

PARAMOUNT CHIEF NA TYABA TYEKURA
with some of his court-members
(N'zara, North Togo, 12 November 1968)



CHIEFS AND AFRICAN STATES:

Some Introductory Notes and an Extensive Bibliography on African Chieftaincy

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1. Introduction

In the 1960's, somewhere in the interior of the Dutch colony of Surinam, in South America, a 'granman' died. An important man, as the term suggests, literally a great man, a chief, in this case of the Marron society whose members are descendants of slaves imported from West Africa in the seventeenth and eighteenth centuries. Surinam was still under Dutch rule, but the administration was to a large extent already in Surinamese hands. The Prime Minister at that time was J.A. Pengel, as famous as he was infamous, but undeniably a man with charisma. In our short story he is the main character.¹

It was usual, after the death of a granman, for a year to pass before holding the last rituals and leaving the way clear for the election of his successor.² This internal election, which took place according to the constitutional rules of customary law, would finally be confirmed by the authorities in Paramaribo, at the Governor's palace. At least, that was the procedure in the sixties. Pengel intended otherwise. He wanted to take the wind out of the Governor's sails and install the granman in the hinterland himself. He allowed his civil servants to go ahead with the preparations and at first they met with little local resistance.

1. The following is based on an interview with dr. Silvia de Groot (University of Amsterdam) on the 22nd of February 1984.

2. For an analogous situation in Ghana, see Ladouceur, 1972:100.

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At least that is what it looked like. What they did not know was that for a good part of the ceremonial election and traditional installation it was necessary to have the cooperation of the local priests. The latter refused to cooperate and even threatened to invoke the wrath of the Oracle God. For the local traditional authorities that was sufficient reason to go into hiding. Apart from the priests' reaction, the local leaders were also of the opinion that Pengel's steps contravened the Peace Treaties made with the Dutch Authorities at the end of the 18th century, whereby it was specified that the Marrons should maintain a certain degree of autonomy, among other things, in the matter of their leadership.³

Pengel was warned from several quarters that there was something brewing, but he brushed all objections aside and went ahead. Thus the caravan of government officials trekked inland, Pengel at its head. Cool-boxes with ice and whisky were taken with them.

It was clear from the beginning that the whole undertaking was doomed to failure: no chief appeared, the ice melted, the drink ran out and to cap it all Pengel was stung by a wasp. The oracle could not have given a clearer sign. Pengel cum suis slunk off. The following day the festivities began and the traditional installation took place. Much later, the chosen granman was officially confirmed in office by the Governor, in the presence of Pengel.

I leave the tale for what it is. Clearly, in such cases, the central authorities in their dealings with local chieftaincy matters are less powerful than is often supposed.⁴

2. African Chieftaincy

From Surinam to Africa is but a step since a considerable part of the population of Surinam originates from Africa as a result of the slave trade with West Africa. How do things stand there, in Africa, between Chief and State? This in itself is not a new theme. There is

3. There is a difference of opinion as to the current validity of these Peace Treaties.

4. Compare Van den Breemer's description of how a public reconciliation between lineage elders and officials of the local branch of the National Party of the Ivory Coast (RDA) was held up until an important condition, namely the appointment of a 'chef de canton', was fulfilled (1984:21).

a renewed interest in chieftaincy, this time on the part of Africans themselves (Ahurwendeire, 1984; Annor, 1985; Drucker-Brown, 1978; Omoding-Okwalinga, 1984).

Almost every African state was subject to the authority of a European power. These European powers, each in its own way, set up in their colonies, mandates and protectorates, their own legal and administrative institutions. But they also allowed, some more than others, existing local law and local authorities to continue, within certain limits. With independence, the authority and jurisdiction formerly exercised by the colonial officials passed into the hands of the new national authorities. These governments, like their colonial predecessors, have, in different countries and at different times, pursued various policies with regard to local political authorities. In the transition period, roughly speaking the decade of the 1960s, a tension developed between the 'modern' state administration and 'traditional' authorities which led in many cases to open conflict. The power, but above all also the prestige of the chief (in French: le chef coutumier, or le chef traditionnel), came under pressure. Here and there chieftaincy even lost the struggle for political existence.⁵ Most heads of state, both reactionary and revolutionary, were suspicious of the chief (cf. Mair, 1970:138; Skinner, 1968:199), although some continued to protect the institution as the embodiment of highly esteemed values of their own heritage. Others held the pragmatic view that with the help of the chief, necessary economic and social changes could be pushed through.⁶ Criticism of chiefs certainly had something to do with the widespread view - supported by the law and development adepts⁷ - that as representatives of the old order, and as specialists conservatively versed in customary law and chiefly administration, they constituted an obstacle to progress and modernisation.

Let me give a number of examples of the assault on the chief as institution. In Guinea, under the pressure of the late President Sekou Touré (died in 1984), the existence of the 'cantonal' chiefs was undermined (Du Bois, 1964; Cornevin, 1961; Le Roy, 1979; Suret-

5. See for instance the situation of the paramount chief, the Mogho Naba, of the Mossi in Burkina Faso: *West Africa*, 20.12.82:32-33.

6. *West Africa*, 19.3.84: "...elders, priests, businessmen and chiefs who the Chairman [i.e. Rawlings] described as 'natural local points of authority and mobilisation'..."

7. *Law and Development*, published by the International Legal Center: New York, 1974.

Canale, 1966). The crusade of Sekou Touré's political party against these traditional authorities was so successful that in January 1958 the party could publicly declare: "Yes, the bastion of indigenous feudalism has fallen. Chiefship is suppressed as of 1 January 1958 and with it have disappeared all the abuses for which it is responsible vis-à-vis the rural population." (Du Bois, 1964:212).

Remarkable language indeed for someone who was, on the other hand, so proud of being - if only putatively - a lineal descendent of one of the greatest chiefs of his country, Samory Touré the courageous, the legendary hero of the 19th century, who had for so long resisted French penetration (Balogun, 1984:44). But his reaction is more understandable when one takes into account the general dislike in Guinea of the system of chiefs which the French colonial rulers had promoted.

Guinea does not stand alone. Milton Obote, President of Uganda, used military force to end the political career of the Kabaka, the highest traditional leader of Buganda (Doornbos, 1978; Morris and Read, 1972; Robertson, 1982). Nkrumah, the first President of Ghana, had no great affection for the institution of chieftaincy. If one surveys the legal constraints imposed during his period of government (1957-1966), one must draw the conclusion that, in a formal legal sense, chieftaincy had by the time of his overthrow come to the edge of the grave (Göhring, 1980; Goldschmidt, 1981; Ladouceur, 1979; Kumado, 1974; Prouzet, 1976; Williams, 1966). In Tanzania, the new government abolished chieftaincy by law,⁸ though this did not mean, however, that the political, administrative and legal functions of the chief actually disappeared (Miller, 1968; Moore, 1978; idem for Sierra Leone: Harrell-Bond/Rijnsdorp, 1975; Tangri, 1980). In Burkina Faso (former Upper Volta), the Mogho Naba, ruler of the Mossi, lost practically all his power, when in 1958 he plotted a coup d'état to oust political opponents such as Houphoët-Boigny (Skinner, 1970). Through French intervention the coup did not succeed, and since then the Mogho Naba has played no role of any significance in the political game (Savonnet-Guyot, 1985).

Against this, other examples can be given such as Zimbabwe, where, in 1965, Ian Smith used the chiefs as a gauge to measure the African opinion of his intention to declare unilateral independence from Britain, a plan which met with much criticism (Holleman, 1964-1965; 1969), since using the chiefs in this way was a tacit recognition of

8. African Ordinance (Repeal) Act 1963, Act. no. 13 of 1962.

the chief as representative of the people (Williams, 1966). Another case is Sierra Leone where at the end of the colonial and the beginning of the independence period, the chiefs were able to acquire a strong constitutional position thanks to the support they gave to the ruling party (Tangri, 1978; 1980).

For decades the theme of chieftaincy, as no other, has exercised the minds of colonial and post-colonial administrations alike. One can recall the names of famous white governors once in power: Lugard, Cameron, Van Vollenhoven, Brévié and Eboué. This was an understandable interest in that it concerns, as Senghor, the former President of Senegal, expressed it, one aspect of the most complex question with which the young independent African state has to deal: how the old Africa should be united with the new (Senghor, 1959).

Who are these chiefs? The question is rather simple, but it is not easy to answer. The particular time one has in mind is important. The term 'chief', in the pre-colonial era, thus before the period 1880-1890 when the large scale colonisation of Africa began, was used to cover practically all rulers, such as the Sultan of Sokoto, in Northern Nigeria, and the Oba of the Yoruba in Nigeria and Dahomey (now: Benin), down to lineage heads in acephalous societies.⁹

Initially the colonizer, entangled in countless struggles with the indigenous people, had no time or inclination to intervene in local administration (Arhin, 1985). Later, through the intensification of contact with the Africans, the exploitation of land and crops, the introduction of Christianity, and with it the law and order based on a European model, the European felt the need to set up a hierarchical local administration with village headmen, district heads, and sometimes a ruler, all subject to a resident European district commissioner. Acephalous local groups must have experienced as a shock being subjected, overnight, to the authority of village heads and institutions which were not part of their own constitutional conceptual framework (Crowder and Ikeme, 1970; Geschiere, 1982; Mair, 1977; Nana Agyemang Badu, 1977; Robertson, 1982; Pospisil, 1981).

9. For a discussion of the confusions to which the term 'chief' can lead, see Middleton, 1970:127; Umzurike, 1979.

3. Colonial (legal) policy concerning chieftaincy

Chieftaincy as an institution still widely present in Africa can only be understood by reference to the recent colonial past. I will therefore briefly summarise the characteristics of French and English policy with regard to chiefs. Although in theory we might be able to distinguish between the system of so-called direct and indirect rule, in practice given the great variety in the different colonies, they often overlap without any striking difference (Apter, 1961; Crowder, 1964; Deschamps, 1963; Doornbos, 1973; Lombard, 1967; Robertson, 1982). Other colonial governments, as the German (Van Rouveroy van Nieuwaal, 1980a), the Portuguese and the Spanish have had their own chieftaincy policy, but it is beyond the scope of this article to deal with it.¹⁰

3.1 French policy concerning chieftaincy ('la chefferie')

The French, anti-royalist in contrast to the English with their feel for royal pomp and circumstance, from the beginning sought to build up a central hierarchical administration. From sheer shortage of manpower, similar to that experienced by other colonial powers, they were forced to accept that the chief would form a link in local administration, not as an independent unit, but as a sort of under officer, sometimes also suitable clothed as such, who was strictly responsible and answerable to his white superior. This fitted excellently with the concept of assimilation which entailed the idea that the non-French culture bearers could be elevated to the superior level of French culture. They strove for uniformity; pluralism was not contemplated. The notion of traditional authority acting independently was an abomination for the French. In line with this way of thinking, the colonially-appointed chief was seen in effect, as an extension of colonial rule (Fournier, 1953), a bureaucrat in the system of direct rule, which governed without the mediation of traditional authorities.¹¹ Any African who had served the French as cook, soldier,

10. This article is limited to what is referred to as Franco- and Anglophone Africa; a necessary limitation, not only because of the complexity of the theme but also because of limits of space. Countries which have experienced, or still do experience other colonial regimes, remain beyond the scope of this article.

11. Archinard, a military governor at the end of the 19th century perceived the situation as follows:

Presque tous les Noirs d'ailleurs demanderaient guère qu'une

interpreter, or in any other function, could be appointed as a chief even if he did not originate from the region over which he was appointed (Geschiere, 1982; 1984; Guillemin, 1983). One hoped for and expected strict loyalty, because one considered him, although black, a future Frenchman.

This way of looking at things is reflected, for example, in the unequivocal circular concerning chieftaincy issued by the French Governor General of French West Africa, J. van Vollenhoven¹²: the chief was merely an accessory, without any separate juridical status. Such rigidity did not last for long; Van Vollenhoven's successors between 1925 and 1940-1950 only partly followed his thinking (Le Roy, 1979). But this did not mean that the chief actually achieved more autonomy, on the contrary: "there are not two authorities within the district, one French, the other indigenous....the indigenous chief is only an instrument, an auxiliary". (Gonidec, 1984)

Characteristic in this respect was the curtailing of the jurisdiction of the chief, which only went as far as French bourgeois morality would allow (Le Roy, 1979; Van Rouveroy van Nieuwaal, 1976; Zuccarelli, 1960; Fournier, 1953). For a meagre salary he was given the thankless tasks of collecting taxes, recruiting workers and soldiers for the notorious forced labor system, of maintaining a simple level of civil registration and implementing a variety of unpopular measures. No wonder the chief regularly came into conflict not only with his immediate superior, the District Officer, but also with his own people. This serving of two masters demanded a dexterity which many chiefs did not possess (Holleman, 1969:117; Van Rouveroy van Nieuwaal, 1980b:123).

Only when the first signs of resistance to the colonial government started to take shape, in the nineteen-thirties, did the French change direction (Lombard, 1967:124). Efforts were made to bring the appointment of chiefs into line with the local customary constitution. In most cases, the change came too late: the authority of the chief had been too far undermined. Only rulers like the Mogho Naba in

chose: c'était de vivre sous notre dépendance directe, sans avoir de chefs indigènes pour servir d'intermédiaire. (Fournier, 1953:100)

12. Circular of 15 August 1917, no. 2508, reproduced in *Notes et Documentation: le problème des chefferies en Afrique d'Expression Française*, 1959.

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Ouagadougou (Burkina Faso) and the Lamidu in the north of Cameroon were exceptions.

At the same time, an army, small as it was, of intellectuals grew who had received their scientific and political education in France. These young intellectuals - among them men like Houphoët Boigny, Sekou Touré, Senghor, Keita and many others - constituted the greatest threat to the chief, who appeared to them as an unschooled, dependent henchman of the paternalistic white bureaucracy, a figure with no place in the Africa of modern times. Thus men like Houphoët Boigny, President of the Ivory Coast, and Sekou Touré, the former President of Guinea, went to war against chieftaincy, and with success.¹³

The chiefs saw the emergence of these young intellectuals as a serious threat, but the hasty setting up, in the early nineteen-fifties, of the 'Union des Chefs Traditionnels' was only a very poor defence (Cornevin, 1961). They missed the opportunity of giving a good counter argument to their opponents. Only slowly did it dawn on them that they could consolidate their position and better their own chances of survival by infiltrating the local district cells and organs of political parties, using their Western-educated relatives and in-laws for this purpose (Bayart, 1981; cf. Moore, 1978).

What, in the opinion of the French administrator, was now, almost at the end of the colonial period, the legal position of the chief? Was he a civil servant, a 'fonctionnaire', or not? From the debates in the French Assembly¹⁴ it seems evident that the chief was viewed as being the same as any other administrator or civil servant. This entailed among other things that the chief was criminally liable for

13. The aggression against the Mogho Naba is especially striking when set against Houphoët Boigny's statement in 1955:

It is because I was at one and the same time a traditional chief, defender of tradition, and a representative of the young African élite favorable to change, that I have been chosen among my brothers to be their political guide and defender ... a peasant base is an indispensable factor for political stability. (See Gonidec, 1971: 36)

14. Debates of the National Assembly of the French Union, January-February 1953, *Journal Officiel des Débats de l'Assemblée Nationale*, p.109.

faux pas made in the exercise of his duties. This interpretation is supported by an abundance of jurisprudence on the matter.¹⁵

It was quite understandable that the young African governments of the former French colonies, averse to and very suspicious of chieftaincy, which they regarded as a purely conservative element, bent upon looking after its own interests, deaf and blind to the needs of the new era, turned against this institution in the euphoria let loose by independence, even though thoroughly aware that during the independence struggle the support of the chiefs had been indispensable. It was also logical that the new African governments, still under the influence of French administrative concepts of centralism, would opt in the nineteen-sixties for a uniform administration of justice and, as far as possible, one system of law, which would be the same for everyone. There was no place for the chief in this. The slogan 'une Nation, un Peuple', was not without effect (Von Benda-Beckmann, 1983). The temptation to give symbolic shape to the national movement for unity was too inviting for the slogan not to be used. So, juridically, the chief was, as during the French colonial administration, incorporated into the administration of the new independent states, a solution which the African governments followed only too gladly, from sheer self interest and from considerations of uniformity.

3.2 British policy concerning the chief

There is a great deal written on the British system of Indirect Rule, or to be more precise, on the Native Authority System (Akpan, 1955; Crowder, 1964; Crowder and Ikime, 1970; Hailey, 1979, with an introduction by A.H.M. Kirk-Green; Lombard, 1967; Lloyd, 1953; Mair, 1936, 1958, 1977; Morris and Read, 1972; Nana Agyemang Badu, 1977; Perham, 1934, 1960; Robertson, 1966; Smith, 1960), and it still attracts attention, even from the African side. Briefly described, this system was based on the notion that the existing local political authorities which the British encountered, should be maintained in so far as this did not conflict unduly with British principles of proper administra-

15. See, for example, Court of Appeal of Abidjan, 9.2.53, *Revue Juridique et Politique de l'Union Française*, 1957, 1:146; "Arrêt", city of Saint Louis (Senegal), 19.1.55, *Revue Juridique et Politique de l'Union Française*, 1956:184; Conseil du Contentieux au Cameroun, 21.5.54, *Revue Juridique et Politique de l'Union Française*, 1955:199.

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tion and morality. A Ghanaian writer describes Indirect Rule sarcastically as follows:

Under Colonial rule, the Paramount Chief who used to be the supreme political being under the traditional system was pushed into second place by the District Commissioner. At the traditional level the Commissioner became the ex-officio managing director of the Anglo-Ghanaian Indirect Rule Company limited. (Kyei, 1977:56)

For others, such as Mair (1936), the system represented "the progressive adaptation of native institutions to modern conditions".

The system of Indirect Rule, first implemented in Northern Nigeria with its well-organized Emirates, was gradually adopted in almost all British Territories in Africa. Purely pragmatic considerations forced the British, through shortage of administrative manpower, to draw local chiefs into the colonial administration (Hailey, 1979; Smith, 1960). As a matter of fact, in this respect the British did not differ much from their Fulani predecessors, who after conquering what now are parts of Nigeria, also made use of the existing local administrative apparatus. The Fulani interfered in the local rules of chiefly succession, the rank order of the political leaders, and above all, in the recruitment to these positions. The British likewise insisted on local leaders who were prepared to carry out new tasks such as tax collection, implementing unpopular administrative measures and the further incorporation and application of British principles of justice (Busia, 1951; Crowder, 1964; Mair, 1977).

Despite the later (in the nineteen-forties and -fifties) much-ventilated criticism that the traditional political authorities might grow more powerful than intended within this system of Indirect Rule, it must not be forgotten that the originators, Lord Lugard and later Lord Cameron, were themselves motivated by ethical as well as practical considerations. For the idea prevailed that administrative institutions and judicial bodies of value to the African should be preserved and if necessary developed; loss of these indigenous institutions would be to the detriment of the local population (Westermann, 1949).

By the time Indirect Rule had been introduced, in one way or another, throughout the British African Territories, it had long since lost the purely pragmatic character of earlier times. It was more and more a philosophy to which each African political unit, no matter how small, had to conform. But a system which originally had seemed so ideally cast for the Sultan of Sokoto in Northern Nigeria was bound to become diverse because of the variations in local situations, and indeed there were marked differences in implementation between

the difference colonies in British Africa. Sometimes there could also be no question of adaptation because there was no traditional formal power structure present (Arhin, 1985). In these circumstances the British felt themselves obliged, out of considerations of 'law and order' and also in order to protect the interests of trade and industry, to set up a so-called indigenous authority, the 'warrant chiefs' (Akpan, 1955; Abdul-Jalil, 1985). These 'warrant chiefs', who derived their power solely from the colonial government, can in some respects be compared to the village heads in the French Territories, whose title of authority likewise was derived from the French.

Indirect Rule derived from the idea that it was in the interest of the British government to keep itself on the good side of traditional authorities. This coincided with the notion that the local chief acted as the advisor of the British administration and that only in some cases could the British District Officer intervene. At least that was the ideal norm. On the other hand this concept, the idea of non-intervention, had the consequence that emirates such as that of Sokoto developed state-level powers which, with the help of the British, acquired the characteristics of absolute over-lordship. That held not only for the Emirs of Nigeria, but also, for example, for the Oba of the Yoruba, also in Nigeria, for the Kabaka in Buganda (Doornbos & Segall, 1976) and for the Asantehene in Ghana (Busia, 1951; Smith, 1926). Although still chosen according to traditional constitutional norms, these African rulers could now only be removed by the British Government (which did not hesitate to do so, if in the opinion of the colonial administration, this had to be done) (Arhin, 1985; Busia, 1951; Smith, 1960).

In this way the indigenous system of "checks and balances to the power of the chief" was destroyed (Adelaye, 1967; Busia, 1951; Göhring, 1980; Kumado, 1974; Kyei, 1977; Mair, 1958; Miller, 1968; Ogot, 1964). A chief who stood on good terms with his immediate white superior was able to shunt his opponents aside by placing them in a bad light with the colonial authorities. The consequences soon made themselves felt: the links between the chief and his subjects became less binding. Sometimes the consequences were much more dramatic, entailing the sacking of a chief and a complete dismantling of his authority.¹⁶

16. This is illustrated by an example from Northern Togo. In 1896 the Germans, at the instigation of the elders of the patrician Sangbana in N'zara (= Sansanné-Mango), were set against the ruling paramount chief Na Byema Asabyè of the Dyabu patrician. The

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According to generally-held African principles, the encumbent of a traditional office is responsible to those who do not possess such authority. This principle held at the local level and possibly even at the state level. By using the intervention of the colonial power to eliminate the function and role of the traditional opposition, an encumbent powerholder effectively obtained more power, but in his own circle he lost out, and his legitimacy was eroded (Smith, 1960). Too much governmental support disturbed the indigenous system of checks and balances between chief, his council of subordinates, and the people whom he represented. Put simply, the existing equilibrium (Davidson, 1963; Crowder, 1964) was thrown off balance and the traditional system was transformed into an authoritarian one. As a consequence the chief's power as administrator and judge was no longer based on his own traditional legitimacy, as the representative of the ancestors of his people, but on the power of the British colonial administration. Contrary to the intention of Indirect Rule the values and norms of customary law, on which his traditional authority rested, were seriously impaired. No colonial system has been able to prevent indigenous authority from suffering a diminishing of power, neither in Africa nor elsewhere (Von Benda-Beckmann, 1983; Pospisil, 1981).

The judicial and administrative responsibilities of the traditional chief were regulated by colonial law. These extended much further than had been possible under their own constitutions. Tax collection, assistance with public works, the improving of infrastructure, the recruiting of labor, the promotion of improved agriculture, a recorded and registered administration of justice - with appeal to the District Officer - all of that demanded a well set up administration (Fallers, 1955). Bookkeeping was introduced, probably one of the greatest innovations within the institution of chieftaincy. Each chief was now preferably literate and had to be surrounded by a staff of clerks for the implementation of his administration (Mair, 1977:135; Kyei, 1977:39). This meant that the British colonial administration, by means of the British model of administration was able to manipulate the

paramount chief was shot dead on account of his alleged insubordination to the German government, and from that moment on, there arose an unhealable rift between these two patrilines which had probably not existed in pre-colonial times. Even to the present day there is serious rivalry between them, making it easy for the central government to choose as paramount chief a candidate well-disposed towards it. See Van Rouveroy van Nieuwaal, 1976b; 1980.

chief and therefore easily exercise administrative and often financial control. The other side of the medal was, however, the strength which the chief drew from the support of the colonial government, in spite of inherent oppositions. That offered him also the possibility of furthering his own economic interests, and in many cases even becoming a rich, almost capitalistic, farmer (Crowder and Ikime, 1970:154-156; Konings, 1984; Owusu, 1970; Skalník, 1983).

With the backing of colonial power, and with an improvement of his economic-financial position, the chief could rise to heights which would have been unattainable in pre-colonial days. But many a chief did not realise that it was for just these reasons that he was compromised in the eyes of the people and that his untraditional behavior was furnishing the up and coming élite with arguments for their biting criticism (Apter, 1972). The chief was thus forced into an ambivalent position, torn between the interests of his own people and those of the British colonial administration. The observation that the excessive secular power of the chiefs was no longer subject to internal checks on the one hand, and on the other the failure to recognise in many respects the basis on which that power was legitimized, led the African nationalist to ask himself what exactly still did legitimize chiefly authority (Keuning, 1960; Lloyd, 1953; Ogot, 1964). As a matter of fact, as will be shown later, this process was already underway much earlier. The colonial power had introduced new administrative institutions, it had taken care of diverse aspects of social welfare, and it looked increasingly for well-trained personnel for the functioning of these institutions. This led to the formation of a class of people who, from their appointed positions, attacked the core of traditional political structure, directing their criticism mainly towards the basis of chiefly power. As a side effect, the attack also had the consequence that old ties of solidarity were endangered and often fell apart.

So a system of colonial administration which had originally derived from pragmatic considerations could no longer be defended after the Second World War. The Native Authority System finally had to clear the way for a system of Local Government, entirely built up on the British model (Akpan, 1955; see also for the concept of local government: *Journal of African Administration*, 1949:3-6; Idenburg, 1961; Keuning, 1960). In this new administrative system the chief gradually played a lesser role in favor of chosen representatives. Local Councils were established in which chiefs, chosen leaders and British officials had to work together. Tensions and conflicts in those Councils could mount high because of the different interests and loyalties represented on them. (Holleman, 1969; Mair, 1958)

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The chief also lost ground in the judicial field. After 1950, legal reforms were directed primarily towards a sharper distinction between administration and justice. Thus professional lawyers formally took over the task of their traditional counterparts in an effort to create a uniform system of justice within which customary law could still be applied but the responsibility for its application no longer belonged pre-eminently to the customary law judge, the chief.

So far a summary has been given of the British policy with regard to the African chief. It is not possible in this short space to set out the diversity that has developed in this field in British Africa. One thing appears to be clear: despite all the fine words spoken on the eve of Independence in British Africa, the position of the chief was waning, sometimes had even fallen strongly into discredit. Factors such as the penetration of Christianity, the introduction of British education, the growth of trade and commerce, the improvement of the infrastructure with its effects on social mobility, the migration of a considerable proportion of the menfolk, the growth of the means of transport, the emergence of a new and politically aggressive élite, the forming of political parties, the emergence of trade unions, all promoted by the national and local mass media, and last but not least, the imposition of a foreign legal system, all of these changes pressed hard on and undermined indigenous authority.

Various writers have ventured a comparison of the French and British administrative systems (Crowder, 1964; Davidson, 1983; Deschamps, 1963; Lombard, 1967). I shall not attempt this, although I thoroughly appreciate that the manner in which the British made use of the indigenous administration differed markedly from that of the French. The difference could be seen in both the formal administrative and the inter-personal relationships between the civil servant and the local chief.¹⁷ Attention must however, be paid to the fact that, so far as I know, in no single constitution in Africa written in French is the position of the chief referred to, in contrast to the English language constitutions which, in a number of cases, make respectful mention of the institution of 'chieftaincy'.

17. Crowder, 1964; 1970. This holds more generally for the relationship between black and white. Compare, e.g., the stir caused by the marriage in 1962 of Seretse Kama, the traditional ruler of the Bamangwato of the former British Protectorate of Bechuanaland (now Botswana) to the English typist, Ruth Williams. (Williams, 1966)

4. Ghana

Following this general sketch my focus narrows to Ghana. This choice is determined by various factors, the most important being that this country, through the actions of its first President, Kwame Nkrumah - one of the most outstanding modern African political leaders to date - for years set the political image for the whole of Africa. Ghanaian chiefs, in general considered a conservative element, were kept down, except for those chiefs who publicly showed their loyalty and faith to the new leader. It is, however, from my point of view especially interesting that after Nkrumah's fall in 1966, the chiefs saw the chance to clamber gradually back from this low point and by degrees to improve their position. And in the new constitution that came into force in 1979,¹⁸ the re-evaluation of the chief as an element to be reckoned with in local administration was formalized.

Anyone who studies the constitutional position of the Ghanaian chief encounters a collection of constitutional provisions, legislation, rules for specific local situations, and delegated legislation ('legislative instruments') (Busia, 1950; Göhring, 1980; Goldmann, 1971; Goldschmidt, 1981; Kumado, 1974; Mensah-Brown, 1967; 1969; Prouzet, 1976), accompanied by extensive case law concerning what is generally referred to as 'chieftaincy matters'. There is a profusion of literature on the subject. The contrast with the paucity of legislation (and literature) in this field in neighboring Togo, which also has chieftaincy from the south to the north, is striking (Van Rouveroy van Nieuwaal, 1976a, 1976b, 1970b 1987).

The British authorities found it far from easy to establish themselves in Ghana. For years they had to fight bitterly against the Ashanti, among others (Crowder, 1964). The banishing of the Ashanti ruler, the Asantehene, was finally the only means, at least in the eyes of the British, to force them to their knees. The blunders to which this led are common knowledge (Crowder, 1964; Smith, 1926). For years the situation remained turbulent. As late as 1942, when colonial rule had long been established, the Governor of the Gold Coast on taking up office reported a high incidence of disputes coming to his attention concerning the position of the chief, not only in Ashanti territory but also outside it (Goldschmidt, 1981; Kumado, 1974; Ladouceur, 1979; Skalník, 1983; Staniland, 1975). The Governor gave no hint of recognition that the high number of disputes was a direct

18. *Constitution of the Third Republic of Ghana*, 1979.

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consequence of intervention by the colonial administration. Even to the present day, Ghana is afflicted by quarrels over succession to chieftaincy, some of which have erupted in violence (Ladouceur, 1972; Skalník, 1983; Staniland, 1975).

All the evidence suggests that the British, like the Germans in Togo (Van Rouveroy van Nieuwaal, 1980a), considered the Gold Coast the pearl in their African crown, a model for the introduction of Indirect Rule. Yet, whatever the case was elsewhere, it certainly was the case in Ghana that the autonomy and above all the prestige of the chief suffered a hard time (Pospisil, 1981). An ostensibly important event in 1946 serves to illustrate this. In that year, the British High Commissioner left his post in Kumasi, the center of Ashanti territory. The ruling Asantehene wanted to be present at his departure, but was denied access to the railway station (notably, by an African soldier) because only whites were welcome. It could hardly have been more clearly brought home to this imposing man that his authority, in theory so handsomely protected by the British administration, in practice never reached further than the British allowed, and that it was not he who pulled the strings in his own territory but the British Commissioner.¹⁹

19. For another example of tactless behavior, see Smith, 1926:6. In this respect, independent African governments do not acquit themselves much better. In the middle of 1977 I was witness to the following. The late paramount chief of the Anufòm in Northern Togo, Na Tyaba Tyekura, desired an audience with the President of the Togolese Republic, General Gnassingbé Eyadéma. The President was at that time in the Domaine Eyadéma (formerly the Domaine Graviou), one of his country estates, where he regularly went hunting. This Domaine lies some kilometres from the préfecture of N'zara and borders on the agricultural land of the late Anufò ruler, Na Tyaba Tyekura. For transport from N'zara to the Domaine, the chief had to depend upon the Prefect. The latter, however, refused to entertain the proposal. Out of necessity the paramount chief came to me to help to accomplish the visit. In itself this was already humiliating enough for him. His humiliation was complete when he, as supreme chief of the region, appointed with the approval of captain Eyadéma in 1963 (see my film *A Toad in the Courtyard*, 1979), arrived in his regalia under a large umbrella, only to be told by a soldier of low rank that the President had no time for him. I shall not easily forget the chief's crestfallen impression. He had been looking forward with hope to the audience. He reckoned that he would be able to solve a number of internal problems through the intervention of the

This condescending attitude of the British colonial administration towards traditional authority (Deschamps, 1963) left its mark on the thinking of the African political élite. Whether it was due to this attitude, which Nkrumah so well understood (as did other African leaders), or to the pressure he felt to live up to the image of a 'national Asantehene' for the whole of Ghana, to the exclusion of divisive local loyalties, or whether (as seems likely) it was a combination of both, the political future of chiefs in Ghana in 1957 when Nkrumah assumed power looked far from rosy (Goldschmidt, 1981:168). Although constitutionally there remained some space for the chief, an unrelenting stream of legal measures pointed unmistakably to the elimination of his power.

Nkrumah understood, however, that Ghanaian society would not wish to be cut loose from its traditional roots. The whole scenario of his installation as President of the Republic on the 1st of July 1960, with its exterior trappings of Akan culture, made this clear (Lloyd, 1964). Nkrumah aspired to integrate this tradition into the new state which stood before him (Francis, 1968:346; Göhring, 1980:388). He willingly allowed himself to be addressed by the titles of Ashanti rulers and eulogizing forms of address such as the titles of Western nobility, from which a veritable personality cult grew which is nowadays associated with Presidents such as Eyadéma of Togo and Mobutu of Zaïre.

Initially, this personality cult went down well, especially with that sector of the population that had migrated from the countryside to settle in towns and saw in Nkrumah their new chief.²⁰ However,

President, whom he referred to as "mon ami" a few weeks earlier in a filmed interview. Some weeks later I heard that this keeping-at-bay behavior of the Head of State was probably a prelude to the chief's removal on the 17th of September 1977 (see also Van Rouveroy van Nieuwaal, 1980a). It is common knowledge that the Togolese President is quite open and that he makes a hobby of managing affairs at local level (see Apati Bassah, 1984: 197). Refusal to give an audience to a chief must therefore be seen as a sign that the chief has fallen out of favor.

20. Skalník, (1983b:2):

The best that Nkrumah had achieved was that due to his personality and skill he was recognised by the illiterate masses as a true chief (see also Apati-Bassah, 1984, fn. 65). What was appreciated in him was not his western intellectual education,

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this did not mean that Nkrumah wished to draw traditional authority into the national administration. He wished to relegate that authority to a merely sacral role. In general, the chiefs and Nkrumah mutually distrusted each other and, especially in the northern regions, he enjoyed little support from the chiefs. Chiefs were tolerated; his party, the Convention People's Party, consolidated its power and built up a network of well-wishing chiefs who gave their support to the CPP. In fact colonial history repeated itself here, with the analogous consequence of a never-ending stream of chieftaincy conflicts. Neutralization of traditional authority was what he had in mind; in this respect his policy had the same effect as Indirect Rule (Ansere, 1977; Francis, 1968).

In order to achieve this goal, a number of measures were introduced (Goldschmidt, 1981:196-191). New legislation, enacted in 1959, enlarged the influence of central government on chieftaincy matters. The Constitution of 1960 specified that there should be regional Houses of Chiefs, but it curtailed their responsibilities. This Act made it clear that the exercise of power by a chief depended on the government in Accra. A chief was defined as "an individual who has been nominated, elected and installed as a chief in accordance with customary law and who is recognised as a Chief by the Minister responsible for local government". Thus Ghana kept intact the colonial principle of subjecting the choosing of chiefs to government approval. An essential requirement, because government recognition and later approval was the living thread by which government and chief were linked together and along which the power of central government was transmitted to the chief, enabling him to fulfil his duties as a representative of government (Ofori Boateng, 1974; Kyei, 1974; Skalnič, 1983b; Prouzet, 1976; Sutton, 1984). In this way Accra kept its finger on the local pulse and swung the sword of Damocles permanently above the chief's head: to be out of favor with Nkrumah meant to be out of office.

In the 1960s, Nkrumah effectively put traditional authority to a deadlock through cutting off the chief's income, robbing him of most of his administrative tasks and inhibiting his legal functions. Yet as an institution chieftaincy still retained substantial social and

his philosophical vision of consciencism or his Pan-Africanism, but the quality that he had learned from the Nzima, his own 'tribe'. That was his ability to communicate with the simple people, the illiterate folk, in their own cultural code, as a true chief is wont to do.

emotional meaning, dimensions which in all probability would not be lost on a man like Nkrumah. Nevertheless, he did not take sufficient account of them, which finally cost him dear when, in 1966, his opponents from the circles of the Army and chiefs, engineered his downfall.

The military regime which then came to power made it clear from the beginning that the chiefs could count on their support and could work alongside them in local government. The chiefs were not slow to recognise the opportunity this provided and quickly got themselves into posts in government. They were also represented, for example, on the National Commission for Constitutional Reform. In fact, this reactivating of their role paralleled that of other groups in Ghanaian society who had lost their place and function under Nkrumah (Ansere, 1977; Göhring, 1980).

A change of direction set in with the Amendment of the 1961 Chieftaincy Act. This allowed for the demotion to their former ranks of certain paramount chiefs appointed by the Nkrumah government - who in some cases had allegedly had no customary right to appointment - whilst others were rehabilitated. Government intervention thus continued, generating considerable disquiet among chiefs. Endless were (and still are!) the so called 'stool and skin affairs' (see Ferguson and Wilks, 1970; Goldschmidt, 1981; Ladouceur, 1972; Skalník, 1983a; 1983b; Staniland, 1975). The Constitution of 1969 followed the same line, affirming the constitutional status of the chief but leaving until later the working out of legislation to define his role in local government (Ofori Boateng, 1974). Ten years later, the Constitution of 1979 broke with both the colonial and immediate post-colonial past by repealing the requirement that chiefs selected by customary practice must be ratified in their positions by central government. This is a sweeping break, albeit not as remarkable as at first appears, since the opinion had been expressed in Ghana many years earlier that such a requirement was inconsistent with preserving the integrity of customary law. The reasoning was simple and convincing: according to customary constitutional law, someone who does not belong to the chosen group of 'kingmakers' cannot take part in the selection process that precedes the appointment to chief. Through the requirement of state recognition the central government in effect became one of the 'kingmakers', thus undermining the legitimacy of the whole institution of chieftaincy (Göhring, 1980; Ogot, 1964).

The new government recognized that the requirement of state recognition had led to undesirable, sometimes even explosive situations (Ladouceur, 1972; 1979; Skalník, 1983a; 1983b). It therefore

consciously took a step backwards, a step which certainly can be considered important, be it only one.

Goldschmidt (1981) is surely right that the many decades of colonial and post-colonial government interference in the appointment of chiefs cannot easily be undone. But, on the other hand, we should not underestimate these constitutional reforms, particularly if they are lived up to. The fact of the matter is that if the government can find the courage and patience not to intervene in conflicts relating, for example, to succession, the number of such conflicts should be drastically reduced. (Skalník, 1983b) Internal mechanisms exist for resolving problems when conflicts over chieftaincy threaten or when hostilities break out: these depend more upon the development of close personal relationships and ties with the contenders than upon the role played by officials from the capital city of Accra. We have to realise that, as Skalník put it (1983b:7): "...chieftaincy has had a surprising capacity for accommodation to social and political change and will probably play a crucial role in future attempts at planned socio-economic transformations...." Unfortunately, up-to-date information on how the decrease in state intervention has worked out is lacking.

5. Conclusion

Can this case from Ghana be seen as a forerunner of a come-back for the chief at administrative, political and judicial levels? We must be careful and not cling, through feelings of nostalgia, to an institution once based upon customary law, of which so many Africanists, myself included, have detailed experience during their fieldwork. The chief, in Ghana as anywhere else, certainly does not appear to have come out unscathed from the struggle for power participation in the national administration. In some cases he has been directly censured for his corruption, for his unbridled abuse of power, for his pursuit of personal financial/economic advantage, and sometimes because of his open flirtation with (religious) movements which are seen as unfriendly to the state. Is the struggle between the central government and the chiefs during the turbulent times surrounding the attainment of Independence over after the passing of some twenty years? We can give more contour to the Ghanian example by reviewing a number of similar cases from other states. For example Mauretania, an extensive country with a nomadic population, with widely dispersed administrative centers. In 1960, the chiefs had to make way for the 'communes urbaines et rurales', but some eight years later the government came to the conclusion that,

in practice, the new administration could not function without the cooperation of the chiefs. As a consequence the 'communes' were abolished and the chiefs again allowed to co-govern.

In the Niger Republic, with an inaccessible population from the administrative point of view, a similar development occurred. The military regime in power, albeit with much gnashing of teeth, had to realize that in the situation facing the country - with a shortage of government manpower, and widely dispersed administrative centers - the help of the chief was indispensable (Guillemin, 1983).

In the Republic of Chad, chiefs were dismissed by the President of the time, Tombalbaye. According to him, the time had come for the chiefs to get down from their camels in order to help the country progress more rapidly than their mounts permitted (Gonidec, 1971:31). But not long afterwards the chiefs got governmental support in return for helping to stem the advance of the insurgents (Bouquet, 1982).

In Ivory Coast, the authority of the chief has for a considerable time been undermined by the state. However, as noted in a recent Dutch dissertation, traditional authority is certainly in practice not extinct, and chiefs are able in an effective manner to cross swords with the local political élite (Van den Breemer, 1984).

Even Senegal, a country that provides an outstanding example of the French policy of assimilation and where, long before Independence, the chief's authority was increasingly bureaucratized and incorporated into the French administrative apparatus, appears nevertheless to support my argument. From interviews with two colleagues²¹ who recently carried out socio-geographical and socio-legal research in Senegal, it appears that, notwithstanding all this, villages still exist where government representatives are literally not allowed to set foot in the village when they come to discuss administrative matters.

For Nigeria, we are told that traditional authority no longer plays any meaningful role in political and administrative fields. The Constitution makes no mention of chieftaincy. In contrast, the newspapers, of which there are more than 40, report daily on the comings and goings of chiefs. No Nigerian government can afford to underestimate the social importance that the Emirs and Obas

21. G. Hesseling and G. Diemer, both staff members of the Africa Studies Centre in Leiden who did research in different areas in Senegal.

represent. This was demonstrated by General Buhari, who directly after the coup d'état which brought him to power on 31 December 1983, paid a visit to the highest Yoruba leader, who later honored the Head of State with a return visit (see the documentary film *Alte Völker - Junge Staaten*, broadcast on 24 May 1984 in West Germany, producer Luc Leysen, West Deutsche Rundfunk; Mawhood, 1982).

Sierra Leone is another example where chiefs have been able to maintain themselves in spite of steady attacks from the outside:

The office of chief has been the object of intense competition for much of this country primarily because status and income have been the key attributes of chieftaincy which individuals have desired ... the office of chief, although used as instrument of local social control by the central government, has nevertheless been ardently sought because it has represented an important avenue to wealth and social prestige. (Tangri, 1978; compare Tangri, 1980)

In Zambia, the authority of the chief was reduced in both the administrative and the judicial fields. Nevertheless, the so-called House of Chiefs - a sort of shadow parliament consisting of some 25 chiefs (Van Binsbergen and Geschiere, 1984) - has remained protected by the constitution. The House of Chiefs meets regularly in Lusaka. Its debates are (albeit years delayed), reported word for word by the Government printer, and form a rich source of information.²² Although the House of Chiefs does not have political authority, these gatherings are nevertheless of interest because the House is a meeting place for functionaries from the superstructure and dignitaries from the substructure. The chiefs do their best to conceal the meagre political role of the House of Chiefs. When returning to their home areas, they blow up its role and tell their people - and I quote here literally from an interview with Van Binsbergen on the theme - that 'they have just been to Lusaka, the capital of Zambia, to govern the country, and that it is now going a deal better again'.²³ Here we see an interesting dimension surfacing, one which concerns the relation between the Zambian citizen and the national state, a relationship in which the role of the chief still seems important.

22. There is also a House of Chiefs in Botswana (Proctor, 1968) and in Ghana (Prouzet, 1976).

23. Van Binsbergen is a member of the staff of the Africa Studies Centre who did research in Zambia.

My last example concerns Tanzania, where in 1963 the institution of chieftaincy was abolished by law, thus rounding off a process that had been developing since before the Second World War. Legislation had been chipping away at the power of the chiefs for years. His authority was taken over in increasing measure by the cadres of TANU. These cadres were not descended from the families of chiefs. These legal reforms did not, however, destroy the privileged position of chiefly families. Due to their accumulated wealth they were able to give their offspring a better education. The result was that they succeeded, once an urgent need for educated manpower arose, in finding a place in various administrative and legal institutions. In this manner the ex-chiefs were able to penetrate the political power centres and business life (Moore, 1978:75; see also Bayart, 1981). Moore, from whom I draw these data, concludes that among the Chagga (a local group in Tanzania) the ex-chiefs succeeded in adopting to repeated changes in administrative organization and political structure, and thereby in maintaining their social position (Moore, 1978:77).

It would be possible to widen this list of examples. The meaning is, however, clear: When we speak of the chiefs in Africa in the present context, we are not speaking about an extinct or even a dying species. We are speaking at most about a threatened one, threatened by the intervention of the legislator and the administration, who are all too often of the opinion that through legal reforms, institutions such as that of chieftaincy, still firmly entrenched in African society, can be blotted out or robbed of their legitimacy. Meanwhile we know from the abundant literature on this point that legal reforms in all sorts of fields fall radically short of their intended aim (Améga and Van Rouveroy van Nieuwaal, 1979; Howard, 1976). But just because there is a belief in the instrumental aspect of newly manufactured law, one often loses sight of the fact that chieftaincy is an institution in which the African - though not in all cases - places his trust. His legal and constitutional horizon, one could say, reaches as far as his chief, but not to the capital. For many Africans the chief is still the personification of the moral and political order, protection against injustice, unseemly behavior, evil and calamity (Von Benda-Beckmann, 1983; Van Binsbergen, 1985). In far-reaching measure the chief's subject still has faith in his judicial function.

Everywhere in Africa in the 1950s efforts were made to unify the administration of justice. The ideal was, and still is, that the same type of court should hear the claims of all residents of a country. Clearly this constitutes a serious threat to the chief's authority, for

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the adjudication function fulfils an important role in the communication between chief and subject. In this respect as well the post-colonial legislator has not deviated much from his colonial predecessor. Yet, this in no way means that the people turned their backs on their own local leaders and went to seek their legal welfare at the state instituted courts. Rather the contrary is true (Von Benda-Beckmann, 1983, fn. 45). That can be demonstrated from my own research in Togo, but also from similar research elsewhere (Von Benda-Beckmann-Droogleever Fortuijn, 1984; Harrell-Bond/Rijnsdorp, 1975; Holleman, 1969). In this way a superstructure and a substructure was created, to use the terms of Holleman (1964-1965; Van Rouveroy van Nieuwaal, 1975; 1980b). The unforeseen and surely unwanted consequence is that parties have the opportunity to play several legal institutions from totally different legal spheres off against one another. Here we touch upon the old and well loved theme of legal anthropologists; the 'selective use of legal systems/institutions' (Von Benda-Beckmann-Droogleever Fortuijn, 1984; Van Rouveroy van Nieuwaal and Van Rouveroy van Nieuwaal-Baerends, 1977, 1985; Tanner, 1970).

Many an African government closes its eyes to the fact that chiefs *viz-à-viz* their people are not only still able to legitimate their authority but are also able to meet a number of social needs. This fact, combined with ignorance of local law, has cost many an innovation and development programme dear (Schott, 1980). In the system of Indirect Rule the chief picked up a considerable amount of experience in the workings of western bureaucracy and administration of justice. This has since served him in good stead. He now knows how to survive politically. Moore (1978) and others (Ansere, 1977; Bayart, 1981; Miller, 1968) have shown that some chiefs have remained so sure of their social positions that central governments have had to accept them as spokesmen of their people. Yet others were able to keep a finger on the pulse through manipulation of their legitimacy as traditional ruler and judge. In addition to other things, the chief has remained in many respects a vital link between the African citizen and the central government. Even J. Rawlings of Ghana, one of the youngest Heads of State in Africa, has had to recognize this fact (see *West Africa*, 19 March 1984).

Heads of State in Africa have frequently made use of externally significant praise names, regalia, symbols and myths, in order to accentuate and legitimize their authority *viz-à-viz* the people (Hayward and Dumbuya, 1984). They sometimes badly need this legitimization, because in many a case their authority can scarcely boast of any constitutional basis: mostly it comes out of the barrel of

a gun. To be on good terms with chiefs, as representatives of the moral and political order, certainly does the credibility of African Heads of State no harm (Francis, 1968). They are for the same reason not averse to identifying themselves with folk heroes from the colonial past such as Samory Touré or Alpha Yaya, resistance heroes from Guinean colonial history who were repeatedly used by Sekou Touré and his party to bolster up the authority of the Head of State.

Myths get used in the most diverse ways, to demonstrate that the Head of State possesses special, almost supernatural power. In this way the escape from an assassination attempt is given an aura of divinity through which the importance of the Head of State is enhanced (Göhring, 1980). For example: Eyadéma, President of the Republic of Togo, inexplicably escaped death in 1974 when his DC3 aircraft crashed in the neighborhood of Kara, a town in Northern Togo. It goes without saying that such a Head of State, an elected super-hero, sits in judgement on practically every level (Apati-Bassah, 1984). In his country seat in his village of birth, Eyadéma receives people from all parts of Togo to hear and judge their disputes. He himself says that the greatest advantage of this method is the speed with which a dispute can be settled, without administrative fuss. If moreover, such a Head of State gives a just verdict, then his reputation as a wise judge is unshakeably established.

Traditional tokens of dignity, such as the fly swatter in East Africa, symbol of power of a traditional leader, are used in this context. Jomo Kenyatta, first President of Kenya, was not to be seen in public without this symbol. In the same way, Mobutu, President of Zaïre, willingly allowed himself to be carried around on a chief's seat, at least at the beginning of his regime when his authority was at its most vulnerable. A charismatic leader²⁴ such as Kwame Nkrumah, was installed as president in full chiefly regalia, while a stool carved in the Akan style served as his throne (Nevadomsky and Inneh, 1983-1984).

What then is the future for chiefs in Africa? This is a question to which no uniform answer can be given. The differences by country, even by region, are too great. If it is true that traditional authority bases itself on economic dependency relations, then any change in

24. For the concept 'charisma' and 'charismatic leader' in Africa, see among others Apter, 1968, 1972; Cohen, 1972; Owusu, 1970; Tiger, 1965.

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economic circumstance which gives people access to external resources will quickly erode that authority. From the examples given earlier it seems that that future is in any case less dependent on the lawgiver than appears at first sight. As I see it, the maintenance of authority by the chief, now and in the future, is linked to his having a good relationship with his people. Any corruption of this relationship is a direct threat to his authority. More than ever the chief has to realize that African society is undergoing a process of rapid change: political, economic, and social changes take place daily. Mass communication has made its inroads, town people and peasants have developed a number of socio-economic bonds, commercialisation and mechanisation of agriculture - where the tractor is still the holy cow - is increasingly taking place, be it on a modest scale. The state is omnipresent and the African citizen is dependent upon it for access to the sources of his social status (education, health, technology, agricultural credit, etc.), although particular groups of citizens, such as farmers, because they can still return to their subsistence base, are less dependent on the state than the state itself would wish (Geschiere, 1984).

The chief is no longer the master to whom every subject must defer. More than in the past he must realize that in settling disputes, he, and the court which surrounds him, are expected, among other things, to translate the dispute into terms which correspond to the new social and political situation in the country. His dispute settlement will have to adapt itself to social change. To be traditional administrator and judge is of central importance to him. If he is unable to do this effectively then his role is finished and in a manner of speaking he commits political suicide (Göhring, 1980; Holleman, interview 19th March 1984).

There are numerous examples of this. One will have to suffice, taken from my own observations in Northern Togo. The late paramount chief of the Anufòm, Na Tyaba Tyekura got into serious political difficulties. The case was as follows: Cattle grazing under the care of a herder had caused damage. The injured party demanded reparation before the court of the chief, whose judgment was that the herder should make good the damage. The paramount chief received the herder's fine but did not pay it to the offended party. Instead he used it to line his own pocket. In the eyes of the people he thereby fell into disrepute. The legitimacy on which his sovereignty depended, was thus put in question (Van Rouveroy van Nieuwaal 1976b, 1980). When, shortly thereafter, the chief handed out the same plot of land to two different men for his own material gain, this was the last straw. Opponents within the same social group grasped their chance

and brought the paramount chief into disgrace, first at district level and when that did not lead to his dismissal, at the level of the Capital. His role was quickly finished; a clever frame-up in Lomé put him behind bars. With that his political death sentence was signed. However, in masterly fashion, once set free he was able to cut the ground from under his opponents' feet when the election of his successor was publicly held. He prevented them from filling the fiercely coveted place (Van Rouveroy van Nieuwaal, 1980b; cf. also my documentary film: *A Toad in the Courtyard*, 1979, produced by the Africa Studies Centre, Leiden).

Analogous situations occur in Ghana when chiefs give out land to the highest bidder, in contravention of the principles of customary law, not only to fill their own purse, but also to ensure themselves of the support of ex-policemen, ex-military or ex-doctors who on retiring look for land to provide for their old age (Konings, 1984; Améga and Van Rouveroy van Nieuwaal, 1979 fn. 93).²⁵ It becomes a serious matter when such individuals can seize what they want - not only land but also appointment to a chiefship, as if it was merchandise, simply because they have money. Although they possess no legal right, they covet such posts because in material terms they are lucrative. From such positions they can acquire new forms of wealth, both material and immaterial. In fact a 'chief' of this kind, has two power bases:

25. A particularly serious problem in this regard is the fact that many chiefs do not respect the traditional role of the 'earth priest' in connection with such transfers. The 'earth priest' is responsible for the ritually important function of maintaining the fertility of land. In terms of customary law, the earth priest's role in the transfer of the control of land to those who are non-members of the group is in many ways more crucial than that of the chief, at least in many societies in West Africa (Schott, 1980; Geschiere, 1982). This ignoring of the 'earth priests' by the local chiefs (and through them by the central government) is responsible for much tension between the chiefs and the 'earth priests', authority holders in different spheres and sometimes with totally different interests. Koning (1984) mentions that such tension continues to increase, since the people themselves go on consulting the 'earth priests'. The central government underestimates the function and position of the 'earth priests' by dealing only with the chiefs over land transfer. The 'earth priests' are in West Africa the most neglected group of traditional authorities.

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- the modern state and administrative legal apparatus of which until recently he was a part and whose network still lies within his reach;
- the folk legal administrative system.

Through means of his access to both networks such an authority holder can strengthen his position. In many respects becoming a 'chief' is a better provision for one's old age than acquiring land. It is to be doubted, however, whether such practices have any beneficial influence on the institution of chieftaincy. If the chiefs do not succeed in disassociating themselves from such malpractices then corruption will get the upperhand. In all probability the game with government authorities is then be lost for good, not so much because the chiefs provoke sanctions from above for such behaviour (since, as I have already mentioned, central government still badly needs them for its own legitimation), but because of the reaction at the grassroots level, from the people. They will rebel.

Things do not have to come to this. The chief, as the core of the concern for the local world and as the embodiment of a moral and political order, could have an essential role reserved for him. This role could go beyond the nostalgic longing which crops up here and there for a return to the days of an African society that existed before the coming of white administration, embodied in such slogans as Mobutu's 'authenticity', Senghor's 'Africanism', or Eyadéma's 'let us return to the land'. But can we expect, after the steady erosion of his position over the last decades, that the chief is still strong enough to play a vital part in the African future? His position is little to be envied (Van Rouveroy van Nieuwaal, 1987). On the one hand, he is closely identified with a local system of justice and world view, while on the other, he is expected by the central government to transform himself into a modern manager who can take care of the various commercial, technological and socio-economic aspects associated, for example, with agriculture. One cannot deny that in many cases the chief has not known how to steer a straight course between Scylla and Charybdis, and has degenerated into a mere instrument of the central government.

Nevertheless, it appears that the Ghanaian chief, for example, possesses a remarkable capacity for adapting himself to social and political changes. According to Skalník (1983a; 1983b), the Ghanaian chief can fulfil a crucial role in future efforts aimed at socio-economic transformation at the regional and even national levels. This situation may perhaps be viewed as peculiar to Ghana where the state and state organs appear to be on the verge of disintegration. However, similar developments are observable in Uganda, Chad,

Ethiopia, and possibly Nigeria, Burkina Faso and Niger (Guillemin, 1982/1983). For the legal anthropologist lies here a broad, rather unexplored field for investigation (Annor, 1985). Maybe I am being optimistic regarding the survival chances of chieftaincy in modern Africa. Perhaps in the long term the chiefs' position will be that of a noble élite, an echo from the past, useful as tourist attractions or as managers of fun parks with safari possibilities.

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26. This extended bibliography includes far more publications than are mentioned in the text. Nevertheless it has no pretention of being comprehensive.

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