatryan, 2018). According to Dillard (2018), history is preserved through ritual practices such as the pouring of libation, music of talking drums and horns, special song minstrels at the king's court, oaths, proverbs, and funeral dirges. I acknowledged that palace functionaries such as the *Nkonuasuafo* (stool carriers) are 'official historians of the state' as Danquah (1928) puts it. Their duties include reenacting the deeds of the ancestors during libation rituals at the stool house (Sarpong, 1967; Hale, 2013; Busia, 2018; Boaheng, 2025).

Ethnography does not follow strict research norms or conventions but allows for improvisation and adventure. The researcher does this while moving in between theory, data, and analysis (Qutoshi, 2024). During the data collection period, I had to alternate between in-depth interviews

to use narratives and conversations as my interview format. I realised respondents tended to flow easily with the conversations rather than a structured form of questions.

I was also interested in obtaining information from the narratives respondents gave. I found narratives and storytelling also useful for verifying historical accounts, or when I tried to verify earlier information from books, articles, or oral accounts.

Ethnography involves documenting all activities observed in the form of detailed field notes, photographs, films and videos (Qutoshi, 2024). I was permitted to observe and make notes during proceedings. Photography was not allowed, as the court was aware of the ethics of their practice and made it clear to me that they are also bound to protect their clients. However, I could record interviews once permitted by the respondents.

4.3 Preliminary Field Entry and Study

My interest in studying the Asantehemaa's court began during my master's coursework on gender and cultures in African societies. However, I instead conducted case study research on the *Ejisuhemaa* for my master's thesis. My interest in the *Asantehemaa* court grew stronger during my fieldwork at Ejisu. I observed as the *Ejisuhemaa* performed mediation roles in her palace. I sustained this interest when applying for my PhD and subsequently defending my PhD proposal.

During my coursework year in 2017, I felt that preliminary fieldwork was necessary to strengthen my research proposal and assess the viability of the research I hoped to undertake. I called my visits to the palace 'familiarisation visits'. I was hoping to catch a glimpse of the court and be introduced to the structure of the palace in general. I would say data collection happened in stages over two years. My Fieldwork, comprising primary data, was conducted from October 2017, July - August 2018, October – December 2019, February – March 2020, October - December 2020, and January 2021 – February 2021.

To study a culture, the researcher develops relationships with people who are involved in the study to be able to learn and understand the local culture (Bortolami, 2021). I felt this was an opportunity for me to learn more about an aspect of the culture I belonged to ethnically. According to Harrison (2014), sometimes the research process can transform both the researcher and the researched. There are times during the research process when there is mutual understanding and reciprocity between the researcher and the researched.

During my initial familiarisation visit, I sought to make friends with the residents of the court. People I could call on the phone or speak to for information, such as when the next ritual day would be or who would be a good resource person to speak to about the court, etc. I walked up to the *Asantehemaa* court and identified Nana Kojo⁸¹, who is a palace functionary⁸². We built relationships over time. He would turn out to be my most informative person and later my guide. He made it easier for me to get access to the court, follow the protocols needed and finally settle down nicely to be able to immerse myself in the research. In order not to violate taboos, I made it a point to ask Nana Kojo what the dos and don'ts were. He gave me an introduction to the basic workings of the court, regular practices, and belief systems. I stuck to the seating space allocated to me during proceedings. I made sure I adhered to the necessary protocols in place. I wanted to be accepted, and I wanted open conversations with respondents. Nana Kojo will later snowball me to other palace functionaries such as *Mbogwafuo*⁸³, *Sudofuo*⁸⁴ and *Ahinkro*⁸⁵ who perform various obligations for the *Asantehemaa*.

⁸¹ Male informant and key respondent

⁸² One of Asantehemaa servants responsible for her stool house

⁸³ Female servants

⁸⁴ Royal cooks

⁸⁵ Male chiefs under the Asantehemaa's authority

I term the period between June and July 2017 as ‘familiarisation visits’. I started with archival research at Manhyia archives, hoping to come across any records of the *Asantehemaa’s* court. I was disappointed, to say the least. I got nothing. I had some discussions with the head of the archival unit, and he explained that no records of that sort would be found in the archives because the colonial administration was concerned with the courts of the men and not interested in the women. He, however, told me to try and speak with the registrars at the houses of chiefs, which were just across the street from the Manhyia Palace.

My research included visiting the national archives (PRAAD) in Accra and the Kofi Annan Peacekeeping Centre. During my visits to the archives, I searched for records that point to female stools or what is written as ‘*native palace*. Records that I retrieved from the archives were for male stools, mostly paramount stools such as sehwi or mampong. Though I was not able to get any records for the female courts, I was able to get records for the male courts. At a glance, through such records, I was able to get a sense of the kinds of cases that the chiefs dealt with in the native ordinance act in place at the time.

At the Kofi Annan Peacekeeping Centre, I searched for any research work that points to the Queenmother’s roles in dispute mediation. I was able to get some books that discussed women’s roles in post-conflict states such as Liberia or Sierra Leone. I did not come across research that looked at female traditional leaders’ roles in dispute mediation or resolution in Ghana.

I also used this period to observe activities in the palace, such as the celebration of *Akwasidae* and *Awukudae* at the *Asantehene* court. I observed proceedings at his court to enable me to determine if my choice of the *Asantehemaa* court was worth investigating. I was fortunate to be in the same PhD program with the Ashanti Regional Peace Council director, Rev Emmanuel Badu Amoah. As the director of the council, he is also a member of the regional Security Council.

His position affords him access to the palace, officials, and the Asantehene. It was Rev Emmanuel Badu Amoah who led me to *Nsuamakwahene* and *Kokofuhene* palaces in Ashtown and Kokofu, respectively. This was how my entry into the field and access to respondents began.

Preliminary observations of the *Asantehemaa's* court also commenced in July 2018. I used this period to observe the activities at the *Asantehemaa* court. I tried to make sense of who was who within the four walls of her residence and palace. As part of entry into the field, I had to learn the cultural practices associated with the court, like cash gifts to servants, the type of clothes to wear, how to sit, posture when seated in the court, etc. I had to learn the ethics of greetings at the court, the positions of chiefs or co-judges at the court, the whole organisational system of the court, and the *Asantehemaa* residence in general. With the help of Nana Kojo, I got to sit in the court and just listen and observe what was going on. It was at this juncture that I was able to make sense of the types of cases reported to the court and get firsthand information as to how the proceedings were conducted. I also established relationships with other servants of the court (*Ahenkwa*).

4.4 Data Collection

I submitted my ethical clearance package in September 2019. The clearance went through in February 2020. I was then in my second trimester, and COVID-19 had appeared on the world stage. After I received my ethical clearance letter, I was able to conduct longer months of data collection from February 2020. I was able to present my documents once again to the court and began observations. I took field notes as a guide for my interviews. I did pause as I was pregnant and on bed rest. I resumed in February 2020, as the court had gone on Christmas break until February. The court was to resume in January but had to organise the funeral of Akwasi Agyeman, royal of Manhyia and former mayor of Kumasi.

The goal of the research was to examine the *Asantehemaa* court as an institution. The second was to understand why customary arbitration performed at the *Asantehemaa* court was a preferred choice for seeking justice. I asked why citizens would prefer customary arbitration over the formal court system. The third was to gain more understanding of the mediation practices observed in the court.

In conducting ethnographic research, one must perform the following tasks. Be a direct or indirect participant, have constant engagement either daily or for an extended period, watch or observe, listen and make sense of what you hear and see, and finally ask questions. All these should help the researcher understand the issue he or she is investigating.

Reflecting on the research topic of the Akan Queenmother's roles in dispute mediation and resolution, I employed ethnographic methods of data collection, such as prolonged observation as well as interviews with 36 respondents, which included Asante chiefs, Queenmothers, Asante historians, and key members of the *Asantehemaa*'s court. The interview sessions with most respondents were conducted more in the manner of conversations or discussions.

I went to every interview session with my ethical clearance package. I showed them my letters of introduction and asked if they wanted to read them before I spoke to them. I made sure I explained my research objectives to all my participants in a language that they could understand. I sought their consent and explained that I was the one seeking information from them, so they are at liberty to accept to speak to me or withdraw their consent. Their participation was voluntary and aimed at helping a student complete her schoolwork.

I realised that my entry into the court was not new to the court functionaries there. They were used by researchers mostly from outside Ghana, showing interest in the court and wanting to meet the *Asantehemaa* herself (research fatigue). However, to situate myself properly in my research, I also did some archival work starting at the Manhyia archives, as I mentioned in my preliminary field entry section. I did not come across any materials that could help me. I also used newspaper articles I got from the internet. The new items helped me understand the nexus between modernity and change and traditional leadership. The new reports helped me follow the chieftaincy institution, its changing roles as development partners and opinion leaders, and its engagement with the modern arms of government. I also consulted the national archives of Ghana, hoping to come across records on Akan queenmothers, but I was not successful either. I also made use of books on chieftaincy in Ghana, Akan Queenmothers, and specifically on Asante chieftaincy.

I have always been interested in things about chieftaincy matters. I remember during my undergraduate studies at the School of Performing Arts, the University of Ghana, I undertook research in my hometown. I sought to find out the history of my hometown, Akyawkrom. I spoke to Opanin Frimpong and other elders who narrated the history to me. During my master's research, I chose to interrogate the changing roles of Akan queenmothers. *Ejisuhemaa* was my case study. During this research period, I had to make sense of narratives from my informants, who consisted of her palace officials and women from the Ejisu market. Thus, coming to the *Asantehemaa* court, I was open to listening to narratives, constructions, and stories surrounding the court, the palace, and *Asantehemaa* herself.

4.4.1 Customary entry

I took time to enquire about customary entry or access to the court. This was when my friendship with Nana Kojo proved useful as I spoke to him about every aspect of my work that I thought I was lacking. For instance, I discussed what I had to do before speaking to the chairman of the tribunal. I had also learned the protocols in place with regard to visiting a chief. I offered no drinks, nor was libation offered as expected. I was considered a student seeking information; thus, my letters of introduction were enough for acceptance. During visits to selected chiefs, I prepared to go with customary drinks (schnapps), but I was reliably informed that I need not bring any as they would not demand them. I verified this assertion by finding out from their registrars or aids what was required of me.

In most instances, I had to go with my male assistant, George Akyaw Owusu or was accompanied by my colleague, Rev Emmanuel Badu Amoah. Rev Amoah was very helpful in getting me access to key chiefs such as the Kokofuhene. On many occasions, he would drive me to their residence and assist me in asking questions. I was also snowballed to other leading chiefs with the help of *Nsuamakwahene* and Nana Becky. On one such occasion, Nana Becky (*kenyaasehema*) placed some calls and booked meetings with informants that she felt would be helpful for my work. Her calls to these informants made it easier for me to meet them and get the information I needed.

4.4.2 Language as A Facilitator and A Barrier to Acquiring Information

As I observed proceedings at the court, I understood that as a native speaker, I was handicapped when it came to the use of certain terminologies and proverbs in the court. I concluded that the language employed at the court was a different kind of Twi language (Agyekum, 2006; Campbell & Obeng, 2018). I engaged respondents in Asante-Twi and English languages, depending on their preferences. I am a native speaker of Asante-Twi, yet I employed the services of a male research

assistant, George, who was more fluent and understood the cultural complexities that came with the language.

George was very helpful with the Twi terminologies that he felt were necessary for my work. He took his time to explain certain terms and words, and spellings where necessary. I was also careful of the fact that the Ashanti region has a history of migrants who have assimilated within the society. The language was not a barrier to the respondents I spoke with. I conducted the interviews in the local Twi dialect. This was because I observed the proceedings relating to the cases they reported, and all proceedings were conducted in the Asante-Twi language. And as I observed, all respondents were able to express themselves well in the language. Conducting the interviews in the local dialect made it easier for respondents to express emotions to me in a more comfortable state. As I observed, some of the words used to reiterate a point or drive home an argument were better explained in the local dialect. Respondents comprised Asante indigenes and non-Asante indigenes. Even though I did not intentionally set out to choose between different ethnic group speakers and their access to the court. As observed, once the person resides in the region or is knowledgeable about the reach of the *Asantehemaa's* court and authority over the town and villages they reside in, they know they can bring their cases to her for resolution. Some respondents who visited her court came from towns outside the Ashanti region. However, these towns are known to be under the authority of both the *Asantehene* and *Asantehemaa*.

4.4.3 Target Group

My research or field site was specific: the *Asantehemaa* court. However, I knew I would have to conduct interviews with people outside the court to get a holistic view of things. The target group was two groups. The first group, I consider as the major stakeholders or gatekeepers to the Manhyia palace and subsequently members of the *Asantehemaa's* court. My criteria for selecting key

informants were the closeness to the *Asantehemaa* court and knowledge of dispute mediation in Asante. I wanted people who had experience working with or in the court. This comprised co-judges, who are *Adikro* and *Mbaa Mpanyinfuo*, who serve under the *Asantehemaa* authority.

Other members comprise the court and palace functionaries such as *Ahenkwa*, *Mbogwafuo*, *Nkonuasuafo*, and court registrars. I also interviewed selected Chiefs, *Ahemaa*, and other traditional leaders such as sub-chiefs in Asanteman. I did not specifically set out for paramount chiefs or queen mothers. I was driven mainly by the availability and position of the chief regarding matters of dispute resolution in *Asanteman*. In this case, I was directed to an older or longer-serving *Ahenfu* or *Ahemaa*. As I was made to understand, they would be more versed with the practices of mediation as compared to a much younger and inexperienced chief or queen mother.

I also had the second target group, which was the ordinary citizenry who visited the court or reported cases to the court. Most often, I had to wait for their cases to end before I could schedule an interview with them. My approach was to introduce myself to them and explain to them what my work was about. I did get respondents to tell me to wait till their case had been completed, then we could talk. I also selected market or commodity queens (Clark, 2018; Scheiterle & Birner, 2021) due to their relationship with *Asantehemaa's* court. Some of the cases took a shorter time to resolve, while I observed a particular market-related dispute that took two years to resolve. I felt lucky to have been able to follow the case up till the end. The opposing litigants were apprehensive about me at first, but at the end of their hearing, they invited me to their market stalls at the new Kejetia market to have a sit-down. I found this case very useful for my work.

4.4.4 Characteristics of Respondents

Though the *Asantehemaa's* court is known to be a female-owned court, one would think only females attended the court. However, respondents comprised both males and females. I observed

that there was almost an equal number of females and males who brought cases to her court for resolution. I had no boundaries as to whether more females should be my respondents or not. I was open to any respondent once they had a relationship with the court.

I was able to interview a total of 38 respondents, of which 14 were women and 24 were men. The ages ranged between 20 to 60 years. Some of my respondents had a tertiary education and were formally or informally employed. Key informants consisted of those who have lived or worked closely at Manhyia palace, such as Mr Enoch Okyere,⁸⁶ Nana Owusu⁸⁷, *Ahenkwa* Matthew⁸⁸, and *Ketehene*⁸⁹ Nana Boateng. This included selected chiefs such as *Kokofuhene*⁹⁰ Barima Offei Akwasi Okogyasuo II, *Ntaharahene*⁹¹ Nana Frimpong, *Sumankwahene*⁹² Baffour Asabre Ababio Kogyawoasu, Nhyiaeso Dikro⁹³, and *Kaasehene*⁹⁴. I spoke to selected paramount queenmothers such as *Asantehemaa Akyeamehene Eseresohemaa*⁹⁵, *Ejisuhemaa* Nana Yaa Asantewaa II and *Juabenhemaa* Nana Akosua Akyamaa III. In addition to these, I spoke with other individuals such as Teacher Safo-Kantanka and Yaw Afre, both historians and researchers of Asante history and culture. Other respondents were male and female litigants, witnesses, and sometimes supporters of the litigants whose cases were resolved at the *Asantehemaa*'s court.

⁸⁶ Court registrar from the National House of Chiefs

⁸⁷ Baamuni or one of the grave priests in charge of the stool house and other rituals in relation to the stool house.

⁸⁸ Asantehemaa's servant and member of her court

⁸⁹ Asantehemaa's chief of kete drums and dance.

⁹⁰ Paramount Chief of Kokofu traditional area.

⁹¹ Part of Asantehene's entourage and court.

⁹² Asantehene's Chief priest and in charge of charms and medicines.

⁹³ Chief of Nhyiaeso and member of Asantehemaa's tribunal and court.

⁹⁴ Current chairman of Asantehemaa's tribunal and in charge of the court.

⁹⁵ Paramount queen mother of Esereso and Asantehemaa's chief linguist.

4.5 How the Study was Conducted

4.5.1 Prolonged observation

According to Qutoshi (2024), with ethnography, the researcher collects information through their participation in the activities in the field or setting. Due to the nature of the research undertaken, as a participant-observer, I would consider myself part of the audience. I was there to observe critically the activities of the court.

The only way I knew how to immerse myself in the court was to observe proceedings, make field notes and ask questions later. Immersing myself in my research afforded me a greater understanding of the Asante chieftaincy system and culture. The way I conducted myself in the court mattered. It enabled me to get access to litigants who visited the court; in some instances, I received assistance from Nana Kojo and Ahenkwa Matthew as to whom I could approach with my request to interview. My presence was not to be mistaken for a news reporter or journalist. I did have people resident at the palace ask me this question several times.

4.5.2 Writing Field Notes

During my period of observation, I tried as much as possible to write copious notes. I wrote down points from cases that I listened to. I wrote down impressions and analyses that I made from what I had seen or heard. I even sketched the *Asantehemaa's* court, showing sitting arrangements and how that could influence the proceedings.

I made notes of cases that I felt were interesting for a follow-up, especially if I wanted to interview the litigants involved in the case. Writing the notes helped me draw up a typology of cases reported. I also wrote down my favourite phrases that I heard. For example, I wrote down the *Asantehemaa's* oath, hoping for a clear explanation when I conducted the interviews. I also noted down the judgment statements of certain cases. I did that to enable me to question the reasons why the co-judges would mention *di bim* to a litigant and tell the other that they are at fault *di fa*. I took these

notes to enable me to revise my semi-structured questionnaire guide if need be. The field notes helped me read over what I observed and heard.

4.5.3 Interviews and Conversations

The data collection methods included interviews, an audio recording of interviews, and the use of a semi-structured interview guide. In some instances, respondents asked for a copy of the interview guide for their study before a date was set to speak with them.

Some participants permitted me to record their interviews. Audio-taped interviews were transcribed, translated, and analysed to enable me to pick up recurring terminologies or words concerning the court.

I conducted in-depth interviews and sometimes held conversations with a total of 30 men and women at different levels of the Asante traditional political hierarchy. These included co-judges at *Asantehemaa's* court, selected chiefs, and queenmothers, other palace or court functionaries of the *Asantehemaa's* court, and the Manhyia palace in general. This interview included those who reported their cases to the *Asantehemaa* court for arbitration.

I did not choose respondents based on the type of case reported. I was rather interested in the willingness of the litigants to speak to me. I did come across litigants who were open to speaking to me at the court, but after I followed up with phone calls, they changed their minds. However, I noticed that more male respondents were willing to speak with me as compared to female respondents. In most instances, with the interview dates we rescheduled, female respondents were not straightforward with me regarding their interest in meeting me or answering my questions. After several failed attempts to get some female respondents to grant me an interview, I began to realise that it was their way of avoiding me totally or turning my requests down. They kept rescheduling interview dates or gave reasons why they could not meet me on certain dates, times

and places. On one occasion, I had to involve a co-judge at the court to speak with the respondent to grant me an interview. That worked.

I used in-depth interviews with key informants such as the *Kokofuhene* and *Juabenhemaa* and co-judges at the court. I recognised that their status had a bearing on my position, thus I had to conduct myself in a certain manner, as conversations were highly unlikely to help me.

I held conversations with other palace functionaries such as *Ahenkwa*⁹⁶, *Nkonusuafo*⁹⁷, *Sudofuo*⁹⁸, and *Mboguafuo*⁹⁹. These conversations were about their roles in the court and with the *Asantehemaa* herself. I also conducted interviews and sometimes had conversations with litigants who reported their cases to the *Asantehemaa* court. I approached them after their cases were closed or postponed, introduced myself to them, and spoke to them about my research work. Then I proceeded to ask for their phone numbers and the preferred day or time that I could call them for an interview. Respondents were at liberty to choose the method of interview or the place and time. I made it clear that I could not interview them in the court, hence my request to call them later on the phone to request a time that suited them. In instances where I felt the respondents were busy with work, etc, I suggested phone interviews. This worked to some extent, but other respondents were adamant and wanted to see my face before they granted an interview. I also understood that the COVID-19 situation at the time made it easier for respondents to deny me interviews or choose to talk to me on the phone.

⁹⁶ Male servants

⁹⁷ Stool carriers usually both male and female.

⁹⁸ Royal cooks (female)

⁹⁹ Female servants

4.6 Data Analysis

After a long day of observation and interactions with court workers, I go home to listen to records or read my notes and make updates on what I observed. Sometimes I got new information after the court closed from deliberations for the day. I eavesdropped on conversations between litigants, co-judges, etc. The bustling noise made in the court after the close of the day was worth observing. That gave me the chance to observe the reality of acceptance of court rulings.

In one instance, the court had to suspend a deliberation as the support provided by one of the litigants consistently interrupted proceedings. The rescheduling went on more than three times, as I observed. I was very aware of the intrusion of technology, i.e. smartphones and cameras, in studying cultural spaces (Hammersley and Atkinson, 2019). I was not permitted to take pictures. I was allowed to sit, listen, observe, and maybe ask questions later. I felt like the traditional Radcliff brown anthropologist who had to observe indigenous cultures over prolonged periods.

Data analysis involved reading and coding my field notes and transcripts. I made sure I analysed data gathered from recorded information from prolonged observations and conducted interviews, and listened to oral historical accounts. Recorded interviews were translated and transcribed. Some of the interviews were conducted in Asante-Twi. I employed the assistance of a linguistics-trained person to translate and transcribe the interviews. Transcripts were a backup for field notes in case I missed something during observations. I coded certain phrases from conversations I had, as this informed my line of questioning for certain respondents. It was also a way of validating responses from informants (Qutoshi, 2024). I also put my responses from the interviews into codes and thematised them. Finally, I used NVIVO Data analysis software to map out my themes, codes, etc.

4.7 Ethical Considerations

I did not consider my research topic as sensitive, bordering on a vulnerable group of people. However, I acknowledged that when interviewing respondents, I had to make room for sensitive topics that may come up. For instance, during observation of cases deliberated at the Asantehemaa's court, I realised that some cases bothered the female body and sex organs. i.e insults. In such instances, I realised that when conducting my interviews, I would have to be sensitive to the responses I would receive from someone who was insulted.

Another issue of concern was domestic cases, such as divorce. During such proceedings, certain details come up. I knew that during interviews, the respondent may have to relive the ordeal when narrating their experiences to me. I, therefore, treated my respondents with the utmost respect possible.

In order not to exploit my participants, I made it known to them that they could at any time withdraw from the study or even pause my interviews if they were not comfortable with the line of questioning. I made it a point to introduce the study before the interviews took place. I also mentioned that their participation was for academic research, hence it was only voluntary. With my letters of introduction, etc., I assured participants of confidentiality. This also meant that names and identities were safeguarded, as I mentioned that I would use pseudonyms in my reportage.

As a researcher, I believed I had to respect the privacy of participants and be sensitive to their needs. This meant that I allowed them to choose the venue for an interview so that they felt comfortable in a space of their choice. I was also of the view that participants choosing where the interview would be conducted would not interfere with any activity that they would be doing at the time of the interview (Hammersley and Atkinson, 2019; Sapkota, 2024; Handema et al., 2022).

Some participants questioned what the result of my research work was going to be. I mentioned that I was hoping to give back to where I came from; hence, I would present a copy of my research work to the court and registrar of the Houses of Chiefs as a way of disseminating my findings in the hope that it would help Nananom appreciate the need for change, if need be. In some instances, respondents asked me to let them have copies of the interview transcripts that I conducted with them.

4.7.1 Minimise Harm

I was careful about the psychological effect of participants narrating their stories, especially if it was a painful one. In such instances, I asked the question ('Would you want to narrate the story or reason why you came to the court? If you do not want to, that is fine'). Participants were also made to tell me if they were ok with me using their names or if they preferred, I use pseudonyms. All through my interview sessions, I was careful to mention to participants that I was not a staff member of the court, hence the result of the interview would not be used for any other work except for my school research work.

4.7.2 Informed Consent

How much information should a participant be supplied with? How does the researcher ensure that participants do not feel coerced to give information because of the researcher's position? (Leavy, 2014; Ghimire, 2021; Sapkota, 2024; Handema et al., 2022). I explained what my research was about and showed a document of my status as a student before asking for permission to interview participants. I explained that they were at liberty to halt the interview at any time if they wished to. I was clear that I needed the information for academic purposes, which some informants were familiar with. Did they keep mentioning 'Oh, you are a student writing your project work'?

I obtained verbal and written consent from all my participants. When participants could not write, a witness was called in to sign and write on their behalf. However, in some instances, when the

participants opted for phone interviews, I obtained recorded consent before commencing the interview. Other times, I sent a WhatsApp picture of the consent forms and my ID card as evidence and for their record-keeping. After explaining my work, I asked if the participant had any questions for me. After the interviews, I asked again if the participant had any questions for me. This was to ensure there was no reasonable doubt about my authenticity as a student doing research work.

I wanted participants to feel comfortable enough to express themselves, as I also took note of facial and body expressions with regard to the information they were giving me. As observed, litigants who lost cases at the court were not particularly happy losing. Only a few accepted they were at fault, but found the punishments dire or expensive in some instances. Thus, with such respondents, I tried to get a sense of their acceptance of the ruling and if they felt it was fair to them.

4.7.3 Autonomy

Cultural differences in research are key to entering a research site or community. It is also necessary for ethical considerations, as it can pose difficulties if the researcher does not know or respect the laid-down norms or structures within the cultural establishment he or she chooses to study (Leavy, 2014; Handema et al., 2022). I was very aware of the customary requirement regarding entry to my research site. Though in most instances, the gatekeepers deemed it unnecessary for them to bring customary gifts because I was a student, I had to make the customary gifts of money to those who led me to the *Nananom*¹⁰⁰. This, I refer to as oiling the wheels of custom to make my way easy.

According to Leavy (2014), in most Western societies, autonomy is credited to adults; once a person turns 18, he or she is considered an adult able to make decisions on their own. However, in

¹⁰⁰ elders

non-Western cultures, the head of household, kin or ethnic group, or community leader is regarded as the proper authority to permit members of the family or community to participate in research. In our context, we refer to them as the gatekeepers, *Nananom*. By studying a cultural institution such as the *Asantehemaa* court, I was aware of the role of gatekeepers. A royal servant can equally be a gatekeeper and key informant just as much as a sub-chief. However, I was informed about the rules of engagement.

After submitting my letters of introduction and ethical clearance letters to the registrar of the court, I was formally introduced to the court, specifically to the chairman of the tribunal. My ability to interview any persons involved with the court had to come after I received permission from the chairman of the tribunal.

4.7.4 Validity

To ensure validity, I repeated my questions indirectly to ensure I got the same answers. Questions were asked in different forms with different participants. Questions were asked before initial observations at the court, and after observing proceedings at the court. I made it a point to listen to the cases during deliberations so that when I interview litigants, I can get a good sense of the stories they are narrating. I also verified their claims with the notes I made during observations of their cases being resolved. This way, I was able to ascertain the truth from their statements. I also made a conscious effort to speak to both litigants and, if possible, witnesses. I was of the view that listening to the one who won the case and the one who lost would help me in my analysis of how the citizenry views the pronouncement given at the court.

4.8 Barriers to Research

Due to the novel COVID-19 virus, I faced restrictions in observing proceedings at the court and accessing respondents. The court was closed several times as a measure to control any likely

infection or spread of the virus. As I observed, this closure did not halt reports of disputes by litigants to the registrar of the court. Even during the prolonged closure of the court, litigants still reported their cases, waiting for the day their case would be called once the court resumed. During this closure, cases were not publicly deliberated upon, but in some instances, litigants requested that any of the members of the tribunal present should help resolve the matter as they felt it could be easily resolved, or the time-lapse would not favour them. Most of such cases were of imprecations.

When the court resumed, it still suspended sitting and sometimes rescheduled cases because substantial evidence was needed or a witness did not show up. A case can be rescheduled as many times as the court deems fit. Regarding scheduling interview sessions with respondents, I had to find novel ways of encouraging respondents to meet me. Sometimes, I would discuss the nature of the research with them on the phone before they agreed to meet me. When we met, they would request another explanation with follow-up questions. Negotiating access to respondents was a daunting task, as respondents who met me at the court were not sure what my position was at the time. I approached them. In some instances, they would agree to a phone call to be made by me. At other times, they requested my contact details, which I gladly gave to them. I had to seek the help of acquaintances to speak to some key informants about my work. This gate-keeping arrangement came as both a barrier and a blessing, depending on the status of the informant, i.e. chief. Due to the nature of the study, I was fully aware of the customary processes involved in accessing the chiefs (complicated and winding access negotiations). In some instances, I had to fall on the help of acquaintances to explain what was customarily expected of me to do when going to interview a chief or queenmother.

4.9 Positionality

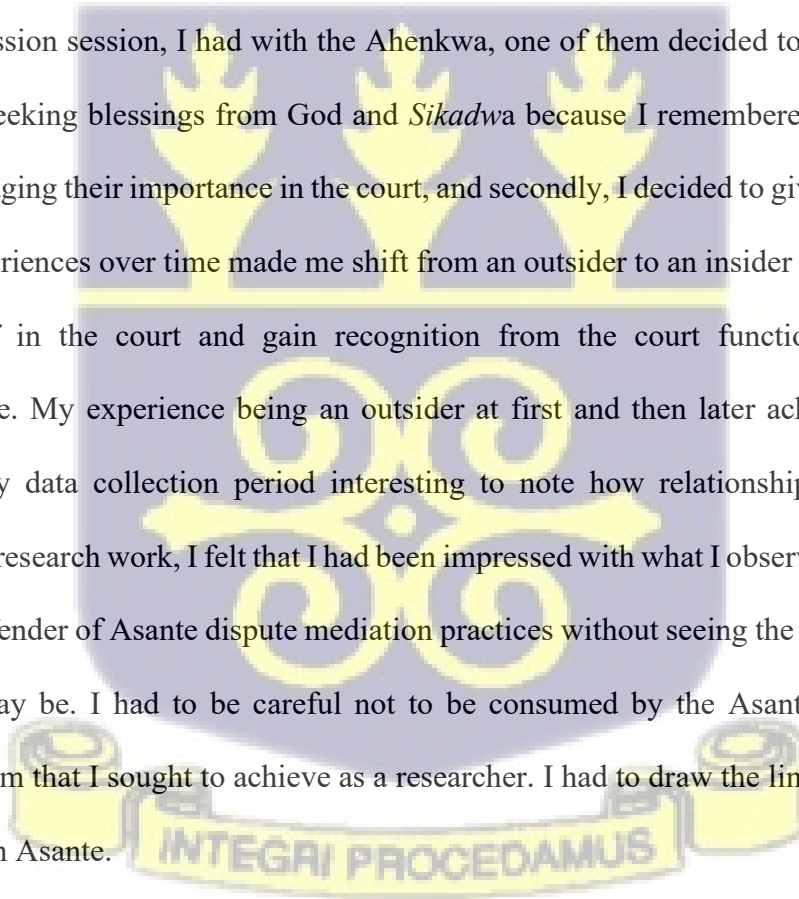
Every researcher goes to the field guided by lived experience, prior knowledge, or understanding of the research topic. The researcher is influenced by his or her pre-existing biases that need to be interrogated when he or she goes into the field (Schensul, Schensul & LeCompte, 2013; Qutoshi, 2024). Throughout the research, I had to acknowledge the difference in status, bias, and power, and that I had privilege as a young, educated woman (Denzin & Lincoln, 2011; Storr & John, 2018; Rašković, Hurd & Onaji-Benson, 2025). With every research, the researcher has to acknowledge biases (Holmes, 2020). My research spanned an interest in gender studies, women's roles, and the Asante chieftaincy system.

I went to the field with the notion that this was a female-owned court, so why are men seen conducting deliberations and not women? If the queen mothers in Asanteman are under her authority, then why are men the ones in her court? Thus, the idea of patriarchy and male domination lingered in my mind during the initial stage of my work (Kandiyoti, 1988; Stoeltje, 2021). I was also careful with the kinds of questions I asked. Sometimes I asked the male members of the court why they were the visible ones conducting deliberations and not the women. When I spoke to female members of the court, I asked why women were silent. In both responses, they made it clear to me that women are not always silent. This assertion was proved when I observed two cases concerning women. The women took over the deliberations, and the men kept quiet.

While the research was ongoing, it became clear to me that I was both an insider and an outsider (Holmes, 2020), depending on which day it was, who I was speaking to at the particular moment, and what the person I was speaking to thought of me. As an Asante woman, I was an insider. As an educated person living in Accra, I was rather an outsider. Throughout the whole data collection

period, I had to navigate the dynamics between changing positions as both an insider and an outsider. In breaking the boundary as an outsider, I had to navigate gatekeepers to gain access to the court and seek their permission to interview litigants who visited the court. I then approached the study as an outsider, with no prior knowledge about the institution and the court in general. This position made it easier for court functionaries to bond with me, and conversations flowed easily. During one of my interviews with a court functionary, he asked: ‘So you are a mother, married, and a student? Where do you go to school?’ I responded, the University of Ghana. He was not only impressed with my interest in learning about my culture, but the fact that as a graduate student, I chose to move from Accra to study his ‘grandmothers’ court’ as he put it.

In another discussion session, I had with the Ahenkwa, one of them decided to pray a traditional prayer for me, seeking blessings from God and *Sikadwa* because I remembered to first speak to them, acknowledging their importance in the court, and secondly, I decided to give them Christmas gifts. These experiences over time made me shift from an outsider to an insider and enabled me to immerse myself in the court and gain recognition from the court functionaries and other respondents alike. My experience being an outsider at first and then later acknowledged as an insider made my data collection period interesting to note how relationships help. As I got immersed in my research work, I felt that I had been impressed with what I observed, and therefore, I risk being a defender of Asante dispute mediation practices without seeing the cracks or negative practices that may be. I had to be careful not to be consumed by the Asante stance over the academic criticism that I sought to achieve as a researcher. I had to draw the line between being a researcher and an Asante.



At one point, I felt like an insider observing proceedings; however, when I started asking questions, I had to be taken through the basics of *asennie*¹⁰¹ among the Asante. It was so basic that I knew I was an outsider who knew very little about customary arbitration than I thought. Being an Asante, some palace functionaries felt I should have an idea as to how the process works. Some understood that being Asante and educated in Accra meant I was far from my culture; hence, I would need to be re-educated about it. I believed I had an ethnic advantage, yet I had to build trust each day that I went to the court and build friendships. My ethnicity as an Asante was helpful in terms of expressing myself and engaging with respondents in the local dialect. As an Asante, I did consider myself an insider.

I felt I could gain their trust with my ethnic background and my gender as a woman. My gender as a woman did not inhibit my access to the court in general; after all, it was a female-owned court. My shared ethnicity enabled me to make friends with the palace functionaries as a starting point to gain their trust and access. I must thank Nana Kojo for that since he introduced me to his colleagues, as it may be. However, my supposed familiarity did pose a barrier because I had to renegotiate access repeatedly to be able to interview co-judges in court. Sometimes, I was looked on with suspicion even though I acknowledged that I had little knowledge of the court. To the co-judges, I was an outsider due to my age, educational status, and distance from the Ashanti region (I live in Accra). They made it clear to me that I may not understand what I see happening in the court, hence my outsider status.

My status as a young graduate student offered both positive and negative responses for me. On one hand, I was admired for being a student, wife, and mother and wanting to know more about

¹⁰¹ Dispute resolution

my culture by coming from Accra to research the *Asantehemaa's* court. On the other hand, I was asked a lot of questions as to why I wanted to know more about the court. Also, being a graduate student living in Accra want to know what about the court? She can observe, but what does she want? I had to explain myself on several occasions to gain the trust of respondents (mostly co-judges) and, in the process, reorient myself as an Asante young woman. I had to acknowledge that my status was a barrier; therefore, I had to come down to their level. This involved me attending family programs that I was invited to, like funerals or naming ceremonies.

To navigate this barrier due to my gender and the language used in the court, I employed the services of a male assistant, George Owusu, a staff member of the Kwabre East Municipal Assembly in the Ashanti Region. I was of the view that access to some respondents could be impeded by my sex as a female.

I also felt that certain information would be easily relayed to my male assistant rather than to me, and I was right in that regard. I met difficult respondents who felt they would not engage with me but could not tell me so directly. In some instances, I needed him to interview respondents because I felt they would be more open to him than to me. So, when some respondents avoided me, I asked him to speak with them, and it worked. In such instances, my assistant approached them, and they were more open to him than to me. Sometimes female respondents would refuse to be straight with me, but when he spoke with them, they were more open to him. In some instances, I conducted the interviews with him because the respondents preferred that he be there. Sometimes he spoke to the respondents to grant me the interviews, which worked. I realised that my gender as a female researcher could have been a barrier to openness among some female respondents. I did not have any difficulties with most of my male respondents. In one instance, I needed him to contact a very popular chief priest, whose case was resolved in the court. I was of the view that my presence at

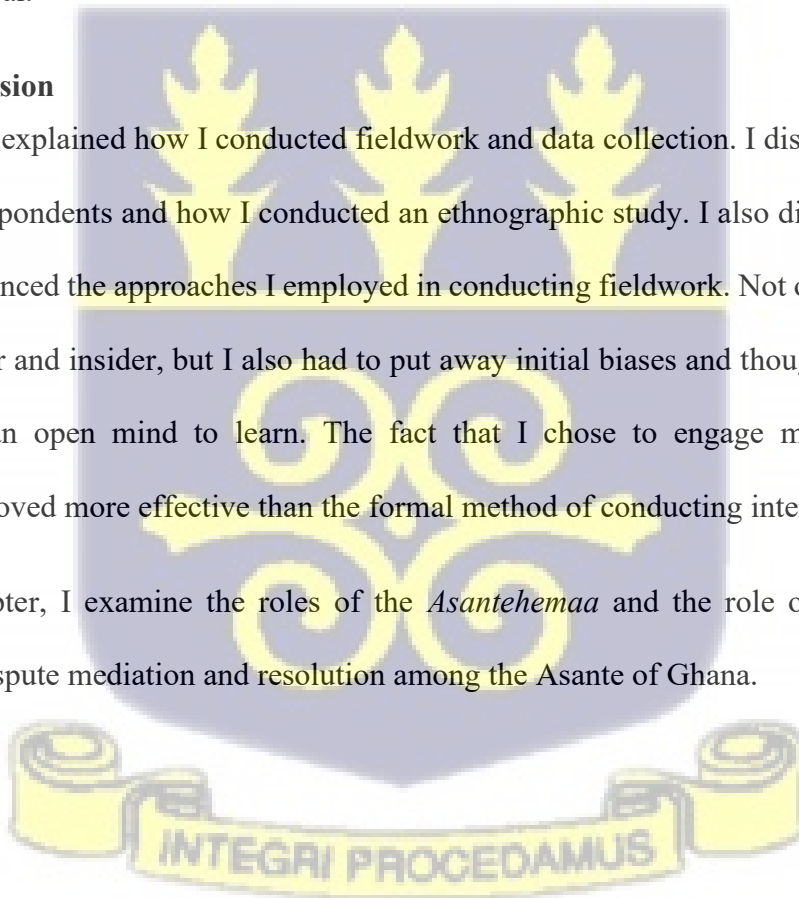
this shrine could cause a problem, considering the reason for his visit to the *Asantehemaa* court. I was also informed that I would not be permitted to speak with him because of menstruation taboos (Agyekum, 2002; Opoku-Agyemang, 2023; Akelaitis, 2020).

During my research, I shared my results with my academic peers as well as other beneficiaries of the DAAD fellowship program. I made this choice in an attempt to remain as objective as possible. I felt that receiving alternative perspectives from colleagues whose research interests did not align with mine would enable me to determine whether or not my approach was objective. Their opinions and conversations prompted me to rethink the aim of my study as well as the nature of research in general.

4.10 Conclusion

In this chapter, I explained how I conducted fieldwork and data collection. I discuss my choice of research site, respondents and how I conducted an ethnographic study. I also discuss my position and how it influenced the approaches I employed in conducting fieldwork. Not only did I navigate being an outsider and insider, but I also had to put away initial biases and thoughts and approach the field with an open mind to learn. The fact that I chose to engage my respondents in conversations proved more effective than the formal method of conducting interviews.

In the next chapter, I examine the roles of the *Asantehemaa* and the role of her court as an institution for dispute mediation and resolution among the Asante of Ghana.



CHAPTER FIVE

THE CHANGING ROLES OF ASANTEHEMAA AND HER TRADITIONAL COURT

5.0 Introduction

In this chapter, the study interrogates the functions of *Asantehemaa*'s traditional court as a medium for dispute resolution as well as the changes that have influenced its role in resolving disputes over time. The responses for this chapter relied on observation of court proceedings and interviews that followed. In the first section, I discuss the changing roles of *Asantehemaa* and how her court functions as a space for dispute resolution in *Asanteman*.

Gyekye (1977) confronts tradition and modernity by providing a balanced approach that preserves African traditions while welcoming progress. Thus, when inherited ideas, practices, and values passed down through generations meet globalisation, they develop, introducing new values and neo-traditions. Gyekye contends that some traditions should be preserved, while others should be modified if they hamper social progress.

The court of the *Asantehemaa* does not function independently. It functions as a customary institution in a modernist state.. Even though the *Asantehemaa*'s court considers itself as a sacred space where customary legal principles are argued over conflict settlement techniques, it is subject to change. As a result, the court is exposed to determinants of change such as modernization while performing her tasks.

The roles of *Asantehemaa* are grouped into four major themes. She performs political, religious/ritual, socio-cultural, and economic roles. Her political roles consist of the nomination of a kingly candidate, consultation, and advisory services to the *Asantehene*, chiefs, and queenmothers in *Asanteman*. This includes her judicial role of mediation and resolution of disputes among her chiefs, queenmothers, and ordinary citizens. The religious roles consist of preparing

food for ritual days such as *fofie* and *adae*, feeding the gods in the stool house, celebrating *adae*, and performing rituals associated with judicial roles in her court. Socio-cultural roles include participating in ceremonies with the *Asantehene* and showcasing the rich Asante culture. Her economic duties consist of her oversight responsibilities over women's welfare, including oversight of the markets in *Asanteman*. Through my reflections on ethnographic research, which included extensive observations, reflections, and seeking an explanation from chiefs, queenmothers, market queens, litigants, key court officials, and palace attendants, this chapter argues that the indigenous customary arbitrational role of the *Asantehemaa* has constantly experienced changes and is still changing. The findings are discussed along with key themes and associated codes that answer research questions one and two.

5.1 Political Roles

The major responsibilities of *Asantehemaa* are embedded in the chieftaincy position she occupies. As a dual political authority, most of her roles are focused on women's welfare and the general welfare of *Asanteman*. However, her major roles signify her political authority. According to Sumbo et al. (2023), the *Ohemaa* is an automatic member of the *Ohene* court. She participates in the legislative and judicial processes. She is the chief counsellor to the *Ohene*.

Respondents mentioned that the roles of *Asantehemaa* were not limited to nomination, advisory, and provision of counsel to *Asantehene* but included adjudication of disputes in her court, maintaining discipline in the kingdom, and serving, protecting, and defending her chiefs and queenmothers under her authority¹⁰². She is also a role model for the queenmothers under her

¹⁰² I observed *Asantehemaa* resolve succession-related disputes in her inner chambers. Contesting candidates who felt cheated out reported the paramount queenmother's nomination to *Asantehemaa* for final resolution. She listened

authority. Respondents mentioned the dissolution of the *Asantehemaa* court as an example of consultation and joint decision. They explained that even though the media announcement mentioned that the Asantehene dissolved the court, he could not have done that without her permission. It is also noted that this consultative role is directed toward the Asantehene and all other chiefs and queenmothers in *Asanteman*.

Asantehene cannot make any major decisions without consulting her or informing her. She has to be in the know. Her court, you were mentioning that the media says the Asantehene has dissolved her court. He did that with her permission after he got the evidence that her tribunal members were taking bribes. He got video evidence and showed it to her (interview with Ketehe, Kumasi, March 2, 2020).

To understand the context and political responsibility of the *Asantehemaa*, the respondent below explains that usually the political contributions of the queenmother are considered before final decisions are made towards the stability or peace of *Asanteman*.

He explained that in times past, queenmothers participated in making decisions that affected the Asante state, and this included decisions about going to war. This is not the case anymore, as *Asanteman* is no longer a military state but operates within a modern political state. He narrates how the Queenmother explained to the council her refusal to support Asante going to war at the time.

Ohemaa was the one who vetoed that there would be no war. So, at the time she said we won't fight today or tomorrow, she was making this statement based on a fact... Asante had gone to war earlier, brought some captives from white men, and they demanded ransom from the white man, so they would release them. They paid and yet were not released. So, she said on that basis, she won't permit Asante to go to war against the British because they have cheated the white men (interview with NSK, Kumasi, February 6, 2020).

to the aggrieved candidates and concluded that the nomination process conducted by the paramount queenmother was faulty and had to be corrected.

Respondents mentioned that the Asante chieftaincy structure is based on the concept of *esom*¹⁰³. Thus, every action the Asantehemaa takes is in line with *esom*. This act of service runs down to the chiefs and queenmothers, and the Asante populace. Her judicial activities in the court are also related to the concept of *esom*.

What we do here in the court is all service to Asantehemaa and Sikadwa. She also performs service to the stool first by serving us, then to Sikadwa. So, we are all serving (interview with Odikro, Kumasi, June 8, 2020).

The responses point to the fact that *Asantehemaa's* duties are meant to support *Asantehene* and *Asanteman* in general. She should be seen performing roles that enhance the image of *Asanteman* and *Sikadwa*. Therefore, any other role she performs is still linked to her political position as a complementary ruler to the *Asantehene*.

5.1.1 Nomination Role

The role of *Ohemaa* as the nominator of the *Ohene* candidate has been a source of conflict among some chiefs and queenmothers in some Akan areas of Ghana. Owusu-Mensah, Asante, and Osew's (2015) study showed that there is a relationship between gender and conflict, and the position of the *Ohemaa* and her nomination role contribute to succession disputes. Scholars such as Hale (2013) and Asante (2016) argue that among the Asante, the stool belongs to the matrilineage, where the *Ohemaa* leads; hence, the nomination role rests on her. The male occupant then becomes a caretaker occupant on behalf of the matrilineage. Other scholars, such as Diabah & Appiah Amfo (2015), assert that once the *Ohemaa* nominates the candidate, her role ends upon acceptance by the elders. She now steps back to her advisory role while the *Ohene* becomes the leader. In my observation, succession-related disputes were reported to both the *Asantehene* and *Asantehemaa*

¹⁰³ service

courts, and because of the centralised system of governance, *Asantehemaa's* court resolved succession disputes that were directly under her authority.

Respondents affirmed that the queenmother is expected to nominate a male candidate when the stool is vacant. This nomination role means that she performs advisory, consultation roles, and ritual/religious roles in support of the *Asantehene*. The responses below attest to the *Asantehemaa's* nomination role and caretaker status of the *Asantehene*:

customarily, in Asante, the authority to nominate a candidate to occupy a stool rests on the Ohemaa. You can say the success and continuity of a stool of matrilineage rests on her. Once she does that, she is done with her part (Interview with Akyawkromhene, Kumasi, February 4, 2021).

We all know Nanahemaa is the one who enstools the Ohene, so she and Ohene are one. So literally, the stool belongs to her, and she chooses someone to sit on it; that is why we always say that she is the mother of the King (Interview with N. F, Kumasi, March 2, 2020).

However, this right of nomination has come under contestation in recent years. For instance, Manhyia Palace is constantly dealing with succession disputes among royal families. The right to nominate a male candidate remains the prerogative of the *Ohemaa*. As observed, several stool or succession-related disputes reported to the court were linked to nomination, selection, and enstoolment matters. Some known reasons for these succession contestations are faulty records of succession lines and stool histories, false allegations, money for elite positions, problems with eligibility, candidates accusing queenmothers of receiving bribes for the stools, or elders, in other cases, and the unacceptance of a favoured chosen candidate of the *Ohemaa* over the preference of the choice of the community, among others. A queenmother respondent explains the current situation concerning the nomination of candidates in Asante:

Sometimes the men are there but would not be interested in the position, and you cannot force them. Other times, the men in the royal family may not match the criteria set. These

days, they want chiefs or even queenmothers who are exposed (travelled abroad) and have book sense (formally educated). Other times, a caretaker might have been on the stool for a while, then when we try to correct the lines, the descendants of such a caretaker will refuse. Then it becomes a conflict. These are some of the reasons why (Interview with NBH, Kumasi, February 10, 2021).

This statement from a key informant, Queenmother, shows how the selection of candidates sometimes leads to succession disputes in the future if proper channels are not taken.

In the past. Nananom were loving people, even if you were from a different clan, he could call you my brother or sister; meanwhile, you are not blood. Again, certain stools have no males to occupy at a certain time, so in such cases, someone can be appointed to sit on the throne as caretaker until a qualified male from the royal bloodline emerges. These days, we recognise that proper documentation is important, so most queenmothers are taking such steps. Also, in Asante today, if we know you were a caretaker chief or queenmother, we do not bury you in the royal mausoleum. In times past, descendants of such caretakers used this as a claim for occupying the stools too (Interview with NBH, Kumasi, February 10, 2021).

Respondents also mentioned that the customary role of the *Asantehemaa* for appointing a new king when the stool is vacant has not changed. The late *Asantehemaa* Afia Kobi (1907-2016) enstooled the current *Asantehene* Osei Tutu II. He, in turn, enstooled his sister, the current *Asantehemaa* Konadu Yiadom III. This demonstrates she is responsible for this task, which suggests that she has a significant role in determining who will hold power and authority in the kingdom. A sub-chief explains why the nomination of a chiefly candidate by the queenmother is embedded in Asante customary laws:

You see, once you enstool a queenmother, you are the chief; she becomes your mother. Even if it's my sister who is enstooled, she becomes my mum. Even if you enstool your niece, whom you took care of, she becomes your mother so that she can assume that advisory role. That is how it is, so just as Kokofu said to you, if Asantehene is saying something, he has consulted his mother; that is how it is. If you are stepping out of the house, won't you inform your mother? (Interview with Odikro, Kumasi, June 8, 2020).

5.1.2 Asantehene and Asantehemaa as Dual Authority in Asante

The issue of dual authority means that both complement each other. Once there is a chief, there has to be a queenmother and vice versa (Stoeltje, 1997, 2000; 2021). However, the *Asantehemaa* consolidates her power when the *Asantehene* passes on and the stool becomes vacant. Emphasis has been that customarily, the *Asantehemaa* is saddled with the nomination role; once that is done, she has done her part. The *Asantehene* elect now ascends while she takes a back role. Others argue that they are co-rulers, hence the position of authority experiences shifting of positions depending on the situation¹⁰⁴. Another argument is that *Asantehemaa* enstools the *Asantehene*, so she and the *Asantehene* are considered one.

As a dual authority, both have stools. It is assumed that women hold the power of decision over the occupant on the stool. They can act as regents, but males are to sit on a stool. Males are rather caretakers, so the occupant of the stool is not the sole decision maker; he has to consult the *Abrewa*. This is revealed in the stool occupied by *Asantehene* and one occupied by *Asantehemaa*. Both have their oath sworn at their courts. Both have courts for settling disputes and judicial panels made up of other chiefs, but in the case of *Asantehemaa*, she has a combination of *Ahenfu* and *Ahemaa* in her court¹⁰⁵. Just like the *Asantehene*, she has *Akyeame*¹⁰⁶, registrars, and male and female servants. The difference in place organisation is seen in the female servants and queenmothers. Her court

¹⁰⁴ For example, the *Ohemaa* can reprimand the *Ohene* when she has too.

¹⁰⁵ The towns and villages under her authority includes Kodea, Akuroboa, Ahenema kokoben, Kwasoa, Aprabo, Oti, Asokwa, Sepe - Aprampram, Nyhiaeso, Ekyem, Odaso, Ofoase, Ejisu- Asawase, Mesowam, Trabuom, Bomso no 2, Sokoban Ampeyoo, Sokoban aboabo-kese, Sokoban ampabaame, Konkori, Penteng, Takyiman- Enta, Barekese, Asuofua-Asaamang, Abankro, Bawuro, Santasi-Anyinam, Shewu-Besease, Amakyi bare, Seedi, Adankwami, Aprabo, Taasem, Akotonsu (dadiease), Petudan, Emuensu, Etimetim-Patasi, Komre, Truba, Nkakom, Afranti, Esereso, A select number of Adikro and Mbaa Panyin from these towns constitute the tribunal and are seen deliberating disputes in her court. The selection of a judicial panel is the prerogative of the *Asantehemaa* and *Asantehene*.

¹⁰⁶ Yankah (1995) refers to the *Okyeame* as the orator. Danquah (1952) refers to the *Okyeame* as an interpreter. One who softens the speeches of the chief. The *Okyeame* is also a diplomat and intermediary of court proceedings when need be.

comprises male sub-chiefs and queenmothers. The difference is that the *Asantehene*'s court is an all-male constituted court, whilst *Asantehemaa*'s court has both male and female counsellors.

Dual authority is best explained below.

Both stools are seen as one. Asantehene is the face of the Asante chieftaincy structure, yet both stools are deemed as one. The Asantehene is responsible for state affairs while the Asantehemaa is responsible for ritual ceremonies Both are two in one; they are required to share ideas. Asantehene is expected to consult Asantehemaa in most of his decisions. Hence, when he makes public announcements, it is considered that he sought permission or informed Asantehemaa before he made any public announcements. For example, the dissolution of the court in May 2019 was done with the explicit permission of the Asantehemaa after he was informed of bribery allegations (Interview with Odikro, July 8, 2020).

Because the whole of Asante is for him and his mother. His mother can tell him to tell a chief I want some lands for some people of mine to live on and Ohene would say nothing of it. You would have to get some for them too (Interview with Nana Boateng, June 8, 2020).

Stoeltje (2000) explains that the Asante chieftaincy system, as a *dual-gender system*, does not necessarily mean that power is equally divided between the chief and queenmother. This assertion is keenly contested once the *Asantehemaa* enstools an *Asantehene*. As buttressed by *Asantehene*'s statement, even if power is conceded to women, the women are not expected to be seen leading, but the men. Yet, *Asantehene* is expected to seek her input in matters that affect the state. Traditionally, *Asantehemaa* is a member of his council and can sit in meetings if need be, but *Asantehene* is not part of her court. In some instances, he seeks permission, as explained by the dissolution of the *Asantehemaa*'s court in May 2019¹⁰⁷. The dual authority also means that both have courts, and cases can move from the *Asantehene*'s court to the *Asantehemaa*'s court and vice versa¹⁰⁸.

¹⁰⁷ According to a key informant if he does not seek her permission, it means that he did not show her respect. This consultation and permission seeking is tied to the concept of *yeko bisa Abrewa*, a son and mother relationship. Once a chief is enstooled the queenmother now occupies the position of his stool advisor.

¹⁰⁸ I observed a dispute where someone invoked *Asantehene Ntamkese* on another chief. The case was brought before *Asantehemaa*'s court first, then sent to *Asantehene* court. Usually, the *Asantehemaa*'s court fines both parties for

So it is structured in such a way that even when we try a case at Ohemaa's court, if the litigants don't accept the decision, it can come to Asantehemaa's court. If it is still not solved, it finally goes to the Asantehene's place. Because he is the overall leader, including his mum (Asantehemaa), but underground, the mum (Asantehemaa) has the power, but in public, it is known that Asantehene is in charge of the whole Asanteman, including the Asantehemaa (Interview with NSK, Kumasi, March 18, 2020).

Secondly, the *Asantehene* cannot interfere with her court organisation and structures except with her permission. As an automatic member of his court and council, she can halt proceedings at the *Asantehene's* court if she feels the matter discussed needs to be re-examined.

There was a time when Asantehemaa stopped Asantehene from pronouncing a decision on a case. She sent her Okyeame and servants from her quarters to kneel before the Asantehene to suspend the decision, and he did. She came across some information and felt that it was necessary to investigate it before he made a mistake. She got evidence that some of his chiefs were misleading him. In other instances, she can ask her Okyeame to inform Nsumankwahene to look into a matter spiritually before it can be resolved. As his mother, she has to ensure that his decisions are from our ancestors without mistakes. Asantehene had no choice but to halt proceedings at her request. (Interview with Nana Boateng, March 7, 2020).

The statement "the *Ohemaa* and *Ohene* are one" also implies that there is a close relationship between the *Asantehene* and *Asantehemaa* and that this relationship is important for the proper functioning of *Asanteman*.

We all know Nanahemaa is the one who enstools the Ohene, so she and Ohene are one (interview with Odikro, Kumasi, June 8, 2020).

5.1.3 The Asantehemaa as Chief Advisor

On the advisory roles of the *Asantehemaa*, once the *Asantehemaa* enstools the *Asantehene*, she becomes the mother. She is expected to use her motherly love to advise her son. This position has been debated with the claim that the chiefs ascend the stool while the queenmother steps back,

invoking the great oath before leading the parties to the *Asantehene* court. The fines are to discourage people from invoking oath except it is necessary and life-threatening. When I inquired about the reason for this, I was informed that this is what is expected. Her court listens to the matter first and decides if it has to move to *Asantehene* court. However, when the dispute involved invoking the *Asantehemaa* oath called *kokoniwa*, the matter was resolved at her court.

occupying an advisory role. The idea that elders fall on the women when they need a male candidate signifies the concept of *yenko bisa abrewa*, where the ‘*Abrewa*’¹⁰⁹ is consulted on matters because she is the repository of wisdom (Abayie Boaten, 1992; Diabah & Appiah Amfo, 2015).

They are supposed to be the repository of wisdom. If you’ve realised, when the case was getting difficult, the chairman said we have to go ask the ‘abrewa’. Let’s go and consult the old lady. We went to seek her counsel (interview with Odikro, June 8, 2020).

This chief advisor role is reserved only for the *Ohemaa*. This assertion is mentioned in the statement below by a key informant.

Asantehene, no one except his mother (Asantehemaa) can advise him or speak about his matter (Nana F, Manhyia palace, March 7, 2020).

This advisory role includes consultations between her and other chiefs and queenmothers. When paramount or divisional chiefs or queenmothers need advice on matters concerning their stools, they can and do seek her counsel. This is because *Asantehemaa* is supposed to be abreast with the histories of all stools in *Asanteman*. And as a mother, she is concerned with matters that occur within *Asanteman*.

When you go there, you will not be able to hold onto your end. You will by all means give in to the advice she gives you (Interview with Nana F, sub-chief, Manhyia Palace, March 7, 2020).

Another point on the political authority of the *Asantehemaa* came into play in some of the responses. For example, one argument was that once the *Asantehemaa* nominates a male occupant and ensures the installation of a new chief, she has to take the back seat as chief advisor. Therefore, the *Ohemaa*’s authority is only visible when the stool is vacant, but once a male candidate shows up, she takes the back-seat role of advisor (Assanful, 2019; Stoeltje, 2021).) argues that she is a

¹⁰⁹ Old woman

co-ruler in her own right. These positions fuel friction among some chiefs and queens. Thus, the power of the Ohemaa becomes subtle, as a respondent puts it.

The Ohemaa's power is visible when the stool is vacant. Women have the power; it is just covert, not overt. However, sometimes she can exercise overt power if she feels the Ohene is not heeding her advice. That is when you will see her looking for an opportunity to destool the Ohene (interview with NSK, Kumasi, March 18, 2020).

To add to the point about the power of the *Ohemaa*, some respondents felt that the concept of gender equality is creeping into the position of *Ohemaa*, and the women feel they are on par with the men, which should not be the case.

Most Ahemaa have problems with their Ohene. Ohene enstools Ohemaa and vice Versa. Once enstooled, you, the Ohemaa you are under them. You are not on par. I, for instance, at meetings with House of Chiefs or Queenmothers meetings, I fight with a lot of the queenmothers, I speak to them that Ohene enstools Ohemaa and vice versa, so if you are the Ohemaa of a small town ... you don't have power over the man (interview with Juabenhemaa, Kumasi, November 19, 2019).

This quest to join the Houses of Chiefs is being driven by the gender equality argument. In Asante, we recognise women; women are in charge, but not in public. The Ahemaa these days want to be seen and heard, but it is not like that. It is all because of gender equality; if not, once you choose the chief, you sit back (Interview with Akyawkromhene, Kumasi, February 03, 2021).

This argument is buttressed by the point made when Otumfuo Osei Tutu II, the *Asantehene*, addressed a gathering of his chiefs and queenmothers at the *Asanteman* council at Manhyia Palace in May 2019.

You queenmothers are to sit behind and beside your chiefs. You are to advise us, that is how it is planned. If we do something wrong, you take us home and advise us; that is where you talk to us. Our power as men is even with you women. You are to advise us, not to overtake us (Asantehene Osei Tutu, March 19, 2019).

This statement contradicts the argument that queenmothers are co-rulers with their chiefs. However, it is assumed that their power is subtle and covert, hence they are not expected to be riding over their men (chiefs) but use the subtle power 'to advise from behind' per Asante customary laws.

5.2 Judicial Roles

The role of the *Ohemaa* as chief advisor is tied to her judicial roles. As chief advisor, she is involved in decision-making at the *Ohene's* court. Her main duty as an advisor is to ensure that *Ohene* does not make decisions that would harm the security and disturb the unity of Oman (Brempong, 2019). To ensure the unity of *Asanteman*, *Asantehemaa* is involved in the affairs of both men and women, specifically, chiefs and queenmothers and other sub-chiefs directly under her authority. She uses her position of motherhood to bring factions together when there are disputes. This leads her to perform judicial roles in her court. As observed, most disputes reported to *Asantehemaa's* court are domestic in nature. However, her court not only accepts female litigants but also sits on cases reported by men and concerning men and women.

Furthermore, the Asante justice system operates such that *Dwantoa*¹¹⁰ takes centre stage. *Dwanetia* takes centre stage in *Asantehemaa's* court, especially in matters of domestic affairs. Thus, the *Ohemaa* is referred to as a pleading queen for litigants from the *Ohene's* court. She is referred to as the *Dwantoahemaa*¹¹¹. She can be asked to plead on behalf of any sub-chief or member of the community who has accepted the position of a faulting party in any dispute. Pleas for forgiveness or a reduced sentence can be sent through her, and her position as mother of the state makes it hard for the offended party to refuse the plea for an amicable settlement¹¹² (Manuh, 1988).

5.2.1 Asantehemaa and Her Court

In the discussion of the roles of the *Asantehemaa*, the study participants expressed that she provides services in the interest of the welfare of the ordinary people who have bestowed their trust in her,

¹¹⁰ pleas

¹¹¹ Pleading queen

¹¹² Interview with *Nyhiaeso dikro*, June 2021.

and the power to rule as a queen of *Asanteman*. Through her court, access is open to anyone who feels offended and recognises the authority of the *Asantehemaa* over the dispute in question. Her roles, therefore, are not limited to only a particular set of people or sex. Some of her roles towards the people include being an overseer of the market, empowering market women and settling market disputes. These duties include settling other forms of disputes in her court at Manhyia Palace¹¹³.

Here ye di asem (arbitrate), ye ka asem (mediate), ye siesie asem (resolve). Asantehemaa's court does not handle criminal cases such as assault or rape, but even rape, sometimes we listen and question the girl to be sure. These days, he might be her boyfriend, but when something goes wrong then she claims rape (interview with Kyeameba, Esereso, February 4, 2021).

The *Asantehemaa* has jurisdiction over specific towns and villages. It is her prerogative to appoint tribunal heads and other officials for her court (Manuh, 1988). It is these town heads that are nominated to assist with judicial duties in her court. This suggests that the *Asantehemaa* has a high level of authority in the region and is responsible for maintaining order and justice. The statement "Their towns are like her property" further emphasises *Asantehemaa's* power and control over the region, and suggests that she has significant influence over the decisions and actions of others.

Question: *So, as Asantehemaa once enstooled, she is the main tribunal head; the Nkotimso and Nkonson consist of Adikro and Mbaa Panyinfuo, whose towns are under the jurisdiction of the Asantehemaa. Can I say so?*

Response: *"Yes, she is the overseer of their towns. So, as the Chief of the town, when someone comes to buy your land, you bring her a portion of it, but you are the overseer of the town, and she is the one who is your main defender. Let's say someone is trying to cheat into your territory, she is supposed to defend you"* (Interview with Odikro, Kumasi, July 8, 2020).

Some participants also pointed out that *Asantehemaa* "unifies the kingdom", thus bringing together individuals or groups or chiefs within the kingdom to maintain unity and prevent conflict due to

¹¹³ I have categorized these disputes in page 98.

her position as a woman and the sympathy she has as a mother figure. In moments when tempers are rising and there is a risk of conflict or division, she can use her motherly instincts to bring factions together and maintain the unity of the state. This suggests that she can understand the motivations of individuals in a way that allows her to bring them together and prevent conflict.

She makes sure there is peaceful coexistence among chiefs in Asanteman. That is the way it is when tempers are rising to the extent that the unity of the state may be affected. She uses her feminine position and the sympathy she has as a mother to bring the feuding parties together and maintain the unity of the State (interview with Kokofuhene, February 26, 2021).

In my observation, the court still deliberated on domestic disputes but also resource-related disputes such as access, sale and use of land for both farming and commercial purposes. With respect to land, Manuh (1988) stated that *Asantehemaa's* court focuses on farmland or *Nfofoa*.

That is not the case anymore as the value of land keeps rising and farmlands are converted for commercial purposes, such as sand and mineral mining or commercial buildings. This change in land acquisition and use has brought about a change in land-related disputes, as observed.

I reported the Ohemaa here because even though my husband bought the land for a poultry farm, we do not operate poultry anymore. He passed. We built on some part of it, too. She claims we are not using the land for what it was initially meant for. These days, how many villages are still doing pure farming? (Interview with Yaa Mansah, Kumasi, December 20, 2020).

Respondents mentioned that the *Asantehemaa's* court is noted for its judicial and political functions of resolving disputes that border on physical and metaphysical. They mentioned that the court cannot collapse because of the religious beliefs of the people and how justice is understood as both physical and spiritual. They mention that even though *duabo* has been banned in *Asanteman*, it would not cease because litigants still believe that most offenders can only be dragged to the court once imprecations have been invoked due to fear of repercussions. Thus, the *Asantehemaa's* court is more effective in compelling litigants to appear before the tribunal and

accept their faults as compared to the state court. The *Asantehemaa's* court, therefore, complements the state judicial system in resolving disputes. In this study, *Asantehemaa* deliberates on matters of interest relating to chieftaincy issues. She settles disputes among her queenmothers and sub-chiefs in the *Asanteman*¹¹⁴. Some participants indicated her court as the centre of her political roles as she deliberates on chieftaincy issues and helps to settle disputes under her auspices and within the kingdom for progress, development and peace. Her court enables her to perform her role as a unifier within the kingdom. These roles are also tied to her position as a mother for all.

She is responsible for handling issues that are sensitive, significant or complex. Her court complex comprises a public space that is open to everyone and an inner chamber where she can deliberate on specific disputes in a more private setting. This suggests that she employs her wisdom as an *abrewa* to navigate private and complex issues. This likely involves analysing and evaluating different aspects of the issue at hand, considering different options, taking a thorough and careful approach to resolving cases and disputes, and ultimately making a decision or taking action.

There are specific disputes that Nanahemaa requires the court to bring to her to settle. Stool matters, for instance, does not want it public lest chiefs and queenmothers lose respect. So, some of the cases are settled by her in her chamber, as you have seen (Interview with Bra Kojo, Kumasi, August 2019).

5.3 Socio-Cultural Roles

As the senior female of the royal matrilineage, *Asantehemaa* ensures that the public image of *Sikadwa* is maintained. Her public appearance is of political, social and cultural significance. She

¹¹⁴ Due to the advanced age of the current *Asantehemaa*, she sat in her inner chamber to resolve disputes that were personal to her. For instance, I observed her resolve succession related dispute in her inner chambers. When I inquired from one of the *Ahenkwa*, his response was that it is not every dispute that the court allows for public listening and participation. Disputes that border on sanctity of the *Asante* chiefdom is best handled by her and her son in private.

attends durbars or ceremonies in support of the *Asantehene*. Respondents mentioned *Asantehemaa*'s presence at *Adaɛ* ceremonies as important because it is she and *Asantehene* who are the face of *Asanteman*. And because *Asantehene* occupies *Sikadwa*, both of them are representatives of living ancestors and the link between the Asante people and *Sikadwa*. Their presence at such ceremonies symbolises the unity of *Asanteman*. They mentioned that it is at such festivities that the distinct nature of Asante's culture and identity is displayed. And because the Asante people take pride in showcasing their culture, both the *Asantehene* and *Asantehemaa* represent the political and cultural identity of *Asanteman*. They mentioned that her sitting in state at such festivities signifies the dual system of governance and her support and allegiance to the *Asantehene*, which is in tandem with her position as the *Asantehene*'s chief advisor and Co-ruler. It is at such festivities that other chiefs and queenmothers under *Asanteman* come to greet and reaffirm their allegiance to them and *Sikadwa*. The public display is therefore necessary to ensure that the kingdom is still intact.

On such ceremonial days, both *Asantehemaa* and *Asantehene* receive visitors either in public or in private chambers. *Asantehemaa* ensures that other members of the royal household participate in the *adaɛ* ceremonies if possible. She also ensures that her *sudofuo* prepares the ritual meal to be shared among the royal family and served to guests of the *Asantehene*.

5.3.1 *Asantehemaa* and Women

In every Akan society, the *Ohemaa* is the first female or the leading female in charge of the female population in her community (Arhin, 2023). She is in charge of women's affairs and is expected to advance the rights of women, especially in marriage, property rights, spousal maintenance, and child welfare (Manuh, 1988). Hence, *Asantehemaa*'s court is noted for settling *efiesem*. This is because Asante's gender norms attribute domestic matters to women. The Asante definition of

domestic space includes the market (Clark, 2020); therefore, the *Asantehemaa*'s oversight over the market space. The domesticity of the market is linked to the large number of women involved in petty trading. Although men are visibly trading in the markets, the market space is still referred to as the domain of women. This trading activity, as studied by Clark (1996) in 'Onions are My Husband', was linked to foodstuffs. Thus, when domestic issues are reported to her court, she ensures it is resolved so that relationships and family units are not broken but mended.¹¹⁵ The response below attests to her oversight of women.

She was given that role to deal with the affairs of women. With all due respect, women are always engaged in kokonsa¹¹⁶ and all that'' (interview with Nsumankwahene, Kumasi, March 22, 2020).

As the leader of the royal matrilineage, the *Ohemaa* is also interested in family matters because the unit of society is the *abusua*. As a matrilineal society, continuity is vested in women.

If you want to live in peace in your community, you have to be involved in family matters'' (interview with Juabenhemaa, Kumasi, November 19, 2019).

She is also involved in any other issues that concern women, such as their economic lives, hence her traditional ownership of the market. In her court, for instance, disputes that involve women, such as issues that border on the dignity of women, i.e. *kwaseabuo*, insults to women or insulting female private parts, are considered taboo subjects. This includes matters of inheritance.

As the defender of women's rights, as mentioned by Manuh (1988), the *Asantehemaa* expresses this defence especially when she is mediating disputes that involve women or between women and men. As observed at the court, she is also concerned with the affairs of men and how their actions

¹¹⁵ In my observation of marriage disputes, on a number of occasions, I observed as the Okyeame asked couples if they were divorced or not and if they wanted Asantehemaa to resolve their marriage dispute. On other occasions the Okyeame explained that the court does not support divorce and hence cannot mediate on divorce cases. However, if the couple want a resolution of their marriage problems, Asantehemaa would be petitioned to resolve it in her inner chambers.

¹¹⁶ gossip

would affect women directly or indirectly. In the statement below, the respondent was concerned about the welfare of a lady litigant and tried to explain how her affair with the married man would result in dire consequences for her.

Some days ago, my Okyeame brought a woman with an issue to me, and a girl was accompanying him. What I did to the girl, eh, the dress she was wearing, the jeans are the torn type. I asked her, You come to an Ohemaa house with this? The Okyeame you are following is useless to me; you are following with this dress, it's disgraceful. I told her the Okyeame has a wife and kids, so what are you following him for? The issue brought here, does it concern you to accompany him here? (Interview with Juabenhemaa, Kumasi, November 19, 2019).

In times past, the *Ohemaa* supervised and had moral authority over the female population. According to Sarpong (1977), she performed rites called *biragro* and *kyiribra*¹¹⁷ for teenage girls. As the custodian of the moral state of the women in her community, she was concerned with the chastity of the female population.

However, due to changing social systems, these rites have practically fizzled out (Sarpong 1977). Factors such as increased formal education, Christianity and modernity have also contributed to eroding this practice. Families no longer see the need to make their daughters perform these rites¹¹⁸. According to the response below, some families come to her seeking the rites to be performed for their daughters privately.

When I completed secondary school, my mother told me she wanted me to settle down early. She performed Biragoro for me, I listened, settled down, and started a family. But today, no child would want to go through such rites. Some mothers come to me personally and request that I perform private biragoro rites for their daughters. I give them a list of items to get for the rites, and I perform it at my residence here. Usually, such girls when they are getting married, their parents still involve me. So, I guess the rites and advice I give them work (Juabenhemaa, Kumasi, November 19, 2019).

¹¹⁷ Puberty and cleansing rites

¹¹⁸ Interview with Juabenhemaa Nana Akosua Akyamaa, October 10, 2019.

As a female political leader under the *Asanteman* chieftaincy structure, she has the largest following of chiefs and queenmothers. Before any Asante queenmother can be officially recognised, she has to be shown to the *Asantehemaa* for acceptance. In instances where such positions have been contested, the *Asantehemaa* is mandated to resolve such succession disputes and ensure co-existence among all *Ahemaa* under her authority. This co-existence includes chiefs as well.

5.4 Economic Roles

In *Asanteman*, it is established that traditionally the market, which comes under the jurisdiction of the *Ohemaa*, belongs to her and she sees to the daily administration of the marketplace while ensuring peaceful co-existence among the women who patronise the market either as buyers or sellers.¹¹⁹ Thus, all who do business at the market are obliged to send a token of their wares to her palace as gifts (Manuh, 1988).

Usually, the administration of stool lands is the prerogative of the chief and his court, but not without consultation with the *Ohemaa* (Busia, 2018). But with *Asantehemaa*, she has her own lands and caretakers¹²⁰. They are mandated to bring a portion of the sale of the land to her. Secondly, she generates some income from the proceeds of her court through judgments that include summons, fines and fees paid. Aidoo mentions that in the past, Akan queenmothers owned vast tracts of land and villages, but it is not the same today (Aidoo, 1985; Stoeltje, 2021). This is because land, though vested in the chieftaincy system, is under the care of traditional leaders, while the government also has a certain amount of control over its distribution and sale (Ubink, 2013;

¹¹⁹ Interview with Juabenhemaa, Kumasi, November 19, 2019.

¹²⁰ Adikro and Mbaa pnyin

Jauro & Ibrahim, 2015). However, as observed, some *Adikro* who are caretakers of these lands and villages still bring a portion of their land sales to *Asantehemaa*.

Do I own land? No. I am a caretaker, so when I come here, it is to show allegiance. I perform judicial roles to assist her, too. When we sell our lands, we are to bring her a portion in allegiance. It's all part of esom (interview with Kwasodikro, Kumasi, June 8, 2020).

She ensures that assets and properties belonging to the stool, royal household and lineage are properly kept and not pilfered.

All I know is that when you come to meet stool property like gold, it is not your personal property. You do not sell or spend it. If you cannot add unto it, you use it and leave it as you met it (interview with Ejisuhemaa, Kumasi, December 8, 2019).

As the overseer of women, she is interested in activities that women engage in. One such is trade. In *Asanteman*, *Asantehemaa* is still recognised as the traditional owner of all markets in Asante. It is believed that other queenmothers under her authority were also overseers over the markets in their communities. According to Asante's custom, the *Asantehemaa* is the owner of all markets in *Asanteman*. The *Amanhemaa* act as overseers of the markets in their communities on her behalf.

The Kumasi central market, also known as the Kejetia market, is the largest single market in the West Africa sub-region¹²¹. The market is officially controlled by the Kumasi metropolitan assembly and the Asante monarchy, which comprises both the *Asantehene* and *Asantehemaa*. The Kejetia market caters to traders within the region and the Sahelian West African countries. According to Asante's oral history, the market was set up by Prempeh I to enhance trading activities between Asante and its neighbours. The expansion of the Kumasi main market, for example, could be seen as a major development plan that was supposed to spearhead economic transformation. However, it created a pocket of disputes as various commodity traders, who were largely women,

¹²¹ <https://www.ghanaiantimes.com.gh/africas-largest-open-air-single-market>

constantly reported market and metropolitan assembly officials for attempting to relocate them. The women felt their actions would truncate their economic activities and disrupt their source of livelihood when relocated.

Concerning globalisation, the influx of imported goods meant a new shift in the position of commodity headsmen. Initially, these headsmen were solely appointed for specific food items¹²² needed for ritual festivities at the palace. Currently, every commodity sold in the market has its leadership, mostly comprised of women who are also seeking recognition from the *Asantehemaa*. This shift in goods caused a shift in the positions of market or commodity headship.

5.4.1 Asantehemaa, her Court and Market Headsmen

Headmen are in charge of the market and oversee the activities of all commodity traders at the Kejetia and race course markets in Kumasi. They are responsible for appointing or confirming the nominations of persons selected by commodity traders to supervise the activities of traders. They first present themselves to the market headman, who in turn introduces them to Asantehemaa.

Thus, each commodity has its leader, and in turn, each market has a headman¹²³. Their main duty is to assist the Asantehemaa in exercising traditional control of the market. As observed, the Kejetia, central and race course markets are close to Manhyia Palace, hence the headsmen visit the palace to pay homage to the *Asantehene* and *Asantehemaa* on ritual days and give her updates on activities in the market. This introduction usually occurs during *Adae* ceremonies or court days.

¹²² During the course of fieldwork and observation at the market, I noticed that food items such as yams, palm oil, peppers, tomatoes, plantains, cocoyam, cassava, cassava and maize dough, dry and smoked fish, okra, garden eggs, local vegetables such as *kantomire*, assorted fruits were the main items brought to Asantehemaa's court prior to *adae* days. These commodities were collected from female traders by their respective *hellimen*.

¹²³ During interviews with commodity queens and market queens, they made it clear that they are caretakers or headsmen corrupted as *helliman* and not queens as referred to by Scheiterle & Birner (2021).

Also, these headsmen ensure that foodstuffs are brought to the *Asantehemaa*'s quarters a few days before any *Kwasidae* or *Wukudae* ceremony¹²⁴.

In Clark's (1997) study of the operation of market queens at Kumasi central market, she argues that commodity group leaders had authority over their commodity traders. These headmen are referred to as *dwom ahemaa*, meaning market queens, as stated by Clark (1994). Clack does not mention the link between market queens and Asantehemaa's court, nor does she touch on the functions of market queens, which include dispute resolution. However, she fails to connect this role to Asantehemaa's court. She mentions that the commodity traders were women and largely involved in the foodstuff trade. As leaders, they also resolved disputes between their traders and negotiated on behalf of their traders. As observed, these negotiations involved government officials, market managers, regional authorities and Asantehemaa. They also had control over the pricing of their foodstuffs. Other commodities, such as clothing and cooking utensils, had no groups, or she did not identify leaders.

However, at the time of my study, the selected headsmen that I interviewed explained that their commodity group traders call them *Ohemaa* within the market space. However, the correct term is headsmen corrupted as '*hellimen*'¹²⁵.

Headman corrupted 'helliman'. You see, when the position is given to the person, then they call her Ohemma, but when you go somewhere and meet the proper Ahemaa fuo, and you are headman and you call yourself Ohemaa there, one Ohemaa can disgrace you that you are not an Ohemaa and ask you which stool do you sit on? So we remind ourselves that we are not Ohemaa but headmen (interview with Maame Kyeiwaa, Kumasi, March 20, 2020).

¹²⁴ During prolonged observation, I noticed that market headmen ensured food stuff was delivered to Asantehemaa court every Tuesday and Friday prior to *adae* ceremonies. Food stuff was brought in *aboboyaa* tricycles, taxis or small trucks. Second, were the reports of disputes between market women and market officials and disputes among market women themselves. I also observed proceedings of the cloth seller's association. The dispute took almost two years to resolve. In the end, the group that won presented gifts of clothes to the Asantehemaa and her court as *Aseda* for winning the case.

¹²⁵ Interview with Bantama market Headman Maame Kyeiwaa, Kumasi, March 20, 2020.

Their position is more of a ‘caretaker’ status for *Asantehemaa*. The *Asantehemaa* not only oversee headsmen in charge of food commodities but also non-perishable items like clothes, cooking utensils, jewellery, etc. Currently, other non-food commodity traders, such as clothes and jewellery, have formed groups and have leaders. These non-food item leaders make it a point to get recognition from *Asantehemaa*. The leaders of these non-food items are also compelled to show allegiance to the *Asantehemaa* by participating in *Adaɛ* ceremonies together with other commodity headsmen. They also contribute their service (*esom*) by presenting other items the court or her palace needs as their gifts to her.

We only get to meet the Asantehemaa when we are going to make a donation. Each one has their donation in front of them. There is someone there who introduces the group and the items that they are donating to the Asantehemaa. She would lead to show by saying Nana, this is from the yam sellers. We donated rice and other food items, such as sardines. We do not necessarily present the items we sell to her. No, just that some chiefs were asking why we didn't bring some earrings because they also have daughters. But we assured them that one day we will add it to our things. She explained that we could buy oil, rice, sardines and tinned tomatoes (interview with Asumade, Kumasi, January 4, 2021).

The kinds of economic or market-related disputes reported to the court, for example, also show the rapidly changing scope of economic activities in the Ashanti region and the use of market space in the region.

Asantehemaa still exercises traditional ownership of the markets in the main Kumasi metropolitan area, namely the race course, Kejetia and central markets. A headman explains how the *Asantehemaa* lordship of the market is exercised.

Even if you do the market in your house, even where we stand here, anytime we go to her and she speaks to us, she says even if you selling in your room, it's hers, so if you selling tomatoes in your room, it is for Nanahemaa market. So, she gives us some power to sell here and not to sell here. If we come for things we need for esom and you say no, I'm selling at my house, it does not sound right. Wherever you are, it's Nana Asantehemaa's market. That is what I can say, that is why there is a market leader. All market spaces are for her (interview with Maame Kyeiwaa, Kumasi, March 20, 2020).

Not only do headmen report developments from the markets to her, but they also bring disputes that they are unable to resolve to her court for final resolution. I argue that this arrangement enables Asantehemaa to continue to exercise control over the activities of its commodity traders and the market in general. Asantehemaa, therefore, maintains control through her appointed headsmen. Usually, this market leadership structure is largely feminine; however, some executives of commodity traders did include a few men, but the position of headsmen for Asantehemaa remains the reserve of women only.

And the market is women's work. Men cannot be in charge of the market. That is why we have Yewura and Nanahemaa. Yewura has his roles while Obaapaniyyin, who is Asantehemaa, is in charge of the market (interview with Maame Kyeiwaa, Kumasi, March 20, 2020).

The response below explains how the market headman, *Bayerehemaa*,¹²⁶ organised other commodity queens to present their Christmas or end-of-year gifts at Manhyia Palace. This indicates the general understanding of the traditional ownership of Kumasi's main markets and the presentation of items as gifts in recognition of the Asantehemaa lordship over their activities in the market space.

So the Bayerehemaa¹²⁷ collects things from all headsmen for the palace. She happens to be the overall headman at Central Market who organises the other headsmen to visit the palace. I even accompanied her the last time to the palace. She calls all of us and informs us of the next activities. We first went to Asantehemaa's place; they were not seated in state yet. Then to the Asantehene's place. Otumfuo came in when we had just sat down. She mentioned each of our gifts to him (interview with Asumade, Kumasi, January 4, 2021).

As Asantehemaa, she has a responsibility to deal with market-related disputes because of her position as a mother figure and her authority over the market. The person appointed as the leader of the market is responsible for overseeing the activities of the traders and keeping the

¹²⁶ Yam queen

¹²⁷ Yam queen

Asantehemaa informed of what is happening. This suggests that the leader of the market has a high level of responsibility and authority, and is expected to act as a representative of *Asantehemaa*.

The market she has given it to us that this is my market, but because she cannot come to the market to do anything, then she would appoint me. You or him, watch over commodities traders for me. Then she elects one main leader who watches over the market for her. So, whatever happens at the market, you are supposed to go inform your lord that today this is what is happening here (interview with Maame Kyeiwaa, Kumasi, March 20, 2020).

The responses below show that *Asantehemaa* has a responsibility to deal with market-related disputes because of her position as a mother figure and her authority over the market. They explain that there are laid down processes for market women to seek redress for offences that occur in the market space. First, they are to report to their commodity leaders or market headsmen. If the matter is not resolved, it is up to the headman to report the matter to *Asantehemaa* for final resolution.

The sister likes fighting. I reported her here because she does not conform to any authority at the market. She even claimed her stool was at the Asantehemaa's court, so I reported her there since we all know Asantehemaa is the owner of the market (interview with Asumade, Kumasi, January 4, 2021).

Some issues, if you take it to nananom, they would tell you to bring it to us if I cannot resolve it. I am supposed to hold your hand and bring the issue to Nanahemaa's court. So, you can't move from the race course or bantama market behind me straight to Nanahemaa court... if there is no understanding of the issue, then I inform my lord that this issue I could not resolve, so I am bringing it to you. In our market, we have a law that if you fight with someone, you stay home for three months. That is when it happens, and we sit down to discuss it, and you are at fault. Duabo is a big one; if you are at fault, I will appoint people to accompany you to Nanahemaa court to overturn it. When we overturn it, you go home for three months as punishment so that no one else repeats it (interview with Maame Kyeiwaa, Kumasi, March 20, 2020).

Several reasons account for the conflicts that arise in the marketplace. These include selection and confirmation of commodity leaders or headsmen, conflicts between traders and the Kumasi Metropolitan Assembly or market officials, conflicts among traders, etc.

What brought us here was the cloth sellers' association. We requested our leader to account to us, which she refused, so we decided to form a breakaway group to push for a more transparent leadership. She refused to allow us to hold elections, etc., we reported to the court (interview with MB, Ntoma, Kumasi, June 21, 2020).

According to a headman, the major cause of disputes in the market can be attributed to the greed of some traders who want all the money to come to them. This situation requires intervention to prevent fights and maintain peace in the market. Because the market is under the authority of Asantehemaa, it is her responsibility to use her motherly instincts to resolve these disputes.

When I say Nanahemaa controls our activities, I mean that someone can get greedy in the market. Wants all the monies to come to her, bringing a lot of fights. We have commodity queens who discuss pricing with their members for others' sake. So, if the market is for Asantehemaa, then it stands on the fact of her position as a mother and that she has the motherly love she needs to deal with market disputes (Interview with MB Ntoma, Kumasi, June 21, 2020).

Another headman respondent explained how their position and power translate into Asantehemaa's lordship over the market. She explained that Asantehemaa considers all market women as her grandchildren and wants them to be able to go about their trade without problems.

Hence, Asantehemaa liaises with market authorities and KMA to ensure a safe space for women to trade and protect them from fraudulent activities in the market.

Asantehemaa expects her grandchildren in the market to feel ok. Sometimes, when someone is in a position of power, they use the power to do things not acceptable, so when something is going on ... the person may not know how to go about it. So, we go to an information centre to tell the market women someone gets power and say before you can work here, we are charging you this amount. Without it, I won't allow you to do your business because our lord has given us the land that all her grandchildren should eat from it. So, if they give you small power, then you use the power in secret to dupe people, then Nanahemaa has given us the power to make sure that duping does not happen, and her grandchildren should be free to trade (Interview with Maame Kyeiwaa, Kumasi, March 20, 2020).

The position of Asantehemaa and her lordship over the markets in Asanteman seems to be more complex, as she relies on the allegiance of these headsmen to assert her authority over the market space. The market operates within the modern arm of government, which is the Kumasi

Metropolitan Assembly. These allegiances go both ways. The market women and headsmen use the position of *Asantehemaa* to ensure that they trade in the market. The headsmen benefit from their status as leaders, which grants them access to traditional corridors of power, the Manhyia palace. The leadership of commodity items and market leaders make it a point to participate in *adae* ceremonies to show their allegiance to *Asantehemaa* and *sikadwa*.

5.5 Religious/Ritual Roles

One major role of the Akan Ohemaa is the selection and enstoolment of a new Ohene when the stool is vacant. Her quest for finding a suitable candidate to occupy the stool means she has to consult the elders and the kingmakers about her choice. This selection and consultation process of screening has to be a combination of both spiritual and physical. Spiritual screening involves consultation with diviners to ascertain suitability (Awuah-Nyamekye, 2009).

When we say Nananom have revealed themselves to Ohemaa in a dream, this is what we mean. She consulted, if necessary, poured libation or consulted diviners to reveal who among the candidates is suitable to occupy the stool (interview with Ketchene, Kumasi, March 2, 2020).

Both the *Ohene* and *Ohemaa* are responsible for keeping the communication lines between the living and ancestors. The *Ohemaa*, just like the *Ohene*, performs rituals at her palace in celebration of ritual days like *Adae* (Arhin, 2023; Sumbo et al., 2023). The ritual aspect of *Adae* days is the feeding of the gods and slaughtering of sheep at the stool-house.

With the assistance of some of her palace functionaries in charge of the stool house, she offers prayers to the ancestors and stools of past queenmothers on said days (Hale, 2013; Osafo, 2018). On such days, she is expected to feed the stools of her ancestors in her stool house. The performance of these rituals is symbolic of the position of the chief and the queenmother as spiritual leaders of the people (Sarpong, 1967; Stoeltje, 2021; Denisova, 2020). And because the position of *Asantehemaa* is a combination of both ritual and kinship functions (Arhin, 2006;

Akrong, 2006; Brempong, 2019; Denisova, 2020), the *Ohemaa* has to be abreast with the taboos concerning the stool and put measures in place to ensure that the stool does not come in contact with any contaminant (Agyekum, 2002; Opoku-Agyemang, 2023).

She performs these rituals to avert any calamities that may befall her community (Owusu Brempong, 2006; Akelaitis, 2020). Hence, all measures are put in place so that when she cannot perform the rites of feeding the stool, she has to delegate the ritual duty to those in charge of the stool room, such as the *Okyeame* or *Baamufuo*¹²⁸. She can also appoint an elderly woman or her oldest female linguist to perform some of these rites on her behalf when the need arises (Amoah, 2011).

When Asantehemaa is not available to perform the ritual in the stool house, she can delegate her okyeame and we Baanufuo to go into the stool room to pour libation and feed the gods (Interview with Baamuni Kojo, Kumasi, November 10 2019).

5.6 Conclusion

The chapter showed that *Asantehemaa* is saddled with political, socio-cultural, economic, judicial and religious roles. As observed, she still performs these roles in accordance with Asante customary laws. This chapter examined the roles of *Asantehemaa* as a dual political authority to the Asantehene. It may seem like they occupy almost equal status as co-rulers. Responses point to the fact that they may have similar court composition, palace organisation, and tribunal members, but there are also slight differences in the number of staff, composition of tribunal members, gender difference in court staff, types of disputes reported and activities of their court.

¹²⁸ Interview with Nana Owusu, 2021

To a large extent, her roles of nomination, selection, enstoolment, and advisory have not changed. However, the determinant of change, such as modernity, has influenced the factors that contribute to the decisions to choose a chief or queenmother. It is no longer okay for the candidate to be of royal descent and without blemish. These days, candidates are either formally educated, gainfully employed, involved in development projects, etc. The visibility of candidates is a deciding factor in choosing candidates, lest the community rejects *Ohemaa*'s choice. Among all these, the *Ohemaa* is saddled with choosing a candidate who would not relegate her to the background but would require her advisory role as required by custom. These factors complicate the position of *Ohemaa* and the performance of her political roles as explained in this chapter. Another emerging theme is her oversight responsibility over women. This position enables her to defend women's rights in her court. These rights include property and inheritance, marriage, and economic independence. A major part of her political role is the adjudication of disputes. Her court is the space where her judicial roles are performed.

It came out that all these roles are part of her service (*esom*) to the stool and to the people of Asanteman. Not only is her court open to women, but it is open to men as well. Her court then symbolises her authority and service to ordinary people. I argue that the *Asantehemaa*'s court provides justice to a populace that chooses a forum of adjudication that they are familiar with, and meets their needs for justice that is reconciliatory rather than adversarial.





CHAPTER SIX

NATIONAL LEGISLATION, CUSTOMARY AUTHORITY, AND THE NOTION OF JUSTICE AT ASANTEHEMAA COURT

6.0 Introduction

This chapter explores the *Asantehemaa's* traditional court's observance and adherence to national legislation on disputes arising from marriage and inheritance within the Asante customary spheres. It also highlights respondents' notions of fairness and how critical social demographics such as gender, age, power, marital status, occupation, and local dialect influence their access to a fair resolution of disputes. The chapter concludes with an elucidation of the factors that inform the choice of the *Asantehemaa's* traditional court as a space for the resolution of disputes. This answers research questions three and four with the corresponding findings and associated codes discussed along with research objectives three and four.

6.1 Notion of Fairness in Traditional Asantehemaa's Court

Asantehemaa's judicial role is affirmed in Asante customary law and accepted by those who owe allegiance to *Sikadwa*. Her customary court does not employ professional legal personnel but a panel of elders comprising sub-chiefs and queenmothers under her authority. The dispute resolution process is participatory and consensual. Earlier studies, such as Manuh (1988), found that the future of the court depends on factors such as accessibility, the adaptation of the court to changing circumstances, and its recognition of state laws. Her work further questions whether litigants receive impartial justice, the fines and fees paid, and how poorer people would be able to access the court and get the needed justice they seek.

In my observation, these factors, as mentioned above, may sometimes pose a barrier to some litigants, yet they did not deter them from patronising the court, as they still believe that it will offer a better redress and faster resolution than state courts.

Despite the above, there are instances where cases before the court are such that they are tied to deep-rooted cultural and spiritual beliefs, such as *duabɔ*, *Ntam*, as well as chieftaincy and succession-related disputes, which make it compelling for litigants to necessarily resort to the *Asantehemaa*'s traditional court for redress, in which case, litigants are under an obligation to appear before the court. It emerged that such cases are also among the most competitive ones that come before the court, aside from land-related disputes and would usually increase the potential of the use of bribery and other illicit means by litigants and their supporters in their quest to find favour in the court. In view of the above, bribery allegations are not a new thing in the court; however, with the action of *Asantehene* Osei Tutu in May 2019, litigants were reassured of *Asantehene* and *Asantehemaa*'s quest to provide fair hearing and justice to litigants who access the courts. One broad theme that emerged from the study was the definition of justice. Justice was described by participants as “establishing the truth” of the matter or dispute under deliberation in the court. The Asante concept of justice equals social or communal justice, leading to social harmony. In reference to Monday (2020), the Asante concept of justice views justice holistically according to Asante traditions and embedded in its laws. A respondent uses her case to explain how the court signifies finding the truth.

I brought my case to Nanahemaa because I believe that here you cannot lie and go free. No matter what, the truth will come out. I believe her court will deliver the justice I need. I define justice as equal to truth. I observed that people sometimes faint after lying in the court. After all, judgments are made from your word of mouth or what you say (Interview with AK, Kumasi, February 7, 2020).

The Akan concept of justice involves either spiritual and physical consultations or applications to arrive at an amicable resolution of disputes. These mechanisms are rooted in the spiritual

worldview of the Asante people. Respondent's understanding of conflict influences their intent or decision to report to *Asantehemaa's* court and not the state court.

The understanding of conflict and its resolution among the Asante is influenced by the traditional institutions that exist, and the resolution of conflicts involves humans and sometimes between humans and spiritual entities, such as the ancestors. As observed at the court, all litigants involved in ritual-related disputes attested to being either Christians or Muslims but still held onto certain aspects of African traditional religion and practices; mixing of religions using parts of the ritual practices that favour the complainant or litigants to get the justice they seek. Some choose to invoke the great oath (*Otumfuo ntam kese*) to compel defendants to show up in court or to agree to the customary mediation process. Once *Asantehemaa's* oath is invoked, the chief of that town is compelled to move the case to her court or the *Asantehene's* court¹²⁹.

To the Asante, justice has both physical and spiritual phases. The *Asantehemaa's* court does not deal with physical disputes without adding a spiritual aspect to them. The statement below attests to respondents' understanding of justice, which is bifurcated. Nothing happens in the physical without a spiritual undertone. The swearing of an oath, for example, is a way to compel both parties to speak the truth and achieve the justice sought at the court. The response below explains how this bifurcated notion of fairness plays out in the *Asantehemaa's* court:

“duabo is necessary to seek the truth. It can be used to seek redress, get out of a do-or-die situation or compel an offender to speak the truth. So is Ntam. Once invoked, one should be ready to prove innocence no matter what. So, I do not totally condemn duabo” (interview with Nsumankwahene, Kumasi, June 6, 2020).

¹²⁹ I observed two ritual related disputes. One was between a non-indigene of a town. He bought vast tracts of land from a chief. The chief began re selling some portions of his land and he invoked the Ntam kese (Asantehene oath) on him. The second dispute was reported to the court by Asantehemaa's oath on his Abusuapanyin. The Odikro as per custom was compelled to report the matter to Asantehemaa's court for resolution.

Another litigant also expressed his understanding of the spiritual and ritual nature of disputes when reported.

“Just that with Nananom you feel the process is different because of the spiritual component attached to it, I mean the swearing of kokoniwa” (interview with Osofo E, November 18, 2020).

The spiritual beliefs, perceptions, and worldview of respondents also influenced their decision to report their disputes to the customary court.

“The man first reported me to KMA., They made me spend money, then I cursed him. I heard the wife was telling people they want to come and apologise because her husband has been falling sick small but I have said I won’t overturn it. They also reported me to Asantehemaa’s court, where I was found both guilty and right at the same time. The issue is that you cannot take duabo to the police station or court. They naa will advise you to report to Ahenfie” (interview with market woman, Kumasi, June 21, 2020)

In the same vein, some participants also noted that justice is achieved when the litigants reconcile after the dispute is settled. In doing so, it demonstrates that both the plaintiff and the defendant have accepted and are now aware of the truth of the matter. The quote below shows how one of the participants (a chief) alludes to the subject.

“That is why at the end of the proceedings we try to encourage both parties not to be at loggerheads. We repair the mended fences ‘ye sie sie asem’ that is why we swear ‘ye ka ntam’” (Interview with Nana Frimpong, June 8, 2020).

The above statement alludes that the *Asantehemaa*’s court focuses on restoring relationships that have been broken due to harm or offence committed. As a customary court that employs both physical and ritual aspects to achieve justice, one way to ensure restoration is by demanding parties involved swear the *kokoniwa* oath before deliberations and after a dispute has been resolved.

According to Brooks (2017), the restorative justice framework is focused on restoring harm rather than punishing offenders.

It considers the effect of the offence on individuals and the community. And because the *Asantehemaa* court employs restorative justice principles, the swearing of *kokoniwa* is one such way it ensures justice is done. Once both parties agree to swear not to repeat the offence and forgive each other, the court assumes that justice has been served.

Another method employed is the use of *Dwanetoea*¹³⁰, payment of fees and fines such as *Ntaadwom* and *Aseda* to the court. The court implores the litigant at fault to plead for mercy from *Dwanetoahene*, who speaks on the litigant's behalf, seeking mercy for harm done. In effect, the offended party is encouraged to forgive, and if need be, the fine is charged as compensation for the offended party. This method is employed on a case-by-case basis and determined by the tribunal. The respondent's narration of her court experience explains the concept of *Dwanetoea* and fees and fines paid as a process leading to reconciliation:

In my case, the defendant sent her pleas through one of the chiefs at Asantehemaa's court here that we should settle the matter at home. Initially, I insisted I won't agree, but upon second thought, I showed respect to the chief and agreed. Her Dwantoea was that they should beg me for insulting me (interview with Yaa Achiaa, Kumasi, May 19, 2020).

In this example, the respondent explained how pleas worked in her case. She was compelled to let go of the matter because of the respect she had for the chief who brought the *Dwanetoea* to her. They did sit down to resolve the matter as requested by the litigant. This shows that the court also

¹³⁰ pleas

employs compromise, if need be, to ensure both parties discuss the matter at hand, led by a neutral third party.

These mechanisms lead to the final resolution of the dispute. Some participants also pointed out that justice is when the case brought before the court is treated fairly, impartially and equally under the law, irrespective of whose case is under deliberation and that the falter is held accountable for his/her actions. And this is demonstrated in establishing the “truth” out of the case and nothing else but the “truth”.

In describing truth, a key respondent explained that there is a spiritual aspect to the court that facilitates the exposure of truth. Justice is therefore both physical and spiritual. The core of Asante justice is the presentation of witness accounts. In this case, the defendant was able to bring a witness who was not present when the incident occurred. Another feature of justice is the swearing of an oath. In this instance, both factions were made to swear the sacred oath (*ka ntam*) and invoke the powers of the supernatural to bring out the truth. And because the belief in the supernatural is strong, the lying witness later came back to confess that she lied. The quote below illustrates how spiritual beliefs influence the understanding of justice and the pronouncement of rulings.

I sat on an issue that came here from Aboabo (a suburb of Kumasi). I realised that the woman who summoned the defendant was saying the truth but had no witness. But the defendant was able to get a lying witness (adanse krumu). But this witness was not there when the issue took place. She coached her on what to say. God hates dirty dealings. She also swore that if she lied, thunder should strike her. When we were done with the issue, I gave my judgment. I told the litigant that you have done no wrong, but you, the lady who was summoned and got a witness. I stand on this to judge you right, but go and deal with God on this matter. When they left, close to Ahenfie, the weather changed as if it was about to rain and thunderous noises. The lying witness then told the defendant she had to come back here because she left behind her stuff. She came and said, 'Baffour, am sorry I lied for the defendant' (interview with Nsumankwahene, Kumasi, June 9, 2020).

6.1.1 Resolution of a Duabɔ in Marriages

Also, the court acknowledges that marital issues may sometimes lead to curses or related issues.

In such instances, the court considers the issues and tries to fairly agree to the breaking of the curses first before tackling the main cause of whatever dispute it is. The case below provides clarity on marital disputes that have elements of *duabɔ* and their resolution at the *Asantehemaa's* court:

A wife reports a case of *duabɔ* to the *Asantehemaa's* case. In her story, she narrates her husband's disappearance from their matrimonial home for over a year due to failing business and monies he owed. However, she got wind that her husband was living at the home of a woman that she knew from a distance. She decided to go confront the woman in her house, which developed into an exchange of insults, physical altercation, and invoking of *duabɔ*. After cross-examination of both litigants and witnesses, the court had three points to make. The legal wife had no business going to the house of the girlfriend because, in Asante customary law, her husband was entitled to take more wives. Second, she had a point that he had not performed any rites to inform her of his choice of a second wife; however, it was not in her place to go to her house demanding him to come out. She had the option of reporting to his *Abusuapanyin* or *Asantehemaa's* court about his conduct. Third, the point was that though the girlfriend was weaving a web of lies, she was spared because she had done no wrong. The husband was the causing factor, but got away with it because of the actions of the wife. The ruling, therefore, was that both women would have to be accompanied to Antoa to reverse the *duabɔ*. They were both fined amounts of money for the reversal process. After the *duabɔ* has been reversed, the court will sit on their case and maybe invite the husband for further interrogation. (Observation of court proceedings between wife and girlfriend leading to *duabɔ*, January 20, 2021).

In the above example, the court resolved this dispute in three layers. The first was the issue of abandonment by the husband of the legally married wife. Second was his refusal to use the customarily appropriate means to inform his wife of his decision to take on another wife. The third layer was the physical altercation that occurred between the wife and her husband's girlfriend, leading to the invoking of *duabɔ* by the girlfriend.

6.2 Fair hearing and acceptance of the pronouncement of the Court

Another component of justice, according to respondents, was the concept of fair hearing, which leads to the acceptance of a judgment. Respondents explained that the judicial panel was to assist

the *Asantehemaa*, or chairman, in passing fair judgments after they had used their good ears to listen to both sides of the story. The fact that litigants get an equal chance to express themselves, devoid of status, sex, or age, counts for what is fair. In another vein, fair hearing, according to a sub-chief, is achieved when litigants are allowed to express themselves, acknowledging and showing respect for other litigants and witnesses and the judicial panel in the court. What the judicial panel detests is lying witnesses (*adanse krumu*). Fair hearing is also achieved after all parties involved have been made to swear the *Asantehemaa's* oath (*kokoniwa*). Similarly, the swearing of the oath binds litigants to accept the decision given.

Respondent's acceptance of 'judgement' was influenced by a fair hearing, and if they felt the court took their case seriously and gave equal chance to narrate their issues. In my observation, each litigant was permitted to bring witnesses to augment their case. The witness accounts are taken seriously, and so are the written and recorded evidence. Litigants may feel short-changed with justice because of various factors. The response below indicates that a fair hearing was not given to him because the judicial panel was focused on his character and not the dispute at hand.

Me, in particular, if I say I was happy about it, I would be telling a lie. I was spoken to harshly; I did not get it easy at all. When we went to research on the case, the gods said I had not cursed, but they (the judicial panel) insisted I had cursed. If someone sends me to court because I have cursed him, shouldn't the focus be on that? Where from the I don't respect and things? So, I decided to leave my case in the hands of God and pay the debt incurred (interview with Akwasi Adae, Kumasi, June 6, 2020).

Respondents acknowledge that they were open to *di bim* or *di fo* verdict because you cannot have it both ways. Some respondents also felt that even if they were at fault, the court made them feel bad. Others also felt that even if they were found guilty, the elders took steps to explain why the guilty verdict was pronounced on them. Coupled with the fact that the court is reconciliatory, respondents were of the view that swearing of the oath and shaking of hands after the ruling was

necessary to agree to the verdict given. Therefore, given a fair hearing and accepting judgment fed into their understanding of justice and its delivery.

Oh yes, there was a fair hearing, I admired it. For me, what I saw was they adjudicate the matter in such a manner that after the adjudication, you feel relieved and even would wish to thank them for the good job done. Unlike the state court, where it is flawed with technicalities, and they can throw your case away. Here, it is not like that. All is that you should be able to prove that what you claim happened did happen, and they weigh the two sides and their storytelling and are able to determine that, yes, truly something had happened. I didn't like the idea because I had all the time harboured the feeling that I would not appear before any king or chief for anything, but when I did, I just tried it and I felt good about it'' (interview with AA, Kumasi, February 17, 2021).

6.3 Acceptance of pronouncement on Court Cases

To pronounce the right judgment at the court, participants mentioned that the chairman of the tribunal engages in "consultation with other panel members", also there is the use of "Panel votes". To ensure fairness, the panel is always made up of an odd number so that voting can be done on issues if need be. At other times, judgment is pronounced based on invoking the power of supernatural beings¹³¹. This does not mean that the court cannot be influenced by bribes, as compared to the formal court system. However, the thought of the supernatural and invoking the *Ntam* is considered good enough to deter any form of bribery to win a case.

The traditional court system relies on a collaborative process of decision-making through consultation with other panel members. To ensure a fair hearing, the judges on the panel are expected to discuss and consider various perspectives and opinions before arriving at a decision. This implies that the traditional court system values the input of all the judges involved in the case.

At times, there are arguments that pop up among the elders as to whether this side is guilty or not. The elders at the court will bring their suggestions on board to help pronounce the rightful verdict''. We have more than six people deliberating. We have joint consultation that deliberates on the issue (Interview with N. F, Kumasi, June 8, 2020).

¹³¹ This involves seeking spiritual help.

In addition, the system also relies on panel votes to determine the outcome of a case. This means that the decision is arrived at by considering the majority opinion of the judges on the panel.

They voted. In the end, three out of the 5 judges voted for me. I believe they were fair because each judge gave a reason for voting for or against me. So, I understood what my mistakes were or where I was right (interview with Maame Y, Kumasi, June 28, 2020).

Another notable feature of the traditional court system is that it may invoke the authority of supernatural beings. This suggests that the traditional court system may rely on spiritual beliefs and customs to guide its decisions in pronouncing right and just judgment on disputes.

Most especially property. Someone can even claim ownership of another person's house. Such cases are very difficult to understand. In this case, curses need to be evoked. If it happens this way, then patience and truth would have to prevail (Interview with Nsumankwahene, Kumasi, March 21, 2020).

However, the system is also susceptible to influence and bribery. This implies that individuals may try to sway the decision-making process through corrupt means. While bribery may occur in the traditional court system, it is not a characteristic unique to it and can also happen in other judicial systems.

There is this Adansi case that was presented to the Asantehemaa, which she handled diligently. Then they went contrary to her and handled it differently without her knowledge because they were bribed, so they had to defend the guilty party. Otumfour can send them to go and check on an issue, and upon arrival, the guilty person, who knows that he or she is guilty, would find favour in the sight of the Ahenfo by bribing them (Interview with Nana Kete, Kumasi, March 2, 2020).

Litigants approach the court knowing that the case can go in their favour or against them. There is the general rule that no one is above the law, so the court believes that biased verdicts would

become a yardstick for others to emulate. Yet some litigants believe that biased verdicts were given to them when their cases were heard.

However, during my interviews and observations, most litigants who were judged as the faulting party were not happy with the judgment. While all respondents who were judged right (*di bim*) were happy that the judgment went in their favour and the judgment was fair, a few litigants who were judged at fault accepted that they had wronged their co-litigants but did not expect the faulty verdicts given to them. Others accepted the faulty verdicts given to them and accepted the judgment in good faith because they were seeking reconciliation at the end of the deliberations.

Some respondents who were found at fault felt they were unfair; however, they acknowledged that the court always seeks to repair relationships, therefore, compels them to greet their opponents. They may not like the judgment, but agree that the relationship part of it is necessary. They may feel hurt about it, but they know the court always seeks to restore the relationship, no matter how bad the dispute may be. Respondents understand that at the end of the day, there will be reconciliation.

6.4 Enforcing the Courts' Pronouncement

In the response below, the respondent's acceptance of the adjudication forum, swearing of the oath¹³², and respect for the authority of the court show the court's ability to enforce a decision:

When they passed the judgment, we complied. They shuffled their feet but later complied. I think they were fined four sheep (Interview with AA, Kumasi, February 17, 2021).

The respondent further explains that the customary court sometimes has to fall on the state to enforce decisions or compel litigants to appear at the court.

¹³² kokoniwa

Yes, they do, that is why they fall on the police because the police do not fall within the traditional setup. So, when they summon you and you refuse, then they collaborate with the state. The state's instrument, which is the police, is then used to bring you, so it's part of the enforcement.

Both work hand in hand, so if you are not okay with the pronouncement passed, you can proceed to the state court. It is the same in the state court. If you are not okay with the judgment of a court, you can seek for an appeal (interview with AA, Kumasi, February 21, 2021).

6.5 Access to Fairness at the Asantehemaa's Court

It was pointed out that the court is open to anyone who acknowledges the authority of *Asantehemaa*, lives in Kumasi and its environs, and has a dispute or offence to report for resolution. These criteria do not exclude non-Asante nor do they bar males from accessing the court. As per Asante customary law, *Asantehemaa* resolves disputes that involve both men and women. Thus, sex is not a barrier to accessing the court. This respondent was moved to report to her court because of the nature of the dispute in question.

I came to Naanahemaa court because I know duabo is resolved by her. Moreover, it was an issue between me and my ex-wife. Nanahemaa is a mother for all, and I knew duabo is best resolved in her court (Osofo E, Kumasi, November 18, 2020).

A few people were of the view that the position of the court panel does not influence the decision of the court. Despite acknowledging the power and influence of some of these panel members, they attest that their position does not influence the decision-making process.

I don't think the Okyeame has any influence. Even if he will give his opinion on an issue, at the end, the judges who will decide on the issue are many (interview with PB, Kumasi, February 22, 2020).

Divergent opinions were expressed in the discussion of how the sociodemographic characteristics of the court panel influenced the court ruling. While a majority maintained that these

characteristics did not influence the court ruling, a minority of the participants echoed that the characteristics affected the court ruling.

We know that court comprises people with different professions. Some are even lawyers, retired civil servants. Some have worked in offices like Lands Commission, etc. and yet versed in Amammere. However, I think the Okyeame has more control of affairs. But he does not give the final judgement, so I can say that the age or occupation of the panel members does not have any direct impact on the case (interview with AA, Kumasi, February 17, 2021).

In one of the interviews, a participant claimed the court assured that the ruling was not influenced by the ethnicity of the respondent. While it's worth noting that the court may state that they do not base their rulings on ethnicity, implicit bias or unconscious attitudes towards certain ethnic groups can still influence decision-making. The respondent's statement suggests that they may have had concerns about potential bias based on their ethnicity.

No, they told me they are not bias and don't base their ruling on ethnicity. I was able to express myself (interview with Aboabo kese, Kumasi, January 3, 2021).

There were divergent opinions expressed concerning language use as a barrier or enhancer in the court and whether the lack of understanding of the twi language and the discussion of the panel influenced the court ruling¹³³. Other respondents expressed satisfaction with the use of the Asante twi language as a medium of expression. Responses from selected court workers claimed that if a litigant was not able to express himself in Twi, they made arrangements for the person to use an

¹³³ I observed deliberations of a dispute between two non-asante women. The litigant explained why she summoned the defendant. She accused the defendant of insulting her and calling her the descendent of a slave. Then the defendant was asked to narrate her side of the story. Her first comment was ‘‘Nananom forgive me if I do not express myself well am not an Asante person’’. With which the Okyeame responded we would not forgive you if you make any mistakes. She proceeded to express herself in fluent twi starting with a proverb. Half way through her narration the Okyeame cuts in saying so you were joking with us claiming you are a non-asante so your speech maybe faulty, but you have been using proverbs to narrate your story. You speak better twi than me.

interpreter of his choice. At the time of my study, all litigants expressed themselves in fluent Twi language.

In the same vein, some respondents indicated that the language used in the court is Asante twi; however, the expression of Twi in the court space is different from what is spoken outside the court. The use of proverbs, for example, affects litigants who do not know the meanings of these wise sayings. Thus, language was a barrier to some respondents. Some complained about their low understanding of Twi proverbs, so language may have influenced the judgment of their dispute. The interviewee below suggested that some of the people involved in the dispute had difficulty understanding the language, which may have impacted their ability to provide accurate and relevant answers when asked questions by the judicial panel. This could have potentially influenced the court's ruling or decision-making.

Some of the children had issues with the Twi language with regard to its understanding. Some could not understand the proverbs or wise sayings, so their answers were mostly out of context (interview with Party man, Kumasi, February 23, 2020).

While most respondents maintained that characteristics such as status, wealth, or occupation of litigants did not influence the court ruling, a minority of the participants echoed that characteristics such as status influenced the deliberation process to an extent.

I just think that the defendant's royal status made it easy for him to win (interview with Aboabo kese, Kumasi, January 3, 2021).

6.5.1 Gender and access to Fairness in Asantehemaa's court

Alternative Dispute Resolution is synonymous with informal justice systems that employ a series of mediation mechanisms for resolving conflicts outside a formal court. The *Asantehemaa's* court is one of such informal avenues for resolving disputes. According to Ntuli (2018), African societies

operated their indigenous justice systems that employed ADR mechanisms such as mediation, arbitration, and settlement to resolve their disputes. However, it was set aside, made inferior to and replaced with a formal legal system.

In Ghana, the formal legal system has proven not to provide justice to a critical mass of people. The *Asantehemaa's* court is an example of an indigenous justice system that falls within the ADR system in Ghana. The court provides justice within the ADR concept to marginalised groups of people. Thus, it complements the formal system, which is unable to provide justice to all.

ADR has gendered implications for access to justice. The *Asantehemaa's* court provides gendered access to both men and women; however, women experience and use the customary court differently from men, as observed. Thus, as an alternative to the formal court system, the *Asantehemaa* court serves as one such avenue for women to access justice. Access means barriers that marginalised people face in their attempt to get justice are remedied or removed.

Access to justice also means that parties get a fair trial on the principles of natural justice (Appiagyei-Atua, 2013; Ntuli, 2018). This marginalised group usually include the poor, children, youth, women, and people living with disabilities, minorities, or indigenous groups (Ntuli, 2018). Although ADR has enabled women to access some form of justice, there are existing cultural and historical contexts and gender biases that still affect women. The *Asantehemaa's* court provides women with the space to access justice/seek redress, especially in matters of marriage, inheritance, access to property such as land, and cultural practices such as widowhood rites that may go against their human rights. This does not mean men do not have access to the court. They can also seek redress in issues of marriage or spousal benefits. However, in a traditional court that operates

within the confines of the matrilineal inheritance system, it may seem that women have more rights in this female-owned court than men do.

Stoeltje's (2000) study indicated that men visit *Asantehemaa's* court but less frequently as compared to women. She explains that men may avoid going to the female-owned court lest they show signs of weakness, and these kinds of gender ideologies govern gender relations in everyday interactions and even in the *Asantehemaa's* court. And because men are given superior status over women, it is expected that they benefit from the Asante justice system more than women. That is not the case in the *Asantehemaa's* court, as women are more likely to benefit from a system that favours men over women. The Asante legal culture provides women with space to be heard and grants them access to justice (Stoeltje, 2021). Since the traditional role of *Asantehemaa* is concerned with the welfare of women, women are more likely to report their disputes to her, knowing that their case would be taken seriously (Obeng and Stoeltje, 2002).

6.5.2 Equal Access for Both Male and Female Litigants

A key respondent explains that even though *Asantehemaa* is a woman and her court is termed a female-owned court, there is almost an equal representation of men and women in her court. Also, the kinds of disputes reported are interpersonal in nature; hence, the court is open to both men and women.

So apart from the affairs of women, she is also interested in the affairs of men, the queens and all the sub-chiefs and makes sure the unity of the Asante state is still kept (Interview with NSK, Kumasi, March 18, 2020).

Despite the male bias in the composition of the judicial panel, the chief arbitrator is *Asantehemaa* (Manuh, 1988). Thus, the court forum provides an advantage for ordinary persons, specifically Asante women, to publicly narrate their grievances and be assured of the resolution (Stoeltje, 2007).

Subsequently, Obeng and Stoeltje (2002) argue that women use language differently at customary courts for different purposes as compared to men.

For example, women who visit the court use the conferred weak position to their advantage and challenge the dominant ideology of gender to their advantage. They employ subtle measures such as low-toned speech, polite language, showing signs of weakness, and use of pleading language to gain sympathy from the elders, as compared to male litigants who are likely to express language of authority and domination to their disadvantage.

In general, sex did not pose a barrier to accessing the court; however, being male or female informed the kinds of disputes reported to some extent. In my observation of cases reported and deliberated, litigants' access was case-specific. For example, it is more likely for a widow and her children to report the dispossession of assets to the court than a widower. Also, when male litigants report disputes about assets such as land, they usually report the land sale as compared to females, who usually report access to land for farming.

It was more common for female litigants to report being disinherited from family land or cocoa farms that they put in labour with their husbands. This proves that the issue of matrilineal inheritance still holds. This system protects women; however, patriarchal values may affect the issue of inheritance. However, as mentioned earlier, the court acknowledged new and current bills on inheritance and applied them on a case-by-case basis. Both men and women can report marital disputes. However, female litigants are more likely to report marital matters that border on welfare, such as child maintenance and spousal neglect, while males are more likely to report sexual neglect and the conduct of their wives. The case below is an example of how men access the court.

My wife took me to Aban court and claimed half my assets, including the church. I gave her all, so I reported her because she finally was fighting me over a piece of land and

invoked curses on me that included our children (Interview with Osofo E, Kumasi, November 18, 2020).

6.5.3 Resolving Marital and Intimacy Disputes

Issues of intimacy in marriage, such as sexual misconduct, are more often moved to the private chambers of the *Asantehemaa's* court for resolution. This is because the court believes that marriage disputes are supposed to be resolved to avoid any situation that can lead to a breakdown of the marriage. The court's position on marriage is to repair, not to dissolve it; hence, sensitive issues are preferably discussed in private and not in public. A respondent had this to say during one of the interviews:

“As for issues about intimacy, especially between couples in a marriage setting, we are reluctant to sit on them publicly; We mostly would do so in private in order not to open the marriage up for public intrusion. The aim is to ensure we settle marital issues in a way that protects and restores the marriage, rather than break it.” (Interview with Nana Bosomprah, March 26, 2020)

6.5.4 Social Status and Access to Justice

Respondents mentioned that status did not matter in the court because the sub-chiefs and *Asantehemaa* are the ones with the status in the space. Due to this status, when one is called into the court to commence deliberations, one is mandated to remove his or her shoes and show respect to the *Asantehemaa* and her panel. Subsequently, the court recognises that people who occupy stools are all under the authority of the *Asantehene*, but when they appear at the court, they are allowed to wear their sandals halfway and put them down the left side of their clothes below their shoulders. Such people of status are given the right to have their cases tried first before any other litigants present at the court. This does not mean that people of status get a free pass for offences committed. An interview with a sub-chief explains the position of chiefs when summoned to the court.

Ahenfie is there for us all, Fulani, Ga person... You bring the issue to Nananom to look into it. If you are wrong, we give it to you if you are right. I even prefer when non-Asante people come here and win a case. That way, they are able to spread the word about the fairness of the court (interview with Sumankwahene, Kumasi, June 9, 2020).

6.6 Choice of Forum for Adjudication

In the study, respondents explained that they were aware that certain disputes were meant to be resolved at specific adjudication forums. They were aware of other available adjudication forums for them. Some respondents explained that the people who summon are not strangers to them and vice versa, therefore, the disputes always dwell on relationships, family ties and friendships, which they prefer should not be broken. The responses from key informants below explain how the Akan concept of justice influences which forum to seek justice from.

The whole concept of justice in Akan reality is that at the end of the day, after we have dialogued, everyone should get their brother back, family back and friend back. That is why it is more of ye siesie asem than saying you are wrong or right, so go to jail (interview with REBA, Kumasi, December 28, 2019).

Siesie asem is their main goal. Siblings should be united. We use visitors to build a town, so we do not want you to have issues with someone. They do not want an issue to separate family or friends. The Akan worldview is that when there is an issue between two people, let's repair the damage between two people. Equated to settlement. Building differences leads to the settlement (interview with Nsumankwahene, Kumasi, March 21, 2020).

So, when there is a dispute, they are encouraged to report cases to the *Asantehemaa* court rather than go to the police station. Others initially reported their disputes to the police, and they were encouraged to bring the dispute to the customary court. In all of this, there is collaboration between customary and formal systems of justice. Some litigants felt that the types of cases or disputes informed the dispute resolution avenue to use. Therefore, they had little or no choice as to which justice forum to use.

*The way she insulted me that am dirty and smelly, if you go to police station, they cannot discuss the matter the way you want it, but Ahenfie, they will **SAMAN** you, that is why I brought it to Ahenfie. Yes, Ahenfie was best because police station you would be made to*

pay monies and it would go nowhere but Ahenfie, they deliberate on issues (interview with Yaa H, Kumasi, May 19, 2020).

Thus, when disputes that are family related, such as spousal maintenance, are reported, some respondents were of the view that the *Ahenfie* court was more effective than using the social welfare system. Other respondents mentioned that disputes that bordered on metaphysical, such as *duabɔ*, cannot be conceptualised at the state court, nor can they be resolved there. The respondent below explains his choice of the *Asantehemaa* court over the state court and what influenced his choice of adjudication forum.

I see that the state court does not handle matters of curses. There is one other thing: people choose forms of the adjudication of their matters based on convenience. I find that the court may take a long process, but here was easier; it was convenient and easy to adjudicate, like the time for the adjudication of matters was very short. And you see that in disputes, when I have a dispute with you and I take it to a palace, sometimes it is your acceptance of the forum. We may seem to be adversaries, but we want to resolve a matter between us, and that is why we are seeking for a forum to resolve that. So, it is the forum that we both agree and find suitable (interview with AA, Kumasi, February 21, 2021).

In the above statement, the respondents explain that the state court has its limitations concerning the justice needs people seek. Therefore, people choose other forms of adjudication based on convenience, time involved, and cost involved. In all of this, litigants still seek justice forums that are suitable to both parties and will enable them to resolve the matter. Thus, respondents' access to the court can be influenced by the type of dispute and the acceptable forum for resolution. They acknowledged the state court as superior but were concerned that the time, cost involved, language use, and environment of the court made them feel out of place.

Respondents mentioned that the state court even encourages arbitration. In some instances, they have had to remove their cases from state court and sought arbitration at both the *Asantehene* and *Asantehemaa's* courts. This is because the case at hand borders on interpersonal disputes or lands that are considered the reserve of Manhyia.

Second, they acknowledged that the traditional court tends to be reconciliatory, while the state court system is more about winner takes all, despite that most litigants are members of a family or community and need to live in harmony. In other instances, some respondents felt that the *Asantehemaa's* court was their last resort after their cases had moved from the divisional, paramount courts.

6.7 The Asantehemaa's Traditional Court's Observance and Adherence to National Legislation.

National legislation can be referred to as the rules, regulations, and statutes enacted by the legislative arm of government (parliament). Whereas the *Asantehemaa's* court operates as a traditional court system in the Asante region of Ghana that operates within the framework of customary law (*Ammamere*), which is the primary source of authority and largely unwritten or uncodified. National legislation provides a broader legal framework within which the traditional court operates, in that the 1992 constitution spells out what national legislation should entail¹³⁴. Among this list is the common law, which comprises the doctrine of equity and the rules of customary law¹³⁵. This means national legislation is at the peak of the hierarchy of laws, and such justice or fairness cannot be dispensed without recourse to the dictates of national legislation. It not only guides the dispensation of fairness or justice, but also controls the actions and inactions

¹³⁴ Article 11 of the 1992 constitution

¹³⁵ Article 11 (2) of the 1992 constitution

of state institutions, the citizens and the country as a whole. Therefore, national legislation impacts the decision-making process of the *Asantehemaa's* Court by introducing legal principles and protections that may not be explicitly addressed in customary law.

This is because customary law is uncodified and its application is community-specific, as the customs and traditions of every community differ.. It should be noted that national legislation does not operate to oust the authority, application, or recognition of customary law and traditions. Instead, it coexists alongside customary practices because customary law is deeply rooted in the Ghanaian society and, as such, is seen as the bedrock of the traditional system, which has outlived national legislation and has to withstand the test of time. However, national legislation takes precedence where there's a conflict between customary practices and constitutional rights or statutory laws. Customary law operates to complement national legislation.

Therefore, having this overarching body of laws in place ensures consistency and compliance with broader legal standards, enhancing the legitimacy and effectiveness of the *Asantehemaa's* court decisions, as the constitution of Ghana recognises the significance of customary law and ensures its application in matters of personal law, marriage, and inheritance, which is the focus of this chapter. The notion of fairness within customary law as practised in the *Asantehemaa's* court is multifaceted. In one breath, she performs her customary functions and in the other, complies with national laws. The discharge of the traditional or customary duties of the *Asantehemaa* in her court is the observation and adherence to the principles of equity (fairness), and also enshrined in the constitution¹³⁶. The concept of fairness in this context aligns with the preservation of cultural

¹³⁶ Ibid

values and community harmony, which includes old practices such as Banishment and confiscation of property where necessary. Equity or fairness here includes equitable treatment, respect for individual rights, and the preservation of social harmony.

Litigants are given equal treatment or consideration by being given equal opportunities to present their cases, provide relevant evidence, and have their voices heard. This includes parties being allowed to present their argument and to defend their interests. As the respect for individual rights is another aspect of fairness the *Asantehemaa's* court recognizes and approves of these individual rights by giving all litigants the right to a fair and impartial hearing as well as the right of being presumed innocent until guilty established at the end of the dispute and protection of this right by treating all litigants and witnesses with respect and dignity throughout the dispute resolution process.

Furthermore, the promotion of social harmony can be achieved when the court, in resolving a dispute, resolves the dispute in a way that fosters reconciliation and maintains the peace and stability of the traditional area. The *Asantehemaa's* court must, in so doing, take into account the broader implications of its decisions on the relationships and dynamics within the Asante traditional area.

The court must equally adhere to the broader principles of justice as enshrined in national legislations which includes; the 1992 Constitution, Interstate Succession Act, 1985 (PNDC Law 111), Marriages Act, 1884-1985 (CAP 127), Matrimonial Causes Act, 1971 (Act 367), and Criminal Offences act 1960, (Act 29) just to mention a few as national legislations prevail over customary law. It is, therefore, without doubt, that the application of these complexities works hand in hand to achieve total fairness in the resolution of old matters brought before it.

However, the intersection, coexistence, and complex blend of national legislation, customary law (authority), and the notion of justice do not come without challenges. One major challenge is the potential conflict between customary practices and national laws. Some examples are;

- In marriage and divorce, Asante customary law recognises polygamy, but the Marriages Act recognises monogamous marriages and also sets rules and guidelines for dissolution, unlike that of the Asante customary law, which allows for divorce based on traditional grounds. This raises a dilemma when a man enters into a subsequent customary marriage while already being married under the ordinance. If this subsequent marriage is also registered, what will be the consequence in case of a divorce? Would the husband be held liable for bigamy?¹³⁷ This situation poses a complex legal question regarding the potential conflict between the recognition of polygamy and the Asante customary law, and the requirement of monogamy under the Marriages Act.
- In criminal offences and punishment, the Asante customary law has its own system of punishment distinct from the Penal and Criminal Code¹³⁸, and the Ghana Sentencing Guidelines include punishments like banishment, corporal punishment and other inhumane and cruel punishments, which are not in line with national legislation and other international laws.
- In dispute resolution, certain customary laws have made provisions for mechanisms of resolving disputes, such as arbitration, mediation, and negotiated settlements, amongst others. However, national legislation has established the jurisdiction of a formal national court to resolve disputes. The conflict arises when individuals prefer to resolve their dispute

¹³⁷ Section 265 of the Criminal Offences Act 1960, (Act 29)

¹³⁸ Criminal Offences Act 1960, (Act 29)

in the *Asantehemaa*'s court, while national legislation requires that such offences must be tried in the national courts, such as rape, defilement, burglary, stealing and so on.

6.7.1 Inheritance Practice of Asante.

Besides, Asante's customary law is based on the matrilineal system of inheritance, where succession and inheritance are traced through the female line. Therefore, it was highlighted that in some families or communities, these customary laws are what dictate how property should be distributed among family members when someone dies. These laws may not be recognised as state law, but they are still considered binding within the family or community. In the discussion with participants, it appears to be a reference to customary or traditional laws that are used to determine how property is allocated among family members.

If your sister comes to report that there is just one room left and you, the brother, have taken over it, you, the man, would be thrown out and the room given to the woman. It's not for you (Interview with NSK, March 18, 2020).

Another respondent explains how the matrilineal system of inheritance works and who can inherit property owned by the *Abusua*:

You see, customarily, you, the man, are to make agyapadiye for your wife and children and give some to your (Abusua) family. You cannot use family assets to make property for your wife and children because they are not part of Abusua. Usually, the men are made to watch over family property, such as cocoa. It creates conflict when the Abusua realise that you are enriching your nuclear family with assets of matrilineage. Your wife and children cannot inherit it (Interview with BH No.2, February 10, 2021).

This assertion contradicts the state laws regarding inheritance rights. A respondent explains the gender imbalance of the Asante law about the spousal inheritance of property:

You see the case where the ex-husband reported that his ex-wife has cheated him out of her property, I call that useless summons (Kwasia saman). As a man, you are supposed to make wealth and leave some for your wife and children and Abusua. You were not able to do it. The woman, through her hard work, was able to build for you all. Moreover, she was able

to submit the document to show that you both agreed to register the house in the names of your children. Which property again do you want? That is why I say it was useless to summon her (Interview with Nana Kete, March 7, 2020).

6.7.2 Asantehemaa's Court and Disputes on Inheritance and Spousal Property

Recognition of Wills and Related Testaments

In settling disputes relating inheritance of properties of a deceased, the *Asantehemaa's* court allows for legal documents such as wills to be tendered in as evidence. It was observed that where these wills are authentic, the *Asantehemaa's* court will rely on them in the resolution process of such cases.

They then proceed to administer the property in accordance with the last will and testament of the deceased. For example, one sub-chief who is a member of the *Asantehemaa's* court indicated that:

"If we receive a document like a will when solving inheritance disputes, and if the Will is a genuine one, then we will follow exactly what it says" (Interview with N. F, Kumasi, June 22, 2020).

However, even as the court allows for legal documents such as wills to be used as evidence to support in resolving inheritance disputes, they insist on ensuring that such documents are genuine and authentic. In situations where the authenticity and originality are in doubt by the traditional court, such evidence is rejected. For example, a litigant who submitted a photocopied document expressing the purported last wish of her late father was rejected as the court insisted only on an originally signed document. This was what she had to say;

There was another issue: my dad had a death wish. His lawyer came to read the death wish during the 40-day celebration, and they said they can't take it because the death wish is a photocopy without my dad's signature. He told them that if they want the original one, they should see him in court. He can't afford to give them the original because his signature was on it. They could use it to prepare another one or copy his signature (Interview with MOA, Kumasi, January 5, 2021).

6.7.3 PNDC Law 111 and its Observance at the Asantehemaa's Court

The PNDC Law 111, also known as the Intestate Succession Law 1985, as amended, applies to a situation where a person dies without a written will showing how his or her estate should be disposed of. The law also stipulates what a surviving spouse, children and other family members are entitled to. The Law recognises succession under Customary Law provisions and entitlement of extended family members to a portion of the estate of the deceased (Intestate Succession Act, 1985). With this law, the court is permitted to distribute the assets of a person who dies intestate. When a case of such is reported, the court deliberates on who the actual spouse or spouses are, children (both born in marital union and out of wedlock) and extended family members.

The court also applies this law to cases that border on the sharing of family assets among children or surviving family members. When disputes that border on resource allocation or sale are reported to the court, the court first ascertains the ownership of the property, the agreement or arrangement set in place when the owner of the property was alive and subsequent incidents that may have happened upon the demise of the owner of the property. All these investigations are performed within the confines and acknowledgement of state law. The court insists that the basis for the deliberation of cases is the Asante customary law, but it is evident that when documentary evidence is presented, the litigants shift the process from just being customary deliberation to one with legal implications. Because the court is aware of the reach of the state over its activities, they are considerate in the application of state laws in their court to avoid litigation, moving their cases to the state court of law and having their verdicts overturned. The PNDC law 111 affirms the customary practice of will-making a portion of the property to a spouse, hence the court is comfortable with applying the PNDC law 111 in spousal inheritance disputes.

6.7.4 Resolving Disputes on Intestacy

The court acknowledges that not everyone would want to write a will or have the money to engage a lawyer for a will. In this light, if a person dies intestate, the court does recognise the provision of PNDC Law 111 and proposes the sharing formula therein stated as a means to resolve the dispute to ensure that the surviving spouse and children get a portion of the deceased's estate. Once the formula is agreed upon by the litigants, the court proceeds to help them share the estate as such to bring the dispute to an end.

“If the deceased died intestate without making a will, then the Asantehemaa's court mostly proposes the sharing plan as provided for in PNDC law to the litigants as a guide to helping them resolve the dispute. We do this when the litigants fail to reach any amicable plan that satisfies them. (Interview with Odikro, Kumasi, June 20, 2020).

6.8 Choosing Between the State and the Traditional Court

In both courts, you cannot speak to the judge directly; you need an intermediary. In the state court, you are mandated to get a lawyer even if you cannot afford one. Your lawyer speaks for you. In the *Nananom* court, you speak to the chairman through the *Okyeame* and vice versa. With respect to the language of expression in the court, respondents claimed that they felt more comfortable using the local Twi dialect as it enabled them to express themselves better. The state court uses the English language, which respondents claim is difficult to understand, especially with the legal jargon used.

In Nananom court, you won't hear I put it to you bia. It is about witness accounts, and these days it is the documentary or recorded evidence that you show them (interview with Ketehehene, Kumasi, March 2, 2020).

Another respondent explained that the use of documentary evidence in the customary court can also be problematic. It is an infusion or adaptation from the state court. He claimed that some documents can be altered and are sometimes difficult to verify.

He feels that the age-old system of witness accounts is better, but understands that *adanse krumu* can also affect judgments. Here is an excerpt from his interview

His inclusion of documentary and recorded evidence is a problem because it can be doctored. I have problems with it, so when cases come to me am very careful. I don't mean that documentary evidence is bad. I just feel it needs to be looked at carefully, lest you give a faulty judgment (interview with Kokofuhene, Kokofuu, June 3, 2020).

You are at the mercy of your lawyer, and if your lawyer is not good and if you do not have enough evidence, you lose the case. In fact, if your opponent is richer than you or has a well-known lawyer, you know you are more likely to lose out. However, with the customary court, truth stands out; even if you have evidence, they still interrogate.

The response below shows a litigant's experience with both customary and state courts:

At the court, she requested several of our properties, which we agreed to. Her sister gave her a lawyer who happens to be her boyfriend, so loopholes and all. The part that bothered me is that you file papers upon papers to stall you and waste your time and money. For every appearance, I have to pay my lawyer, too. When the lawyer is speaking, you are there listening to him. You may not know if he is lying or even helping your case. But with Nananom, we all voice our side of the story, and you feel comfortable enough to speak (interview with Osofo E, Kumasi, November 18, 2020).

Several proceedings were noted in the discussion, which participants found to be similar to state court proceedings. They noted that during court proceedings, the litigants “cannot eat at the court”, also, the “Judgment is based on panel votes”, the court has the power to “Place injunctions on matters as due”, and then the process of settling cases is “Time-consuming”, and lastly, “it involves a lot of money”. An interviewee alludes that the case “cannot be taken out of court”. This implies that matters discussed in the court cannot be discussed or disclosed outside of the court.

This suggests that confidentiality is an important aspect of the legal process and characteristic of both the State and Customary court of arbitration.

The cases under discussion here at the court cannot be taken to elsewhere to be settled unless we have granted the permission or a final judgement has been pronounced". If anyone decides to take it to the state court, we cannot stop him. However, the state court will request both documented video and audio copies of the proceedings. Mind you, it is not every case that the state court will take on (Interview with Baamuni Kojo, October 19, 2017).

Some participants mentioned the emotional and psychological toll waiting for their turn in cases brings them. For example, Food was not allowed to be eaten within the court, and most often, your mind is engrossed with the case because it is your issue that is before the panel for discussion at that moment. Others explained that the distance they have to travel from their villages to have their cases deliberated on takes a toll on them both financially and in terms of time lost. The statement below explains the situation:

At the State court or Nananom court, you cannot eat there because we are coming to deal with your issue. The issue at hand is what is on your mind" Sometimes you travel all the way from your village or town..... You will be angry, you will get hungry, calculate the money you spend to get to Manhyia. You enter the court, you would not eat till they close, so if it's 3 or 4 pm that we close the court, you would be hungry till then. What bothers me a lot is the time you spend on the deliberations, the whole day. If God is not with you, you may do something wrong against the person you have an issue with (Interview with Osofo E, November 18, 2020).

Other respondents indicated that the customary court reserved the right to impose or issue injunctions on certain events or actions to prevent them from happening.

It was left with just three days for the widow and her people to do the funeral, so a High Court injunction order was placed on it. They reported us to Manhyia because, you know, we are also from the Oyoko royal family. Otumfuo asked that Asantehemaa's court calls us and resolve it out of court (interview with Airport roundabout, Kumasi, January 7, 2021).

Additionally, in the state court, it is usually one judge who makes a judgment unless your case goes to the Supreme Court. With the customary court, it is a collective decision where a panel will decide on the outcome of the case, and the verdict will be based on the majority vote. However, in some instances, the chairman of the tribunal has had to make a final decision and give his reasons why. That way, the court is deemed fair in hearing and passing rulings:

They voted. At the end, three out of the 5 judges voted for me (interview with Maame Yaa, Kumasi, June 28, 2020).

Moreover, another similarity that was noted was that the legal process can be lengthy and may require a significant amount of time and resources to resolve.

You can get here, and they will tell you court is closed. Then you look at the expenses you have made and car money while you have not worked for the whole day, and you get hungry and thirsty too (Interview with Osofo E, Kumasi, November 18, 2020).

Another respondent alluded to how time constraints can frustrate the justice they seek. In this instance, she was referring to the dissolution of the court amidst bribery allegations:

Plus, on one of the deliberation days, the judges were hooting at her after throwing some questions at her, so I was sure our case would have ended soon, only for the court to be dissolved and reconstituted, bringing in all the delays (interview with AK, Kumasi, February 7, 2020).

Finally, the legal process may require payment of fees or expenses, either for legal representation, court fees or fines and other related expenses.

I can say on authority that we have spent almost Gh 6,000 cedis so far, adding transportation costs from Onwe to Manhyia, with the case being called and called off, time spent, and all (Interview with A.K., Kumasi, February 7, 2020).

Another respondent explained that both the state and the customary courts are expensive to use, time-consuming and have a toll on you in general. This is how he explains it.

When the state court was resolving my divorce, we spent monies, and time costs, for lawyer fees, the then duado issue too, we came to Asantehemaa court. Same process, time spent and monies spent. So that is why I say whether Aban court or Nananom court, oh, it is the same. Just that with Nananom, you feel the process is different because it is seeking to sie sie asem (interview with Osofo E, November 18, 2020).

The main difference between the courts is the manner in which cases are deliberated on. The state has a formal system in place that involves the use of lawyers, dockets, prosecution, witnesses, etc.

The customary court is an informal system that employs customary law as its constitution. This is how a respondent explains the difference between the courts:

So, one of the differences between the two courts is that the customary court is less reliant on precedent. They believe that no matter the level of similarities, disputes should be addressed in their own unique way. That is why, in the formal court, you may have what we call an adjudicator. It means the matter has already been dealt with before; you cannot bring it on board again, but in the customary court, it will be admitted as a new case because they believe that perhaps there has been fresh evidence, there has been a new twist to the whole thing, and so it will still be re-addressed. This is what sets the difference between the two (Interview with Yaw, independent researcher, Kumasi, February 12, 2021).

Other differences between the State and Customary courts were discussed by the participants. It was found that there is a form of compensation given to the winner of the case. The *Ntaadwom* is paid back to the one who wins, while the one who loses the case loses his or her money. “the judges can be influenced” somehow, and finally, one cannot refuse summons from the court. It came out that this arrangement is enough motivation for people to want to report cases to the court once they feel offended or believe that they are right. A respondent tried to explain his motivation to report to the court.

The deliberations are organised to find the truth, but the money matter is too much there. Let's say the money matters are in 5 phases. At the state court, the lawyer will need you to pay for filing your case each time you visit, you would give your lawyer petrol and lunch, maybe 200 cedis and the court sitting 800 cedis when they close. So, state court, oh, Nananom oh, the money matters are plenty. They do not look at the hell you have been through. Wo di bim and wo di efo you both will spend equally, even though the faulty party will spend a little over you. You who win, your cost is a little bit low, but you still spend. (Interview with Osofo E, Kumasi, November 18, 2020).

In the above response, the respondent explains that despite the motivation for *ntaadwom* being returned, there are other fees charged, such as *Aseda* fees given to the court and sometimes court staff. Thus, in his explanation, both the state court and customary court are expensive to use.

The discussion about “compensation being paid to the winner” suggests that in the Traditional court, the winner of the case is typically compensated in some way. This may include the return of property or monetary compensation and reflects the focus on restoring the balance of the community rather than solely punishing the guilty party.

So, at the end of the day, my mum and I got our money back because the case was judged in our favour (Interview with Is B, June 21, 2020).

This restoration of monies paid when one wins a case is also another form of motivation for respondents to report their cases to the Asantehemaa's court. Besides, in the traditional court, the litigants are required to attend when summoned, and failure to do so may result in negative consequences. This is likely due to the informal nature of the traditional court, general recognition for both *Asantehene* and *Asantehemaa* and the extent to which respondents hold on to Asante values and customs. However, there were mixed responses to whether someone summoned can refuse the call to the traditional court or not.

You see that adjudication processes are such that you need to have powers to draw the disputing parties. If I offend someone and am taken to court when summoned, I cannot refuse not to show up, but in the Ohemaa court, I can refuse it and no law binds me (Interview with AA Kumasi, February 7, 2021).

Another person indicated that one cannot dishonour an invitation to the customary court because they will get hold of you. In this statement, the respondent is referring to the use of the police to arrest disputants who refuse to respond to several summonses sent to invite them for deliberations.

So, I said if you are able to resist the invitation here, there are other places which you won't, so we finally got hold of him and the deliberations commenced (interview with Sub-Chief, Kumasi, June 22, 2020).

It was suggested in the interview that corruption may be more prevalent in the state court system, as opposed to the traditional court. This may be due to the more formal and bureaucratic nature of the state court, which may allow for greater opportunities for corruption and influence.

I realised that if you have an issue with someone, you are better off with Manhyia than the Aban court. With the state court, I can find dubious means of bribing the judge or prosecutor so that he won't call my case. But at the Asantehemaa's court, I saw that justice works there more than the government one. To me, I see it that they are truthful people" (interview with Maame, Kumasi, June 28, 2020).

Respondents were clear that the state court employs legal strategies to resolve cases reported and uses precedent; however, with the customary court, the process differs. The formal justice system, according to Appiagyei-Atua (2013); Ntuli (2018), employs Eurocentric theories of justice, and its judicial process is credited as more adversarial than reconciliatory. It is also critiqued as a system that relies heavily on procedures and evidence, which leads to a win-or-lose situation that does not support social cohesion. However, informal processes of litigation, such as those observed at the Asantehemaa's court, focus on reconciliation; the process is non-adversarial, creating a win-win situation.

At Nananom court, you won't hear I put it to you biaa. The language is understandable, you say your own, your defendant says his own, Nananom question you both, and we arrive at a conclusion. Even if they impose a decision on you, they explain why and make you understand (interview with independent researcher, Kumasi, February 12, 2021).

6.9 Dissolution of the Asantehemaa's Court

Despite the significant role in resolving disputes, the court was caught up with allegations relating to bribery, corruption and some form of unfair processes in the pronouncements of the court. On the back of these allegations, in May 2019, the court was dissolved for a proper investigation to be made into the allegations.

During the period of the closure of the court, some litigants who were interviewed referred to the dissolution of the court as a great step to ensure fair hearing and delivery of justice. They thought that the dissolution and the intended plan to reconstitute the court alone had increased trust in the Asantehemaa's court. One of the litigants indicated that:

"... they were doing despicable things, their bribe, Women oh. Asantehene had installed cameras there. They were sharing the monies openly. So, he saw it and said I will sack them all and reconstitute it" (interview with NT, Kumasi, June 22, 2020).

Another respondent had this to say:

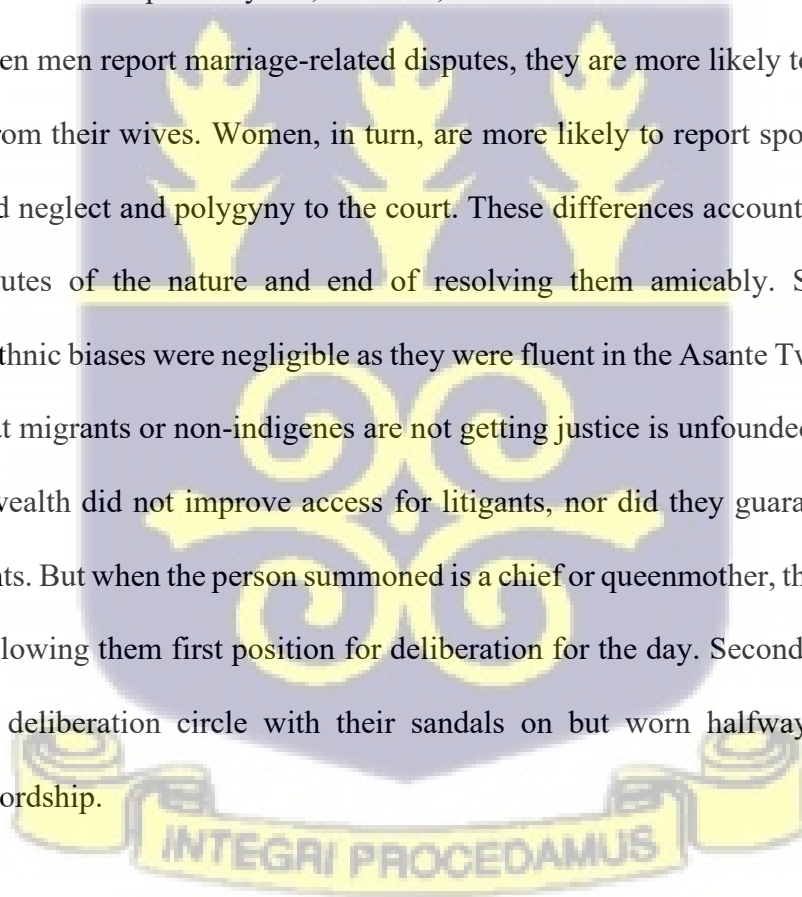
"Well, I heard that the court had suffered some problems, it was dissolved and brought back. The reason was that word had reached Otumfuo that people were collecting monies and trading justice, and they found that to be denting the image of the court, so they changed it" (interview with AA, Kumasi, February 17, 2021).

6.10 Conclusion

In this chapter, I examined respondents' notions of justice and how respondents' understanding of justice informs the adjudication forums they chose to resolve their disputes. Litigants believed that justice had both physical and spiritual sides. Justice was defined as getting a fair hearing, accepting

judgment, establishing truth through evidence and witness statements and the swearing of the *kokoniwa* oath to restore broken relationships. Subsequently, the nature of the dispute determines the avenue for resolution. Respondents considered factors such as the type of dispute, the cost involved, and the time factor. The reconciliatory aspect of the court was a considerable reason for choosing the *Asantehemaa's* court; however, it did not make up for the attainment of justice in all cases. The *Asantehemaa's* court operates as a customary court yet acknowledges the reach of the state in its activities. In that vein, the court employs aspects of state laws that it deems fit, and on a case-by-case basis.

Access to the court is not impeded by sex; however, men access the court differently from women. For instance, when men report marriage-related disputes, they are more likely to report sex denial and disrespect from their wives. Women, in turn, are more likely to report spousal maintenance, child welfare and neglect and polygyny to the court. These differences account for how the court approaches disputes of the nature and end of resolving them amicably. Some respondents mentioned that ethnic biases were negligible as they were fluent in the Asante Twi language. Thus, the argument that migrants or non-indigenes are not getting justice is unfounded. It also came out that status and wealth did not improve access for litigants, nor did they guarantee them victory over other litigants. But when the person summoned is a chief or queenmother, the court recognises their status by allowing them first position for deliberation for the day. Second, they are allowed to come to the deliberation circle with their sandals on but worn halfway to acknowledge *Asantehemaa's* lordship.



CHAPTER SEVEN SUMMARY OF FINDINGS AND CONCLUSION

7.0 Introduction

This chapter summarises the main findings of the study. This study is located in debates about the position of female traditional leadership in Ghana, specifically among the Asante. This thesis builds on literature that identifies gender perspectives on traditional leadership and distinguishes the position of female traditional leadership among the Asante of Ghana.

The main thrust of the study is to examine conflict resolution at the *Asantehemaa's* court. As a customary court, the deliberation process is focused on bridging differences between or among litigants, restoring relationships, and safeguarding the future of the community. Thus, using resolution strategies such as settlement (*mpata*), negotiation, mediation, fines (*bo ni ka*), forgiveness (*fa kye*), and pleas (*dwanetoo*), the court is credited as reconciliatory compared to the state court system, which is critiqued as adversarial and propagates a winner-takes-all justice, which is not complete. By declaring winners over losers, it creates a win-lose situation that does not resolve the dispute. The deliberation process involves constant engagement between the panel, litigants, witnesses, and even the audience, thus making the process participatory and the roadmap to resolution acceptable to all parties involved. Thus, *Asantehemaa's* court is credited with a resolution that leads to a win-win situation. I examined the position of the *Asantehemaa* from the lens of her political and judicial roles. I argued that the position of the *Asantehemaa* is a source of privilege and power even in the face of patriarchal domination. The central aim of this thesis was to examine the judicial roles of female traditional leadership among the Akan, focusing on the *Asantehemaa's* court. I explored the judicial and political roles of the *Asantehemaa* by observing customary arbitration practices and procedures in her court. This accounts for the contribution of female traditional leadership to peace within their communities.

I argue that while several literatures point to the role of traditional leadership in conflict resolution, there is limited information on how female traditional leaders play this role. These disparities are intensified by the constraints they face due to limited recognition of their dispute mediation roles and the resources available to them. I argue that Female traditional leadership, such as that which is exhibited at *Asantehemaa*'s court, is evidence of female involvement in conflict resolution in Ghana. Second, although it is a female-led court, its composition is not dominantly female. The focus of the court is to resolve disputes regardless of gender. In practice, it does not exist only to fight for female rights because at the heart of conflict resolution is fairness. It is fair to both females and males. At any point in time, the tribunal makes pronouncements that project fairness and objectivity to the disputes at hand. The elements of fairness and objectivity are integral pillars in the dispute resolution process at the court for ensuring justice and to harmonise society.

I approached my research with four objectives: 1) Examine the socio-economic determinants that influence the roles of the *Asantehemaa*. 2) Examine the role of the *Asantehemaa*'s court as an institution for conflict resolution, 3) Explore the court's position on changing national legislations, i.e., women and property rights, 4) Explore respondents' notion of justice and how power and other characteristics, such as status, occupation, age, sex, ethnicity etc. influence their ability to seek justice. From these objectives, I developed my research questions. In the literature review chapter, I demonstrated that traditional authority in Africa and Ghana has transformed. This transformation includes the offices of female traditional leaders such as the *Asantehemaa*. Using the *Asantehemaa* as a case study, I argued that her position is still visible as she performs dispute mediation in her court. This dispute mediation and resolution practice feeds into the political and judicial roles of Akan Queenmothers as described by Stoeltje (2013) & Arhin (2023).

To be able to answer the questions that reside in the thesis, I did a survey of the court and Manhyia palace in general to ascertain the viability of the study. This thesis used an ethnographic method of inquiry to explore the *Asantehemaa's* court. This preliminary fieldwork consisted of interviews, observation of court proceedings at both *Asantehene* and *Asantehemaa's* courts, and an archival search. After the preliminary fieldwork, I conducted a full-scale ethnographic study of the court. This consisted of prolonged observation at the court, accompanied by in-depth interviews and conversations. Responses were translated and transcribed into the English language for clarity. I further analysed responses thematically using Nvivo software. The subsequent sections provide the conceptual and theoretical framework used and a summary of findings and conclusions.

7.1 Contribution to Knowledge

This study makes three significant contributions to scholarship, practice, and policy in African dispute resolution and legal pluralism.

Reconceptualising the Goal of Dispute Resolution in Indigenous Systems: The research advances knowledge by demonstrating that the *Asantehemaa's* Court, like other indigenous Asante forums, prioritises reconciliation and social harmony over the determination of a “winner” in disputes. This challenges dominant adversarial models embedded in formal legal systems and offers an alternative, harmony-oriented framework for dispute settlement. This insight contributes to the growing literature on restorative justice and non-adversarial legal traditions in Africa.

The study reveals that contemporary changes in the *Asantehemaa's* Court have not diminished its role; rather, they have facilitated greater interaction and complementarity between indigenous dispute resolution mechanisms and the formal judicial system. This empirical finding strengthens

theoretical debates on legal pluralism by showing how traditional and statutory systems can coexist, cooperate, and enhance the delivery of justice.

By highlighting the unique role of the *Asantehemaa* in dispute resolution, the study provides a knowledge base for rethinking the representation of female traditional leaders within Ghana's chieftaincy governance structures. Specifically, it offers a practical policy toolbox for integrating women's leadership roles into the House of Chiefs, in line with the Chieftaincy Act, thereby advancing gender inclusivity within traditional governance frameworks.

Collectively, these contributions not only deepen academic understanding of African dispute resolution but also offer practical pathways for reforming justice delivery and strengthening gender representation in traditional authority structures.

7.2 Summary of Findings

The key findings are presented in chapters five and six. Discussions on chieftaincy in Ghana have, to a large extent, been through a male perspective. This section summarises the key findings and situates the *Asantehemaa's* court within the broader discourse on female traditional leadership in Ghana.

Chapter five discusses the roles of the *Asantehemaa* and the changes in such roles. On the role issue, it emerged that the roles performed by *Asantehemaa* are similar to what other Akan queenmothers do.

Roles such as the nomination of male candidates, consultation and advisory roles to chiefs, feeding the gods in stool houses, observance of ritual days, and cultural displays are still performed by the *Asantehemaa*. However, her position as the dual authority with *Asantehene* makes her position slightly different from other Akan queenmothers. The slight difference includes the centralised

Asante chieftaincy system, where the *Asantehene* is the occupant of the ‘gold’ stool. Therefore, she has other queenmothers and even sub-chiefs under her authority. The difference is the male constituents under her authority. Challenges associated with her position are also discussed. One such challenge is her advanced age, making it difficult for her to make appearances at the outer court. She handles cases of a more sensitive nature and succession disputes in her inner chambers. This causes the court to differentiate the kind of cases they can deliberate on in the public space and the ones that have to go to her directly. Secondly, after the dissolution of the court, the re-organisation is deemed a temporary tribunal with a tribunal head who acts as the final arbitrator and not the *Asantehemaa*. This has consequences for the delivery of justice.

7.2.1 The Changing Roles of the *Asantehemaa*

In chapter five, I discussed the roles of the *Asantehemaa* and the changes over time in these roles. On the issue of roles, the study identified that she still performs political, judicial, socio-cultural and economic roles. The responses showed that she performs roles of the nomination of a candidate and provision of counsel, and oversight responsibility over other chiefs and queenmothers in *Asanteman* as her political roles, while her judicial role revolves around adjudication of disputes in her outer court and succession-related disputes in her inner chambers. When it comes to *Asantehemaa* and women, the findings indicated that her position as the defender of women’s rights is linked to her interest in the welfare of women. The welfare of women includes women’s rights in marriage, the right to property, and spousal support.

Her court handles domestic-related disputes because Asante's gender norms assign domestic duties to women. This welfare extends to the economic activities of women. The market space is considered part of the domestic space, hence her authority over the market in *Asanteman*. The prevalence of women in petty trade and food items contributes to the domestic nature of the market

space and the economic activities of women. This leads us to her economic roles. Her economic role revolves around her traditional ownership of the market. She exercises this ownership through her market queens (headsmen). They, in turn, represent her in the market and exercise this control by having oversight responsibilities over the economic activities of women in the market. This oversight responsibility is largely concentrated on women involved in the food trade. The study found that other commodity traders are increasingly acknowledging this recognition and getting involved with *Asantehemaa*'s court.

The major responsibility of the *Asantehemaa* is found in her political position as the 'mother' to the *Asantehene*. The position of *Asantehemaa* within the Asante chieftaincy structure demonstrates her political influence. She is still regarded as the chief advisor to the *Asantehene* and consulted by chiefs and queenmothers in *Asanteman*. The argument is that no major decisions are taken without her input or information. The instance mentioned was the dissolution of her court in May 2019. On the question of dual authority, it is understood that both the *Asantehemaa* and *Asantehene* are equal, but the *Asantehene* is the face of *Asanteman*. Divergent responses agree to some extent, while others believe that the position of the *Ohemaa* is to step back once the *Ohene* position is occupied. This claim limits the powers of *Asantehemaa*. However, the complementary nature of the relationship makes it difficult to categorically segregate the two in the performance of their duties.

Her duties include serving the stool by defending the chiefs and queenmothers under her authority, as well as providing advice, representation to the *Asantehene* and resolving disputes in her court. Her duties require the *Asantehene* to seek her consent on matters that bother the state, and respondents quoted the dissolution of her court as an example of the consultative function of

Asantehemaa. All the roles she performs are in line with the Asante concept of *Esom*, or service, within which every chief and queenmother provides to the stool and people. This concept runs through the whole Asante chieftaincy system. As a result, the *Asantehemaa* always acts following *esom*. The Asante people, including the chiefs and queenmothers, are all beneficiaries of this service. The concept of *esom* is also connected to her courtroom activity. For example, the tribunal members at the *Asantehemaa*'s court consider their assistance at the court as an act of service so is *Asantehemaa*'s authority over them.

In summary, her responsibilities are intended to complement the *Asantehene* and provide progress for *Asanteman*. Thus, she is expected to perform roles that promote the image of *Asanteman*. Any other roles she performs are in line with her political position as a complementary ruler. The nomination roles that Asante queenmothers perform imply that *Asantehemaa* is saddled with succession-related disputes due to factors such as faulty records of succession lines, bribery allegations, etc. *Asantehemaa* needs to ensure that other *Ahemaa* under her authority stick to the Asante customary laws regarding the succession of stools. This enables her to ensure the stability of the customary institution and succession of chiefly candidates in *Asanteman*. The *Asantehemaa* court is a site for dispute mediation and resolution. The court is open to both male and female litigants.

Although the composition of the *Asantehemaa*'s court is made up of both males and females, the court is focused on achieving fairness in pronouncements and still affords women access to justice, especially in the domestic sphere. Therefore, the *Asantehemaa*'s court is a space where female power is exhibited, and female access to justice is heightened. *Asantehemaa*'s court is noted for

resolving disputes that are usually domestic in nature. However, the court also records disputes that are succession-related, resource-related, and interpersonal in nature.

As a customary court, the concept of *Dwanetoo* takes centre stage in the Asante justice system. The court usually appoints *Dwantoahemaa* to argue on behalf of litigants who happen to be in the wrong for a pardon or a lighter sentence. This process drives towards the quest for a peaceful resolution. Secondly, the open access granted to litigants feeds into her role of serving the welfare of the common people. This welfare role is also specific to women. As a woman, she exercises her authority over the market space through her right as the traditional owner of the market. Through her market queens, she oversees the activities of women within the market space and arbitrates market-related issues. This market ownership translates to her interactions with other arms of government, such as the Kumasi Metropolitan Assembly and market managers, to ensure women's economic needs are met. In return and recognition of her authority over the market, the market women, through the market queens, provide samples of their food items to her palace for use during ritual days (*adae* days). This relationship between the *Asantehemaa* and the market revolves around the concept of *esom* and reiterates her position as a traditional owner of the market. Another feature that makes the position of *Asantehemaa* distinct from other Akan queenmothers is the ownership of towns and villages within the Ashanti region.

The chiefs and queenmothers in these towns are considered caretakers for *Asantehemaa*. The selection of her judicial panel is her reserve, and they are selected to assist her in performing her judicial duties as per Asante customary laws.

The court is renowned for its ability to connect the physical and metaphysical, hence litigants are more comfortable accessing the *Asantehemaa* court. It was pointed out that litigants' religious

convictions contribute to their choice of the *Asantehemaa* court over the state court. The belief in the supernatural informs their choice of invoking imprecations out of fear of its consequences. In contrast to the state court, the *Asantehemaa* court is more successful in compelling litigants to appear before the tribunal, admit their wrongs, and seek redress that is reconciliatory rather than adversarial. Thus, the *Asantehemaa*'s court supports the state judicial system in resolving conflicts.

7.2.2 Changes at Asantehemaa's Court

From the responses, the customary court was adjudged impartial and less prone to bribery as compared to the state court. This is because some respondents felt that the process was participatory, members of the tribunal had a say, votes were cast, and, in some instances, the chairman of the tribunal gave the final decision in agreement or not in agreement with the majority of the voters. Second, the dissolution and reconstruction of the court were attributed to bribery allegations and unfair ruling allegations by litigants. Though the bribery allegations took a toll on the level of trust attributed to the court, most of the responses supported the dissolution and reconstitution of the tribunal due to bribery allegations. Respondents were of the view that the dissolution was a sign that their complaints were heard by both *Asantehene* and *Asantehemaa*. Others felt that the dissolution further staggered the waiting time for their cases to be deliberated. The reconstituted panel is deemed temporary; thus, the initial composition that consisted of three groups, namely, *Akyeame*, *Nkontimso* and *Nkonsɔn* has changed, altering the initial customary composition that has been in existence since time immemorial.

7.2.3 Changes in the Kinds of Cases Reported

During observation at her court, I mapped out how disputes are reported, reflecting the socio-economic changes in the region. The responses show that the citizenry acknowledges her court as

the best place to report disputes that have spiritual or ritual consequences. These ritual-related cases cannot be resolved at the state court. Also, disputes that are interpersonal in nature are best resolved in her court if litigants are seeking a resolution that is reconciliatory. The money and time factor also informs the litigants' decision to use the *Asantehemaa* court. Secondly, resource-related disputes such as access, sale and use of land are on the increase as more villages are catching up with the main Kumasi metropolis. In my earlier paragraph, I mentioned the differences between Asantehene and Asantehemaa's courts and the commonalities between both courts. Asantehene's court deals with Amansem, while Asantehemaa's court deals with *efisem*.

The increasing spate of land grabbing for commercial purposes and mining activities has contributed to the change in land disputes reported to the court. The nature of property or land disputes, for instance, shows how *nfofoa* or farmlands are gradually under pressure and being converted into commercial plots or for mining activities. The changing economic value of land in peri-urban Kumasi influenced the kinds of land-related disputes reported to the court. In this regard, the Asantehemaa court does not only focus on farmlands alone, but other aspects of land and its use, such as land for building.

As more and more communities are selling farmlands for building, the land cases reported to her court have taken a turn as the conversation shifted from farmlands to building or commercial lands. Some of the land-related disputes reported evolve around lands owned by families that are being converted and sold without compensation from the chiefs. This land-use change has influenced the kinds of land-related cases reported to the court and thus the decision that follows.

7.2.4 Record of Proceedings by the Registrars of the Court and for the National House of Chiefs

The *Asantehemaa's* court recognises the importance of record keeping. Hence, the court had found more innovative ways of adjusting to current trends. For example, key informants explained that keeping records is key to solving some of the succession disputes the court is faced with. Thus, the court keeps both written and video records of proceedings as evidence for future reference. The court is also aware of ethical issues concerning recording the voices and faces of people and takes steps to ensure that only members of the tribunal have access to the recorded proceedings. Secondly, the recorded proceedings can be used as evidence when the dispute in question has been reported to the *Asantehemaa's* court a second time or sent to the state court. Respondents explained that they have, on a few occasions, moved to the state court for redress. In such instances, a letter is written to *Asantehemaa's* court to delegate a member to the state court to explain how they arrived at the verdict given.

7.2.5 Use of Electronic Gadgets to Aid Proceedings, Such as Microphones and Video Recordings of Proceedings

The use of modern technology gadgets such as microphones, phones and video recordings accounts for the modernising aspect of tradition. As a customary court, the voice of the *Okyeame* is the voice that controls the court, panel members, and audience.

The *Okyeame* leads deliberations between litigants, witnesses and the members of the tribunal. In such instances, the *Okyeame* should have a loud voice to communicate clearly to the court's hearing and the people gathered. As observed, the court uses electronic gadgets such as microphones to amplify the voices of the *Okyeame*, litigants and panel members. This use of microphones is accompanied by video recordings of proceedings.

7.2.6 Admittance and use of technology such as WhatsApp voice notes, video and phone recordings for evidence

There is a general adaptation to technology that will help the court to ensure fair hearings and rulings. In the past, a witness statement was what was used to determine the truth. The court arrived at a verdict after witness accounts had been verified. In the past, the judicial panel used this customary process because they were truthful and trusting of each other; hence, it dwelt on the judicial panel to use their good ears to listen to litigants' statements and witness statements to ascertain the truth. However, the court acknowledges other sources of evidence, such as written statements, documents, WhatsApp voice notes, and video and audio recordings. For instance, cases such as land disputes were better resolved with proof of land title or a lease agreement.

The court admits oral evidence to witness accounts for settling cases; however, as observed, the use of technological gadgets has come to stay. All evidence was admitted during deliberations. The issue of trust has made the acceptance of oral evidence questionable. Not only does the court believe that human beings are complex and would always find ways to circumvent the system, but they also lie.

Chapter six of the thesis was divided into two main sections. The first section explored the court's knowledge of legal documents such as a death wish or will, transfer of property, invoices, employment contracts, business agreements, property contracts and other written agreements. The court acknowledges and admits such legal documents as evidence for deliberations. These documents go hand in hand with witness accounts for final verdicts. The court observes national legislation such as the Interstate Succession (Amendment) Law, PNDC Law 111. The position and application of any national legislation are at the discretion of the court. This application is on a

case-by-case basis. The study found that there is a growing acceptance of legal documents as evidence over witness accounts. These documents are admitted and interrogated during deliberations. This shows that the court is very aware of these legal documents and new legislation. Even though the court is saddled with the verification of such documents, as mentioned, the panel comprises tradesmen such as lawyers who are also chiefs, hence the court falls on them for such verification. At other times, they consult other lawyers. But the question remains, how much of this legislation is the court willing to accept as evidence for deliberations or admit for final judgments?

The second section explored respondents' notions of justice and how power and other characteristics, such as status, occupation, age, sex, and ethnicity, influence their ability to seek justice. It came out that respondents' view justice as establishing truth. Justice was also conceived as spiritual and physical in that any physical dispute has a spiritual side to it. Thus, this notion of justice fed into the kind of disputes they believed should be settled at the *Asantehemaa* court. The litigants, therefore, know that ritual-related disputes can only be resolved at *Asantehemaa's* court due to their spiritual beliefs.

Also, the spiritual beliefs, perceptions and worldview of the litigants inform their decision to report their disputes to the *Asantehemaa* court. With respect to status and power, it came out that sex is not a barrier to accessing justice in the court. However, women seem to gain more popularity with the use of the court as compared to men. Also, men and women use the court differently, even if their disputes are the same. For instance, a man would report his wife to the court for insubordination, while women are more likely to report to the court for spousal neglect and child maintenance.

7.3 Implications for Theory

The findings of the study corroborate with restorative justice to some extent. The data suggest the *Asantehemaa* court employs resolution strategies such as negotiation and forgiveness, which are features of restorative justice. In another vein, the restorative justice theory does not completely explain the operations of the court nor the respondents' notion of justice within a cultural context. Thus, the conceptual framework explains this. It also explains the litigants' choice of the court, how the conflict environment influences the kinds of disputes reported, and the resolution strategies used.

The core elements of restorative justice are acceptance of guilt (wrongdoing), forgiveness and repair of harm caused. Therefore, the concept of *dwanetoo* (pleading) as applicable in dispute resolution processes at the *Asantehemaa's* court adds to the element of forgiveness. The acceptance of guilt is inherent in the act of pleading. The findings argue that practices such as *dwanetoo, mpata, bo ne ka*, which are central to the customary dispute resolution process at the court, constitute the acceptance of guilt and willingness of the guilty party to commit to necessary pacification and compensation for any harm caused (wrongdoing).

In view of this, the thesis contributes to the theory of restorative justice to the extent that these practices further reinforce the underlying principles of acceptance of guilt and repairing harm caused, as indicated in Monday (2020). This work has shed more light on the applicability of restorative justice at the *Asantehemaa's* court.

7.4 Limitations of the Study.

This research has some limitations that can be explored shortly. First, the study did not cover all other aspects of traditional female leadership to bring nuances within the Asante chieftaincy structure. It would be good to explore how other paramount queenmothers' courts operate and the links between their courts and *Asantehemaa's* court. Also, a comparative analysis of the position and roles of queenmothers in dispute resolution can be explored from the perspective of patrilineal societies in Ghana. Finally, there is a need to explore the interplay of power between male and female traditional leadership and how it affects the future of traditional leadership in Ghana. The study has sought to fill the gap in the less studied area of queenmothers. It would be interesting to find out how male counterparts feel about the judicial roles and the execution thereof of their female partners. It would be interesting to find out if the men feel excluded. That study would be important in understanding the complex chieftaincy structure and the place of women within such structures.

7.5 Recommendations

This study indicates that female traditional leaders not only represent their communities like their male counterparts, but they are also involved in developmental issues and in dispute resolution. As such, their role in contributing to peace in Ghana cannot be overemphasised.

Thus, to ensure fairness is served and also accessible to those who choose the *Asantehemaa's* court, it is recommended that the composition of the tribunal be made on a case-by-case basis to avoid familiarity and control corruption, as was earlier experienced in May 2019. Even though the *Asantehemaa's* court comprises both male and female tribunal members, it is still deemed a female court due to the varied ways women access the court, either on domestic or economic-related disputes.

At the *Asantehemaa*'s court, there are increasing cases of marital-related disputes that end up with socio-economic consequences. For instance, there is an increasing number of marital-related disputes reported to the court, which can be attributed to economic and social changes. These changes include unions that produce children to couples who are not married, cohabitation, concubinage, and children born out of wedlock. Thus, the determination of what a surviving spouse or spouses, extended family members, and children can claim as property of a deceased person varies. In some instances, the court resorted to the Interstate Succession Law (PNDC Law 111) as a guide for fair distribution. In light of this, the study recommends that the spousal bill take into account varied marital unions, such as concubinage and its implications for the division of assets and how children born out of such unions can be protected under the law.



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Legislations

Interstate Succession Act, 1985 (PNDC Law 111)

Marriage Act, 1884-1985 (CAP 127)

Matrimonial Causes Act, 1972 (Act 367)



APPENDICES

ETHICAL CLEARANCE PROTOCOL



UNIVERSITY OF GHANA
ETHICS COMMITTEE FOR THE HUMANITIES (ECH)

ECH 026/ 19-20

Ref. No.:.....

February 14, 2020

Lydia Amoah
Institute of African Studies
University of Ghana
Legon

ETHICAL CLEARANCE
(ECH 026/ 19-20)

On December 18th, 2019 the University of Ghana – Ethics Committee for the Humanities (ECH) at a full committee meeting reviewed and approved your protocol as follows:

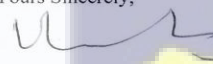
TITLE OF PROTOCOL: QUEEN MOTHERS AND CONFLICT RESOLUTION AMONG THE AKAN OF GHANA: A STUDY OF THE ASANTEHEMAA'S COURT IN KUMASI

STUDENT INVESTIGATOR: LYDIA AMOAH

Please note that the final review report must be submitted to the Committee at the completion of the study. Your research records may be audited at any time during or after the implementation. Any modification of this research project must be submitted to ECH for review and approval prior to implementation.
Please report all serious adverse events related to this study to ECH within seven (7) days verbally and in writing within fourteen (14) days.

This certificate is valid till 14th February 2021. You are to submit annual reports for continuing review.

Please accept my congratulations.

Yours Sincerely,


Professor C. Charles Mate-Kole
ECH Chair

Cc: Prof. Takyiwaa Manuh, Institute of African Studies, UG.
Dr. Ebenezer Ayesu, Institute of African Studies, UG.
Dr. Isaac Owusu-Mensah, Department of Political Science, UG.



COLLEGE OF HUMANITIES

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INTEGRAL PROCEDAMUS

APPENDICES

RESEARCH INSTRUMENT (INTERVIEW GUIDE)

COURT WORKERS

Section A: Introduction

- I. Please introduce yourself.
- II. What is your position/role here?

Section B: Roles of Asantehene and Asantehemaa

- I. What are the roles of the Asantehemaa?
- II. What are the roles of the Asantehene?
- III. Are the roles similar or dual, or complementary?
- IV. What is/ are the symbols of his/her authority?

Section C: The Asantehene and Asantemaa's Court

- I. In what ways are the Asantehene's court different from that of the Asantehemaa?
- II. What is the composition of the court: family members, elders, lineage heads, Okyeames (spokespersons)?
- III. Sitting arrangements in order of seniority?
- IV. Is this system replicated throughout the Asante confederacy?
- V. How long have both courts been in existence?
- VI. In your opinion, what are some of the changes?
- VII. Who visits the Asantehemaa's court?
- VIII. What are the kinds of cases brought to her court?
- IX. What are the kinds of cases brought to the Asantehene's court?
- X. Similarities and differences
- XI. How does one report a case to the Asantehemaa's court?
- XII. What are the processes involved in court proceedings?
- XIII. What is the relevance of the Asantehemaa's court?
- XIV. How would you describe 'peace' in the Asante-Twi language/custom? What does it mean?
- XV. What is the Asante's understanding of the words 'peace' and 'security'?

CO-JUDGES (OHEMAAS AND ODIKROS)

Section A: Introduction

- I. Please introduce yourself.
- II. What is your position/role here?
- III. Can you tell me how co-judges are selected for the Asantehemaa's court?

Section B: Roles of Asantehene and Asantehemaa

- I. What are the roles of the Asantehemaa?
- II. What are the roles of the Asantehene?
- III. Are the roles similar or dual, or complementary?
- IV. What is/ are the symbols of his/her authority?

Section C: The Asantehene and Asantemaa's Court

- I. In what ways are the Asantehene's court different from that of the Asantehemaa?
- II. What is the composition of the court: family members, elders, spokespersons?
- III. Sitting arrangements in order of seniority?
- IV. Is this system replicated throughout the Asante confederacy?
- V. How long have both courts been in existence?
- VI. In your opinion, what are some of the changes?
- VII. Who visits the Asantehemaa's court?
- VIII. What are the kinds of cases brought to her court?
- IX. What are the kinds of cases brought to the Asantehene's court?
- X. Similarities and differences
- XI. What is the relevance of the Asantehemaa's court?
- XII. In your opinion/experience, why do citizens prefer the traditional court over the modern court?
- XIII. How would you describe 'peace' in the Asante-Twi language/custom? What does it mean?
- XIV. What is the Asante's understanding of the words 'peace' and 'security'?

Section d: Court process and rulings at the Asantehemaa's court

- I. How does one report a case to the Asantehemaa's court?
- II. Specific court days
- III. What are the processes involved in court proceedings?
- IV. How long do proceedings take before a case is resolved?
- V. What are the basis/ guidelines employed for adjudicating cases? i.e customary law/ unwritten constitution?

- VI. What is the role of the Okyeame at the Asantehemaa's court?
- VII. Can you explain the relevance of proverbs during court proceedings?
- VIII. What are the processes involved when a party is fined?
- IX. Is there a customary procedure to be followed?
- X. What happens when an aggrieved party does not accept the court ruling?
- XI. What mechanism does the court employ to ensure an equitable/fair hearing?
- XII. How is the court sure of providing justice?



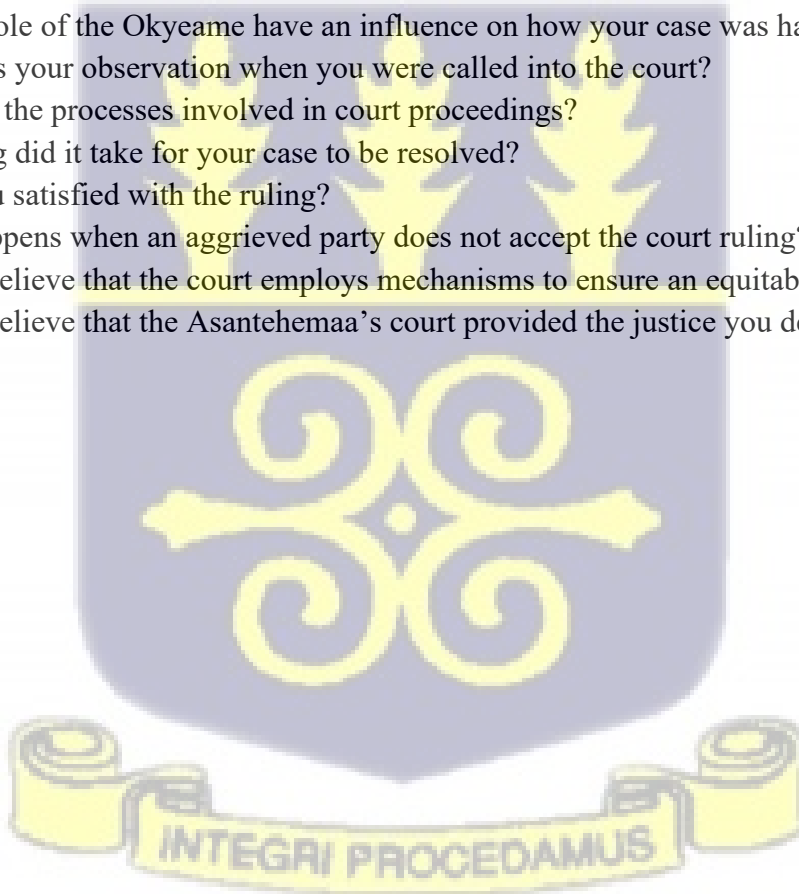
PLAINTIFFS, DEFENDANTS AND WITNESSES

Section A: Introduction

- I. Please introduce yourself.
- I. What brought you to the Asantehemaa's court?
- II. Did you report to the court as the plaintiff, defendant or witness?

Section B: Court Proceedings and Rulings

- I. Who visits the Asantehemaa's court?
- II. What are the kinds of cases brought to her court?
- III. Specific court days
- IV. Why the Asantehemaa's court and not the modern court?
- V. How does one report a case to the Asantehemaa's court?
- VI. What are the processes involved when reporting a case or witnessing a case?
- VII. Did you have to employ the service of an Okyeame?
- VIII. Did the role of the Okyeame have an influence on how your case was handled?
- IX. What was your observation when you were called into the court?
- X. What are the processes involved in court proceedings?
- XI. How long did it take for your case to be resolved?
- XII. Were you satisfied with the ruling?
- XIII. What happens when an aggrieved party does not accept the court ruling?
- XIV. Do you believe that the court employs mechanisms to ensure an equitable/fair hearing?
- XV. Do you believe that the Asantehemaa's court provided the justice you deserved?



APPENDICES

INTRODUCTORY LETTER



UNIVERSITY OF GHANA INSTITUTE OF AFRICAN STUDIES

IAS/D/GC.30/02.19

February 4, 2019

Ref. No.:

TO WHOM IT MAY CONCERN

LETTER OF INTRODUCTION: MS LYDIA AMOAH

This is to introduce to you, Ms. Lydia Amoah, a PhD student of the Institute of African Studies, University of Ghana, Legon.

Ms. Amoah is researching on the topic "*Conflict Mediation and Resolution at the Akan Queen mother (Asantehemaa's) Court*".

We would be grateful if you could assist Ms. Amoah with any relevant materials and grant her interviews to enable her to carry out the study.

Thanking you in anticipation.

Yours sincerely,

Prof. Dzodzi Tsikata
DIRECTOR

COLLEGE OF HUMANITIES

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