Government Intervention in Chieftaincy Affairs

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Mr. Obeng Manu's paper makes interesting reading. It is a satirical reference to a hypocritical stance by the PNDC in not coming out clearly with a policy of interference in Chieftaincy matters. The writer finds it difficult to accept the policy of non-interference by the government and describes it as a myth. To him this policy is only manifest at the level of rhetoric. The writer cites an array of cases like Wa Skin Affairs, Yendi, etc., which are demonstrable of government intervention in Chieftaincy affairs.

The paper is seriously misleading to the extent that it misconceives what the government intervenes or interferes in. He uses intervene and interfere as if they mean the same thing. My contribution seeks to spell out what the government intervenes in, and clear the doubts created in the minds of the lay public; 'lay' is used in the sense of not being legally trained.

The traditional role of every government, be it rightist or leftist is the maintenance of law and order. This is both an asset and a liability for any government and can be used to achieve a wide range of objectives. It is difficult to prescribe limits to this all-important function of government.

Often times, the power for the maintenance of peace and order is blurred with other areas in which government as a matter of policy does not intervene. It is very easy to misinterpret what the government is actually doing at any point in time. The writer of the above article is a victim of such a misinterpretation.

MATTERS AFFECTING CHIEFTAINCY

Matters affecting Chieftaincy have been clearly spelt out by statute. Act 370 [1] defines matters affecting Chieftaincy as follows:

a. The nomination, election, appointment of any person as a chief or the claim of any person to be nominated, elected, appointed or installed as chief.

b. The destoolment or abdication of any chief.

c. The right of any person to take part in the nomination, election, appointment or installation of any person as a chief or in the destoolment of a chief.

d. The recovery or delivery of stool property in connection with any such nomination, election, appointment, installation, destoolment or abdication.

e. The constitutional relations under customary law between chiefs.

The above shows that unless the government actually assumed the role of a King Maker or a destoolment contractor or interferes in any of the above, no serious claim can be made to intervention in chieftaincy affairs.

When a matter which affects chieftaincy in the strict sense degenerates into a breakdown of law and order, the government intervenes in order to restore the equilibrium. When the government intervenes almost invariably in a dispute situation, it is not interfering any more in chieftaincy than it would be said to be interfering in University affairs when it closes down a University to save lecturers from the clutches of students who get fidgety, and discipline escapes in the process.

RECOGNITION OF CHIEFS

In so far as the writer interprets the effect of law 107[2], recognition and non-recognition of chiefs as an index of intervention, he is wrong. There might indeed exist a casual nexus between recognition and withdrawal of recognition and destoolment of a chief, but there are two different phenomena at play here. Non-recognition admittedly diminishes but not abrogates the status of chieftaincy. Its essence is the same under customary law. A chief is only prevented from carrying out statutory functions

such as membership of the Houses of Chiefs, Traditional Council, etc. Since the Houses are continued in existence by statute, charged with the responsibility of evolving customary law and adjudicating on legal disputes, and receive subvention from the tax payer, the government is legitimately entitled to know and recognize those who can perform such important legislative or judicial functions. If a chief has endeared himself to his people, his attendance at Regional Houses of Chiefs is a surplusage; it is an avoidable luxury in so far as the customary law position is concerned.

The definition of who shall be termed chief is stated in the 1979 Constitution. It states 'Chief means a person who, hailing from the appropriate family and lineage, has been validly nominated, elected and enstooled, enshrined or installed as a chief or queen mother in accordance with the requisite applicable customary law and usage [3]. The government has a duty to ascertain that those who are called or call themselves chiefs satisfy this statutory definition.

As for the expansions of the Brong Ahafo Region House of Chiefs to include more chiefs, the least said about it the better. The House was expanded to include those who were validly and regularly installed chiefs according to customary law and usage in their respective areas. What the government did was merely an ex post facto recognition of an existing state of things. It contributed to enhance rather than interfere with the status of those chiefs concerned. Those chiefs would be the first to acknowledge the salutary effect that the government exercise has had on their hitherto diminutive images.

CONCLUSION

The writer of the article could have done us some service by pointing out a case of government intervention in a situation where there has been a peaceful destoolment and/or enstoolment of a chief. The conditions under which a government intervenes are well known to us. The fact that in the Yendi Skin Affairs, the government imposed criminal sanctions meant that the government's intentions and acts were in a different pigeon hole from that which the writer had in mind. Chiefs are notorious for an intriguing adaptation and re-adaptation to various political regimes. May be this is desirable if we are not to have centrifugal and rebellious chiefdoms. But we must be careful to say when the government is doing what, and when the chiefs themselves are doing what! To say that the government interferes in chieftaincy is to misunderstand the very nature of the institution itself; that it has remained largely unobtrusive to central government powers since the colonial times. It would mean that if there is interference at all, it itself invites it.

REFERENCES
Chieftaincy Act, Act 370

PNDC Law 107 authorises the government to withdraw recognition or recognise a Chief.

Article 181 of the 1979 Republican Constitution has been saved by S53 of PNDC Law 42.

MR. OBENG MANU

The paper "GOVERNMENT INTERVENTION IN CHIEFTAINCY MATTERS" urges the Government to keep faith with the people of Ghana by making it plan that it will intervene in Chieftaincy matters in the interest of "peace, order and progress." Instead of the phrase, "peace, order and progress," Mr. J.K. Manu speaks of "maintenance of law and order" and sees the Paper as "a satirical reference to a hypocritical stance by the PNDC in not coming out clearly with a policy of INTERFERENCE in chieftaincy matters" (emphases mine).

Indeed the Paper emphasises almost *ad nauseam* that the Government "should continue to INTERVENE in chieftaincy matters" but warns nevertheless that care should be taken that the intervention does not become or turn into brazen INTERFERENCE." (emphasis supplied). This being so what is Mr. J.K. Manu talking about?

In order to prevent confusion and chaos in the Country the Paper observes that it would be invidious to say that the outlined record of interventions by the Government amounts all in all to interference in chieftaincy matters. Yet, at the same time, the Paper argues that it would be tantamount to flying in the face of overwhelming evidence to suggest that the record does not in any way show intervention in chieftaincy matters.

Thus, the problem raised by the Paper for serious consideration, discussion and solution is when does intervention (which is permissible) become interference (which is intolerable)?

Mr. J.K. Manu either miserably failed to grasp the message of the Article which simply put is that "it is eminently desirable for the Government to INTERVENE but otherwise to INTERFERE in chieftaincy matters, or he deliberately chose to fly in the face of overwhelming evidence by using "intervention" and "interference" in this context interchangeably.

Even though the stated aim of Mr. J.K. Manu's contribution is "to spell out what the Government intervenes in and clear the doubts created in the minds of the lay Public" yet nothing other than the same institution of chieftaincy is what the contribution spells out and in the clearance of the alleged doubts the contribution multiplies doubts by indiscriminately employing the two key words: Intervention and Interference.

Above all, a shocking misconception and a rather baffling superficiality are projected when the contribution courageously likens the institution of chieftaincy to a University. To Mr. J.K. Manu because the Government cannot be accused of interference when it closes down a University (for good or bad reason) it can equally not be accused of interference in chieftaincy. Superficially, a University and chieftaincy are both institutions. What Mr. J.K.Manu failed to see, or rather ignored at his peril in this regard is that a University as an institution is created by a statute whereas Chieftaincy as an institution is established by Customary law and usage.

This fundamental misconception robs the contribution of any merit it would otherwise have had.

Had Mr. J.K. Manu read the Paper with an "open mind" he certainly would have agreed with me that Governmental intervention may be tolerated, but where intervention becomes interference as it would appear to be in the enactment of PNDC Law 212 (1989) even progressives would find it hard to follow.

"For measures of this kind may ultimately lead to the extinction rather than the salvation of the institution of chieftaincy.