



State Actors and Traditional Authorities in Ghana: Collaborative Provision of Peace and Security

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SUMMARY

This Policy Brief examines the relationship between state actors and traditional authorities in Ghana in regard to the provision of peace and security. It explains the necessity of a collaborative approach and delineates the existing framework for interaction, allowing for both a deduction of appropriate policy recommendations and a broader conclusion.

Introduction¹

Among other characteristics, legal ties and interdependence define the relationship between state actors and traditional authorities in Ghana. The interdependency, however, is not solely a result of statutory regulation but rather a logical corollary of the importance and impact of traditional authorities as perceived by the people.² Hence, on the basis of “Western models of social control and justice administration”, the political elite in Ghana has, ever since the colonial era, sustained mechanisms enabling regulation of customary law and its

representatives.³ In the more recent past, efforts have been made to prevent the reach of traditional authorities from extending the scope of legislation. The provisions range from the guarantee of the institution of chieftaincy in the 1992 Constitution to mandatory participation of chiefs in councils and offices for peace and arbitration, as will be explained later. Regardless of whether the legislation was motivated by self-interest or concern over national unity, such legal provisions carry considerable implications against the backdrop of a collaborative approach to peace and security maintenance.

¹ This policy brief is in support of the AUSAID funded project with KAIPTC and University of Queensland on “Understanding and Working with Local Sources of Peace, Security and Justice in West Africa”. The author would like to thank the partners of the KAIPTC for their support to the Centre and its activities.

² Asamoah, K. (2012). ‘A qualitative study of Chieftaincy and Local Government in Ghana’. *Journal of African Studies and Development*, Vol. 4(3), pp. 90-95.

³ Badong, P.A. (2009). Security provision in Ghana: what is the role and impact of non-state actors? ALC Research Report No. 5.

Considering, then, that the appeals from the people of Ghana to customary law are not always a matter of conviction but rather necessity, especially in areas where people are “largely unable to access adequate security from the state”⁴, the need for collaborative provision of peace and security under a comprehensive legal framework becomes apparent.

Improving the understanding of the roles state actors and traditional authorities play in the respective context will inevitably result in a better comprehension of the actors’ relationships and contribute to greater awareness of challenges, shortcomings and potential improvement. In order to take the first step, the Kofi Annan International Peacekeeping Training Centre, in collaboration with the School of Political Science and International Studies at the University of Queensland in Brisbane, Australia, set out to investigate the nature and scope of the interaction among the various bodies and institutions maintaining peace and security in West Africa. After collating people’s views at the grassroots level by holding focus group discussions (FGDs) with men, women and youth from rural and urban communities, field interviews in these areas in Ghana and Liberia were also conducted with a wide range of stakeholders (including chiefs, police officers, parliamentarians and judges). As the project’s next step, the researchers facilitated a stakeholder workshop in Ghana.⁵

This policy brief will first clarify the necessity of collaboration between state actors and traditional authorities regarding provision of peace and security in Ghana, illustrating particular issues and situations. Proceeding to delineate the existing

framework for interaction, the policy brief will then explain the legally effective provisions and their respective context, that is to say, how certain regulations affect the existing relationship and why they are relevant. By referring to deliberations and findings from the above-mentioned workshop, this policy brief will also elucidate how Ghanaian stakeholders in peace and security provisioning perceive their roles and collaboration as such, allowing for a compilation of recommendations. Lastly, pertinent contributions from the workshop will be incorporated into the final remarks and considered when formulating a broader conclusion.

The Necessity of a Collaborative Approach to Peace and Security Provision

Despite enjoying relative peace and stability in comparison to the West African average, the general Ghanaian population experiences an increasing level of crime and a feeling of insecurity.⁶ State institutions for security and justice provision “have largely been unable to offer security to a large section of the population”, since the necessary services have historically been unequally distributed.⁷ These deficits in safety and security policy also cross over to neighbouring countries⁸, affecting human relationships on a cross-border scale and thus sharply increasing the Ghanaian responsibility with respect to neighbour states. Another considerable threat to conflict and insecurity in Ghana is posed by land disputes and rival claims to chieftaincy.⁹ These issues, along with human rights violations through

⁴ Badong, *op. cit.*

⁵ This policy brief refers to the AusAID-funded stakeholder workshop in Kumasi, Ghana, that took place on 24-27 August 2014 as part of the project “Understanding and Working with Local Sources of Peace, Security and Justice in West Africa”. The workshop was facilitated by researchers from the KAIPTC and the University of Queensland. The KAIPTC Report on the workshop is awaiting publication (as of November 2014).

⁶ Badong, *op. cit.*

⁷ Ibid.

⁸ Ahorsu, K. and Gebe, B. Y. (2011). ‘Governance and Security in Ghana: The Dagbon Chieftaincy Crisis’. SIPRI/OSI African Security and Governance Project.

⁹ United Nations Development Programme (2013). Five-Year Strategic Plan for the National Peace Council. Available at: [http://www.gh.undp.org/content/dam/ghana/docs/Doc/Demgo v/UNDP_GH_DEMGOV_NPC%20Five%20Year%20Strategic%20Plan%20January%202013%20-%20final%20pdf.pdf](http://www.gh.undp.org/content/dam/ghana/docs/Doc/Demgo%20v/UNDP_GH_DEMGOV_NPC%20Five%20Year%20Strategic%20Plan%20January%202013%20-%20final%20pdf.pdf). [Accessed 10 November 2014].

certain customary practices¹⁰, can be attributed to traditional authorities.

Alongside these concrete and urgent problems, the very condition and nature of contemporary Ghanaian politics and society illustrate the nexus between state actors and traditional bodies and thus the need for a collaborative effort. The impact that the respective actors have on one another can be observed in the invaluable and integral role that traditional institutions play in Ghanaian governance and security architecture.¹¹ The fact that “governments often draw their support and legitimacy from [...] sub-national identities”¹² also emphasizes the close connection and interaction between formal and informal institutions. These circumstances highlight that proactively and successfully guiding the natural interrelation of state actors and traditional authorities is necessary, especially in the context of conflict. The implied context becomes relevant when considering the nature of conflict, namely the fact that it is “specific, not generic”¹³. This adequate definition indicates why only collaborative efforts, along with a comprehensive and innovative framework, can provide both culturally relevant and legally efficient solutions on a stage where unilateral approaches have been shown to fail.

Framework for Interaction

The constitutional preservation of the institution of chieftaincy, along with the policy that chiefs are the sole custodians of stool land, makes the chiefs’ roles critically important in modern day Ghana.¹⁴ These

legal premises, along with the fact that “most Ghanaians owe allegiance to traditional institutions, especially chieftaincy”¹⁵, contribute to the crucial influence of traditional authorities on both formal affairs and everyday life. Acknowledging this circumstance, the Parliament of the Republic of Ghana passed Acts seeking to evolve and specifically formalize customary law. Among said developmental acts, three specific ones will be subject to closer consideration over the course of this policy brief.¹⁶ With the additional citation of secondary sources, the context and capacity of the respective statutory provisions will be outlined.

The regulatory nature of the above-named legal documents can be ascribed to the earliest of the Acts, namely the 2008 Chieftaincy Act, in which the Parliament instructs the National House of Chiefs¹⁷ to progressively study and interpret customary laws with a view to creating a “unified system of rules of customary law”.¹⁸ By drafting a legal framework supposed to be applicable to each and every stool in Ghana, the government seeks to formalize but not overrule traditional authorities’ jurisdiction. Nevertheless, along with measures of modernization, as with the introduction of Alternative Dispute Resolution in the corresponding 2011 Act¹⁹, authorizing courts to refer cases – excluding criminal ones – for customary arbitration, the role of traditional authorities is becoming more and more statutory. The installation of the National Peace Council in 2011 further incorporated and annexed customary procedures to formal law by promoting

¹⁰ Badong, *op. cit.*

¹¹ Ahorsu and Gebe, *op. cit.*

¹² *Ibid.*

¹³ United Nations Development Programme, *op. cit.*

¹⁴ *Ibid.*

¹⁵ Ahorsu and Gebe, *op. cit.*

¹⁶ Namely: Chieftaincy Act, 2008 (Act 759); Alternative Dispute Resolution Act, 2010 (Act 798); and National Peace Council Act, 2011 (Act 818) For the quoted documents, refer to: <http://www.mcta.gov.gh/doc/Chieftaincy%20Act.pdf>; www.ghanatrade.gov.gh/images/products/laws/ALTERNATI

[VE-DISPUTE-RESOLUTION-ACT-2010-ACT-798.pdf](#); and www.i4pinternational.org/files/191/7.+ghana.pdf respectively. [Accessed on 10 November 2014].

¹⁷ Chapter 22, Article 271 (subsection 1) of the Constitution of the Republic of Ghana formally establishes a National House of Chiefs with related jurisdiction and responsibilities.

¹⁸ Parliament of the Republic of Ghana (2008). Chieftaincy Act, 2008 (Act 759).

¹⁹ Parliament of the Republic of Ghana (2008). Alternative Dispute Resolution Act, 2010 (Act 798).

“indigenous mechanisms for conflict resolution and peace building”²⁰.

With the enactment of the stated provisions, an attempt to further encompass mechanisms relevant for the provision of peace and security under a legal framework has been initiated. In order to evaluate the perception of that attempt, its possible shortcoming and success, those affected by the setting must be consulted.

Deducing Policy Recommendations

Analyzing the assessments and interventions of stakeholders at the aforementioned workshop, it becomes apparent that both actors of the state and authorities from traditional backgrounds are eager to voice their concerns regarding the relationship between the institutions and hurdles to collaboration.²¹

In accordance with the documented findings, the following recommendations can be formulated after relating the consultation of stakeholders to the existing framework, as well as referencing the relevant sociopolitical background:

- Acknowledge the traditional authorities’ high degree of legitimacy as a result of prominence among – and demand from – the people.
- Considering the unique and specific nature of conflicts, guarantee the inclusion of all relevant actors in the process of policy making.
- By creating a comprehensive legal framework, clearly assign roles in peace and security provisioning in order to: 1. Prevent political interference from obstructing the work of independent actors; and 2. Prevent outmoded customary practices from infringing upon human rights.
- Provide a statutory basis for further merging institutions and bodies participating in the

provision of peace and security, while compiling responsibilities and roles to be distributed respectively.

- Install efficient mechanisms and forums for mutual education processes, trust- and confidence-building, pooling of resources and sharing of information and experience in order to promote collaboration.

Conclusion

It appears that a summary of what inhibits collaboration mostly consists of dual legislative acts, but it should not be forgotten that a collaborative approach always demands both sides to assume responsibility. With traditional authorities also accounting for conflict and conflict potential in Ghana, the fact that deficient services of state bodies are not the only factors that can be identified as sources of insecurity indicates the parties’ interdependence when it comes to coherent provision of peace and security. As the police and formal security agencies receive criticism, especially concerning corrupt structures and the concomitant public mistrust, the misconception that customary judgment generally works faster also needs to be addressed, considering that “investigative mechanisms of the traditional authorities are not as efficient and professional”, sometimes resulting in incorrect application of law.²²

In the light of the above, it is clear that collaborative provision of peace and security in Ghana faces complex, culturally sensitive and at times cross-border issues. The necessity of a joint approach, involving both state actors and traditional authorities, has been highlighted and input from relevant individuals has been considered against the backdrop of the existing legal framework and its objectives. Mindful of the people’s notion that traditional actors contribute positively to peace and security, and

²⁰ Parliament of the Republic of Ghana (2008). National Peace Council Act, 2011 (Act 818).

²¹ All findings presented were recorded at the 2014 Stakeholder Workshop (see page 2) and are awaiting publication.

²² Badong, *op. cit.*

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taking into account that certain regions in Ghana perform more heavily on customary jurisdiction, the following conception of traditional law arises as most appropriate: Traditional law and judgment constitute a parallel legal system in Ghana, filling existing gaps in the delivery of state services and providing legitimate and contextual jurisdiction. Further guiding the development of the relationship between state actors and traditional authorities, with the general aim of bringing the two bodies closer together, will prove crucial with an eye towards establishing efficient and sustainable peace and justice administration with policies tailored to the needs of the people.

The opinions expressed in this policy brief do not necessarily reflect those of the Kofi Annan International Peacekeeping Training Centre, its Governing Board or donors. Authors contribute to KAIPTC publications in their individual capacity.

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