Mothers’ Wealth: Matrilineality and Inheritance Among the Fantse of Ghana

A dissertation presented to
the faculty of
The Gladys W. and David H. Patton College of Education and Human Services
of Ohio University

In partial fulfillment
of the requirements for the degree
Doctor of Philosophy

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June 2011
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This dissertation titled
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WILSON, ALEX. J., Ph.D., June 2011, Individual Interdisciplinary Studies

Mothers' Wealth: Matrilineality and Inheritance among the Fantse of Ghana

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Ghanaians are still looking forward to enacting a law on inheritance and succession, though many attempts have been made since 1884. Policy-makers and academics who try to address the problem are divided, with many of them showing their personal biases. For example, Appiah (1992) questioned the rationale behind the Akan customary practice that deprives sons and daughters of a deceased the right to enjoy a fair share of their fathers’ estate. Nzegwu (2001) reacted that Appiah (1992) ignored the matrilineal implication of the Asante and underwrote a neocolonial Africanist career by privileging a particular conception of family. Awusabo-Asare (1990) contended that the Intestate Succession Law of Ghana had created problems for people in matrilineal societies because it contravened some principles about the matrilineal system of inheritance.

In this dissertation, I adopted functionalism and postcolonialism as theoretical frameworks and used qualitative research design, specifically, critical ethnography to examine the problems associated with inheritance systems of the matrilineal Fantse-speaking Akan. I selected five settlements in the Central Region of Ghana for observation, and conducted in-depth interview with 32 participants made up of five chiefs, two queen mothers, 10 clan heads, 10 widows and five widowers. The study sought answers for the following research questions:

- What is the nature of the social organizations of the Fantse?

- What are the rights and obligations that these social institutions confer on their members?

- What are the changes that have taken place in the family systems of the Fantse?
What is the influence of national laws on the Fantse family systems and their customary practices?

I concluded that among the Fantse, the social systems are woven around the lineage and clan with rights and responsibilities molded in dual roles to the conjugal and composite families and the clan or lineage. It also emerged that changes have occurred in family in the areas of childhood construction, marriage, divorce and funeral celebrations. Finally, the inheritance was based more on customary practices that the national law. I suggested that a national conference should be organized on inheritance just as has been done for review of the constitution.

Approved: _____________________________________________________________

Francis E. Godwyll

Assistant Professor of Educational Studies
Dedication

Through all the changing scenes of life

In trouble and in joy

The praises of my God shall still

My heart and tongue employ

O magnify the Lord with me

With me exalt His name

When in distress, to Him I called

He to my rescue came

(Stanzas 1 & 3 of Catholic Hymnal of Ghana, 374)

The Lord has done great things unto me. His name be praised forever.

To Him be the glory, for He has done great things unto me.

I dedicate this dissertation to my children

Aba Yaaba,

Aba Kweiba,

Kwesi Kurentsir, and

Ebow Appinn
Acknowledgments

To God be the Glory, great things He has done. This dissertation has been possible through the immense support of many people. My gratitude goes to my advisor Dr. Francis Godwyll, of the Department of Educational Studies, Ohio University (OU), Athens, OH, USA; for his guidance throughout my stay in Ohio University and this journey of writing a dissertation. I must admit that he has not only been an advisor but also a mentor, brother, and family friend. I am also grateful to members of my dissertation committee – Dr. Steve Howard, Director of the African Studies Program (OU), Dr. Ron Stephens, Chair of African American Studies Department (OU), and Dr. Jerry Johnson, Department of Educational Studies (OU) for their guidance and criticisms that have contributed immensely to this dissertation. I am also grateful to Dr. Ghirmai Negash of the English Department (OU), Dr. Diane Ciekawy of the Sociology and Anthropology Department (OU), and all my professors in OU for their contributions to my education.

My unreserved thanks also go my sponsors, University of Cape Coast (UCC), Ghana, the African Studies Program (OU), The Patton College of Education and Human Service (OU). I am also indebted to the Alden Library (OU) staff, especially Mrs. Araba Dawson-Andoh and Mr. Paul Campbell, Professor Owusu-Ansah of UCC, Nana Owusu-Kwarteng of University of Education, Winneba, Ghana; Mrs. Estella Appiah of the Attorney General’s Department, Ghana, all my research participants, and all those who have supported me at various times.
My gratitude also goes to members of my family, especially my parents Peter Kwesi Wilson (deceased) and Ekua Kurentsiwa Wilson, who though did not have any formal education, realized the need to educate all their children in the Fantse value systems and to the highest levels of formal education that each could aspire to. To Danny Wilson, my guardian, who sponsored my education in high school and counseled me throughout my school days and beyond, and all my siblings, I say thank you. Finally, I thank my dear wife, Nana Aba Egyimah Wilson, and my children, Yaaba, Kweiba, Kwesi Kurentsi, and Ebow Appinn for enduring my absence from the house most of the time as I worked on this dissertation. I will not forget all your prayers, encouragement and support that you have provided throughout my study period.
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Chapter One: Introduction

The Fantse is one of the major divisions of the Akan ethnic group. In the past many authors including Christensen (1954) and Sarbah (2004) have referred to them as the Fante or Fanti. However the group identifies itself as Fantsefo (Fantse people). Therefore, in this dissertation, I use Fantse as a way of accepting how the people define themselves. The group is located in the coastal fringes of the present-day Central and Western Regions of Ghana. The family and inheritance systems of the Fantse are based on double unilineality but more inclined to matrilineality. Changes in social norms have influenced the roles of the family. Besides, laws have been enacted to place the traditional family under the structures of the state.

Of particular importance is the Intestate Succession Law (PNDCL 111) which affords children better claims to the estate of their deceased fathers. This has resulted in a number of conflicts emanating from matrilineal societies between the children of a deceased person and members of his clan in the sense that, in matrilineal societies, children do not belong to their father’s lineage and so the customary law does not give them inheritance rights from him. It has been documented that a number of court cases on inheritance exist, and as the law courts find it difficult to resolve them, so many people no longer seek redress from the courts (Kom, 1993). Besides, policy makers, child rights activists and gender activists have expressed their disgust about the inheritance system which often excludes women and children from having a fair share of the estate of their deceased husbands and fathers.
Some authors (Awusabo-Asare, 1990; Nzegwu, 1996) have also argued that the emerging literature on the matrilineal family systems of inheritance and the PNDCL 111 make a preferred conception of the family that ignores the matrilineal implication of the Akan, which includes the Fantse culture, and thus damages the mode of family structure. They provided an example of a situation where a man inherits from a deceased member of the lineage and through that manages to save capital and other resources to build his own house. They asked if this man can have the moral justification to claim that he constructed the house solely through his personal effort and so he can decide to pass it on to his children who have also benefitted from their father’s lineage, even though they do not belong to that lineage. Therefore, they argued that the uniform law, PNDCL 111, has created problems for people in matrilineal societies, especially the Akan.

Realizing the complex nature of abiding by a uniform inheritance law within a multi-ethnic society, and the inability of the society to abide by the law, Ghanaians have enshrined it in their constitution that “Parliament shall, as soon as practicable … enact a legislation to regulate the property rights of spouses” (The Constitution of the Republic of Ghana, Article 22 (2)). Though this constitution has been used since January 7, 1993, the Parliament of Ghana has not been successful in enacting the appropriate laws, as tasked by the constitution, to ensure an effective inheritance system. The bill has been in parliament since 2008, and the last time it was read was in March, 2010 (Hansard of Ghana’s Parliament). It is worthy of note that the subsections to this article (Article 22) highlight properties that are jointly acquired by spouses and not individually acquired properties. The question that comes up for discussion is about whether is it very easy to
differentiate between assets acquired individually and those acquired jointly within the marital home; to be more precise, whether it is common, among the Fantse and for that matter Ghanaians, for married couples to acquire property jointly. The constitution clearly states that children have the right to a fair share of the estate of their parents (Article 28(1) b), but the problem that arises is that it becomes very difficult to implement these constitutional provisions. Consequently, it is still a common practice that upon the death of a man, his wife and children are thrown out of his house.

It is documented that the Akan, especially the Fantse, show more of the double unilineal descent system, a system where a child obtains rights from both the father’s lineage and the mother’s lineage but not on equal basis. The information available shows a complex situation in the inheritance system among the Fantse and for that matter the Akan. Policy makers, child rights activists, and gender activists have expressed disgust about the inheritance system which often excludes women and children from having a fair share of the estate of their deceased husbands and fathers.

Mulinge (2002) stated that the ratification of the UN Convention on the Rights of the Child and the passing of supportive laws by state governments has not brought about major improvements to the welfare of children because of the prevailing socio-economic and political situations in the countries. The Pan-African Forum for Children entreats African countries to adopt realistic and achievable goals which reflect the diverse capacity of African governments and other stake holders in order to achieve the goals of realizing the rights of the child.
Himonga (2001) posited that, as part of the colonial heritage, customary laws exist alongside the Western systems of law; however, in matters of family and land, customary laws are often applied. He continued that where people choose to use the general laws, they combine them with the customary laws. In a situation where general laws are not in conformity with the customary laws, they are bound to fail. Secondly, since customary laws are not codified, they stand the risk of being modified with time and social change. Moreover, when the laws are not in the interest of children and yet they are perceived as the culture, then the society at large stands to lose.

The issues raised by these authors are prevalent in Ghana. As far as issues on inheritance are concerned, gender activists and many writers overgeneralize the issue, thereby giving less room for local and more specific variations. Therefore, it becomes very difficult for stakeholders to come to grips with the problem. The situation is so complex that there is the need for a critical ethnography that will examine the family and the entire social systems of the Fantse. Given that the Fantse practice the double unilineal system of family and inheritance, and by the Akan philosophy of conception, a child is made up of the father’s spirit, and that rights and obligations within the family are based on the entities of conception, and that rights and obligations are reciprocal, there is the possibility that a child has inheritance rights from both the father and mother. If this does not work, then there could be something amiss in the family system. What could be preventing the system from serving the needs of all? What is preventing the child from obtaining inheritance rights from the father? How best can Ghana enact a family law that
will appreciate the concerns of the matrilineal societies? These are some of the issues, among others, I seek to address.

Extended family system, as expressed in colonial discourse, creates the tendency for exclusion, and, so to address the African values of communalism there is the need to eschew the term extended family. The questions associated with this are the following: What was the African family like? When did it extend? What was the nature of extension? Many people have in one way or the other benefited from members of the larger family and so they are under moral obligation to contribute to the kinship solidarity associated with the African family.

**Statement of the Problem**

Under the customary laws of the Fantse, a spouse does not have inheritance rights from his/her partner. In addition, a man’s children do not have rights to inherit his estate. However, a man can bequeath part of his personal property to his wife/wives and/or children as a gift (Christensen 1954; Lundgren 2002; Oppong, 1981; Rattray, 1969a, 1969b; Wilson, 2000). Seen against the patrilineal societies where children have a better claim on the estates of their deceased father, the situation among the matrilineage creates a number of problems in cases of ensuring a uniform law across a country where there is diversity of culture and legal pluralism.

The situation becomes more problematic where each of the individuals in a marriage contract comes from a different unilineal descent groups or systems; for instance, where a wife belongs to patrilineal society and a husband belongs to a matrilineal society their offspring cannot recon their lineage from either their father’s or
mother's lineages. In that case they will be treated as ‘second-class’ members of either of the lineages. The implication is that, by customary laws, they do not have inheritance rights from either their father's lineage or mother's lineage.

Successive governments, including the colonial ones have made attempts at enacting laws on the family and inheritance, but all these efforts have failed. The closest success was achieved in 1985 when the government of the day enacted the Intestate Succession Law (PNDCL 111). However, it has become difficult to enforce the law. In view of this, Article 22 (2) of the 1992 Constitution of The Republic of Ghana states that as soon as this constitution becomes operational, Parliament shall enact legislation that regulates the property rights of spouses. The constitution has been operational since 1993, but this law has not been enacted.

**Purpose of the Study**

The research will examine a complex problem associated with inheritance systems of the Fantse-speaking Akan that has been caused by the existence of legal plurality in Ghana – customary laws (localized) and national laws that follow the Western system. The assumption that underlies this study is that inheritance is mediated by power relations which are historically and socially constituted, and so there is the need to examine the power relationships that exist within the social system of the Fantse (Carspecken, 1996). This research adopts a critical perspective and therefore attempts to explain and interrogate the epistemology of mainstream inquiry and interrogate the social theories that underlie the inheritance situation of the Fantse-speaking Akan. The research
will examine the social, economic and political issues that affect the inheritance rights of children and spouses from their parents and spouses.

**Research Questions**

The study sought to find answers for the following questions:

- What is the nature of the social organizations?
- What rights and obligations do the social institutions confer on their male and female members?
- What changes have taken place in the family systems and customary practices?
- What is the influence of national laws on the Fantse family systems and their customary practices in the face of social change?

**Significance of the Study**

The study is important in view of the fact that Ghana’s legal system is pluralistic. In addition, some people argue that the nation is superior to the ethnic groups. Furthermore, many people, especially those in the rural areas are more conversant with the structures that exist in the ethnic groups than in the nation. Other considerations for selecting this topic are based on the need to incite passion among readers for activism, the need to look for evidence of the social system determinants on the micro-activities of indigenous people, and the need to contribute my quota to the literature on social systems of the Fantse and Africa as a whole. This topic needed an in-depth analysis, and so to do justice to it, a critical ethnography was employed to discover from the perspectives of the participants—widows and widowers, and the chiefs and their elders—about their own views regarding the laws on marriage and inheritance. The adoption of critical
ethnography was also a way of digressing from the power relations in traditional
ethnography where the researchers were often government agents, and therefore wielded
some powers to effect the changes that they wanted, without the affected people’s
contribution. Because government and public officials try as much as possible not to
inflame ethnic sentiments when considering national issues, this study warrants scholarly
attention.

Patton (2002) urges readers to be passionate about their work and study
interesting topics. This topic raises passion among Ghanaians. It has been a problem
since the colonial days (Ardayfio-Schandorf, 2006; Kom, 1993; Pellow, 1977; Pellow &
Chazan 1986). This issue affects people including chiefs, family heads, social
commentators, gender and child rights activists, lawyers, social workers, educators, and
many more. However, I must say that the way I discuss the issue will engender much
more interest or otherwise, so I should approach the study with more passion, taking into
consideration the positions of the various actors within the drama. One thing that I can be
sure of is that the result will be devoid of jargons so that I can arouse the interest of
people in all disciplines and interest parties as Patton (2002) noted.

Carspecken (1996) argued that in formulating qualitative research questions there
is the need to look for evidence of the social system determinants on the micro-activities.
He noted, “Social systems are the result of external and internal influence on actors that
are broadly distributed throughout the society” (p. 38). He continued that social systems
are human activities that have become patterned so researchers should avoid thinking of
it as if it exists outside human activity. In effect, all issues within the framework of the
social environment should be examined holistically; not forgetting that, as a concept, social systems have to do with the coordination of action between groups and of actors separated in space and time (Carspecken, 1996). Thus, the need for examining the social systems becomes important for examining stratification processes and the social structure that is drawn within a particular culture. Understanding the social systems helps to understand the power dynamics that would help to foster the necessary activism that will bring the social change. It will also ensure that there is the need for coordination among the groups or actors within the social systems. This is referred to as systems integration.

Moreover, there is an on-going exercise on the codification of customary laws. The dissertation will enable me contribute my quota to the literature on social systems that are likely to inform law makers, policy makers and analysts, the judiciary and all other social partners that are concerned with peace and stability in Ghana. It will also enable the disadvantaged group in the family, especially children and women, to be conversant with customary practices so that they can obtain the tools for fostering advocacy. Through these I will be helping to promote research, teaching, and service that consider children, the most marginalized population group that needs the world’s attention in Africa’s development process.

**Organization of Work**

This work has been organized into eight chapters. The first is the introductory chapter. This examines, among other things, the background information, the statement of the problem, significance of the study and many more. The second chapter examines the literature review while the third is about the theoretical framework. The fourth
chapter examines the research methodology, its limitation and delimitation while the fifth
examines the research question one: What is the nature of the social organization among
the Fantse? The sixth chapter examines the research questions two and three regarding
the rights and obligations among members of the kin group and social change affecting
the social organization). The seventh chapter discusses the fourth research question about
the knowledge of the existing laws on family and inheritance and the new bills on
intestate succession and spousal property rights. The final chapter is the summary of
findings, implications, suggestions, and conclusions.
Chapter Two: Review of Relevant Literature

The review of relevant literature focuses on the social systems of Fantse of Ghana. It examines the literature on the importance of culture in policy making, social organization among the Fantse, for example the kinship and the clan system, and the concept of personhood and how it dovetails into the social systems. Others are the evolution or the social change that the Fantse family systems have gone through based on factors such as urbanization, Western education, and many more, and how these influence inheritance, children’s and women’s rights and the laws of Ghana, and the international perspectives on the rights of children in Ghana.

I selected the sub themes above for review because they were in line with my purpose of study and research questions. The cultural premise examined the importance of culture in setting development policies. This area was important because family and inheritance and the ability of the people to accept laws on them are first and foremost a cultural issue. There was, therefore, the need to find out how the inclusion of traditional culture in a developmental effort could become successful or otherwise. Social organization was important for understanding the dynamics in the family and how the family interacts with the society. Concept of personhood also helped to understand some of the cultural values that affect service to humankind and some of the institutional frameworks governing the dynamics of the family, for instance, understanding the concept helped me to understand the concept of human rights as it exists among the Akan and the distribution of rights and obligations. Social change, the historical development of the family and the perspectives on the laws enabled me to trace the origins of the laws,
the direction that the laws are driving the people to, which of the laws have been successfully enacted, and which ones remained perpetually as bills.  

**The Cultural Premise**

In simple terms, culture is the way of life of a group of people. It influences people’s perceptions and modes of doing things. It is very important in all human endeavors. Unfortunately, some people blame the lack of development of Africa on the cultural practices. They call for change in the way things are done. However, they fail to realize that the thoughts about change are also part of the cultural premise. The importance of culture in all human endeavors has been discussed by many authors. They help to understand how situations evolve.

Many writers, including Mararike (1995), Hagan (1992), and Adu-Febiri (1995), have expressed misgivings about the way policies and laws are made without taking into consideration the cultural premise. Mararike (1995) argued, “The crisis which many organizations in Africa face is the lack of appropriate knowledge to use at particular periods in the development process” (p. 91). He noted that African societies often seek to maintain traditional value systems, while on the other hand they also seek modernization. Writing on leadership, he made the point that the success of a given management or leadership model does not mean that it is universally appropriate and useful to all societies. He contended that African leaders should employ African value systems as the basis upon which development goals would be set, and not worry about the cultural value systems of the West or East in their efforts to develop.
Hagan (1992) stated, “African states have suffered setbacks in their haste to achieve accelerated development because the cultural premise of development was underestimated” (p. 56). He emphasized the need for a culture-based development strategy through a policy of total decentralization and devolution of responsibility for sustainable development. Consequently, he argued, “As far as Africa is concerned, culture will continue to be important as the focus for development” (p. 58). Hagan seems to be urging policy makers and development partners to retrieve the cultural base of knowledge which Mararike (1995) noted has almost demised.

With specific reference to Ghana, Adu Febiri (1995) argued the culture has been neglected in efforts to explain and solve developmental problems. He highlighted the collectivistic orientation or group consciousness in contemporary Ghanaian society where mutual aid and responsibility are very important for human development. Furthermore, he noted that mutual aid and responsibility were reflective of the strong kinship and ethnic spirit that were entrenched in Ghanaian traditional societies and noted, “Despite Ghana’s long and close contact with Western individualistic culture, the collectivistic ethic in general, and the extended family system in particular, remain fairly strong in contemporary Ghanaian society” (Adu-Febiri, 1995, p. 59). The question that arises is, when do the Fantse, and for that matter Ghanaians, become individualistic and when do they espouse collectivism? Drawing clear lines about these will be very important, bearing in mind Gyekye’s (1992, 1995, 1996) admonition that both individualism and collectivism are important values in Ghanaian cultures.
The literature mentioned above is important to mine in the sense that it provides the cultural premise upon which I will construct my ideas. There is enough indication that modernization has not eroded the collective efforts or the communal spirit that exists among the Fantse and for that matter Ghanaians. More specifically, if inheritance laws do not take into consideration the mutual aid and responsibility system that have been the bedrock of social organization, especially the larger family system, they are likely to backfire. This assertion has been supported by legal theorists and pundits such as Durkheim (1997) and Lukes and Scull (1983). Furthermore, communal systems in Ghana have provided extensive cultural experiences that people have used to negotiate in conflicts concerning inheritance, but governments have replaced them with alien ones. There is, therefore, the need to capture the indigenous skills and the strong cultural experiences. Therefore, these works are going to help me to examine the extent to which the values and customary practices of the Fantse people of Ghana fit into the laws of the state. It is worth noting that Ghanaians recognize that customary values are very important in their efforts to develop, and so the constitution of Ghana enjoins them to make policies and draw their development plans based on the cultural premises (Ghana, 1992).

**Akan Philosophy of Personhood, and Family Cohesion and Inheritance**

A person exists in a community. The Akan proverb goes that when an individual descended from heaven, he or she descended into the clan, and the clan introduced him or her to the community. Members of the community evaluate individuals on their own merit but in line with social norms. The society expects individuals to have good deeds to
keep the society on track. Therefore, the society values the individuals’ actions and the individuals too need the support of the society. This serves as the symbiotic relationships between individuals and the society.

Ikuenobi (2006) addressed the moral justification for the African communal values that are couched in the concepts of personhood. He noted that the theories of moral development, especially that of Kohlberg, is based on the liberal ideas of Mill, Locke, and Kant. He opposed the workability of these theories on the ground that African communalistic views are opposed to the liberal, autonomous, cognitive, and rational view of a person. He notes that the liberal ideas have been used to criticize African communalist accounts of person and moral education in that the African view involves authoritarianism and indoctrination. He continues that the idea of independent rationality seeks to ensure that one is objective and not partial and that objectivity and impartiality are essential for making moral principles universally rational.

Ikuenobi’s argument that the implication of the communal values to the African is that a person must necessarily act in a way that is dictated by the community and that the African cannot consider others plausible as justification for his or her actions. Furthermore, he noted that the rationality cannot be derived from, or based on, this traditional African culture. He stated, “The criticism that beliefs, principles, and thought systems in traditional African cultures lack rationality is coextensive with the criticism that African communalistic structures are restrictive of individual rational autonomy, which is the foundation for rights and freedom” (Ikuenobi, 2006, p. 268).
The criticisms of the African communal value systems seem to influence activism on gender and related issues. I am sure that this has come about because of the liberal democracy that takes its roots from the west. This liberalism, as noted by Ikuenobi, is not in consonance with the traditional value systems of Africans. Because of the liberal system, the larger family system that exists among traditional African societies has often come under attack by gender activists because they feel the system seems to give the natal family (family of orientation) of a man too many rights and privileges, at the expense of the conjugal family. Ikuenobi’s work (which is more oriented towards the Igbo culture) helps me to connect the communal values among the Fantse and how they can fit into the laws of Ghana.

Gyekye (1996) espoused individualism and communalism by using a number of Akan proverbs. He stated that in African societies, communal or communitarian features define the characteristics of African cultures. He referred to a number of African scholars who have written about this issue, including Kenyatta (1965) and Mbiti (1990). He noted that the moral questions that may be linked to metaphysical conceptions of a person, relate to the status of the rights of the individuals. Other things that come up for discussion are how the individual sees his socio-ethical roles in relation to the interest and welfare of others besides his or her own existence, and the appreciation of a shared life among the individual members of the society. He stated that the Akan have a philosophy (couched in a proverb), “When a human being descends from heaven he or she descends into a human society” (p. 38). According to him, this offers implications for a communal way of life, and the basic implication is that a person is a communal being by nature. The
choice is not his or hers to live or to be a member of the community into which he or she
is born. Therefore, the individual cannot live in isolation from other persons towards
whom he or she is naturally oriented.

Gyekye (1998) acknowledged that the Akan show that individuals are not self-
sufficient in their capacities, capabilities, and dispositions with regard to their basic
needs. He continued that this means that the cultural community in which a person lives
is a priority to the society. He affirmed that the community is the basis for defining and
articulating the values and goals shared by several individuals as well as the social or
cultural space in which actualization of the individual can take place. Besides, the
community offers a range of goals in life from which the individual can choose. Thus, the
community is an important aspect of the individual and vice versa. How do these
influence social organization and inheritance among the Fantse? My study will examine
the concept of person among the Fantse along these lines and attempt to show how this
concept dovetails with the factors that influence inheritance among the Fantse.

In another development, Gyekye (1996) addressed a number of issues in African
culture. Among these are the value of children to Africans, the values placed on both
communalism and individualism, and private and communal ownership of property. On
the values that Africans place on children, he explained that children are considered the
most precious possessions and that if a wealthy man or woman fails to reproduce during
his or her lifetime he or she loses the honor done to her for recognition as an ancestor. He
noted that African societies have many proverbs that show that children need to enjoy
some love and care from adults. These include, for example, "When an adult knows how
to walk with children they learn to carry his or her bag,” and “One does not send a child up and then remove the ladder from under its feet,” and “When you lift up a child you bring him down gently” (p. 88).

Gyekye (1996) espoused the ambivalent nature of communalism and individualism and frames them into a symbiotic relationship. He defined communalism as “the doctrine or theory that the community (or group) is the focus of the activities of the individual members of the community” (p. 36). He noted that the idea of communalism places emphasis on the wider society, not necessarily to the detriment of the individual. On the balance between the two, he identified some maxims and proverbs, which espouse the community as well as the individual. He stated, “Just as communal values are expressed in a large body of maxims, so too are individualistic values” (p. 47).

For him a balance between the two means that one must have two responsibilities to oneself as an individual as well as to the group, and that the community is the framework within which an individual realizes his or her potential, but recognition is given to individual achievement. He concluded, “[the] idea is that the individual cannot develop outside the framework of the community, but the welfare of the community cannot dispense with the talents and initiatives of its individual members” (Gyekye, 1996, p. 90). Touching on the Akan concept of person, he stated that a person has three entities: Okra, sunsum, and honam (nipadua). He continued that the okra constitutes the innermost self of the person. It is the individual’s life and therefore referred to as okrateasefoo (the living soul). Touching on the rights of a person to own property,
Gyekye (1996) asserted that, in African societies, private property exists side by side with communal (public) property.

If all these issues raised by Gyekye prevail in Akan philosophy, why do families claim ownership of a man’s property and exclude his nuclear family from benefitting from it when he dies? If children are highly valued and the Akan believe that a child should be protected and given the best and that there is a strong bond between a father and his children, why cannot a father pass on his property to the children as a sign of love? If the child should not be raised high and the ladder beneath his feet removed, why do fathers raise their children and leave them without any form of inheritance? Or better still, why do a father’s clansmen deprive the children from having a fair share of their father’s estates should he die intestate? These questions raise some ambiguities that need critical reflections. My work will try to advance meaning for those questions.

Wiredu (1990) explored the question—What is it about the human being that makes him/her entitled to human rights, within the Akan perspective?” He addressed the Akan conception of person and linked it to why and how a person obtains rights. He stated, “The Akan conception of person has both descriptive and normative aspects that are directly relevant not only to the idea that there are human rights but also the question of what those rights are” (Wiredu, 1990, p. 244). This means that the rights of a person are spelt out within the conception of person. Wiredu (1990) saw personhood framed within the social and political realms. Using Aristotle’s maxim that man is by nature a political being, he situated the political nature of mankind, among the Akan, within the context of the community. Therefore, a person is an individual being as well as a
community (communal) being, and so he or she enjoys certain rights, as a person and is
supposed to render certain obligations to the community to which he or she belongs.

Explaining the Akan conception of person, Wiredu (1990) noted that a person is
made up of three entities – *okra* (soul) which he or she obtains from God; *mogya* (blood)
which he or she obtains from the mother; and *sunsum* (spirit) which he or she obtains
from the father. He noted that the contribution of both parents produces the frame of the
human being. He stated that by possessing a soul, every person has an intrinsic value
which is the same in every person and which he or she does not owe to any earthly
circumstance. He noted that this value is associated with the concept of human dignity,
which implies that every human being is entitled to an equal measure of basic respect. He
also stated that the network of kinship relations generates a system of rights and
obligations for individuals in the community. He stated that, on the first appearance on
this earth, a person is defenseless and dependent, so the person has the right to be nursed.
This right transforms into a duty when the person grows up and has to take care of the
parents. He argued that another aspect of nurturing is that the child should be instructed
in the arts of gainful living which the Akan ascribe to the father. Therefore, the father has
the duty to provide the child with character training, general education, and career
preparation. Wiredu (1990) asserted further that through the element of personhood
contributed by the father the child is linked to his father's lineage, even though this link is
not as powerful as that of the one to the mother's lineage.

Examining a person within the communal contexts, Wiredu (1990) used a number
of proverbs that indicated that a person is supposed to use his or her individual strength
and abilities for the benefit of the society. He noted that the individual needs to see himself or herself as a member of the community. Therefore, he or she must contribute to the welfare of the community within which he or she lives and, then through the collective efforts of the community, he or she will also improve upon his or her own welfare. It is therefore a matter of give and take, and everyone has the obligation to ensure that the general welfare of the community is maintained. As a result, a person must participate in politics at all levels.

Wiredu’s arguments provide the indications that a child enjoys rights from the mother’s lineage, the father’s lineage, and the Supreme Being. However, that from the Supreme Being is vested in the community, so a child has to contribute to the welfare of these groups and enjoy some basic rights from them. Wiredu did not explain why the rights that a child obtains from the father and his lineage are vested in that lineage. Neither did he say whether this came about as a historical development, nor how these rights can extend or transform into inheritance rights. In other words, he does not explain the rationale for this. He simply talked about the duty of the father to the child. The question that comes up for discussion is whether the obligation of the father transform into rights for the child in the spirit of reciprocity?

After providing the child with career training, who sees to it that the child is gainfully employed to fit into the society? Does the father train the child and asks the latter’s matrilineage to provide all the capital that is needed to set the child up in employment since factors of production are basically owned by the families and not individual? Does the father have any commitment to provide an aspect of the capital, and
does this transform into inheritance rights should the father die intestate? Thus, Wiredu's work provides a framework of rights and obligations which are vested in reciprocal gestures which my work will dwell upon. My work will attempt to answer the questions above which Wiredu's work fails to answer.

Social Organization Among the Fantse.

The symbiotic relationships between individuals and societies call for ways by which things should be done. For the Fantse, a person's first encounter is with the family. The family introduces a person into the larger community. The community accepts the person and ensures that he or she gets the best from it. Therefore, the community sets up the framework for the peaceful existence of the individual but with due respect for the family that introduced him or her. The family then becomes the liason between the individual and the larger community, thus setting the pace for social organization.

The Encyclopedia Britanica (2007) stated that, among the Fantse, allegiance to the Asafo, a patrilineal organization is stronger as compared to the matrilineage. Sarbah (2004) and Wilson (2007) do not suggest which of the two lineages is more important. However, each of them contends that among the Fantse, society is organized on both the matrilineage and the patrilineage. The matrilineage is organized along the Ebusua while the patrilineage is organized along the Asafo. Each of the lineages has clearly spelt out roles which complement the roles of the other within the society. It is documented by a number of writers that the Twi speaking Akan have these social organizations; but the organizations exist on different modes. The Fantse Asafo is better organized than that of the Twi-speaking Akan.
Stanton (2006) stated, “Of all types of human affiliation, kinship (family) is, with a few rare exceptions, the most permanent and has the greatest long-term impact on the life, behavior and social identity of an individual” (p 79). Furthermore, he stated that patterns of family interaction are scripted by kin in the areas of work time and roles and notes that the larger family assigns activities such as reproduction, care of dependent children and the elderly and economic survival to individuals. Weisner (1997) stated:

Family solidarity may be crucial in helping African communities to survive the current crises...understanding the social support in Africa families and communities is critical to the future of Kenya and Africa. African communities flourished in the past in considerable part because of their successful elaboration of shared social allegiance and support in corporate groups. This long tradition of African ‘communal solidarity’ and shared social support indeed can assist in meeting some of the problems facing the continent today (pp. 21-22).

The statements in these books set the pace for discussing issues on the family among the Fantse. With these I delve into the collective nature of social organization and how the cooperation among members of families in Ghana influences decisions on inheritance.

Awedoba (2002) explained the kin types and the associated kin terms that exist in African societies. He provided a number of sociological/anthropological terms associated with family systems and offered examples of the different types. He stated that many African family systems show the unilineal system which is either matrilineal or partrilineal, but there are some which exhibit the double descent system. Among these are the Akan, which includes the Fantse. He noted that even where we have the unilineal system, the societies exhibit some level of double descent system because some specific roles are assigned to the non-dominant unilineage.
Touching on the strengths of the African family, Awedoba (2002) contended that the way people criticize the family systems create the impression that the system will break down after about three generations. However, it continues to transform itself, grows with time, and becomes a wider group that includes those who have died and those yet to be born. He noted that an individual in Africa has many familial connections that transform into rights and obligations, so each individual has obligations to other members of the family based on the relationship between him or her and the other persons. He observed that spouses maintain their allegiance to their natal families as well as their conjugal families.

Awedoba’s study does not provide a deep insight into inheritance systems in Africa. However, he mentioned that, among the Akan, a successor to a deceased person has the obligation to maintain the widow and the younger children. There are many things that I can draw from this study. There is much connection between the kin types and terms that relates to inheritance. Consequently, his work provides the panacea for delving into the kin types of the Fantse to see its connections with the rules governing inheritance. It will also enable me to investigate the extent to which successors of deceased men support the widows and children of the deceased. With his work, I am now armed that the family exhibits diverse characters within different societies. This has the potential of limiting the rate of bias that I may have as an insider. It will provide me with many avenues or alternatives that I can examine the Fantse family and the entire social systems. This will equip me with the basis with which I can do critical observation and analyses in my work.
Double unilineal descent groups have been discussed by authors such as Goody (1969), Radcliff-Brown (1950), Herskovits (1937), Murdock (1940), and Nadel (1950). According to Goody (1969) Radcliff-Brown often used the Asante as a case of double unilineal descent group. Goody (1969) noted that Fortes’ (1950) did not reject the classification of the Asante as a double unilineal group. Rather, Fortes (1950) argued that the Asante do not come closer to the type of double unilineality as exhibited by the Yako of Nigeria. His reason is that the Asante ntetro, the patrilineal descent group, is not a corporate group, and it has no jural or political rights or duties.

Christensen (1954) acknowledged the high degree of homogeneity among the Akan, but also stated that some level of differences and variations existed. Touching on Fortes, claim that the Asante do not come any closer to the level of double unilinearity of the Yako, Christensen (1954) argued that if investigators (researchers) concern themselves with only the formal aspects of kinship, then they are likely to ignore some major concerns of the culture of a people. He noted that one marked difference between the Fantse and the Twi-speaking Akans is the emphasis placed on the paternally line of the former where it plays a significant role in the religious and socio-political aspects of their culture.

I wish I could refrain from agreeing or disagreeing with Fortes’ claims, but I am already caught up in the web in the sense that both the Asante and Fantse are Akan and have almost the same kinship organization. Unfortunately, there is more literature on the social and political systems of the Asante than the Fantse, and besides, in relative terms, the Fantse have gone through a number of social changes as a result of colonialism.
Therefore, to trace the indigenous Fantse culture, one will often make reference to the situation among the Asante (and probably other Akan) to draw the lines. In view of this, there is the temptation for a researcher to associate Fortes‘ claims about the Asante with the Fantse since both the Fantse and Asante are Akans. Because my study is on the Fantse, I will go ahead and provide what prevails among the Fantse.

Christensen (1954) emphasized that double unilineal descent system of the Fantse is more inherent than that of the Asante. The reason is that children are considered foremost as members of their mother‘s clans, but the psychological bonds between a father and his child are so close that the father is under the moral obligation to care for and train the child in a manner that gives credit to him. The fact that filial ties between a father and a child rest on sanctions that are more supernatural does not mean that they are less important and that, in order to understand the concept, there is the need to delve into the whole structure including the psychological perspectives. Christensen (1954) stated that membership of the clan goes with the right to inherit from an elder brother or a mother‘s brother, the use of lands that belong to the clan, succession to the position of chief, and a proper burial and funeral. This means that since one does not belong to one‘s father‘s clan, one does not have inheritance rights from the father.

Chukwukere (1978) argued that Christensen‘s (1954) findings were erroneous, but he did not provide any cogent reason or analysis to support his claim. However, in the course of the discussions, he placed the Fantse society within the double unilineal descent system and asked whether the Fantse were aberrant. He only made the point that perhaps it is because the Fantse had been more influenced by the Europeans, especially the
British, and the latter are patriarchal. That is why a typical Fantse will claim allegiance to his partriclan. My own research among the Fantse shows that there is clear evidence of double unilineality (Wilson, 2000). Both the matrilineage and the partrilineage are descent groups that are corporate in nature. Owoahene-Acheampong (1998) stated:

Among the Akan succession, inheritance and political allegiance are determined by matrilineal descent…And for this reason also, real control and jural rights over the individual come from the head of lineage (abusua panyin) and the maternal uncle (wofa) respectively…A child's genitor is not necessarily his parter…In terms of social relationship, the child’s maternal uncle has rights of the socialization of the child. The father’s responsibility to the offspring, and thus to the ‘nuclear family’ (which includes the wife), is the provision of shelter and food. As the children grow older, their father’s responsibilities to them decrease, but during their childhood the father is the person upon whom the children may depend (p. 44).

Owoahene-Acheampong's (1998) assertions need further clarification. He pointed this out himself when he stated the following:

It is believed also that a child cannot thrive if its father’s sunsum is alienated …This explains why a priest sometimes traces the cause of a child’s illness to the grief of its father’s sunsum….This point brings out the need for further clarification of the father’s position in the nuclear family (p. 44).

Owoahene Acheampong clarified the situation in the following words:

Although legally the father’s position in the nuclear family is a weak one because of the fact that it is the _blood_ tie, the abusua, that really counts, _the supposed power of the father’s…ntoro_, which protects the children, helps to mitigate the importance of the abusua, so that in practice the father is a good deal more than the mere figurehead in the family which he might seem to be theoretically.‘ The upbringing of a child in the Akan community as we shall see in this work becomes the responsibility of the maternal as well as the paternal families. And since the Akan traditionally live in smaller communities, a child’s upbringing becomes a communal affair (p 46).

I have quoted Owoahene-Achempong extensively because he pointed out a number of issues that need to be understood within the context of the language and
culture of the Akan. They have the potential for creating misunderstanding of the Fantse family. Taking these into consideration, I felt the need to understand the social organization of the Fantse and devoted a number of questions to solicit that while I was in the field. I also tried to observe the nature of relationship between a father and his son or daughter.

Mair (1953) identified some peculiar characteristics of African marriages that distinguish them from those of Europeans. These include tolerance and approval of polygyny, payment of bridewealth by the groom to the bride’s kin, marriage being primarily an alliance between two kinship groups, the woman’s position being inferior, and child betrothal between two children and between a girl and an older man being acceptable. She attributed the existence of polygyny to the lack of legal impediment to contracting another marriage (or of unlimited number of marriages) by the husband, and that the only exception was the restriction on the husband of a female chief, or to quite unrepresentative ethnic groups such as the Galla. She noted that bride price was in the form of commodities that were paid right away or by installments. Furthermore, she stated that different opinions go with the payment of the bridewealth, but the common one is the compensation for the loss of one the members of a clan who was regarded as a potential child bearer. She considered the inferior status of the woman in a marital union as a serious legal disability.

The description offered by Mair (1953) provides me with the impetus to assess the Fantse family. I considered all that the other writers had said about the African family and related the information to that of the Fantse family. My study attempted to find out
where there were differences and similarities, and whether the way the authors had described the family and the reasons that they had assigned to the practices were peculiar to the Fantse culture.

**The Changing Family**

Culture is dynamic. The Fantse proverb goes that the success or otherwise of a community depends on the various families. Changes within the community are expected from the individuals who come from the families. The family is an agent of change as well as the recipient of the good and bad things associated with social change. Therefore, changes in the family set the pace for development of the community.

Boateng (1996) provided an analysis of the changes that are occurring within families in Ghanaian societies. He noted that all over the world the family is seen as the bedrock of human society. In Africa, the family serves as the base for development. Besides, it is one of the institutions within which critical tasks of social living are organized, directed, and executed. He noted that, in spite of the positive traits that the family provides, it is being undermined by social changes brought about by urbanization, modernization, and increased communication. He identified the changes that families are going through as follows:

- the role of women is changing from the domestic domain to the public,
- families are disintegrating
- remarriage is common,
- female-headed families are increasing
- there is reduction in fertility.
Another issue that Boateng identifies with the breakdown of African families is that now households are made up of the nuclear family members. In the past, even neo-local households consisted of members of the nuclear as well as the wider family. As a result, members of the wider family who could have found solace in living with their kinsmen can no longer do so. This creates conflict between natal and conjugal families. My work shall examine whether these changes identified by Boateng are really occurring among the Fantse in both rural and urban communities. It will also examine the extent of the tensions that exist between natal families and conjugal families.

Awedoba (2002) noted that the families in various societies exhibit different traits, and African societies are no exceptional in this regard. Furthermore, he stated that the influx of foreign ideas and institutions have made African families encounter a number of changes, and therefore, have become the heart of the discourse on development. Among the issues that he raised are that Africans are becoming critical of their own family structures to such an extent that many people blame the lack of development of African countries on the family. He noted that the result is that the real causes of underdevelopment escape detection while no attempt is made to exploit the family and the ideologies surrounding it for achieving the developmental objectives of African societies.

Awedoba (2002) noted further that those who have benefited from the benevolence of the members of the larger family are those who provide excuses when it is their turn to contribute their quota for the well-being of other members of their families. To avoid the accusation that people have failed their families, the people attack
the principles underlying the families. They tend to praise the Western families and vilify the African family. Awedoba (2002) acknowledged that such accusations provide excuses for those who wish to escape from their obligations to the family. Furthermore, he submitted that Africans maintain intergenerational reciprocities between children and their parents. He did not specify the extent to which each of the parents maintains such relationships. One may ask that if there are reciprocal obligations, what do sons and daughters get from their fathers after the latter have worked with the former? If there is anything at all, does it transform into inheritance should the father die intestate? The study will attempt to address this issue among others.

Oheneba-Sakyi and Takyi (2006) stated that the family continues to be the center of all social institutions. Furthermore, it continues to be the focus of investigation by scholars on family issues such as, sociologists and anthropologists. He contended that in spite of the interest shown by scholars, most of the studies have over emphasized reproductive behavior and neglected other aspects of family life. He argued that traditional African families have come under threat because of their contacts with the outside world as well as some factors that are internal. The threats have come about due to urbanization and western education. He identified some of the effects of this contact as marital instability. He identified the threats coming from both internal and external factors. He also noted that families have been resilient in their efforts to improve upon their lives. He identified problems associated with the traditional-modern dichotomy and noted that the African traditional heritage does not begin from somewhere and end elsewhere.
Among the issues that Oheneba-Sakyi and Takyi (2006) raised were the inheritance rights of women. He noted that they have rights to own property and the death of a husband could be a traumatic life experience for them but did not also state whether the death of a wife could also be traumatic. He did not state why a husband’s death could be traumatic. He does not also talk about inheritance rights of children. He called for enactment of laws that will govern the property rights of spouses. His work is beneficial in the sense that it provides me with the framework with which to examine that factors that are influencing people in family decisions. With this, I will compare and contrast how wills are made in traditional Akan societies and what exists now in the statute books and their ramifications on inheritance and succession among the Fantse. I will also examine the impact of the internal and external factors that influence decision making on wills.

**Historical Development of Inheritance Laws**

People are divided on the opinion that the traditional system of inheritance should change. The debates were hatched during the colonial period and have continued to date. There have been several attempts to enact new laws and amend existing ones in order to effect the changes that people are calling for. I must say that all the attempts made have brought about ill feelings among certain groups of people.

National laws on the family were enacted as far back as 1884 by the colonial authorities (Ardayfio-Schandorf, 2006; Daniels, 1988; Woodman, 1985). The laws have general been Eurocentric and, therefore, have created serious problems. For instance, the law sought to make monogamy the only form of legal marriage and created a formula for
sharing the estate of a deceased person. The original formula was that a third of the property goes to the wife and two-thirds to the children. The outcry of the public engendered an amendment, but still it created problems. An amendment was made, giving a third to the extended family and two-thirds to the widow and children. Ardayfio-Schandorf (2006) stated that the first attempt to enact laws on marriage and inheritance in post-independence Ghana was defeated in Parliament, and repeated revisions did not help the situation. She claims that the situation was put to rest until 1985 when the Intestate Succession Law (PNDC Law 111) was enacted.

Ardayfio-Schandorf (2006) stated, “The family is the bedrock of Ghanaian society” (p 135). She posits that Ghana is a pronatalist country, and so children confer respect on their parents. She states that they are of great value to both men and women in both matrilineal and partrilineal societies. She examines the structures in the indigenous Ghanaian family and provides a historical background to the social change that it has undergone. She states that colonialism and modernization have altered the structures within the Ghanaian family. Among some of the alterations that she recognized under colonialism was that, whereas Ghanaian culture emphasized cooperation and community, the European culture emphasized competition and individuality. Another issue was that Ghanaian culture vested land in the lineage, but European culture considered it as a private capital. Under modernization, she states that families no longer live together in the extended residential unit. Furthermore she notes that the focus on the nuclear family means that the care of the elderly, which used to be the obligation of the extended family,
will now shift to the nuclear. Therefore, there is the danger of neglect for aged family members.

There are many issues in Ardayfio-Schandorf’s study which I will draw upon. These include the historical narration of the changes that the family has gone through, the differences between the indigenous family and the European family, its implications on the social life of Ghanaians, and the social change that has affected the Ghanaian family institution. These provide me with an insight to the situation. It serves as a guide to examine the extent to which cooperation in African families will affect decision-making on inheritance and succession. I will also examine whether the Fantse see the Intestate Succession Law as Eurocentric. For me the situation is very complex and therefore calls for research that will study different parties of the problem and come out with suggestions that will help to enact new laws.

Ardayfio-Schandorf’s study dwells much on the inheritance rights of wives and relegates that of children to the background. She stated that the PNDCL111 was made to confront the specific problems of women. She did not mention how the law affected children or how people perceived the law initially and how they reacted to it after they had come to understand its implications. She also did not explain how the law was able to address those specific problems that she mentioned. Neither did she show how successfully it was implemented nor the problems that the implementation created. She failed to mention that the government of that time was able to enact the law because that was a military government and ruled with decrees.
Another author who produced the historical background to laws on marriage and inheritance is Smock (1977). She stated that, during the reign of the first President of Ghana, Dr Kwame Nkrumah (1957–1966), attempts were made to enact laws on marriage and inheritance. In 1959 the government set up an inheritance commission to consider how customary provisions on inheritance could be modified. There were a number of disagreements among the members so no recommendations could be made. She stated that, in 1961, an attempt was made in parliament to amend sections of the criminal code that dealt with offences which were related to the marriage ordinance. Thus the Marriage, Divorce and Inheritance Bill, which sought to make monogamy the only form of legal marriage, was drafted. In the final draft bill it was proposed that men should be allowed to register all their wives, but it stipulated that in future only one could be registered. According to Smock (1977), some people perceived this as encouraging monogamy while others perceived it as encouraging polygyny. Many women criticized the draft bill on the grounds that men would continue to practice polygyny and that all the other wives would not be protected if such a bill was passed into a law.

Smock (1977) asserted that representatives of the various churches requested that the bill be withdrawn, because, it contravened traditional practices to the extreme. They feared that this might give rise to concubinage instead of promoting monogamy. Finally the bill was dropped. Though Smock‘s study was limited to the period under the reign of Ghana’s first president, Dr Kwame Nkrumah, it complements Ardayfio-Schandorf’s as it provides the reaction of the peoples of Ghana to the laws of marriage and inheritance. What both works fail to assess is how the laws on inheritance apply to children and their
impact on the society or how the society reacted to the laws in the absence of clauses that apply to children. The question that I pose is why was the law silent on children? In any case, my work will examine whether the past laws on inheritance considered children as entities that qualified for inheritance, or the society felt it was only the issue of inheritance for women that created problems at that time.

As noted earlier, when the Europeans arrived, they attempted to change the marriage and inheritance systems of the indigenous people. The cause of misunderstanding is buttressed by Goody (1989) as follows:

While Christian missionaries and legal politicians have made efforts to instigate a change to European mode of reckoning, with transmission from husband to wife to children, the Asante (and also the Fantse) persist in passing down much landed property through the uterine line (p. 138).

Furthermore, Goody (1989) pointed out clearly that it was not only in matrilineal societies where there was no transfer of property from husbands to wives, but it was in the matrilineal societies where the continued attachment of the wife to her matrilineage was more noticeable. He also points out that the strain that the Europeans and the politicians identified was not because of the fate of the widow but because of the fate of the children; and so it was because of this that the system of inheritance, especially that of the matrilineage, came under pressure from European legal ordinances and Christian churches.

Goody (1989) argued that, in spite of all the efforts made by the colonialists and the Christian missionaries, the Akan system of inheritance persisted to such an extent that the mode of social organization has been incorporated into the written laws of Ghana. I
do not know which particular law that Goody was referring to, but customary laws are of the legal systems of Ghana under the concept of legal pluralism. Therefore, I will examine the history of this legal system and how it influences the system of marriage and inheritance.

**The Impact of Traditional Cultural Values and Legal Pluralism on the Society**

In an introduction to the book *Customary Laws of Ghana*, Ollenu (1962), Laing questions whether we can have customary laws of Ghana or we can have customary laws pertaining to certain communities. He provided an answer linking the situation to that of England where there is the ‘Common Law’ pertaining to all parts of England and ‘Customary laws’ pertaining to particular parts of England. He stated that there are customary laws that apply to all the ethnic groups and there are those that are peculiar to certain ethnic groups. Therefore, we can have for instance, Akan Customary Law, Ga Customary Law, and so forth.

Schiller (1965) argued that, in the 1960s, the new African nations fashioned out their legal systems out of the heritage of the past, and so legal pluralism had become the order of the day. He noted that the nation had adopted several devices such as legislative enactment, semi-legislative declaration, codification, restatement of customary laws, developments by court decisions, and reliance of legal and paralegal books to ensure that this is carried out within the framework of modern legal systems. A number of debates have arisen out of the issue of legal pluralism. Among them are whether customary laws can be considered as laws or mores and whether the legal pluralism began at the time of colonization or before that. Marriage and inheritance laws have often come under the
customary laws and so it will be inexpedient to examine marriage and inheritance law in Ghana without examining the place of customary laws within the corpus of Ghanaian laws and the origins of legal pluralism in Ghana.

Schiller (1965) noted that administration of justice during the early days of British colonialism was solely concerned with the preservation of law and order. The main thrust of the system was to settle disputes of the merchants and settlers. It was only in the latter years of the nineteenth century that the British extended control over the indigenous administration of justice.

The picture provided by Schiller seems to be applicable in the case of the Gold Coast. However, the time frames provided do not capture the situation in the Gold Coast. The historical records show that the British attempted to get involved in the indigenous administration of justice as far back as 1844 when the Bond of 1844 was signed or even the period before when Capt. George Maclean was appointed Judicial Assessor by an act of British parliament.

Legal pluralism exists in many African societies including Ghana (Philips, 1953; Schiller 1965). Saha (2007) questioned whether traditional ways and means yield insights and approaches that may enrich the working process in state building. He stated that modernization theories make too many optimistic assumptions about the role of the intellectual and political elite in societal change. He lamented that all cultural variations and socio-economic variations are erased for the sake of uniformity. He stated, –The state paradigms overstate the effectiveness of state construction in Sub-Saharan Africa, but the current literature does not relate to the assumptions about where national identities
originate from” (p. 141). He compared the western style of individual rights to those of traditional societies, and noted that individual rights, as exist in the western system, make little meaning to the traditional societies in the sense that the former tends to isolate the individual from the community. He noted further that communitarianism is built through mutual support and group action and not on choice and individual liberty. He posited that the African consensus formula creates a meeting point and so African moral, legal, and ethical principles are based on amicable and practical compromises.

Saha’s study is relevant to my work in that it provides an insight into the social and legal systems of Ghana where some rights are vested in the family with the state serving as the overseer. In this vein, some rights are negotiated. The law may exist but people will prefer to negotiate an out-of-court solution to a problem. When there is a legal problem, the law courts encourage feuding parties to negotiate for an amicable solution and give it a feedback. With this background, my work will assess the extent to which cases on succession and inheritance are negotiated both within and outside the law courts. My work will take into consideration the concept of Alternative Dispute Resolution, which was introduced into the legal system by the immediate past government.

Writers on family issues have raised divergent views on the survival of the communal values that prevail among Africans. Fortes (1974) stated, “The matrilineal family continues to play a decisive part in the lives of individuals and communities in these areas, and the indications are that this will go on for many years to come” (p. 33). Sarpong (1974) and Awedoba (2002) identify social control measures that ensure that the
African system of family does not demise. Funerals are one of such social control measures. They expatiate how people will criticise a funeral attended by few people, and so people strive towards having a reasonable form of funeral when they die, and so the living ensure that the dead receive their due respect. It is worthy of note that, among the Akan, the right to organize a funeral is vested in the clan. Children are not members of a man’s clan, so the clansmen can really sabotage the funeral arrangements of a person. In other to avoid such situations, a number of negotiations take place to ensure that all parties are happy at the end of the day. Therefore, in my research, I found out what really happens during the funeral rites of urban dwellers who neglect their relatives. It is also worthy to examine the sanctions or the insinuations that the family or the entire community passes onto the children of the deceased. I examined this and other social control measures in my research.

Oppong (1981) provided a divergent view about the survival of the Akan family traditions. She highlighted the dependency syndrome that exists within the Akan family systems. She stated that, in spite of the changes taking place in urban-dwelling African families, its members continue to retain traditional elements of their strong link with the kin. She noted that many urban dwellers send a considerable proportion of their wages that they earn in labor centers back to relatives in the villages, and that urban workers often maintain claims to financial security in their home villages in the form of buildings and plots. This shows the level of attachment that people have for their links to the rural areas. However, she stated, “Since households of migrants are perforce relatively isolated from kin, traditional patterns of kinship behavior cannot continue to operate in their
entirety” (Oppong 1981, pp. 8-9). She also highlighted the apprehension that several Akan women have concerning the potential financial insecurity of themselves and their children since they do not belong to their husbands’ families and did not have rights in the share of their property. She noted that this has the potential for tension in marriage among the Akan.

Oppong was clear about the strong networks between urban dwellers and their relatives. To this extent she highlighted how wives and children on one hand see members of the lineage and clan as parasite and how lineage and clansmen and women also feel the same way. The question I ask is who are justified in their claim. She did not address this, so I find it difficult to understand why she predicts that the traditional kinship behavior among the Akan cannot continue to operate within its entirety. She identified one weakness within the family system which perhaps makes her think that way. She stated that there is lack of customary sanctions and so migrants can afford to neglect their duties.

Authors such as Appiah (1992), a philosopher, Awusabo-Asare (1990), a family and population studies analyst, and Kom (1993), a legal practitioner, write on the Intestate Succession Law of Ghana. They all refer to the Akan but write on different issues. Whereas Kom (1993) writes on inheritance and succession in the country, Appiah (1992) bashes the Akan culture for such a law that deprives children of enjoying a fair share of their fathers’ estate. On the other hand Awusabo-Asare examined the implications of the law on the Akan.
In the 1970s and 1980s the issue of inheritance became so disturbing that women's activists pressed for the enactment of a law to safeguard the interest of women and children. The result of this was the introduction of the Intestate Succession Bill in 1975 and the enactment of the Interstate Succession Law, PNDCL 111, of 1985. This law sought to give children and the surviving spouses a fair share of the deceased's estate. The main purpose of this law, according to the memorandum to the law, was to remove the anomalies in intestate succession and to provide a uniform intestate succession law that will be applicable throughout the country. This law was hailed by many people including men who felt that they were so entangled by traditional cultural practices that did not offer the best for members of their nuclear family.

Kom (1993) made a number of submissions on the law. According to him, before the law was enacted, a widow whose husband came from a matrilineal society was not regarded as a member of her husband's family and therefore, had no share in the estate of the deceased husband. She was only entitled to be housed, fed and, clothed until she remarried or died. She enjoyed these as privileges subject to good behavior. Furthermore, he stated that the Ghana Law Reports are full of cases where the customary successor or the head of family of a deceased husband threw out widows and children or attempted to throw them out after the death of the husband. In fact, Kom's assertions dwell much on the welfare of women. He does not make children the major subject of discussion. However, it is worthy to comment on them, since he seems to be making a generalization based on what prevails in some patrilineal societies. His assertions have also been highlighted in studies by Appiah (1992) and Nzegwu (1996).
Appiah (1992) demonstrated how attempts to construct a uniquely African literature have ignored the influence of colonialism and the multicultural nature of Africa itself. He gave an account of his father's death and funeral in Ghana and drew attention to the tension that exists as Africans try to aspire to modernity while they desire to draw on their ancient cultural roots. His study is not actually on the family or inheritance but makes inference through a combination of philosophy and literary works. Many people who have reviewed his award-winning book note that his observations about authenticity of movements, the persistence of Western constructions of African realities, and the emergence of new syntheses of knowledge among African peoples represent a major breakthrough in the ongoing debate over the future of African culture. He raises a number of issues on the Asante (Akan) culture, questions the rationale behind them, and notes that certain things have become the culture of the people not because the ancestors wish that it were so but that people feel that by doing so the ancestors will be happy. He therefore calls for some changes within the society.

In a review to Appiah's work, Nzegwu (1996) noted that family is not the focus of Appiah's work; however, the preferred conception of family that he made ignored the matrilineal implication of the Asante culture, and thus his study damages the mode of Akan family structure. Nzegwu, therefore, argued that Appiah underwrites a neocolonial Africanist career by privileging a particular conception of family. She noted that Christian and ordinance marriages have injected companionate expectations in the Akan family values, and therefore, generating tensions and conflict for the traditional families.
This assertion is in line with the problems that this essay has identified and seeks to address.

Touching on the Intestate Succession Law of Ghana, Awusabo-Asare (1990) contended that the law created the impression that all was well for Ghanaians but, rather it created problems for people in matrilineal societies such that they are complaining about it. This is because it contravenes some principles about the matrilineal system of inheritance. For instance, under the law, children have a better claim to the estate of their deceased father than members of their father's clan do. According to him, the impression created by the law is good especially when one is more conversant with the patrilineal system where the children are members of their father's lineage or the western system bilateral system, where a child inherits equally from the father and mother and not necessarily the lineage. Awusabo-Asare questioned that if by using that property that a person inherits and that person is able to acquire more property, will the newly acquired property be regarded as self-acquired property since its acquisition involves the use of family capital? This is likely to create some tensions, and so I will weave some questions around this to see people's responses to it.

**International Laws and the Family in Ghana**

Under the UN Convention on the Rights of the Child, children are to be given the necessary care because of their vulnerability. The African Charter does not dispute this, but then it places responsibilities on children to use their minds for the benefit of their families and communities (Article 31). Socialization, especially within the African social systems, is to prepare the child for adulthood. This means that the child is brought up to
accept the challenges of life that will enable him or her to be responsible to himself or herself, the community, and the state. In traditional societies this responsibility is placed on the society as a whole, but the parents have the onus to ensure that the child is socialized properly. In modern societies, the challenge is placed more on the state. The state therefore makes laws to ensure that the family and other state institutions play their roles effectively.

The UN declared 1994 as the International Year of the Family, with the theme “Families in the Process of Development.” For instance, a report on the International Year of the Family indicated that almost all developed countries have experienced changes of four principal types: a decline in fertility rates, the ageing of the population, an erosion of the institution of marriage, and a rapid increase in births outside of marriage. The situation in Africa is not different from that of the European nations. During the tenth anniversary of the declaration, the African Union noted, “During the last two decades, the environment in which African families have found themselves, has progressively changed thus requiring adjustments in family structures, roles and functions.” Even though the document does not state categorically that the family has changed, there are enough indications that changes have really taken place in the Ghanaian, and for that matter, the African family.

Summary

In summary, this work has been reviewing the literature on inheritance among the Fantse of Ghana. It has established that the people’s perception about inheritance is influenced by the philosophical concept of personhood which teaches that the individual
is part of the community, and so he or she must use his or her personal ingenuity to contribute to the development of the community. It has also established that the issue of inheritance among the Fantse is very complex, and that there is the need for critical investigation to come out with a very good law that will address the problem where children and wives are excluded from benefitting from the estate of their deceased husbands and fathers.
Chapter Three: Theoretical Framework

I adapted two theories as my framework for this study. These are Functionalism (Durkheim, 1997) and Postcolonialism (Fanon, 2004; Said, 1995; Spivak, 2006). Using a number of theories falls under the topic triangulation. It is the blending of a number of methods, usually qualitative and quantitative methods, in the study of same phenomenon for greater accuracy (Denzin, 2009; Jick, 1979). There is also the “within method” which involves the use of multiple methods within a design for data collection and analyses. It also involves the use of a number of theories to help in explaining one’s thoughts (Risjord, Dunbar & Moloney, 2002). The term “triangulation” creates the impression of something that comprises three methods, but it is rather a term that navigators and the military use for multiple reference points to locate the exact position of an object (Jick, 1979).

Initially, triangulation became popular because of issues involving unresolved theoretical frameworks (Risjord et al). Using triangulation can provide completeness, adductive inspiration, and confirmation. Critics of blending have argued that the various methods and theories are based on different assumptions about the phenomena studied. Disagreements over the use of triangulation as a research methodology and theoretical framework do not arise over whether to use or not but about how the strategy must be used.

Using triangulation in a theoretical framework, Short (1993) acknowledged that within any of the qualitative forms of inquiry, different normative perspectives can also operate. Other scholars mention hybridization as the way by which multiple ideas can be
obtained (Bhaba, 1994). However, I am not combining the two theories to create a hybrid. The main theory that I am using is Durkheim’s Theory of Evolution, which falls under the structural Functionalism in Sociology and Anthropology. In as much as the theory addresses the issues that I am raising in this study, it also has some shortfalls that do not address the African situations with Afrocentric lenses. I will use the concepts of the postcolonialists to deconstruct and/or reconstruct the ideas raised by Durkheim and the functionalists. Therefore, I am using the two theories to complement each other. Not forgetting the sort of in-depth analyses required of qualitative research, adopting triangulation will attempt to interrogate Durkheim’s theory for critical analyses. In addition, Vander Zanden (1986) stated that the classical sociological theories are not different from one another but each examines the weakness of the other and builds on it. Therefore, I expect that the triangulation of Functionalism and Postcolonialism in this dissertation will help me to explain my data and thoughts, and help to bridge the gaps.

Furthermore, I am using the two theories in view of the complex nature of the Fantse family system which has gone through a number of changes due to factors such as colonialism, urbanization, western education, and the family laws of Ghana. Moreover, academics have observed that the family system in Africa does not follow any rigid system or theoretical frame of the classical sociological theories. At a conference on the family organized by the Institute of African Studies, University of Ghana, Legon, the participants noted that the use of the word, family is problematic (Fortes, 1974).

In this chapter, I will examine Functionalism in line with Durkheim’s theory of evolution, Postcolonialism as advanced by Fanon (2004), Said (1995), and Spivak
(2006), and examine the concourse and discourse between Functionalism and Postcolonialism. Furthermore, I will discuss Durkheim’s framework within the African context, vis-a-vis the submissions of authors who take a cue from him and couch Afrocentric ideas about the structural functional theories including Radcliffe-Brown (1952), Fortes and Evans-Prichard (1940), and Fortes (1997).

A brief categorization of studies in the area of family laws will suffice here. Studies on family and inheritance laws have been undertaken by both professional and non-professional Ghanaians and Europeans. The earliest forms of ethnography were undertaken by Europeans who were not anthropologists. Some of them were staff of the colonial administration. Their main objective was to undertake the study in order to help the colonial administration understand the indigenous people for the purposes of ruling them. Therefore their works were referred to as “travellers’ tales” (van Maanen, 1988). Specific examples of ethnography for Ghana were undertaken by Ratray (1969a, 1969b), for Asante; Fortes (1944) for the Tale; Field (1970, 1979), for the Akyem and Ga and many others.

At the time that the travellers were writing their tales, indigenous Akan lawyers who had been educated in Britain, such as John Mensah Sarbah and J. B. Danquah for the Fantse and Akyem Abuakwa respectively (Danquah, 1928; Sarbah, 2004). In the post-independence period, anthropologists such as Nukunya, (1969, 1975, 1992, 2003), Sarpong, 1970, 1971, 1974; Awedoba (2002) and Hagan, 1983, 2000). Another British anthropologist married to a Ghanaian, Christine Oppong wrote about the Akan, Ghana and Africa as a whole (Oppong, 1974, 1981, 1992, 2004). Others who are not
anthropologists, such as Awusabo-Asare (1990) Appiah (1992) Ardayfio-Schandorf (2006), and many others have also written about the Ghanaian family systems. I will conclude the chapter with a discussion on how the theories can be synchronized into the Fantse family systems, and the effect of the national laws of Ghana on the Fantse family system. Below are the reflections on the theories.

**Functionalism**

The *Modern Dictionary of Sociology* defines Functionalism as the analysis of social and cultural phenomena based on the terms of the functions they perform in the sociocultural systems. Functionalism conceives society as a system of interrelated phenomena in which no part can be understood in isolation from the whole. A change in any part leads to a certain degree of imbalance, which also changes the other parts of the system, and thereby results in a change in the entire system. Therefore, the structural Functionalists' mode of inquiry is concerned with the character of social integration. They argue that a social entity is an organism with many parts with each part contributing a significant portion of the functioning of the whole. In simple terms, society exists as a social system. Therefore, in analyzing issues of the society, the Functionalists examine the roles that each of the organs within the system plays. This helps them to understand why a problem persists and advance a holistic solution for the problem. They use shared values or generally accepted desirability in analyzing how social systems ensure equilibrium in the society. According to Wallace and Wolf (1991), the Functionalists root for the need to build a value-consensus (a situation where the individuals will be morally committed to their society). Furthermore, they noted that Durkheim emphasized
integration and solidarity – something that inspired Malinowski and Radcliffe-Brown –
while the other sociologists espoused the interdependence of the parts of the social
systems.

I am drawing on Durkheim's theory of evolution because it is a combination of
family and law in a single write up. Furthermore, many of the principles that he identified
are in consonance with the indigenous family systems of the Fantse, for example his
contribution on the clan family and joint agnatic family. Furthermore, his contribution on
collectivism and solidarity provides the bases for the concept of personhood and
communalism as will be seen later in this study. However, there are some slight
differences in some cases in his contributions for which I will also discuss in due course.

**Durkheim and Functionalism**

Durkheim’s major ideas were integration (social solidarity) and a changing society. He stated that solidarity is important for the maintenance of social equilibrium
and that societies have different types or modes of social integration. The moral factor in
division of labor engenders solidarity in the society. He stated that division of labor is
necessary because it increases the productive capacity and skill of workers and thereby
makes it necessary for intellectual and material development.

On the issue of change, he identifies the need for the society to be conscious of
itself so that it can evolve. This means that the individual members and the society must
be aware of the prevailing conditions, the changes that occur, and the engine that propels
the change. He stated that society must change frequently so that it can survive.

Therefore, as the environment in which the society prevails changes and becomes more
complex and opportunities available fluctuate, humankind must change to conform to the whims and caprices of the environment so that they can survive. He stated, “The enlightened consciousness has learnt how to prepare itself beforehand for the way in which it has to adapt. This is why intelligence, guided by science requires to assume a greater role in the process of collective life” (1984, p. 14). Collectivism gives a clear indication that the society’s survival depends on its entire people.

Durkheim used the concept collective conscience to explain what holds the society together and gives it the distinctive common identity. He identified two modes of solidarity in the society under the conscience collective – mechanical solidarity and organic solidarity. He argued, “A mechanical solidarity society was an absolutely homogenous mass whose parts were not distinguished from one another, and which consequently had no structure” (Durkheim, 1972, p. 141; Moore, 2009, p. 51). Durkheim likened a society with mechanical solidarity to primitive societies and argued that primitive societies were characterized by a strong collective conscience, which he defined as “the totality of beliefs and sentiments common to average members of the same society” (pp. 38 & 79). Therefore the conscience collective guides social life.

According to Moore (2009), “[The] conscience collective was pivotal in Durkheim’s theory because it connected the different patterns of social solidarity to the process of enculturation within a particular society” (p. 54). He identified four things associated with the way the conscience collective operated under mechanical solidarity. First, it makes the individual have values or views that are similar to what all the members of the society share, thereby making the individual’s conscience a miniature
version of the conscience collective. Second, it has a greater intellectual and emotional influence over the individual. Third, it imposes rigid behavioral expectations on the individual, and every individual knows this by instinct. Finally, it is associated with religion, and therefore goes with the belief that the sanctions for social norms come from the supernatural. Therefore, in such societies, members have a common shared social experience and rely on one another for their survival.

Such societies share normative values which they consider more important than the individual’s own values. The individuals find themselves directly attached to the society and are equally responsible to it. The general impression is that the community is more important than the individual’s own values. In other words, the we supersedes the I. As expressed as an African philosophy by Mbiti (1990), “I am because we are and since we are, therefore I am” (p. 106). Therefore, such societies share normative values.

Durkheim (1997) argued that, as people live together, they compete over the use of the available resources, and so, as they become many, the competition intensifies. This makes the individuals carve economic niches for themselves. The ultimate results are the formation of various social groups and differences in fundamental social organization, thereby creating an Organic Solidarity society. According to Durkheim, (1972), organic solidarity societies “are formed not by the repetition of similar, homogenous segments, but by a system of different organs each of which has a special role, and which are themselves formed of differentiated parts” (p. 143), (See also Moore, 2009, p. 51). This means there is diversity and interdependent sub division with the subdivisions linked by formal institutions upon which the individuals rely. In effect, the opposite of all the things
that he identified with the conscience collective in mechanical solidarity society holds for the organic solidarity society.

According to Durkheim (1997), the evolutionary process begins with the development of agriculture followed by industrialization. It continues with the development of towns which results in the development of roads and other forms of communication systems. As these develop, a network develops among the individuals, which makes them dependent on one another. Thus, interdependence binds the individuals into an organic solidarity society.

**Durkheim and the Family**

In *The Division of Labor in Society* (first published in 1893), Durkheim (1997) tried to work out how a clan-based society might operate in practice through what he describes as theory of evolution. In this theory, his interest was in the basic nature of the family as well as the transformations that it goes through as a social institution. He posits that the family evolves from one with more members to others with fewer members at each successive stage. The stages of evolution are the clan family (matrilineal or patrilineal), the joint agnatic family, the Roman patriarchal family, the Germanic paternal family, and the modern conjugal family.

Durkheim (1997) described the Clan Family as one that is abstract by nature and religion and totems are the focus of family life. Furthermore, he identified the following characteristics with the clan: First, it was organized around the putative ancestor or totems. Second, marriage was exogamous and determined by the members of the clan. Finally, members had rights and duties, and the group had a corporate responsibility and
liability for the actions of their members. Among the rights and duties that he identified were the right to the clan name, entitlements to share in clan patrimony (inheritance or legacy), religious cult practices including funerary rites, the right and duty of vengeance, and many more. A major characteristic associated with the rights that he identified was that individuals did not have property rights. Durkheim (1997) asserted that the clan family is unilineal (either matrilineal or patrilineal) but did not describe the extent of patrilineality or matrilineality. Another thing that did not come out clearly was whether the members were affine (related by marriage) and/or consanguine (related by blood).

The Joint Agnatic Family emerged from the clan-family. This is kinship drawn from the male lines. This family is smaller as compared to the clan family. It is made up of an aggregate of brothers who live together with their descendants. The way it shared property formed an important basis for solidarity. It was not religious in character or possessing a myth of totemic origin and kinship. It has political and defense functions to the society that has a rudimentary state. Kinship is based on real consanguinity. There are several collateral branches as each male heads a family within the major family. It is egalitarian; the leader is just a first among equals.

The Roman patriarchal family was one with the patriarch as the head. The operating principle of this was patriarchal power (what he referred to as patria potestas). Under this type, the family was totally under the sovereignty of the father. Marriage had no implication on the family except that it added new members to it. The father’s authority over a person and property was absolute. A man considered his wife as his property. Women and children were subordinates in the man’s family. A father or
patriarch decided whom adult children could marry and he had power of life and death over them. After the death of the patriarch the sons’ families separated.

The Germanic family had similar principles to the Roman family. There was male dominance, and the members had collective civic and communal responsibilities. The differences are that the Germanic family was made up of the father, mother, and all descendants apart from the daughters and their children. Besides, an adult son could emancipate himself and quit the parental household, whereas in the Roman patriarchal family he could not.

The conjugal family comprises a husband and wife and their unmarried children. Durkheim posited that the conjugal family emerged from the contraction of the paternal family. In effect, the nuclear family emerged gradually from the extended family. Durkheim’s conjugal family is called so because only the husband and wife are the permanent members of the family who are united by the common bonds of marriage based on free choice. The marriage dissolves on the death of the marital partners.

Goody (1989) described the conjugal family as one which has the following unique traits: emphasis on marital bonds, lessened dependence on kinsmen and women for help, neolocality, free choice of mates, multilineality, and intensity of emotionality. The organization based on organic solidarity comprises a more evolved type of social system where the extended family became weaker and weaker in the sense that it was no longer a property-owning institution, and the clan has less control over its members. Therefore, it was bereft of the power that it used to have. In effect, the family system that
used to regulate communal property became less important than the individual conjugal bond.

Durkheim’s classification connoted a polarization. He created the impression that society follows a rigid order in which one thing leads to the other. That is, one form could only exist in the absence of the other. He was categorical that a mechanical solidarity society leads to the existence of an organic solidarity society. However, he also seemed to be cautious of the rigid social order. He stated that the system goes beyond science since there are also some human values in the society that science cannot control. For him, the society could be likened to a field in which everybody has the free will to enter through their own initiatives and volitions, and yet nobody is compelled to enter. This means that the willingness to change is necessary, and one’s own volition conditions it.

Considering the stages of evolution and development of the family, from the clan family to the conjugal family, and the fact that at each stage the membership diminishes, I see Durkheim’s evolution presenting a structure in the shape of a parallelogram as shown below.

![Figure 1: Durkheim's theory of evolution of the family](image-url)
Figure 1 shows that the development of the family follows a hierarchical order. Each stage is characterized by a reduction in the membership and serves as an improvement of the previous type. Therefore, the family develops from group or communitarian values to individualistic values.

The flaw of this is that it does not capture modern trends in the family system. Durkheim’s system ended with a couple and their children, with a final stage of development being the couple (after their children have married). So far as the conjugal family ceases to exist after the death of one of the couples, it means a conjugal family can never have a single member. Besides, the ultimate members should necessarily be the couple. Durkheim presented the ideal situation where a couple will die only when their children are married and so the couple becomes the ultimate members. However, I am curious about several issues, concerning what he called a family with dead parents (family of siblings without parents) or even one with a single parent. What about a family with one member due to the death of one of the married couple, and a situation where the other, especially if a widow continues to bear the family (man’s) name and keeps the family property in the family name?

Modern trends of the family system go beyond this. The society, and therefore the laws, recognizes single parents. Apart from the situations described above, there are women with one or more children without fathers. There are others where the man is the sole parent for some reasons. Moreover, there are males and females who are of marriageable age, are independent, and do not have children. Where would Durkheim
place these people within his structure? In effect, I see the modern trends presenting a pyramid as shown below.

Figure 2 Modern family system based on Durkheim’s Evolution of the Family

Figure 2 is an extension of Durkheim’s theory of evolution of the family. I have developed two more stages. These are single-parent families and a single member family, which Durkheim did not identify.

Durkheim (1997) projected the conjugal family as the most perfect and the ultimate in development. That is, well developed (advanced) societies will have conjugal
families and not the others. However, in recent times, conjugal families have relinquished some of their roles to the state. The states make laws on parenting, and where parents fail to abide by the laws, the state takes over the responsibility of caring for the children and punishes the parents. Therefore, the state has now become the beholder of family values. Durkheim acknowledged this by mentioning the theory of law even though he does not couch the evolution of the family structure to capture this.

**Durkheim and Law**

Durkheim (1997) rejected the biological cum social explanation of the family, but rather fathomed it as a social institution based on morals. The family has obligations, regulated behavior, and practices. He was, therefore, interested in the more formalized and stable, and less transient aspects of the family and kinship. Even though he showed interest in the formal rights and duties of the family and its members he conceded to the normative force of the family to socially sanctioned practices without legal status. He acknowledged that, at times, mores change ahead of legal status. For Durkheim, the most visible symbol of social solidarity is law, which is the organization of social life in its most stable and precise form. He notes that all the essential varieties of social solidarity are reflected in law.

The classification of law corresponds to the types of social solidarity of a society. Therefore, two types of law exist. The first is repressive (covers penal law) which imposes some type of damage on the perpetrator. The second type is restitutive, which does not necessarily imply any suffering on the part of the perpetrator but consists of
restoring the previous relationships which have been disturbed from their normal form (covers civil, communal, procedural law).

Durkheim (1997) stated, “Thus, in any given society the totality of juridical rules which constitute marriage only symbolize the state of conjugal solidarity. If this is very strong, then the ties which bind the married people are numerous and complex, and consequently, the matrimonial set of rules, whose object is to define these ties is itself very highly developed” (p. 59). He stated that modernity results in the development of marriage – a situation which creates more extensive network of ties and rules of marriage are clearly stated with precision. In that case, fidelity becomes organized and is more reciprocal.

Durkheim stated that the inner state from which solidity develops exists beyond custom and law. Furthermore, he stated that custom is not against law; it forms the basis of law. Durkheim pointed out that, in a situation where the dos and don’ts of the society are spelt out but do not address the sanctions attached to them, there is no gainsaying that the sanctions are not known but rather they are because it is engraved in the consciousness of the people. In such a situation, there is the need to re-examine the law from the popular beliefs of the people, the origins of the beliefs, the historical circumstances within which the rules have been promulgated, and the authority behind them. He argued that it is in view of this that repressive justice remains diffused. It is not exercised through a special magistrate, but the entire society shares in it. He concludes that in primitive society the law is penal in character; it is the people assembled who met out justice.
Durkheim and the Concept of Personhood

In the introduction to the book, *The Division of Labor in Society* (Dukheim, 1997), Cower noted that Durkheim was convinced that in the absence of stable social bonds or social solidarity, society would decay as a result of individualism. He asserted, "The more closely knit the members of a society, the more they maintain various relationships either with one another or the group collectively" (p. 25). However, in the latter part of the book, Durkheim stated, "Any increase in the activity of a function implying a corresponding increase in the functions that are solidly linked to it, implies a fresh increase in the first function. This is only possible if the activity becomes more continuous" (p. 325). This means that the proper functioning of the system requires a sustained increase in the activities of the function. In the concluding part of the preface to the first edition, he asserted that the organic solidarity society is more individualistic when there are still tenets of dependency:

The question that has been the starting point for our study has been that of the connection between the individual personality and the social solidarity. How does it come about that the individual, whilst becoming more autonomous, depends ever more closely upon society? How can he become at the same time more of an individual and yet more linked to the society? For it is indisputable that these two movements, however contradictory they appear to be, are carried on in tandem. Such is the nature of the problem that we have set ourselves (Durkheim 1997, p. xxx).

Furthermore, Durkheim argued:

We believe this is sufficient to answer those who think that they can prove that in social life everything is individual, because society is made up only of individuals. Undoubtedly no other substratum exists. But because individuals form a society, new phenomena occur whose cause is association, and which, reacting upon the consciousness of the individuals, for the most part shapes them. This is why although society is nothing without individuals, each one of them is more a product of society than he is the author (p. 288).
These quotations show that, whatever the situation, social solidarity is necessary for holding society together. Whatever the nature of the solidarity, be it mechanical or organic, individualism cannot override solidarity - a situation that African social systems cling to. This way of life is common among the Fantse, and for that matter the African. Indeed it is the main value system of the Fantse by which people judge groups and individuals in the society. As I will explain later, it conditions the nature of solidarity among groups, especially the family systems, and measures the rights, responsibilities, and privileges among members of the community.

Even though Durkheim’s ideas have been noted to foster integration, his theory of evolution tends to polarize the society or the world into two extreme ends - mechanical solidarity society and organic solidarity society – with two distinct characteristics – primitive and modern. In effect, he creates a binary situation that the postcolonial writers critique on the grounds that it provides a framework for power relations characterized by domination. To be charitable to Durkheim, one can say that he fosters integration within the micro society but not a global situation.

Moore (2009) stated, “[Durkheim’s] The Division of Labor in Society is not about the sexual division of labor, but rather about how society can be alternately segmented or [united] and characterized by homogeneity and yet, somehow, stay together” (pp. 49-50). According to him, Durkheim’s method of study is about a way of identifying similarities in cultural traits in order to reconstruct historical connections. He concludes that Durkheim’s comparative method consisted of contrasting entire societies in order to identify dimensions of social integration. Furthermore, he stated:
The differences between mechanical solidarity and organic solidarity were so marked that the development of one form could only be at the expense of the other, and historically that meant that the evolution of organic solidarity as mechanical solidarity declined (p. 51).

The postcolonialists address this shortfall of polarization in a global world situation that Durkheim is identified with.

**Postcolonialism**

According to Ashcroft and Ahluwalia (2009), postcolonial theory investigates and develops propositions about the cultural and political impact of European conquest upon colonized societies and how these societies respond. It involves the argument that Africa, Asia, and Latin America are subordinated in a position of inequality to Europe and North America. Postcolonialism advances politics and philosophy of activism that contest the disparity. Young (2003) stated, "Postcolonialism claims the rights of all people on this earth, to the same material and cultural well-being” (p.2). Furthermore, he stated, "Postcolonial cultural analysis has been concerned with the elaboration of theoretical structures that contest the dominant ways of seeing things” (p. 4). According to Ashcroft (1997), "Post-colonial‘ does not mean ‘after colonialism.‘ The postcolonial is the discourse of the colonized. It begins when the colonizers arrive, and doesn’t [end] when they go home” (p 21). These quotations show that Postcolonialism is a theory that calls for resistance to any form of domination, whether it occurs as domination by Whites, by fellow Blacks, or by fellow women. It is not only for resistance to political colonialism, but also cultural colonialism and any other form of dominance, including neocolonialism. Young (2003) argued that Postcolonialism, as a theory, does not have a coherently elaborated set of principles that can predict the outcome of a given set of phenomena; and
therefore, it cannot be considered as a scientific theory that can predict the outcome of a situation. He noted that it intervenes to force its alternative knowledge into the power structures of the Western and non-Western worlds. It fixes the wrongs done to the underdeveloped world by the developed world. Among the proponents of Postcolonialism are Fanon (2004), Said (1995), and Spivak, (2006).

Fanon did not provide a major thematic word in the title of his book as Said and Spivak do (Orientalism and Subalternism, respectively). However, the main thematic word that I identify in Fanon’s book relates to colonialism (colonization, decolonization, recolonization, and neocolonization). He addressed almost the same issues with Said and Spivak. These issues and the specifics addressed by each author are presented in Table 1 below.
Table 1: Summary of problems identified by Fanon (2004), Said (1995) and Spivak (2006)

<table>
<thead>
<tr>
<th>Theme</th>
<th>Spivak</th>
<th>Said</th>
<th>Fanon</th>
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<tbody>
<tr>
<td>Identification</td>
<td>Within group identification there is a group that has “identity-in-differential”. The history of this group (the unheeded subaltern) must be unfolded because it seems to be visible within an all-inclusive group but that particular group being referred to here is invisible.</td>
<td>Writers have accepted the basic distinction between the East and West as the starting point for theories, political accounts, etc. concerning the Orient, its peoples, culture, etc.</td>
<td>The supremacy of the West or the White man is always upheld to such an extent that, even at symposiums on African culture, Western values are entrenched. The colonized is always told that decolonization should not be interpreted as regression and so the colonized should rely on values that have been proved to be reliable and worthwhile. Decolonization did not result in any other thing but a new form of colonization.</td>
</tr>
<tr>
<td>Description</td>
<td>Subalternism is not only in colonizer-colonized discourse (racial) but could also between core-periphery and thus draws any classes of people where there is a clear form of binary relationship.</td>
<td>Orientalism is concerned with racism in the sense that it drew relationship between the West (or people from the First world and those of the Second and Third) and East.</td>
<td></td>
</tr>
<tr>
<td>Characteristics</td>
<td>The subalterns are people without social mobility. They are those in perpetual ‘bondage’. They cannot speak and need people to speak on their behalf.</td>
<td>Orientalism is (as) a style of thought based upon an ontological and epistemological distinction made between ‘the Orient’ and (most of the time) ‘the Occident’. Orientalism is a Western style for dominating, restructuring and having authority over the Orient.</td>
<td>Colonization was violent.</td>
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<tr>
<td>Theme</td>
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<tr>
<td>Characteristics</td>
<td>The representative constructs the needs of the represented. This is representation and not representation.</td>
<td>The Orient is a European construct and hence Orientalism. Orientalism has helped to define Europe. It is an integral part of the misinterpretation of Europe. It is an academic discourse. It is full of lies.</td>
<td>The colony is an integral part of the metropolis. The colonist fabricated the colonized subject.</td>
</tr>
<tr>
<td>Objectives</td>
<td>Orientalism was to _liberate intellectuals from the shackles of systems of thought like Europeans. So that if in the period after colonialism, we will not consider the discourse as a done deal but rather a prevailing situation that calls the intellectuals to resist and also help the down-trodden to resist.</td>
<td>Fanon touches on the role of the various classes of people and draws them into the conflict associated with nationalism.</td>
<td></td>
</tr>
<tr>
<td>Power Relations</td>
<td>Imbalance of power creates an ideological epistemic violence.</td>
<td>It creates a systematic violence.</td>
<td>The colonized (or the native) is described in evil ways, thus reducing him to the state of an animal; eg, he is impervious to ethics, an enemy of values, destructive, and he or she distorts everything about traditional aesthetics.</td>
</tr>
<tr>
<td>Theme</td>
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<tr>
<td>Power - Domination</td>
<td>There is the need to examine Orientalism as a discourse so that one could see the systematic discipline that the European culture created and used to manage and produce the Orient in all fields during the post-enlightenment period.</td>
<td>Be conversant with the power relation in which Europe always dominated the Orient.</td>
<td>The nationalists disrupted the existing traditional political structures instead of adapting investing them within the nationalist and progressive elements.</td>
</tr>
<tr>
<td>Domination-Marxism</td>
<td>Spivak dilates on Marxism. She states that there is no such thing as class instinct as those offered by Marx in the sense that class formation is artificial and economic.</td>
<td></td>
<td>Seems to espouse Marxist theory of revolt, but at the early stages of the text, he also cautions that Marxism needs to be re-examined because colonialism is not a mere issue of class but also race.</td>
</tr>
<tr>
<td>Representation/ Alienation</td>
<td>Consciousness of class in the peasant finds its bearer in a representative who really does not represent the interest of the peasant. She states that class structure and subalternism are related, but running them together tends to make some people invisible and that leads to utopian essentialism.</td>
<td>He notes that Orientalism does not produce a unilateral situation that determines what can be said about the Orient but it is a network of interest that has been brought to bear, inevitably on the part of the Orient to produce an imbalanced power relationship.</td>
<td>The use of foreign languages by the colonized people alienates them.</td>
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Table 4 (continued)

<table>
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<th>Theme</th>
<th>Spivak</th>
<th>Said</th>
<th>Fanon</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unconscious categorization</td>
<td>There is no unrepresented subaltern subject. The intellectual representation tends to misrepresent the subaltern because the former fails to trace the latter's underrepresentation.</td>
<td>He describes these styles as discord and refers to discord as a regulated system of producing knowledge within certain constraints where certain rules have to be observed.</td>
<td>Decolonization brought about another form of colonization in which the master was the colonized bourgeoisie.</td>
</tr>
</tbody>
</table>
From Table 1 and the explanations offered within it, the main issues in Postcolonialism are polarization of the world (or societies), imbalance of power relationships, and violence, the nature of which Said described as systemic and Spivak as epistemic. Fanon did not offer any adjective to describe the nature of violence but notes that violence can be resisted through violence. However, his other compatriots do not prescribe violence as a solution to violence.

The imbalance of power draws binary structures in the form of colonizer and colonized, occident (or orientalist) and orient, oppressor and oppressed, core and periphery, etc. In these binary relationships, the colonized has been drawn to the colonizer in such a way that the colonized has become the other of the colonizer; the orient has become the other of the occident, etc. This has resulted in descriptions couched in we and them or we and the others. Spivak saw this as an asymmetrical obliteration that always traces the other in a precarious situation of subjectivity. In other words, the other has become the subject of the actual (or main stream) and therefore the former occupies a subordinate position.

This means that the concept othering touches on class formation which has its origins in Marxism. Therefore, Said and Spivak’s common argument was that class structure exists in this binary arrangement and, subsequently they wrote that class-consciousness does not necessarily ensure a balance in societies. Fanon seemed to buttress this point by cautioning against Marxism. For him Marxist analyses needs to be stretched further because the class structure associated with colonialism is not just an issue of class but also an issue of race.
Durkheim and the African Family

Authors such as Radcliffe-Brown (1952b), Fortes and Evans-Pritchard (1940), Fortes (1997), Schneider (1961), and others have identified the way Durkheim’s theory manifests itself in the African situation even though some did note allude to the theory. They highlighted the segmentary nature of the kinship system in Africa. I share Kuper’s (1982) claim that Durkheim’s model was replaced by specific African functionalist field studies that aimed at the synchronic analysis of traditional African societies. According to him, the Functionalists stressed the corporate and hence putatively perpetual nature of lineages and their political roles, especially where political centralization was slight.

Radcliffe-Brown (1952b) provided an analysis of the family system in Australia that fits into the African situation. He cautioned that understanding the laws and customs of non-Europeans demands that people do not to interpret them from the Eurocentric legal perspectives. For him the Eurocentric approach seemed to be simple, but, people need to understand that European laws have evolved through a long and complex historical development based on their own experiences. Furthermore, he identified the lineage as a corporate group with jural rights. He stated that it has rights over the territories that it occupies and in persons (either in personam or in rem).

Referring to the clan system, among the Kariera ethnic group of Western Australia (which he named the „horde“), Radcliffe-Brown (1952b) identified it as a corporate body which has an estate. He described an estate as a collection of rights with implied duties. According to him, rights exist in the social realm and are defined in the social context in reference to an individual or a group. Therefore, he suggested a
definition of rights couched around a measure of control that a person or a group of persons has over the acts of some person or persons and thereby making them liable to perform some duties. He defined the horde as a body of persons who jointly possess a defined area of a country and occupy and exploit it. Their rights to the territory indicate that any person who is not a member of the group does not possess the right to take the resources in that territory except they obtain permission from the horde. It was clear, unambiguously, that a horde is justified to kill anyone who trespasses. Therefore, people hardly violated this right of the horde. Radcliffe-Brown (1952b) emphasizes that whoever has the right to use the resources of the horde is also obligated to be hospitable and charitable to other members of the horde.

Radcliffe-Brown (1952b) defined succession in reference to the transmission of rights. He argued that the membership and the rights associated with it differ between men on one side and women and children on another side. He links this to the exogamous nature of the Kariera horde that dictates that after marriage female children passed out of the possession of their parents and out of the possession of their horde into the possession of their husbands in other hordes. However, male children pass out of the possession of their parents directly into possession of the horde at initiation. This means they participate fully in the activities of the horde as individual members and enjoy the rights that all members enjoy. He noted that the transfer of a woman at marriage involves compensation from the prospective husband to the horde of the prospective bride by either giving out his sister or giving out gifts. He notes that since a wife belongs to the horde, if her husband dies, custom demands that another member of the horde should take
possession of her. In other words, another member has to take over the conjugal duties of the deceased and enjoy the rights associated, including sexual rights.

Rights in *rem*, means that lineage has the right to negotiate for pacification or take vengeance when a member of another clan kills or harms any of its members. With the rights in *rem*, he explains that if a man’s wife is captured or kidnapped the man acts as an individual, but with the support of members of his horde to get back the wife. The reciprocity associated, where a person who enjoys rights has to perform some duties to the horde, translates into rights in *personam* for the horde. This enables the horde to cling to its rights to claim obligation from its members, especially the adult males. Therefore, the rights in *rem* are obtained in relationship with outsiders while those in *personam* are claimed in relationship with members of the horde (from within).

Both Durkheim (1997) and Radcliffe-Brown (1952) identified the rights of the clan based on the conscience collective. Whereas the former talks about patrimonial rights, the latter groups them into rights in *rem* and rights in *personam*. The difference in the way they do this is not as important as the way they acknowledge the corporate nature and the rights associated with it. Thus Radcliffe-Brown moved a bit further by recognizing that the rights go with responsibilities. This is a feature that appears glaringly in human rights documents prepared by Africans such as the African Charter on Human Rights and the African Charter on the Rights and Welfare of the Child.

Radcliffe-Brown’s (1952) analysis provided a caution that an African situation should be based on the system that has evolved through Africa’s historical and cultural development. His description of how the horde upholds its rights in *rem* may differ from
one place to another in the sense that the political system offers the framework for the judicial system. The rights in *rem* that Radcliffe-Brown described are typical of acephalous societies in Africa where there are no legal institutions or institutions that do not have the powers to enforce its judgments or see to it that they are upheld. In a centralized society, there will definitely be rules governing the resolution of inter clan conflicts. Radcliffe-Brown’s description of the Kareira horde has differences and similarities with that of the Fantse clan as I will discuss later.

Radcliffe-Brown describes the nature of the unilineal descent system and concludes that whatever forms the descent system may take, some rights and obligations are passed onto the other lineage, such that there cannot be a strict matrilineal or patrilineal descent system. He notes that unilineality depends on the extent to which the body of rights of people, their status, and their personal estate as co-partners in the estate and many others are passed onto the lineage. Radcliffe-Brown states that in the patrilineal system large proportions of these are derived from a father to the exclusion of his sisters and are transmitted in turn to his sons to the exclusion of his daughters. In the case of matrilineal succession the greater part of these are derived by him through his mother and cannot be transmitted to his children but to his sister's children.

What Radcliffe-Brown (1952) seemed to suggest is that both matrilineal and patrilineal descent system pass inheritance onto males to the exclusion of females. Thus, a female may only come closer to inheritance in the matrilineal descent system if only as a sister to a deceased male; her children succeed her brother. He was silent on how
succession and inheritance are passed on to females, if only such a situation exists in matrilineal societies.

According to Fortes (1997), “As far as Africa is concerned there is increasing evidence to suggest that the lineage organization is most developed in what Evans-Pritchard and I (Fortes) (1940), taking a hint from what Durkheim, called segmentary societies” (p. 12). He identified the following:

- The lineage is a corporate unit in legal or jural sense as well as the political association.
- Lineage is the basis of local organization and political institutions [(see also Busia, 1968 (for Asante); and Forde, 1951 (for the Yoruba)].
- Citizenship is local, and not national. It is determined by lineage membership at birth, but can also be negotiated through the lineage organization.
- The lineage is a perpetual entity as far as any member of it lives.

Fortes (1997) described the lineage system vividly. Taking a cue from Durkheim, he argued that there is evidence for the segmentary nature of the lineage organization. He concurred with Radcliff-Brown (1952b) that descent is fundamentally a jural concept, and also claimed that it is a political entity with perpetual existence as far as any of its members lives. Besides, it exists in physical and structural terms. It exercises defined rights, duties, office, and social tasks that the entire community vests in it.

Fortes acknowledged that, as a political entity, the lineage exhibits a structure of authority. Every segment of it has a leader who manages its affairs with the advice of the other members of the group. The leaders enjoy some privileges; however, they are
obligated to account for their stewardship to the members (see also Fortes and Evan-Pritchard, 1940).

Fortes (1950) noted that lineage membership determines citizenship. In that case, one is a citizen of a settlement if one is a member of a lineage by birth. This means, first, a person is a member of the lineage. As a member of one of the lineages in the settlement, he or she is a member of that settlement. Finally, he or she is a member (citizen) of the state. Fortes noted that citizenship can also be mediated through the lineage organization. This is another area that I will examine among the Fantse.

Highlighting the segmentary nature of the clan/lineage, Schneider (1961) acknowledged the corporate nature of the descent group and described it as a decision-making group. He submited that a lineage or clan which owns property, which assembles for legal, administrative, ceremonial, or other purposes, and which has a head, is an example, though not the only example. He noted that even if members of a clan are dispersed, its members have to meet and participate in certain rituals such as organizing funerals and sharing reciprocal obligations of hospitality. He argued that, for the kin group to arrive at decisions and be able to carry them out effectively, the group must have the power to mobilize its resources and capacities. Besides, this situation calls for an authoritative structure where the decisions reached can be enforced. In other words, there is the need for power and authority to apply sanctions in cases where people fail to conform to what a group has decided. He posited that the minimal condition for such a structure to work is that authority should be differentially distributed among members of
the group. He concluded that being a corporate organization entails an interest on the part of each member that turns into rights.

Though these authors share the same ideas, each of them covered at least one area in detail. They all asserted that the clan is a corporate body. For example, Radcliffe-Brown explained clearly that a woman becomes a member of the husband's horde when she marries. This means that the Kareira horde was both consanguinal and affinal. It would be expected that Radcliffe-Brown would include the rights and duties of the wife after she has joined the husband's horde, in his work, but he was silent on it. The question that comes up for discussion is whether husbands and wives have equal rights and obligations in the horde.

Fortes (1997) and Schneider (1961) highlighted the political nature and structures, especially the differential political rights and obligations necessary for the devolution of power and authority within the lineage or clan. Whereas Fortes described the details of the structures of the clan and provided the framework of rights and privileges associated (such as the right to political power and citizenship), Schneider buttressed the political structure including the devolution of power and authority. All of them, except Durkheim, stated that the rights go with responsibilities. Therefore, there is enough indication that all these authors identify themselves with the structural Functionalism and carve a framework for synchronizing it with the African situation. The issues they raised will form the bases for the discussions that I will preempt very soon.
The Fantse Family

Durkheim’s theory and those that aimed at synchronizing it with the traditional African family systems help to investigate and explain the Fantse, and for that matter, the Ghanaian family systems. Three basic things that Durkheim identified, which, I see as important in the study of the social structure of Ghana are the family, law, and power and authority. Besides, the marriage contract of the Kariera that Radcliffe-Brown discussed has some semblance with that of the Fantse; but there are also some differences, so that also needs to be examined. In this section, I examine how the theory of evolution synchronizes with the Fantse family system. I examine this in line with what occurs in Ghana.

My emphasis is on how Durkheim’s stages occur in Fantse family system. The questions for discussion are the following: Do the changes follow the social morphology that he identifies as the factors for social change? What are the rules governing the family systems of the Fantse? What laws hold the society together and how do power and authority within the family devolve to control the society? Durkheim argued that social morphology (material aspects of society such as population size, distribution and density, transportation networks, size and nature of human settlement, and ecological characteristics) are the factors that underlie social change. The major form of social morphology that he identifies for the evolution is industrialization which he claims increases the population density, road networks, etc., and directs the nature of relationships that exists among people. He claims that with the changes in social
morphology the conscience collective of society will change from one with mechanical solidarity to one with organic solidarity.

Durkheim did not state the kind of industrialization that leads to the social change, there is the need to identify the kind that took place in Ghana, in view of claims that many authors, including Rodney (1981) make. I support Rodney that Europe underdeveloped Africa because even though it extracted its mineral wealth to its advantage, it did not industrialize Africa. Besides, it did not use the resources to develop Africa’s infrastructure. In the technical sense, there were only extractive industries which do not come closer to the type of industrialization that Africans expected could propel their economic development. Besides, I do not think Durkheim refered to the establishment of the extractive industries as the factor of social morphology that accompanies the evolution of the families in the sense that the social change he called for is a drastic one which the establishment of extractive industries is not sufficient to do.

On the other hand, however, the extractive industries resulted in the pull of people to where the mineral resources were located. The development of railway lines increased the communication networks and increased the population density of the mining towns. But they did not result in the higher densities similar to what exist outside Africa to be considered as the social morphology for social change. Therefore I will say that the social change in Ghana came about as a result of colonization and imperialism. The only town that was mainly influenced by industrialization (manufacturing) is Tema - an industrial city that was created after independence. I do not intend to say that in precolonial times there were no urban centers. Kumasi and Techiman were political and market centers that
increased in density, but in precolonial times the socio-political structure of Kumasi was still woven around the clan system (Rattray, 1969; and oral traditions about Techiman). The major difference between Durkheim’s theory of evolution and the Fantse situation is that whereas Durkheim identified about five stages that the family has gone through, the Fantse family has not gone through those stages.

According to Durkheim, the family develops from one stage to the other with each stage being an improvement upon the previous one. Hence, it is a developmental process. I identified three of Durkheim’s stages of the family among the Fantse. However, three of them – joint agnatic family, Roman patriarchal family and the Germanic paternal family - seem to be lumped together because that of the Fantse exhibits parts of what Durkheim describes under each of these. They carry some characteristics that can be found in the Fantse patrilineal family organized around the Asafo (a social, religious, political, and military organization). The common thing in all these family systems is that they are organized around males. Besides, one does not lead to the other and therefore does not occur in stages. In effect, it is not a developmental process. Rather, what Durkheim described as stages co-exist among themselves, with each having its roles in the social and political systems of the society as I will discuss very soon. For the purpose of this discussion, I will call this family the Fantse patrilineal family.

All the ethnic groups of Ghana have the clan family system (Awedoba, 2002). Durkheim stated that the clan family system is either matrilineal or patrilineal. Mair (1953) and Goody (1969) refer to the clan family of Durkheim as the unilineal descent
group. Like Durkheim, they indicated that it is either matrilineal or patrilineal. Durkheim polarized the system and thus there is no mid-way – a situation where one obtains rights and obligations from both sides. However, Mair (1965) and Goody (1969) mentioned a midway. They identified two ways – one with rights and obligations obtained from both lineages on equal basis, called the bilateral family, and the other is the double unilineal descent system, where rights and obligation are obtained from both lineages but not on equal terms. Awedoba (2002) noted that no traditional system in Ghana comes closer to the bilateral kinship system.

Radcliffe-Brown (1950) argued that the Akan (Asante) family is double unilineal because social organization is based on the ebusua (matriclan) and ntoro (patriclan). Fortes (1997) refuted this on the grounds that it does not come closer to that of the Yako. I do not understand why the Yako system should be the measuring rod for describing a double unilineal descent system. Christensen (1954) and Wilson (2007) described the Fantse system as double unilineal because the Asafo of the Fantse is organized alongside the Ebusua (see also Johnson, 1932; Datta, 1972; Aggrey, 1978; Hagan, 1983). There can be succession to patrilineal positions, but inheritance through the male line is limited and conditioned by the matrilineage. Since this work is on inheritance, it will be misleading to talk about double-unilineality and hence matrilineal inheritance appears in the title of this study.

Durkheim argued that improved social interaction among diverse elements of society leads to situations where modern individuals will not easily mesh together into large kinship units. In effect, the evolution results in individualism and independence.
This means that eventually the clan family will demise through the evolution to the male
dominated family systems – joint agnatic, Roman patriarchal and Germanic paternal
families - to the development of conjugal family. Durkheim’s claims have been upheld by
authors such as Nukunya (1975) and Lamanna (2005). Their analyses provide food for
thought on the sustainability or otherwise of the matrilineal descent system of the Fantse.

Nukunya (1975) stated, “The nuclear family has been shown to have superseded
the extended family, the mainstay of the traditional system as the basic kin group” (p.
165). Even though Nukunya did not mention Durkheim’s theory, his arguments seem to
support the evolutionary theory by Durkheim where the change from the clan family
system through to the nuclear family system supports evidence of development. He
contended that people have become independent of kinship ties and that they are ready to
disregard the ties where they are infuriating. He concluded that, with the increased
emphasis on the nuclear family, there is the tendency towards a bilateral family rather
than the unilineal system of family. He stated:

In the large urban areas and employment centers, the kin groups have become largely unnecessary for his economic well-being...the rural areas have remained relatively stable except in areas where governmental policy has resulted in extensive disruption of the territorial organization” (p. 166).

He stated unambiguously that this has been observed in many urban areas which are not
built around any core ethnic groups. This means that social morphology results in
cosmopolitanism and hence the demise of the clan family system. Lamanna (2005)
stated:

As social density increases, structural differentiation occurs, bringing with it not only specialization but also individuality. As the focus of social organization expands from clan to city to small national grouping to vast modern societies,
society becomes correspondingly more differentiated. At the same time, social density and transportation networks bring people together. This increases social interaction among diverse elements of society, fostering, of necessity, an increased tolerance for individual differences, which then flourishes. Such modern individuals will not easily mesh together into large, structured kinship units, which require instead certain uniformity. Hence we have the development of a new family form, the conjugal family, which is compatible with greater individuality (p. 55).

The above quotation clarifies Durkheim’s evolution of the family and the tenets associated with it. There is no gainsaying about Durkheim’s argument (supported by his compatriots) that there are emerging social organizations such as religious institutions, alumni associations, sporting clubs, etc., but the claim that a high level of social interaction among these diverse elements of society will prevent individuals from meshing together into large kinship units needs to be reexamined as this may not be the whole picture.

The situation among the Fantse, and for that matter Ghanaians, is being oversimplified. Awedoba (2002) stated that those in the urban centers have links with their natal families and communities. Therefore, almost all of them visit their hometowns and attend funerals. Peil (1995) supported this and pointed out that Ghanaians who live outside Ghana have links with their families, including the clan families.

Citizenship by birth devolves from local to national through the lineage. It is pertinent that, for example, in the United States, people’s hometowns are the places where they were born, and later on where they live most of their lives, but in Ghana it is where they trace their lineages. If one comes from a matrilineal society, then one comes from her mother’s hometown, not forgetting that the mother too traces it to her matrilineage. Therefore, it is kinship that determines one’s hometown. If a person’s
mother is not a Fantse, then by custom that person is not a Fantse. However, such a person (ego) may negotiate with his or her father’s clan so that he or she can become a member of that clan especially when the mother comes from a patrilineal society. In such situations ego has limited rights in the clan. He or she can participate in political activities but cannot ascend to the stool (throne) if such a political position exists and it becomes vacant because he or she does not have a direct link to the stool.

Even though, at times very few people state that their home town is the place they live and work, the question that people ask them is whether they belong to the ethnic group whose town they claim to come from. This supports the relationship between the lineage and the home town. Besides the issues that Awedoba raises, there are some inherent social control measures which keep people closer to their kinsmen. For example, Fantse societies, and for that matter Ghanaian societies value funerals. Customary laws provide that once a person dies his or her corpse belongs to the clan (Ollenu, 1968). The clans have the duty and therefore the rights to arrange and organize a befitting burial and funeral rites for a person. Awedoba claims that one will frown upon a funeral that is attended by a few people. Therefore, in their life time, many people try to align themselves to other people and groups so that, when they attend funerals of close relatives, they will be supported by these individuals and groups.

Peil (1995) notes that there are various ethnic associations in the diaspora and, apart from organizing social and cultural activities, these groups support their members to organize funeral rites for their relatives. Moreover, people expect that these individuals and groups will be present at their own funerals. It is worthy of note that all other groups
or individuals at a funeral are there to support the clan because the latter has the prerogative to organize that funeral. The head of clan presides over the funeral rites.

Awedoba notes that, at times, the elite in the society who have enjoyed the benevolence of the larger family system refuse to contribute their quota when it is their turn to support other lineage members. He states that they begin to find faults with the system and call for its demise. These are the people whom Fanon (2004) describe as the petit bourgeoisie – people who have been influenced by colonialism and western education, among other influences, to the detriment of traditional value systems. They are not necessarily people who lived during the colonial period but people who have been influenced by what Said describes as orientalism.

Marriage has the potential to break a clan or re-organize it but among the Fantse and many other ethnic groups in Ghana people remain active members of their lineage even after marriage (Danquah, 1928; Nukunya; 1969; Sarpong, 1974). They obtain their jural rights from their lineages and have responsibilities towards their members. The nuclear family is therefore a component of the clan family and the patrilineal family of the Fantse. One may choose to alienate one’s self from the clan family, but, because of the communal values associated with social life and the fact that the clans have the prerogative of organizing funerals for their members, the nuclear family and the clan collaborates in this direction.

Durkheim stated that the network of communication lines connects people to other social groups to the detriment of the clan members. Rather, the availability of a good transportation system and high social density will also draw clan members to a
person. Especially where they feel that there is a stronger social bond that makes it imperative for privileged clansmen to help underprivileged ones, it will rather draw more kinsmen to the privileged members. On the other hand, people working in the urban centers can move easily to their hometowns to perform their duties and return to their work places. Usually, people leave after work on Fridays and return to work from their hometowns on Mondays.

Surprisingly, Nukunya (1969) mentioned a number of ways by which kinsmen help members of their kin groups; thus portraying the high level of solidarity among members of the kin groups. Yet he stated that the kin group had given way to the nuclear family. If that was the case, why do individual members have the will to take care of relatives who have migrated to other communities for fishing expeditions? Why did Nukunya describe the situation where people sojourn with relatives because the latter live in towns with very good schools which the former attend as a common phenomenon?

Durkheim states that the conjugal family is based on the free will of the spouses. This raises some questions. For example, to what extent is the will free? My field notes show that in the past, a father looked for a wife for the son, in the first instance, but, where a man had the resources, he could marry other women out of his own volition in a polygynous arrangement.

My respondents stated that, in contemporary times, people enter marriage out of their own choices. This came about as a result of changes in the tradition. Besides, national laws make the entry into the relationship free. However, customs demand that a father has the prerogative to contract marriage for a son or daughter. Therefore, a person
chooses the prospective spouse with the consent of the parents. In case of disagreements, they dialogue until they reach a consensus. In a situation where they fail to reach a consensus, the son or daughter has the right to go ahead and marry at the law courts, provided he or she gets someone to sign as a witness. It hardly occurs that the couple will go ahead with the marriage where their respective families do not support the marriage.

Durkheim’s description of the agnatic family as nonreligious by nature does not conform to what is found among the Fantse. He argued that the agnatic family does not possess a myth of totemic origin. Besides, he stated that the man considered his wife as his personal property. Moreover, women and children remained subordinate in the man’s family. Traditionally, the Fantse patrilineal family also serves as a religious cult known as the *ntow*, with the *egyabosom* as the deity of the cult. Every Fantse belongs to his father's religious cult. A father is the spiritual guardian of his sons and daughters. Therefore, the Fantse traditional belief is that every child has the father’s guardian spirit known as the *egyabosom* (Chritensen, 1954; Hagan, 1983; Wilson, 2000). Those who belong to the same *ntow* have taboos associated with totems. Therefore, the Fantse patrilineal family has totems and associated taboos.

Durkheim stated that, in conjugal relationships, the marriage dissolves on the death of the marital partners. It is not clear whether he means the death of both partners. With the conditions that he attached to the conjugal family, it becomes very difficult to frame the traditional Fantse nuclear family as a conjugal one. Many questions arise if one attempts to do that. For instance, would Durkheim see the need for parental consent as something against the free will of the couple? How would he consider the right of the
widow and her children to receive support from members of deceased’s lineage? What about the need for the widow to abstain from sex until she seeks divorce from the deceased husband’s clan or vice versa?

Among the Akan, the death of one partner, especially the husband, does not end a marriage because, in principle, marriage is between families and not individuals. Does it mean that, once a contract is between the families, the union cannot be described as conjugal, even if it is monogamous and residence after marriage is neolocal?

In traditional Fantse marriage, there may be an arrangement to transplant the marriage (what people erroneously refer to as widow inheritance or leviratic marriage) (Mair, 1953; Beattie, 1964; Sarpong, 1974; Awedoba, 2002). Colonial anthropologists called the above arrangement widow inheritance where the offspring arising out of the new marriage belong to the new husband or leviratic marriage where the offspring of the marriage belong to the deceased husband as occurs among the Nuer (Evans-Pritchard, 1940, 1951; Beattie, 1964).

Among the Fantse, the offspring belong to the new husband and the widow. Going by the description of the colonial anthropologists, this falls under widow inheritance, but Radcliffe-Brown (1952) (a functionalist) advises writers to stay away from using Eurocentric models to write about non-European environments. The postcolonialists share the same principle. Moreover, one of the ethics in Ethnic Studies is that the researcher must present his findings based on the way the researched perceive issues. My data show situations of monogamous marriages that were transplanted on
another. Among the Fantse, remarriage after the death of a woman's husband is not automatic, so it cannot be a situation of inheritance. Besides, the woman is not a property.

In principle a Fantse widow still remains the wife of the family, until one party expresses its intent to divorce. However, if the one who inherited the deceased brother's property is interested in sexual relationship with the widow, he must inform the woman, and if she agrees, their intention will be communicated to their respective families and the necessary rituals performed. For the Fantse it is nothing but *ayetsew* (transplanting of marriage). In cases where the secondary type of marriage was not contracted or where divorce rites were not performed, the widow was expected to abstain from sex, since she remained married to the deceased husband's family. The successor of the husband was merely the putative husband (with no sexual right until he entered into *ayetsew* with her). He was under obligation to take care of the widow and her children, whether or not he makes arrangements for *ayetsew*.

Durkheim stated that the type of social solidarity that exists within the society determines the type of law. The law is either repressive or restitutive. To justify Durkheim’s assertion, there is the need to examine the justice system among the Fantse. It begins from the household and ends in the paramount chief’s court, thus providing a hierarchy of courts within the jural and political systems. At any level, there are a number of arbitrators. There are others who are not arbitrators, but, once they are present, they can contribute to the proceedings. They can ask questions to provoke thought. In a previous research on the *Asafo*, the people of Otuam talked about an alternative jural
system where a case is referred to the *asafo*. Such cases are held in public and everybody present is part of the judicial process.

The Fantse often use arbitration in settling marriage and family disagreements. The complainant tells an elder in the other’s family of a misdemeanor. He or she gathers some few people and they arbitrate over this. The complainant may also be asked to come with a relative, depending on the seriousness of the case. In such situations, the law may exist but the families can come together and settle the case amicably.

The role of an authority with power to govern is to ensure respect for collective practices and to defend the common consciousness from its enemies. Durkheim asserted that, in lower societies, this authority is greatest where the seriousness of the crime weighs the heaviest. Furthermore, he claimed that, in such a situation, it is the collective consciousness that possesses the most power. Therefore it is the collective will of the people which decides the nature of punishment.

Durkheim underrated the capabilities of the social and political systems. The Evans-Pritchard and Meyer Fortes classification of African political systems places the Akan system under state societies, and so it will be expected that the legal institutions are in place to provide the power and authority for enforcing judicial decisions. As explained earlier, at times, the clan heads (elders) are recognized as part of the judicial systems so they resolve conflicts. They may have no power to sanction, but the society respects elders, so they use negotiations to resolve conflicts. Even though their authority may not be absolute, a conflict may be taken to the next stage only if they have not been able to resolve it. The higher level will take into consideration what their judgment was. In a
way, this provides an inherent power and authority which provides a framework for the feuding parties to accept their judgments.

Even though colonization made laws on family and marriage couched within the framework of the conjugal family, the structures of the clan-family still prevail. The latest laws on Marriage and Inheritance (PNDC L 111 & 112) take both the clan family and the conjugal families into consideration. Custom provides that a man gives his daughter’s hand in marriage. The churches recognize this. At church weddings the officiating ministers ask the person presenting the bride if the customary marriage has been performed. Therefore, traditional marriage is a prerequisite for ordinance and Christian marriages. Islamic marriage ceremonies are blended with traditional marriage ceremonies. A person who does not have blood relations with another will hardly consent to serve as a witness to a marriage. Moreover, Ghana practices legal pluralism. In view of this, I conclude that some of Durkheim’s stages in the evolution of the family can be found in Fantse societies, but they do not constitute developmental stages.

The Fantse Family Systems and Postcolonialism

A quick review of the Fantse family and Postcolonialism is worthy here. My discussions so far have proved that, going strictly by the description offered by Durkheim, it will be difficult to identify a conjugal family within the Fantse social system. Besides, the kin types and the kin terms associated differ from one place to another. The postcolonialist describe this and argue that the language used may result in a power relation that is skewed in favor of the occident or colonialists. Therefore, there is the need to explain the kin terms as applicable among the Fantse. I will also examine the
enactment of laws that affected the indigenous people from the colonial era to the present-day, bearing in mind that Postcolonialism is not a period after colonialism.

The Fantse were the first group of Ghanaians to come into contact with the Europeans - Portuguese, Dutch, and British. The Portuguese and the Dutch left, leaving the British. The British colonized the then Gold Coast. Most of its forts and castles were located on Fantse land. The Cape Coast Castle, located on Fantse land, served as the power house of British colonial administration in the early part of colonialism. Therefore it is clear that the Fantse were really influenced by colonialism.

As part of their civilizing mission, the British enacted laws for the indigenous people and pushed them into a pluralistic legal system. Said (1995) talked about a systematic process, and I would like to say that was exactly what happened. Even before the British colonized the Gold Coast (de jury), they had appointed special officers to advise the traditional courts, arrogated to themselves the power to adjudicate all criminal cases, and gradually incorporated English laws into the customary laws of the Fantse and their neighbors. As part of the imbalanced power relations skewed in favor of the occident, customary laws were allowed to operate provided they did not conflict with European laws, they did not challenge colonialism, and were not repugnant to justice, equity, and good conscience (Allot, 1984).

I must stress that European culture conditioned the last bits. Eventually, they made laws to entrench colonialism and even interfered in the customary practices of the people. In effect, they rewrote the history and culture of the people thus making the Fantse part of the British (just the way Said (1995) described in orientalism).
The British did many things to change the customs and institutions of the people. One of the striking things which they did (which also touches on my study) was that they enacted the Marriage Ordinance of 1884 and changed the structure and operational framework of chieftaincy, the customary judicial institution. The ordinance attempted to draw clear lines between customary marriage and ordinance marriage (Gocking, 1990). This law also governed the way property was to be disposed off on the death of a married person. According to Goking (1990), it was bigamous to contract additional marriages under both the customary and ordinance marriages. He stated that the missionaries were critical of the ordinance because they felt the law would make Christian marriage less attractive than it had been in the past.

The ordinance regulated the devolution of property after the death of a partner where parties were involved in ordinance marriage and customary laws regulated customary marriage and inheritance. Danquah (1928) reports that the Presbyterian missionaries devolved an inheritance principle where the property of a person was divided into three with a third each devolving to the surviving children, wife and the kin group. Christensen (1954) reported that, among the Fantse, the merchants had evolved a similar formula in their wills. He claims that eventually that became the order among the elite in the society. I cannot tell what generated the formula. It is possible that it was based on the Fantse system of land tenure which they call *ebusa* (dividing by three). Under this system when a tenant uses a piece of land for production the proceeds are divided into three so that the land owner takes a third and the rest goes to the tenant.
Even though the Marriage Ordinance was not in line with the customs of the people and therefore became impracticable, it has remained in the law books up to date. There were some amendments to the law, but these were insignificant. In 1985 a law was enacted to create uniformity in inheritance where a person died intestate. This law took into consideration the concerns of the indigenous people. This does not mean that there were no attempts to change the law. There were, but what is more significant is that the changes that occurred in a bid to enact that law captures most of the issues raised by Fanon (2004), Said (1995), and Spivak (2006).

Said’s (1995), Fanon’s (2004) and Spivak’s (2006) work offered the framework for describing the ways by which marriage and inheritance laws have evolved in the Gold Coast (former name of Ghana before independence) and Ghana. Under Orientalism, I see the involvement of the British merchants in the judicial process of the Gold Coast in 1844 (even before it became a colony), the inclusion of the Gold Coast under the English Law, the maintenance of the colonial laws in the statutes of post-independence Ghana, and the framing of laws of Ghana within the context of globalization.

Fanon identified laws that created violence among the people, the way the elite bourgeoisie who took over governance after independence ruled as the new or elite colonialists, the subjugation of the masses as though they were under colonial rule, and the refusal of the elite politicians to replace the colonial institutions with the traditional ones. Spivak identified the subalterns as a class within the subjugated class who are without social mobility and the re-presentation of this group instead of representing them. All these have places for examining the legal systems of the Gold Coast and Ghana and
the way they affect the Fantse. I will be repeating what I have already written, and so I will go ahead and discuss the theories by putting them together.

Spivak (2006) mentioned re-presentation and codification. She states that the upper class of postcolonial rulers repackaged the lower class and its problems and re-presented them to the imperialist. The process of making the laws never talked about the role of the masses except in cases where they had to resist. This shows the laws were obviously in the interest of the upper class and their imperial cohorts. The question that comes up is who is being represented when there is a clear case of re-presentation. The masses continue to practice their customary laws. Though it is expected that the codification will result in uniformity, if the masses are not engaged in the process, there will be re-presentation instead of representation of their opinions. Spivak’s critique of codification and her claims of the legal system being twisted to become more favorable to the colonizer (in this case the elite bourgeoisie as advanced by Fanon) were very important here. Even though Fanon does not identify women as part of the elite bourgeoisie, subalternism provides a cue for caution. There is the need to find out if the women activists advance the interest of all women or just a section of women. This is an area that I will examine.

In a similar situation, the laws of Ghana after its independence were re-examined to assert the independence of the people. It was expected that this project would take into consideration the concerns of the majority, for whom independence, couched in true assertiveness, would be beneficial. Ironically, there was no representation but a true case of re-presentation. A case in question is that the government commissioned a group to re-
examine the place of customary law and practice in the legal system. The membership of
the group was made up of judges, lawyers, and other professionals but not chiefs. I see
the Commission as non-representative in the sense that in the history of Gold Coast
(changed to Ghana) chiefs tried civil cases that involved the indigenous people. Under
this system, they applied the customary laws, and so, if there was to be any commission
that was re-examining customary law, the chiefs, who by custom, are the true
representatives of the people and who have once applied the law, should be the right
resources that should be tapped. The chiefs were not represented in the commission, but
the Commission accepted proposals and deliberations from them. Therefore, the views of
the chiefs were re-presented. What about the queen mothers? The least said about them
with regard to representation the better because, up till now, the constitution of Republic
of Ghana has place for chiefs but not queen mothers.

The effects the postcolonial tendencies mentioned above capture the seminal ideas
of Spivak’s (2006) „Can the subaltern Speak?” The Commission presented the situation
as if the cross section of Ghanaians had spoken, and so the outcome was representative of
the people. But the effect was that all the bills that were introduced in parliament to favor
the people, especially women, were resisted by groups including women as shall be
discussed from here.

Major changes that were sensitive to gender took place in the political arena of
Ghana. The government attempted to enact laws that were supposedly going to enhance
women’s status. Key among them was the Criminal Code Amendment of 1960. Schiller
(1965) stated that, when the Criminal Code rephrased the Ghanaian law respecting
bigamy, the impression was created that polygyny would be abolished. According to Smock (1977), this bill sought to make monogamy the only form of legal marriage. Some people perceived this as encouraging monogamy while others perceived it as encouraging polygyny. Many women criticized the draft bill on the grounds that men would continue to practice polygyny and that all the other wives would not be protected.

Smock (1977) asserted that representatives of the various churches requested that the bill be withdrawn because it contravened traditional practices to the extreme. They feared that this might give rise to concubinage rather than promoting monogamy. In effect, the reaction of the people was just a replay of the reactions to the 1884 ordinance. Finally the bill was dropped. Schiller (1965) stated:

The government issued a White Paper reaffirming the liberty of man under the Ghanaian customary marriage system to have one or more wives according to his choice. Legislation was introduced permitting the registration of one wife who would in fact be the successor of the husband’s estate if he died intestate (p. 186).

Smock (1977) stated that this too did not go well with the people, so, in the final draft bill, men were allowed to register all their wives, but it stipulated that in future only one could be registered. Why did the legislation state that something that has been resisted by the people will be implemented in the future? When is the future? All these show the extent at which the elite bourgeoisie re-presented the masses as advanced by Fanon (2004) and Spivak (2006).

In 1985 the Intestate Succession Law, PNDCL 111, which sought to give spouses a fair share of each other’s estate in case of death, was enacted. The main purpose of this law, according to the memorandum to the law, was to remove the anomalies in intestate succession and to provide a uniform intestate succession law that would be applicable
throughout the country. Many people, especially women activists, such as the 31st December Women’s Movement, which had the first lady as its chair, hailed the law. However, after some time, people started raising eyebrows about the law.

The situations described above are just the issues that Said (1995) and Spivak (2006) raised. The elite bourgeoisie who took over government after independence have always been toeing the lines of the colonialists. It can be seen from the above that the government has been adopting western paradigms in order to make laws.

The Western type of marriage is monogamous. They believe that raises the status of women. Of course the Fantse will also be happy with monogamous marriages, but to make laws that will recognize monogamy as the only form of marriage will create problems for people who are already in polygyny. It is also likely to create problems for many women because many of them will remain unmarried. In a society where one’s status rises after marriage or childbirth, it is likely to create problems.

Spivak (2006) admonishes her readers to measure silences into the object of investigation. The silence here is the situation where the latest law on the marriage and inheritance does not work. The people for whom the law was made are not speaking so the silence has become a form of resistance. Relating the gender construct in Spivak’s (2006) study to that of the Fantse, I ask if the subaltern Fantse woman can speak. She cannot speak because of colonial discourse that has disempowered women. The colonial discourse sees a woman in marriage as a wife. Among the Fantse, marriage is a communal affair that sets the families in the limelight and not the individuals (couple) in the marriage. Therefore, the woman in marriage construction is not always a wife or
mother, but a wife, a husband, a mother, a father, etc. (not aunt since the Fantse do not have a similar kin term). For example, the kin term for a father’s sister in Fantse is *na* which translates into mother. However, the construction of the kin type in this sense differs from that of the mother.

The Twi kin term, *sewaa* (female father) describes it better. The *sewaa* plays the role of a father to her brother's children. However, she is a mother to her own children, thus drawing distinct gender roles depending on the relationships. Therefore, in the traditional construct, the woman wields a lot of power. If, as a wife, she does not wield power, as a sister of a married man, she wields power because she is a husband to her brother’s wife and a father to the offspring of that marriage. These address the language issues under Postcolonialism, which the authors describe as a discourse. They also take care of the imbalance of power that women suffer in the family relationship.

**Summary**

I have been discussing Durkheim’s and his compatriots’ works in line with the Fantse and the African families. I have argued that the works provided food for thought for explaining the the Fantse family system. Durkheim’s work provided the framework while those of his compatriots synchronized his framework into the African situation (which can also be adapted for the Fantse).

I have raised the issue of attempting to transpose the entire framework into the family systems as Nukunya (1975) and Lamanna (2005) did. I have agreed that social morphology supports the framework, especially the need for social change. However, I have argued that the social change that leads to individualism also draws people together
in the sense that communalism is a shared value that underlies Fantse social life. In spite of the freedom that individualism offers, the value system frowns upon it, and so instead of the social morphology leading to more individualism, it connects people to their natal families and enables them to perform the obligations in return for the rights they enjoy.

Besides, there are social control measures such as fines imposed on people who fail to perform their duties in their home towns. At times, such fines are imposed on the dead so that their lineages will pay. A stigma is attached to such fines, so the lineages ensure that their members do not flout such rules to disgrace the individual members and the lineage as a whole. This clearly supports the submission that Radcliffe-Brown (1932) Fortes (1951), 1997), and Schneider (1961) made in synchronizing Durkheim’s theory into an African situation. It describes the rights in *personam* that Radcliffe-Brown (1952) pointed out.

I have also been examining the place of Fantse within the framework of the issues that Fanon (2004), Said (1995) and Spivak (2006) raised. I have established that the Fantse fit into the framework in the sense that colonialism established laws that were at times inimical to the social systems. Independence did not change the situation because the elite bourgeoisie who took over governance favored the colonialists and imperialists so that the bourgeois would continue to be in power. Besides the hegemonic issues, the language issue and many more that the postcolonialists point out, help to bring about a balance of power in the way that the structural Functionalists examined issues.
Chapter Four: Methodology

In this chapter I present the methodology that was employed and the rationale for the choices at the various stages of the study. I also discuss how they strengthened my research, bearing in mind that the selection of methodology rests with the problem to be investigated, purpose of study, the theory base and the nature of data (Roberts, 2004). It will be recalled that this study sought to examine the inheritance system of the Fantse that seems to ignore members of the nuclear family, and, rather, favor the clan. The study was to explore the social systems, particularly the family, and how it negotiates the changes brought about by statutory laws, changes in the society, among others, and how they have affected the lineage system.

Research Design

I adopted qualitative research design for this study on the basis that it employs a wide range of interconnected interpretive practices that aim at getting a better understanding of a subject matter (Glesne, 2006). In other words, qualitative research design does not privilege any single methodological practice over the other. My aim was to seek a comprehensive understanding of the phenomena associated with inheritance such as the social systems, social organization, and the networking associated with these. Therefore, I collected the data that through critical ethnography, instead of the traditional ethnography, because I was interested in knowing the present and past, and predicting and drawing strategies for the future. The choice of critical ethnography was to simplify and make the theories more susceptible to the study, to use the Fantse language to explain the culture, to ensure participant-oriented research, to gather information for
comprehensive understanding of the phenomena, and to identify alternative ways of understanding family laws in Ghana through the case of the Fantse.

Patton (2002) entreated researchers to be guarded by the principle that they are inquiring about people, and ensure that qualitative research fitted into their research questions. Carspecken (1996) dwells on this by saying, “Qualitative social research investigates human phenomena that do not lend themselves, by their nature to quantitative methods.” Carspecken’s words create the impression that qualitative research plays a second fiddle to quantitative research. In my case, it was not that the research could not lend itself to quantitative design and hence qualitative design as my first choice. Rather, my research is about a people, and they cannot be treated in likewise manner as the variables in a science laboratory. Besides, I was examining something in a traditional society – one in which things have not been formalized. Therefore abiding by any rigid formality will not yield the expected results. Moreover, I am targeting audience who are not all technocrats but also the downtrodden, people who are suffering from misinterpretations of their traditional values and social systems by themselves, some activists, and policy makers. With qualitative research, I have understood the situation that I set myself to study. Therefore, the design cannot be considered as a second choice.

My choice of qualitative research design was partly influenced by the choice of Functionalism and Postcolonialism as the theoretical frameworks of the. Functionalism is based on the interaction of systems, which is very applicable to the African systems where everything within the society is interconnected with something else. However, there have been crises in representation by which the colonialists and neocolonialists
have represented people based on the researcher’s own perception instead of the researched people’s perception (Claire, 2003; Roberts, 2006). This form of representation has led to differences in power relations that have enabled the colonizer describe the “other” (indigenous culture) as savages and people who should be taught to become civilized, thereby leading to misrepresentation of various cultures in Ghana and for that matter Africans. There have also been distortions of indigenous languages and the way they have been used to interpret indigenous culture (Smith, 1996). Therefore, there was the need to recapture what has been lost. To do this effectively, I had to combine a number of data sources including participant observation, in-depth interviews, collection of life histories, and many more, all of which are critical data points for critical ethnography.

The objectives I set for this work also rendered the work amenable to critical ethnography. It was to reexamine what had been produced in the literature, get to the source of information, and reconnect what is on the ground to what is in the literature so as to interrogate research and policy relating to the phenomenon of the inheritance system of the Fantse, and for that matter, Ghana. Using critical ethnography I observed through participation and constantly probed to find out the alternatives available with the aim of gaining a thick and rich description of the issue under investigation (Carspecken, 1996; Glesne, 2006; Thomas, 1993).

The choice of critical ethnography was to enable me to lay emphasis on the way the participants used the Fantse language to explain the culture and made it easy to understand so that the language could be a guide for inquiry into the culture and express
discoveries. For instance Beattie (1964) argued that kinship can best be understood in the language and philosophy of the people being studied. Thus, following Thomas’ (1993) definition, I conceived ethnography as “the reflective process of choosing between conceptual alternatives and making value-laden judgments of meaning and method to challenge research, policy and other forms of human activity” (p 4). All these were part of my objectives for this study.

The use of critical ethnography ensured that the mode of collecting the data was more participant oriented. For instance, to guide the participants to describe their knowledge, opinions, perceptions, feelings, and description of their own actions, interpersonal actions, behaviors, and activities during the interviews I only provided some guiding questions as framework for the interview schedule and allowed the participants to speak on various topics under their own direction. At times the participants veered off what I was expecting so I tried to always provide the prompts to bring them back on track. However, I must also admit that some of the information they provided became more meaningful for me as I was putting them into themes. This enabled me to get information on certain issues which later became necessary for my analyses, for example, secondary marriages and the reversion of private property through the matrilineage after it had devolved through a first generation. Eventually, this enabled me to contextualize in the participants socio-cultural perspective and helped me to understand how the national statutory laws have been framed. The knowledge of these offered the potential tools for advocacy, which are likely going to help effect changes to some of the conditions under which the national laws have been framed.
Site Selection

Figure 3: Map of Ghana showing the study areas
I selected five settlements in the southern part of the Central Region of Ghana where the Fantse are located (Figure 3). Among these settlements are two urban (Cape Coast, and Mankesim) and three rural (Dago, Kormantse No. 2 and Baifikrom). This combination also gives three coastal settlements and two non-coastal settlements to enable me compare how the major occupations – fishing and crop farming influence the dynamics of the family. These were also carefully selected to enable me obtain data from diverse populations based on the historical and cultural significance which I will describe soon.

Cape Coast was the first colonial capital of the Gold Coast, now Ghana. It is now the regional capital for the Central Region of Ghana. According to the 2000 Population and Housing Census figures, it has a population of 82,291 people made up of 39,512 males and 42,779 females, 6856 houses (Ghana Statistical Services (GSS), 2005). It has many prominent high schools, and four tertiary educational institutions (colleges) including a university. The research participants were selected from an area in Cape Coast known as Kokoadu. It is one of the settlements close to the University of Cape Coast. The choice enabled me to find out the possibility of the influence of education, as a social change agent, on the people. It was also because the chief of that suburb is the Public Relations Officer of the Chief of Cape Coast. Because the Chief of Kokoado (a sub chief of the Cape Coast Traditional area) stood in for the Chief of Cape Coast it was convenient to select his subjects as the participants for this study.

Mankesim is an urban settlement with 2419 houses and a population of 25,481 made up of 11,511 males and 13,970 females (GSS, 2005). It is a nodal town with a
market center. It was the first town that the Fantse founded after they had migrated from Techiman to their present location (Holsey, 2008). The three traditional military leaders who led the Fantse to the settlement—Obunumankoma, Odapagyan and Oson—were buried in this town. Oral tradition has it that because the Fantse states were not constituted into a kingdom, Mankesim was only regarded as the spiritual headquarters of all Fantse. The chiefs of the other states visited Nananom Pow (the burial ground of the three leaders, translated as —the groove of the fore fathers”) on pilgrimage.

Dago (also known as Legu) is a rural settlement with 507 houses and a population of 4751 made up of 2255 males and 2496 females (GSS, 2005). Oral tradition shows that the people of Dago were originally Guan. They were not part of the group that migrated from Techiman to Mankesim. The Gomoa, who were their neighbors, migrated from Mankesim. For security reasons the people of Dago agreed to be part of the Gomoa Akyeampim Traditional Area (Wilson, 2000). I selected Dago because I had written a master’s thesis on the asafo of Dago and those of her neighbors—Dwamba and Otuam. Apart from being a native of that town, I had an entree for further research because of the past research I had conducted there.

Kormantse is noted for its participation in the trade links between the British and the then Gold Coast. It was also noted for prowess in war. Kormantse was the town in which the Asante army defeated the Fantse in 1807 after the Fantse had harbored two fugitive Assin Chiefs (Perbi, 2004). At the moment it is an Archaeological Investigation of Historic Sites Project of the Portland State University, Portland, Oregon. The Census figures do not offer a good description of Kormantse No 2 because the town is made up
of two physical settlements; one on the ridge and the other on the foot of the ridge. The indigenous people have No 1 and No 2, based on the number designation of the *asafo*. Both the ridge and the foot of the ridge have portions of Nos. 1 and 2. However, census figures separate the “ridge top” from those of the “ridge side.” Oral tradition has it that the people of Kormantse were not also part of the original Fantse that migrated from Techiman. They were already there before the Fantse arrived.

Baifikrom is a rural settlement with 662 houses a population of 2805, made up of 1336 males and 1468 females (Ghana Statistical Services, 2005). It is located to the north of Mankesim (almost joined). It is noted for its vast Muslim population. I selected it with the view that I will obtain information based on social change due to the spread of Islam. The chief of the town is the *Baimuhene* (Chief in charge of the royal mausoleum). The River Okye is close to Baifikrom and so all rituals of the Mankesim Traditional Area that involve cleansing, including the annual festival, installation of chiefs, outdooring of twins and widowhood rites take place in that river. Therefore, the town is significant for religious purposes.

**Selection of Participants**

Patton (2002) acknowledges that the logic and strength in purposeful sampling lies in selecting people who have rich information for in-depth study. Because the chiefs, queen mothers, and their elders are regarded as repository of culture and the research was on culture, I used the purposive and snowball sampling to select 32 people; the first method for chiefs, queen mothers and clan heads, and second for widows and widowers. In each of the towns I went to the palace to present my mission to the chiefs. Eventually,
my participants were made up of chiefs (5) and queen mothers (2), heads of clans (10), and widows (10) and widowers (5). I interviewed a chief, two clan heads, a widower and two widows from each settlement. The two queen mothers are very prominent in the region. I selected more widows than widowers because in practical terms there are more widows than widowers, due to the practice of polygyny, age differentials between married couples (Oppong, 2004), and life expectancy rates. The average age difference between Ghanaian couples is about nine years and the men are often older. Besides, various documents, including the GDHS (2008), National Population Council Fact Sheet (2004), the Population Reference Bureau Fact Sheet (2010) and many others put life expectancy of Ghanaians at between 57 and 59 years for males and 59 to 61 years for females. Thus, on the average, women live longer than men and therefore there are likely to be more widows than widowers.

By making use of purposive and snowball sampling the objective was to acquire answers that are rich in information. The purposive sampling targeted the expected audience like the Ebususapan info (heads of clans). These are people who have been supervising the execution of the estates of people who die intestate. With the purposive sampling I got links to a number of old and knowledgeable people in the society, who are also well-versed in family issues and could recall the social changes that the family, as a social and political institution, had gone through. This provided me with in-depth knowledge of the family system among the Fantse.

I got the chiefs after I had visited the palace, introduced myself, and told them about my mission. I met the clan heads in the chiefs' palaces. In most cases they
represent the various clans on the chief’s Council of Elders. Therefore, they go to the palaces almost on daily bases. They were often present whenever I went to the palace. After I had gone through all the traditional protocols – being invited to the arena, telling the chiefs and elders my mission, listening to what precautions they want me to take in order to be accepted into the community, and granting me the permission to do the study – I selected the heads of clans based on the interest that they showed in the study and their willingness to participate in the interview. I got the names and backgrounds of the widows and widowers from the clan heads. They knew those in their clans because they had been involved in the funeral rites of their kinsmen whose spouses were deceased. I made a list from what the clan heads gave to me and selected the actual participants taking into consideration their ages and when they had their widowhood rites. I got very young and elderly ones, those who had gone through widowhood about 20 years ago and those of recent times, about a year ago. Therefore, there was an aspect of purposiveness even in the snowballing; all with the hope of getting the right information.

**Data Collection Procedure**

Carspecken identified five stages of Critical Qualitative Research (CQR) methods (Carspecken, 1996). The first stage involves building a primary etic record by finding out what is going on. It is the aspect of the fieldwork where the researcher becomes the non-participant observer. It involves monological unobtrusive reflections that aim at reconstructing the culture. In the second stage the researchers interpret the information obtained from presenting themselves as the non-participant observers from the etic perspective. They aim at preliminary reconstructive analysis, again for cultural
reconstruction. The third stage is the dialogical (based on the emic) data generation involving fieldwork, particularly through participant observation, interactive, interviews, and reflections on the information gathered. This stage is also the collaborative stage because it is the time the researcher and the researched group interact by sharing knowledge. This is also aimed at reconstructing the culture. The fourth stage describes the systems in relation to the broader context. The data collection methods are aimed at conducting systems analysis between the locales, sites, and cultures. This leads to discoveries. The fifth stage explains the relational systems. At this stage the researchers link their findings to existing macro-level theories to make more meaning. It also involves the use of systems analysis through interconnectivity with others. It aims at giving the broader picture and making conclusions. I followed this design as described under the subheading “Selection of Research techniques and Instrumentation.”

A close examination of the stages identifies two broader stages where the researcher reconstructs the culture (stages one to three) or analyses of the systems (stages four and five). This clearly puts in the broad pictures associated with data collection methods and data analyses. However, the third stage differs a little bit from the other two in that category because it involves more interactive behavior through collaboration and also uses the emic instead of the etic. Therefore, I adapted a three stage process—the period before the interactive fieldwork, the period of interaction and collaboration (interviews and participant observation) and the period after fieldwork or the writing stage—to describe the procedure in this study.
Selection of Research Techniques and Instrumentation

I began my fieldwork in November, 2009, and ended in March, 2010. I observed a number of traditional activities including naming ceremonies, puberty rites, funeral rites, and traditional court sittings. I conducted in-depth interviews that lasted about an hour with each of the participants. I had with me three interview guides described as follows:

1. Interview guide for chiefs and queen mothers to find out the customary practices of Fantse in the areas of marriage, divorce, widowhood, and inheritance (see Appendix A)
2. Interview guide for clan heads to find out how they and their members negotiate the customary practices of marriage, divorce, widowhood, and inheritance (see Appendix B)
3. Interview guide for widows/widowers to find out how they negotiated funeral rites, widowhood rites, and inheritance (see Appendix C)

Apart from these, I also had a plan for the expected daily activities though times and situations did not permit me to follow this rigidly. I had to make a number of changes to the schedule. There were also certain things that were not part of the original schedule, but I had to make room for them.

Emergent Design

Emergent design became necessary because of the indigenous socio-political structure of Elmina and the laying of the Intestate succession Bill and the Spousal Property Rights Bill before parliament. Creswell (2009) stated that the research process for qualitative research is emergent because the initial research plan cannot be followed
in a rigid manner. The original plan of my field research was to include Elmina and Amisano, which are in the same district and traditional area as my sites. However, in the field it emerged that Elmina has a different socio-political organization that combines paternal and maternal lineages in a different way from the other Fantse states. It became necessary to solicit information from the participants but on their knowledge about these bills. I had to add about five more questions to those that sought to find out people’s knowledge about the bills in parliament. I told them about some of the changes in the existing ones and sought their reaction to them. However, eventually, I ended up educating them on some of the tenets of the new bills because none of my respondents had heard about the new bills.

Credibility Techniques

Patton (2002) stated that the concerns of the society have given rise to new fields that are interdisciplinary in nature. These interdisciplinary fields are more problem-oriented than disciplinary-oriented. With the problems associated with inheritance in matrilineal societies like that of the Fantse, there is the need to go beyond disciplines to unearth the solutions to the problems. Moreover, I do not see the writing stage as different from the period of the fieldwork, as Van Maanen (1988) does, because I preferred to do most of the writing in the field so that I could conveniently double-check my facts for credibility.

Carspecken (1996) and Smith (1999) identified techniques to support validity claims. They stated that acts of research have to be value driven but the validity claims of the researcher must meet certain standards to avoid bias and recommended multiple
recording devises, multiple observations (including flexible observation and scheduled observation). In addition, Carspecken (1996) entreats researchers to practice prolonged engagement in the field and use low inference vocabulary so that the participants would understand. Furthermore, he entreats researchers to use peer debriefing and member check. There is the need to get the physical equipment for the fieldwork. This equipment includes notebooks, video cameras, tape recorders, stable cameras, and more. Carspecken (1996) stated that there is the need for multiple recording devises and also entreated researchers to use peer-debriefing, so that researchers will be more efficient. Smith (1999) calls this multiple sources of cross check information.

I was guarded by Carspecken and Smith. Throughout the period of this study, I was a member of a study group that was made up of students who were writing their dissertations and those who were in other stages of doctoral programs. Before I defended the proposal for this study, I presented it to the group for feedback. Thus even before I went to the field I had begun to examine what to look for in the field for the purpose of credibility. While in the field, I was guided by some of the comments that came from my advisers and peers. I also had the opportunity to present my preliminary findings at in one of the Faculty Lecture series of the University of Cape Coast on March 4, 2010. The feedback that I got helped me to frame more questions for double-checking my facts from participants.

In the field, I had a digital audio recorder and a non-digital one. As I was audio taping, I was also scribbling down notes. I had to obtain two books - a journal to record the daily activities and the one for the information that I gathered from the respondents.
In the course of the transcription I used the notes and filled in the gaps with the audio tapes. I did some of the transcriptions while I was in the field. This gave me opportunity to do member checking where I visited participants or called them on phone to double check statements and options. In my case I used Mfantse (the indigenous language of the Fantse, which is also my mother tongue), so I was able to use low inference vocabulary to enable my participants understand me very clearly. After the transcription, I gave both the transcribed document and the audio tapes to another person who is fluent in both English and Mfantse to double check what I had recorded.

**Positionality**

My position as a researcher comes in diverse ways similar to Smith’s (1999) dilemma of *insider and outsider* in the research enterprise. What this has for me is that, as an insider, I know the social systems and the language. However, I expected to falter at certain times, so I had to proceed with caution. I was an insider as well as an outsider. I was an insider because the study areas include my hometown (in this case where my mother comes from, which has been traced through the matrilineage). I was an outsider to the other towns besides my hometown. I was also an outsider even in my own hometown because having gone through Western education and being among the few who have made it to the graduate level, my values and way of examining issues have become different from others in my home town. Furthermore, I have lived outside the town for so many years. I used to go there for festivals and other social functions before I came to the United States. Though, the frequency was about twice a month, it was not surprising that my own people classified me as a stranger (within their context). Being
aware of this position, and in order not to present the research in my way, I had to be well equipped with the ontology and the language (Carspecken, 1996). Ontology is about the structure of the society, which I needed to understand as part of the culture of the people.

In rural areas where everybody seems to know everyone, a stranger in a community can easily be recognized. In some of the communities in Ghana, one will have to identify the social and political authority that should be contacted for easy entree. For instance, being affiliated to a clan was one way by which some ethnographers got accepted into the communities that they researched (Beattie, 1964; Kayongo-Male & Oyango, 1983). As a Fantse, I am well versed in the structures of the clan. However, I must admit that there may be unique practices in each of the towns, which I have to know so that I do not commit any blunder. In any case, I am also well versed in proverbs that will enable me to retract something when it becomes offensive to my respondents.

Some of the things that one will have to consider are how to get the entree into the community. To do this, I had to know the protocol arrangements, but being aware that the protocols differ from one place to another, I always found out from trusted people among my respondents before I met with the chiefs. This was important, because if I committed any cultural blunder, my respondents would have the impression that I did not really know the indigenous culture. With this, they might withhold some vital information from me on the grounds that I was immature to synthesize the culture. Armah (2002) described people in indigenous knowledge who withhold information to learners who show some sense of immaturity as keepers. According to him they keep the information until they are sure that a learner has gone through the mill before they divulged vital information.
Eventually, I postponed presenting the drinks to the chief as customs demand until I was almost done, to the amazement of my participants. It was better I did that because it prevented me from imposing my wishes on my respondents.

There is also the need to know the language and understand the nature of the language. In combining ontology with language, I realized that there are situations where languages are governed by social structure. For instance, among the Fantse, the language that one uses for adults is not the same as the one that one uses for one’s peers. In the process of reading, there was the need to identify how the various books construct methodologies and the other.” Where these had been skewed by previous writers, there was the need to find a way of deconstructing and reconstructing the methodologies (Smith, 1999).

**Data Analyses**

Qualitative data analyses involve breaking and organizing the data into manageable units, relating them to one another, and connecting them to others outside what the researcher already has (Bogdan & Biklen, 2003, Patton, 2002). As a way of organizing and making the data meaningful, I translated and transcribed the information obtained from the interviews from Mfantse (the Fantse language) to English. Taking Bogdan and Biklen’s (2003) phases of analyzing data into consideration, I discovered, coded, and interpreted the data by identifying themes and developing concepts, refining the themes, and, finally, developing themes for the write up based on the research questions. I tabulated the data based on the themes identified. In many cases, I used percentages of scores to serve as the bases of analyses, notwithstanding that in qualitative
research design, the absolute percentage may not be as significant as the fact that somebody shared an experience or knowledge; more so when the instrumentation methods selected were non-probability ones.

I adopted the interdisciplinary approach to analyze the data. Patton (2002) stated that the concerns of the society have given rise to new fields that are interdisciplinary in nature; and that the interdisciplinary fields are more problem-solving oriented than disciplinary fields. With the problems associated with inheritance in matrilineal societies like that of the Fantse, there is the need to go beyond disciplines such as Anthropology and Sociology to unearth the solutions to the problems. At times I had to read some legal documents and ask for interpretation beyond the layman’s understanding.

**Limitation and Delimitation**

There was the need for me to study the Ghana Law Reports and other national documents on family Law and where necessary, seek clarification from government officials’ perspectives on some of the issues that my respondents may raise. Some of these reports were written in legal language and therefore very difficult to understand.

I had planned to interact with Members of Parliament, especially those serving on the Parliamentary Select Committee on Women and Children, Legal and Parliamentary Affairs, and Chieftaincy and culture to get firsthand information about their operations at the committee levels and the challenges of enacting a law on family and inheritance. Besides, I intended to interact with some of the members who were outspoken during the debate on the Intestate Succession Bill. Unfortunately, at the time of the debate, parliament was about to go on recess and so the house had longer periods of sittings,
thereby making it difficult for members to attend to people who wanted to see them. On several occasions, I called to set up appointments with participants. They agreed to meet me only for me to get there and realize that they were not ready, or to find the contact person was not around.

In the course of writing, I attempted to capture some of the parliamentary debates from the Hansard of Ghana’s Parliament. I noticed that the purported reports from the Hansard on some of the days that Parliament debated the Intestate Succession Bill were those of other dates, particularly, the debate on March 10, 2010 had been substituted with that of February 10, 2010. I sent an email to three officials of parliament but none responded to them (see Appendix E). This prevented me from getting vital first-hand information for analyses.

**Ethical Considerations**

I submitted my research plans and objectives to the Institutional Review Board (IRB) of Ohio University and received an IRB submission approval (see Appendix A) before I embarked on this research journey. Before the research was approved, I participated in online research training and received certification to conduct research. I followed the procedures I had learned through the IRB training and the courses I had taken in research methods to ensure that I did not violate any ethical issues.

In the field, I read the consent form (Appendix 3) and emphasized the importance of confidentiality to the participants. For those who could not read and write, I made them get someone to read it and explain to them so that they could thumb-print. Though some of the participants felt that it was not necessary and were not prepared to sign or
thumb print them, I had to explain that it was a requirement under my contract and that failing to do that may render the time I was spending with them a useless effort one. I told them that even when they begin participating in the interview they have every right to pull out at any time that they desire, and I was under obligation to stop. I also told them that they could ask for clarification on any of the questions before they answered. Thus I made my respondents understand the ethical considerations that I had to ensure.

Finally, I directed them that if they had any concerns or further questions they could communicate it to my advisor (name and address were provide) or communicate it to my employers, the University of Cape Coast, since the research was part of a collaboration between the University of Cape Coast and Ohio University. I assured them that I would mail the transcriptions of their interview to them for their comments before I used them, and that after transcribing, I would destroy the tapes. Because I started the transcriptions while I was in the field, I read them those who could not read, gave them copies, and asked for their permission to use them. Besides, I promised to give copies of the final work to the chiefs before submitting it to the Theses and Dissertation Office of Ohio University. I would like to put it on record that copies have already been sent as I promised.

I expected that widows and widowers could be reminded of pains associated with loss of spouses. To safeguard this situation, only those who had been widowed for at least one year were interviewed. Moreover, because I had selected the participants in this category from the names that the clan heads gave to me, I was also careful that only those who had the strong will to participate were selected. I told them the potential risks and
asked for their consent before I started the interview. In a particular situation where I realized that a participant was becoming emotional, I stopped and pleaded with her to invite me to conduct the interview whenever she was comfortable. Amidst laughter, she told me it was normal and continued with the dialogue. I changed the pattern of questions until I was confident that she was emotionally alright before I got back to the core of questioning.

**Summary**

I have been examining the methods that I adopted for this research and their ramifications. I adopted qualitative research design and specifically critical ethnography because the principles underlying it guided me to ask more questions to get an insight into the social systems and questioned the rationale behind some of the practices. I did participant observation, in-depth interviews, and collection of aspects of life histories for my analyses. I also had discussions with some officials who are connected with the enactment of laws, codification, and many more. Eventually I was equipped with knowledge to effect advocacy and suggest better ways of improving the conditions of widows and widowers. Though the methods adopted were not without hitches, they were the most appropriate for addressing the research questions, the purpose of study and the theoretical framework that I had chosen.
Chapter Five: Background of Participants and Social Organization
Among the Fantse

This chapter serves as the beginning of the data analyses. I present the background of the participants and analyses of my first research question— What is the nature of social organization among the Fantse. I examine the socialization of members of the society and conclude the chapter by attempting to find any connectivity between the structures within the Fantse society and those identified by the Functionalists.

Background of participants

There were five major groups of participants – five chiefs, two queen mothers, and 10 heads of clans. Others are 10 widows, and five widowers. Apart from participants from these groups I held conversations with about three significant others who are also knowledgeable but did not fall under these categories. This was a way of triangulating to gain in-depth description and understanding of the phenomenon. Accessing data from multiple points also aided in gaining thick, rich description of the issues under investigation. I also did that as a way of identifying when events took place.

Chiefs

A chief is the traditional leader of a community. Every community has a male chief (ohen) and a female chief (ohemaa). However, there are situations where females have occupied male stools (the symbol of office for chiefs) (Arhin, 1983; Yankah, 1995; Wilson, 2007). Chieftain positions are categorized into 3 – Omanhen (Paramount Chief), Ohen (Divisional Chief) and Odikuro (Sub Chief). A Paramount Chief is the chief of the entire state and the capital of the state (also known as the paramountcy or the traditional
area). The state is divided into divisions for both political and military functions. The Divisional Chief is therefore the chief of the division, commander of the traditional divisional army and chief of the capital town of the division. The Odikuro is a Sub Chief (chief of a town or any quarter or section within the capital towns). The position of an Odikuro can be elevated to Ohen by the Paramount Chief. Usually, once such a position is conferred on a chief all the subsequent successors of that chief hold the elevated position.

Nana Kweku Enu is the Odikro (sub chief) of Kokoado, in the Oguaa (Cape Coast) Traditional Area. He also serves on the Oguaa Traditional Council as the spokesperson of the Omanhen (Paramount Chief). He works with the University’s Book Bindery Section as a senior staff. He serves on the boards of health institutions in Cape Coast including, the municipal hospital, the regional hospital, and the nursing training college. He has a council of elders, made up of the clan heads and people who are well versed in the Fantse culture, who help him to settle (adjudicate) customary matters.

His position as the spokesperson sets him in the public domain. He is therefore, considered as a knowledgeable person, not only in traditional issues but also issues of much concern within the traditional council and the society as a whole. Nana Enu often comes in contact with researchers on chieftaincy and other traditional institutions because the faculty and staff of the university direct many of such researchers to him. He said, “I have gained a lot of knowledge from people who interview me. I also disseminate some of this knowledge to others like you who need it” (Personal communication with Nana
Enu, February, 2010). With this background of Nana Enu, I realized that his knowledge could be tapped to enrich this study.

Nana Eduafo VI is the *Odikro* (sub chief) of Gomoa Dago. Though he claims to be an *Odikro*, an archival material (Central Regional archives, ADM 23/1/168) shows that the chieftain position of Dago has been gazetted as *Ohen* (Divisional Chief) since 1917. The document indicates on July 7, 1917, Nana Kodjo Nkum, chief of Oguan and the then Paramount chief of Gomoa Akyeampim, stated in a letter to the Secretary of Native Affairs that, Nana Eduafo II has been duly selected and installed under customary law as the chief of Dago. He continued that the title of Eduafo II is not Odikuro but *Ohen*, because his ‘situation’ is important as Dago lies on the boundary with the Ekumfis (another Fantse state) along the coast (see also Wilson, 2000). Nana Eduafo is an absentee chief (one who lives and works in another town). He lives and works in Takoradi - a harbor city and a metropolis (a distance of about 50 miles). He has a council of other chiefs, clan heads, and selected people who are knowledgeable in Fantse customs. They help him to govern the town. In his absence, the council settles customary matters. He has college (university) education up to bachelor’s degree.

I have personally known Nana Eduafo for his eloquence. Apart from the fact that I always call on him to discuss matters of importance to our community and clan, Nana Eduafo was a major participant in a research for my master’s thesis. Nana Eduafo stated, ‘I have always been in touch with researchers who want information about the group of Fantse who were not originally part of the group that migrated from Techiman.” Having
worked with him on a thesis project, I realized that his experience and knowledge could be tapped for this work too.

Chief Seidu is the Regent (caretaker chief) of Baifikrom, near Mankesim. He stated that he had occupied the position of Regent for almost 10 years, but the people had not performed the rituals to install him as the substantive chief. He is also the Banmuhen (chief in charge of the royal mausoleum) of the Mankesim Traditional Area. He had middle school education. (10 years of education under the former system). Furthermore, he is well versed in traditional institutions. He is a Muslim with two wives. He has a council of elders made up of some heads of the various clans and people who are well versed in the Fantse culture. He stated that his selection was based on merit.

One thing unique about his council is that the members sit on weekly basis (every Sunday) to adjudicate cases. I had the opportunity to listen to a number of cases that were brought to his court. Most of them were on family life and land tenure, but none on misunderstanding arising out of funerals or inheritance. Nana stated:

My council adjudicates cases on regular basis. Apart from the regular ones on Sundays, we also listen to complaints and when necessary we adjudicate such case immediately. At times Nana Omanhen (the Paramount Chief) [of Mankesim] invites me to sit in his court as a panel member when the needs arise. I have had many people, including very educated people appearing before this court as major parties to the conflicts or coming to lend support to their relatives (Personal communication with Chief Seidu).

I was personally impressed about the proceedings in Chief’s Seidu’s court. With the way he and his council handled the cases, I was confident that Chief Seidu was a great resource person for this work.
Nana Anderson is the *Mankrado* (honorary chief in charge of development) of Mankessim. He has college education up to the bachelor’s degree. Though he is not the paramount chief or the chief of the town, he is very influential among the chiefs in the Mankesim Traditional Area and the Central Region of Ghana. He is well versed in traditional institutions. Consequently, he serves as the spokesman on development issues and the Public Relations Officer of the traditional council. He often comes into contact with researchers and other dignitaries because Mankesim, being the traditional spiritual home of the Fantse, attracts more visitors, tourists and researchers to the place.

Aboasi Amisah represents the chief of Kormantse No. 2. He is the spokesperson for the chief, an “absentee chief.” He has education up to middle school. He is knowledgeable in the Fantse culture and also a head of clan. He was also a member of the Unit Committee of the Local Government Administration. Though he was interviewed as a chief he also brought to bear some of his experiences as a head of clan.

**Queen Mothers**

Just as chieftain positions are categorized into three, so are the positions of queen mothers. Those of the queen mothers are *Omanhema, Ohema* and *Obaapayin* (or *Ohemaa*) for the state, division and sub-division respectively (Arhin, 1983, 1985; Wilson, 2000, 2007). The queen mother’s position seems to be lower than that of the chief in the public domain but in reality she is more powerful than the chief (Arhin, 1983, 1985; Busia, 1968; Wilson, 2000, 2007). She selects the chief in consultation with the divisional chiefs or heads of the various clans. She is the only person who can rebuke the
chief. She also has the power to summon males to her court just as the chief can also summon females to his court. She often adjudicates family matters.

Nana Ama Amissah III is the *Obaahemaa* (Queen Mother) of Mankesim Traditional Area. She has been the queen mother since 1994. She has high school education. She is a board member of the National Commission on Culture, and Chair of the Central Region Queen Mothers Association. She has instituted remarkable changes in the way widowhood rites are performed in the Mankesim Traditional Area. As a counselor in her church, she often comes into contact with married people, and delivers talks on family life education. She is married and has five children. Nana Amisah’s experience as a family life educator, Queen Mother, and a board member provides the potential for enriching this study.

Nana Amba Eyiaba I is the *Obaahema* of Efutu and *Krontihemaa* (main divisional queen mother and second after the paramountcy) of Oguaa Traditional Area. She is a teacher by profession, with a degree in Educational Psychology and a Master’s degree in Educational Administration. She is also a consultant on culture. She served on Ghana’s Electoral Commission and retired in November 2010. She is married with three children. Nana Eyiaba’s experiences on national issues and culture places her in a position that can richly influence this study.

**Heads of Clans**

An Ebusuapanyin (head of clan) is the leader of the clan. He is the custodian of clan property. In sub-divisional polities, he represents the clan on the chief’s council of elders. In the states and divisional polities, he selects divisional and sub chiefs in
consultation with his female counterpart and elders of the clan. He presides over all clan functions including rituals such cleansing of clan stools and organizing funerals. He liaises with other clan heads in matters involving members of his clan and those of other clans.

The heads of clans have vast knowledge on the issue under study because they are the traditional executors of the estates of their deceased members. They also support the widows and widowers in the clans in all the interactions that take place between the two clans involved in organizing funerals for deceased members. With the help of the chiefs, I got the background of the heads of clans and selected my respondents. Some had served their terms of office as Head of Clan already but their experiences as former Heads of Clans were of immense benefit to my study.

Opanyin Kwesi Yeboa is the former head of the royal Anona Okusubentsir Clan. He was the representative of one of the gates in the clan and a co-opted member of Nana Eduafo’s council of elders. He is well versed in Fantse culture. He cannot read and write. He has a number of friends and relatives he trusts, who read, write, and translate written documents for him. He manages to identify documents in his own ways and can produce any of the documents that he keeps without assistance. He has a safe where he keeps a number of documents. Though he lives permanently in Dago, he has travelled wide to other places in the country to help settle cases or as a member of Nana’s entourage. He often laments about his inability to read and write. His ability to maintain this decorum keeps him in a position that enriches this study.
Baffoe was the representative of the Aborodze (also called Ebiradze) Clan of Gomoa Dago. He had education up to middle school (10 years of education under the former system) and is knowledgeable in customs. He is a retired police officer, rising to the rank of Chief Inspector, the highest Non-Commissioned Officer in the Ghana Police Service. His experience as a law enforcer and a knowledgable person in culture puts him in a position to enrich this work.

Ebusuapanyin Kwodwo Amfo is the Head of Boa Amponsen Nsona Royal Clan of Mankesim. He has occupied that position since 1978. He is 87 years old. He is married with nine children who are also married. He has 24 grandchildren. He was educated up to middle school level (former system). He is an ex-police officer who rose to the rank of Chief Inspector (the highest non-commissioned officer in the Ghana police Service). He also has rich experience in conflict resolution. All these have potential for enriching this study.

Ebusuapanyin Kwame Ababio is the head of the royal clan of the Mankesim Traditional Area. He is married with children. He is 89 years old. He lived in the Akyem area until the position of head of clan was vacant when he was selected to occupy it. He is a farmer by profession. He also has rich experience in conflict resolution. All these have potential for enriching this study.

Kobina Acquah is an Ebusuapanyin and a member of the chief’s council. He is a farmer with a number of plantations. He has initiated a number of changes in his clan. The clan has a commercial vehicle (something which is unusual), some chairs and canopies that they rent out. This was through his own initiatives. He has also encouraged
many of the young men in his clan to go into farming. His experience and forward-looking strategies will help to enrich this study.

Ebusuapanyin Apprey is the head of the Anona Clan of Baifikrom. He serves on the chief’s council as the linguist. He is originally from Winneba, also in the Central Region of Ghana. As a migrant he has played his role efficiently in the clan and hence the people found some leadership qualities in him and selected him for that position. He is well versed in conflict resolution and also serves as the regent’s linguist (and de facto prosecutor under the traditional court). He has five children. His position and experience contribute to the richness of this study.

**Widows**

A brief discussion of widowhood in the etymology and social context of the Fantse will suffice here. *Kunafo* is the term for widows and widowers. The term suggests that it always refers to females. The word “kunafo” comes from three words— *kun* (husband), *na* (absence or without), *fo* (postscript for people). In effect, *kunafo* means “people without husbands.” If there is logic in language then the right word for a widow should be kunanyi (for singular). The widow is regarded as someone who is saddled with a misfortune. Such a person needs to go through rituals to purify her from the calamity and pray against the recurrence of such danger, and strengthen her to be reincorporated into the society (Turner, 1977; van Gennep, 1960). For the Fantse, the rituals that a widow goes through can be grouped into two—one for parting with the deceased and the other to cleanse herself. The social aspect of this will be discussed under the data. These apply to the widowers as well.
Felicia of Baifikrom had education up to middle school. She has a son and a daughter. She and the husband married when they were young (she did not tell at what age). She stated that even though they were young their marriage was a happy one. They were married (ordinance marriage) for about twelve years before her husband died through a motor accident. The vehicle that crushed him belonged to a member of his clan. Though the matter was investigated by the police once there was no foul play, aspects of it were treated as efisem (matters of the household or clan), so there was no need dragging the matter within the context of the law. Her husband’s relatives have treated her well after his death. They continue to support her and her children. She is in good relationship with her husband’s parents. She supports them in their old age. Thus Felicia’s situation helps to enrich this research.

Agatha of Baifikrom was an elementary school drop-out and a hair dresser by profession. She has two daughters. She said she lived with her husband for about 30 years before he died and they had children after their sixth or seventh year of marriage. As a person who combined her profession with farming and trading, she was very successful in life. She stated that she had used a bulk of her life time savings to provide health care for her husband before he died. She had been a widow for a year. Her husband’s relatives did not treat her fairly when her husband died. They took away all his property including his farms. Agatha’s situation provides a contrast to that of Felicia and thus helps to assess different situations for this study.

Asafuaba is a middle aged woman. She lived with her late husband in a house constructed on a piece of land that belonged to the husband’s father. She stated that
though she suffered occasional verbal abuse, she lived happily with the ex-husband before he died. She stated that after his death many unwanted issues that she cannot recount occurred.

Aba Amisah of Dago is a middle aged woman. She had been a widow for almost two years. She was in a polygynous marriage. She lived happily with the husband till he died. She and the husband had a fishing net which the husband kept in his house. One of her sons was also a fisherman. He used to work with his father. When his father died, his father's kinsmen kicked him out of their family house in which he used to live with his father. The experiences of Aba Amisah and his son provide a different dimension from the responses of the other widows. She brings to the fore some of the experiences that women in polygynous relationships encounter.

Mercy of Mankessim was educated to high school level. She attended school in Kumasi. She has been married to two chiefs in her life time (serial monogamy) both of whom are dead. She has, therefore, observed widowhood rites on two occasions. Her experiences as a widow on both occasions are in contrast to the many negative characterization of widowhood that are in the literature. As the wife of chiefs, she does not only offer comparative situations, but also the traditional cultural practices that wives of chiefs have to go through. All these help to enrich the study.

Mrs. Buako is a trader. She has high school education. She has 3 sons and a daughter. The first 3 were working and the last was in college. Though she was married under ordinance, she encountered a number of problems when her husband died. She was steadfast because her family and friends were very supportive when her husband died.
She brings to this work another scenario (that of a person married under ordinance law and a highly educated person, considering that in her days only a few women could attain college education).

Gladys of Kormantse is a trader. She was educated up to middle school. She was married for 18 years and has three children. She lived in a different town from where her husband lived. However they visited each other frequently. Her experiences provided a different scenario, particularly the duolocal rule of residence after marriage, which helped me to understand the diversity in the social systems.

Konuaba of Kormantse No. 2 is in her early 60s. She is a caterer with the School Feeding Project of the Ministry of education. She had formal education up to middle school level. She has had a number of short courses for professional development in catering. She has travelled wide and had lived in the US for about 6 months. She is also a queen mother. She lived with her husband for ten years though she did not have any child with her late husband she had 6 children from a previous marriage. The husband was a Senior Technician and head of the electricity unit of the University of Cape Coast until his retirement. He died in 2006.

Ekua and Ankomaba of Kokoado are both widows. Ekua is an old woman in her 70s while Ankomaba is a middle age woman. Ekua does not have any formal education. She is a fish monger by profession. She had five sons and three daughters with her late husband. Her husband died about 12 years ago. On the other hand Ankomaba had education up to middle school. She lived happily with her husband before he died.
**Widowers**

Nana Nyameful Kurentsi XI is the Chief of Mankesim. He is also a widower. He participated in the interview as a widower but brought in his experiences as a chief. He is a retired civil servant (specifically, a draftsman of the Architectural and Engineering Services of Ghana). He retired in 1994. He lived with his wife for 50 years (1958-2008) before she died. They had six sons and three daughters. He married under customary law and after four years had a church wedding. As a civil servant, he had travelled to other places in Ghana with the wife while serving the nation. His wife’s relatives gave him all the support when he observed the widowhood rites.

Sam is educated up to middle school level. He is the scribe to the chief of Dago. He had two wives. The deceased wife did not have any child with him. She had an adult child. The other wife had three children with him. Before his wife died, he used to live with her in Abidjan, in La Cote d’Ivoire. He had the support of his wife’s family when he performed the widowhood rites.

Kobina of Kormantse is illiterate. He is a farmer and hunter. He had a son with his deceased wife. The child was only eight months old when his mother died. Kobina is remarried with children. He has experience in the Fantse family system because he went through a typical traditional grooming and rites of passage, where his father bought a gun for him, and married a young girl for him even before he was of marriageable age. He has knowledge about many aspects of traditional family life.

Ogyam of Baifikrom has been widowed for about two years. He had education up to high school. He was married for four years when his wife died. They had three
children. He stated that widowhood was very painful. He did not have a sister who could help take care of the children. His deceased wife was also an only surviving child, but his present wife has been very supportive.

**Research Question 1: Social Organization among the Fantse**

My first research question sought to find out the nature of social organizations among the Fantse. In this section, I explain social organization in a cycle from marriage, through childhood to adulthood. Five themes emerged from the data (as displayed in the figure 4 below):

![Figure 4: Social Organization Among the Fantse](image)

*Source:* Derived from the data

**Theme One: The Family as a Core Unit of Socialization**

Under the first theme, I will examine the family as the most important social organization, the interconnectedness between the sub-units of the family, and the
problems associated with the use of the word “family” in the social and cultural milieu and how these manifested themselves in the fieldwork.

The problems associated with the uses and meanings of the word “family” were manifest in the field. Initially, participants had some difficulties saying what the family was. Some had to seek clarification as to what I wanted for the family. The explanation followed that of the clan but a generational pattern manifested itself in the interviews as the younger and/or educated ones among the participants identified the nuclear family. The expression “The family is what a man and a woman come together to establish, including all their offspring” emerged from the responses of some of the people in these groups. However, many of the respondents identified both the nuclear family and the clan or lineage. The responses from the clan heads and the chiefs depicted the *ebusua* in terms of the clan. To buttress the importance of the *ebusua* in the social systems of the Fantse, three chiefs (60%), two queen mothers (100%), five clan heads (50%), three widowers (60%) and one widow (10%) constituting 43.75% of the total number of participant used the Fantse proverb *nsamanfo mpo wo pe hon dodow nna akantam akra atseasefo* (even those in the spiritual world find strength in numbers, how much more those in the physical word) to show the importance of the larger family. They identified the functions of the family as they explained the importance. Chief Anderson stated:

The *ebusua* is a group of people who come together to perform rituals including those connected with the annual festivals and funerals. Some of them have stools (symbol of traditional political office) and deities, so they perform rituals during the festival period of the state (Personal communication with Chief Anderson, February, 2010).
Chief Anderson’s explanation sets out the clan as a social, political, religious, and legal entity just as the description offered by Fortes (1997), and Radcliffe-Brown (1952a, 1952b). On her part, Nana Eyiaba described the family as, “A group of people who descend from a woman and share things in common. For instance they organize funerals, share debts, especially those arising from funerals, rituals, and family feuds, and assist members who are in difficulties” (Personal communication with Nana Eyiaba, March, 2010). Nana Eyiaba’s description shows that she was more specific to matrilineal societies. Similarly, a description of the family in a patrilineal society will capture the importance of the male progenitor. Her description embraces economic values and social support systems to the functions of the clan. In addition to the functions set out under Chief Anderson’s response, Nana Eyiaba portrays the clan as a cooperative group or society where the association places responsibilities on the members to cooperate.

Similarly, Nana Ama Amisah stated:

They are descendants of a woman who recognize themselves as having the same blood, realizing that they are one people and, therefore, advance the need to come together to assist one another in times of need. There are smaller units among the family so if one unit is in trouble all the others come to assist that unit by contributing their quota (Personal communication with Nana Ama Amisah, February, 2010).

Nana’ Amisah’s explanation buttresses the cooperative function of the family. She also emphasizes the unity among members, and the need for cooperation and assistance among them. The emphasis that Nana Eyiaba and Nana Amisah lay on the family as a descent group is very important. It buttresses the literature that African societies follow the unilineal descent system by distinguishing between the maternal clans and the paternal clans in family organization (Awedoba, 2002; Basenhart, 1965;
Evans-Pritchard, 1935; Fortes, 1950, 1952; Mair, 1965). They identify the matrilineal societies as those who trace their lineage for succession and inheritance through the mother, while the opposite is true for the patrilineal societies. Nana’ Amisah describes the clan as a larger unit with many subgroups (lineages).

Nana Amisah’s mention of the sub-units within the clan provided further impetus. Asked for the sub-units, she stated, “Some of the members are closer to themselves. For instance, when sisters give birth, their children become closer to one another as compared to those who are not children of sisters” (Personal communication with Nana Ama Amisah, February, 2010). Opanyin Yeboa described a wider group than children of sisters. He stated:

As the descendants of one woman become many they are constituted into one group for governing the clan. We call these units the danpon (door to the room or gates). Each gate has a leader and the leaders constitute the council of elders who assist the head to execute his duty. At times the leadership of the clans share debts on individual basis or according to the gates. In some towns the various gates have formula for sharing political positions among the clan. For instance if it is a royal clan, like ours, the gates take turns to occupy the stool. Anyway, we do not have any such formula. (Personal communication with Opanyin Yeboa, January, 2010)

Opanyin Yeboa’s description centers on the clans as divided into gates or lineages. Members of the lineage are often descendants of a known mother and member of the clan. Therefore, members of the lineage are closer to each other than those of the clans. The lineage is for governance or social organization within the clan.

Though the initial explanations of the Fantse ebusua centered on the woman, when I asked about the role of males in social organization the participants acknowledged
that men’s roles complemented those of women and vice versa. Ebusuapanyin Apprey stated:

The man is the spiritual force of the family. All his children possess his spirit. They acquire it when couples have sexual intercourse. You are married and thus, an adult. Therefore, let me speak to you in plain terms. If you sleep (have sex) with a woman and you ejaculate, you give a very deep breath. If your sperm fuses with the woman’s ovum you transmit the spirit in you through the breath into the woman and infuse the sperm and ovum with your spirit (Personal communication with Ebusuapanyin Apprey, February, 2010).

Ebusuapanyin Apprey punned on the Fantse words *ahom* (breath) and *honhom* or *sunsum* (spirit) while explaining this to me. His explanation showed how the essence of language in philosophizing as described by the Sapir-Whorf Hypothesis that the language that a group of people speaks affects their understanding and behavior, and Bettie’s caution that kinship needs to be understood within the context of the language. Nana Eyiaba stated, “In our tradition, men are the spiritual force behind the family. However, it takes both the physical and the spiritual entities to make a person. That is why men need to be responsive in creating a harmonious family” (Personal communication with Nana Eyiaba, March, 2010). Nana Eyiaba’s emphasis on “our tradition” does not only buttress the role of the language in understanding kinship, but also what the other participants and the literature had already highlighted about the need to understand the language and culture for in-depth understanding of the family system (Beattie, 1964; Christensen, 1954; Danquah, 1928; Sarpong 1974; Warren, 1984). It also espouses the value of complementary roles expected of men and women among the Fantse. Chief Seidu stated:

Both the matrilineage and the patrilineage are important. Every Fantse belongs to his or her mother’s *ebusua* and father’s *asafo*. The community is organized in these social units with each of them playing specified roles to complement the
other. This helps to govern the community (Personal communication with Chief Seidu, February, 2010).

Chief Seidu’s response also shows the importance of complementarity of gender roles among the Fantse (Awumbilla, 1995; Wilson, 2007). The description also captures the nature of social organization among the Fantse for which Christensen (1954) described them as a double unilineal descent group. Even though, the Fantse are more organized under the matrilineal clan (ebusua), the society is also organized under patrilineage through the asafo for military, social, and political roles; and the ntow (or ntoro among the Twi-speaking Akan) (another patrilineal institution) for religious roles, though the asafo also perform religious functions. The interactions between the matrilineage and the patrilineage make the Fantse a double unilineal descent group. However, the relationship between the two institutions is complementary with the ebusua’s functions superseding that of the asafo in almost all customs and institutions apart from the military. The ebusua is therefore, first and foremost, the primary unit for social organization as stated by Nana Eduafo VI:

The state is made up of the various clans, but the asafo’s military might and the roles of its young members challenge us to provide good governance for the families constituting the community. Therefore, when the asafo and ebusua agree on common issues we have the best of social and political organizations for the community (Personal communication with Nana Eduafo VI, March, 2010).

Through a field research that I conducted on the asafo for my master's thesis (Wilson, 2000), I understood the ebusua’s superordinate position over the asafo as shown in proverbs such wobo asafo a woko fie (after asafo activity one goes home), oman tae ho no nna posuban si mu (within the state is the posuban) and many more. The proverbs above use metaphors to construct the relationship between the two institutions. In the first
one, *fie* (home) represents the household of the matrilineal clan. It simply means one leaves the home for *asafo* activities, which may be violent or full of verbal or physical exchanges. One returns home, which is permanent and supposed to be more peaceful. The *posoban* is a monument that depicts symbols and proverbs showing the *asafo*’s might and prowess. The second proverb shows the power relationships between the *asafo* and *ebusua*. *Oman* (state) represents governance of the community. This is represented by the chieftaincy institution with most of the structures built around the matrilineage. The matrilineal structures control the patrilineal ones. Therefore, the *ebusua* is the main unit of social organization among the Fantse.

Fortes (1950) argued that the Asante (a Twi-speaking Akan group) do not constitute a double unilineal group because the interaction between the two clans is not on a high scale as that of the Yako of Southern Nigeria. Christensen (1954) accepts this and argues that whereas the patrilineal institution, *ntoro*, among the Asante is weak and the groups do not organize functions in common, those of the Fantse system are well organized under the *asafo*. The *asafo* is better organized than the *ntor*, thereby providing a strong patrilineal parallel organization, among the Fantse. Thus, the explanations offered by the participants support Christensen’s argument that the Fantse constitute a double unilineal descent group, considering the deep relationship between the clan and the *asafo*; however, there is much emphasis on the *ebusua* role in social organization.

Among the Fantse, and for that matter matrilineal societies, a father's clan needs to be differentiated from the patrilineage. Chief Anderson remarked, “Ego (an individual in question) traces his or her patrilineage through his father who also traces it through his
father and so on. However, Ego’s father traces his lineage to his mother.” Anderson’s explanation means that there are two entities here—one through, Ego’s father’s mother and the other through Ego’s father’s father. Once this happens, membership digresses, and, therefore, membership of the two groups differs. Thus, those who belong to Ego’s father’s clan are also members of a matrilineal clan. It is erroneous for Ego to refer to his or her father’s clan as the patrilineage in the sense that those who belong to that clan do not trace their lineage or clan to their father, but rather their mother and a common ancestress. It is very difficult for the Fantse, and for that matter the Akan, to reckon the lineage or family tree through the patrilineage but quite easy to reckon that of the matrilineage (Danquah, 1928).

Theme Two: The Marriage Institution

Under this theme, I examine the institution of marriage, especially how marriage is contracted among the Fantse and the implications of marital life on social organization. Most of the responses on the nature of marriage connote that men marry women, though in gender sensitive research we talk about man and woman getting married. To the question, “What does marriage mean to you?” almost all the participants’ responses (24 out of 32, constituting 75%) included the phrase, “when a man marries a woman, it means the man has accepted to take over the responsibilities of parenthood from the woman’s father.” I had expected that some participants would reverse the explanation for marriage as for example, a situation where a man’s mother passes on the responsibilities of motherhood to the man’s wife. This aroused my curiosity and prompted me to ask some probing questions to bring that out. However, upon further questioning, the
participants claimed that more responsibilities are placed on the man in the marriage contract. For instance, Nana Ama Amisah stated:

If you decide to marry a woman it means that you love her and have agreed to merge your lineage with hers. You have also agreed that she should be the mother of your children and vice versa. As she becomes the mother of your children you have to love and respect her. There is a stronger bond of love between a mother and her children, as compared to a father and his children, so if a man fails in this direction his own children are likely to hate him (Personal communication with Nana Ama Amisah, February, 2010).


Look gentleman, Fantse (Akan) philosophy is couched in daily and lifelong activities – whatever you do today has implications for the future. Therefore, your actions today draw lifelong social relationships. This continues even after the death of one of you, and, even in situations after divorce, a strong relationship exists between a man and his wife and the relatives on either side. Therefore, a man needs to tread cautiously into marriage. Young men of today are not cautious in this direction. That is why marriages break up easily in contemporary society (Personal communication with Nana Nyameful Kurentsir, February, 2010).

The explanation offered by Nana Amisah and Nana Nyameful Kurentsir admonishing that a man needs to tread cautiously suggest that the initial choice in a marriage contract is advanced by the man (Christensen, 1954; Sarpong, 1974; Warren, 1984). He chooses and proposes while the woman consents. Therefore the onus lies much more with him than the woman. Hence Nana Nyameful Kurentsir’s observation, “most often the blame goes to the man that he did not make a good choice if there is incompatibility in a marital relationship” (Personal communication with Nana Nyameful Kurentsir, February, 2010).
The responses also show the expectations that the Fantse have for the family. These show that marriage is the gateway to establishing a family, whether one is making reference to the nuclear family or the lineage. Nana Amisah stated, “Even though marriage is not a precondition for establishing a family at all times, it’s the cornerstone upon which the family subsists” (Personal communication with Nana Ama Amisah, February, 2010). Similar responses emerged from Chief Anderson and Nana Eyiaba. They underscored the importance of marriage as they identified some of the benefits that married people derived. Like many African societies, marriage is obligatory among the Fantse (Awedoba, 2002; Mbiti, 1990; Sarpong, 1974; Warren, 1984). It is part of life long experiences and also part of the social developmental process of a person; therefore, everyone must necessarily marry at a stage in their life (Mbiti, 1990).

In African societies, marriage is contracted through negotiations between families and the payment of bridewealth. Among the Fantse, marriage was negotiated in 2 ways. One way was as follows: Ego’s father approaches another man, probably a friend, and asks if he could claim his daughter as a wife for Ego. Chief Seidu of Baifikrom captures it in the following words:

A young man informs his father about his willingness and readiness to get married. The father finds out from his son if he is really ready to marry. After that the father finds a wife for him and goes ahead to perform the marital rites (Personal communication with Chief Seidu, February, 2010).

Kobina of Kormantse No. 2 describes this while providing his own life history:

I did not go to school. My father contracted esiwaa (child betrothal) on my behalf so when the girl was of age, we performed the final marital rites. Before that, he gave me a room on his compound and a gun. I was initiated into the asafo with the gun and I did hunting and farming. That is what I have been doing up to date. My deceased wife and I had a son. When he was eight months old my wife fell...
sick and died. This happened about 22 years ago (Personal communication with Kobina, January, 2010).

Ekua, of Dago provided the version of a woman as she stated:

My father gave me off in esiwaa so after my puberty rites, I was groomed and the final marital rites were performed. After the tsir nsa (bridewealth) had been paid my father’s sisters took me to my husband’s house and presented me to his father. We lived happily till he died (Personal communication with Ekua, February, 2010).

It is worthwhile noting that the bride was presented to the groom’s father because he contracted the marriage on behalf of his son. As to how young couples could live in peace when they did not play any role in the selection of their spouses, the participants attributed it to the sanctity of marriage and the respect for the elders, especially that for a father. Kobina stated:

I never felt it was an imposition. It was a father’s prerogative to provide his son with a first wife. After that, one could pick the subsequent ones if one had the means. I was content with my father’s choice. In fact in those days the kin group was involved in the marriage arrangement. This was carefully done because a break in the relationship served as an indictment on the parties. Any conflict that arose in the relationship was resolved to bring peace. Our elders say, —When a string of beads gets torn before our elders, they ensure that none of the beads gets lost (Personal communication with Kobina, February, 2010).

Kobina’s response suggests that though people have their own expectations in marriage they are supposed to work it out to make it a reality. It also suggests that working it out means one’s ability to resolve conflicts. In Wilson (2000), I explained the importance of conflict resolution among the Fantse. I noted that the Fantse show the imminence of conflict in the society with the proverb, ese nna tegyirama mpo woko (even the teeth and the tongue have their own conflicts). Therefore, resolution of the conflict is very important to the Fantse. The symbolism associated with the proverb that Kobina used was that the torn beads signify the breakdown of social order as a result of the
conflict. However, imbued with patience, the elders sit on the case, dialoguing and impressing upon the parties to the conflict to be reunited (Wilson, 2000).

The second way was that Ego meets a woman. The two of them discuss the possibility of marriage. If they agree, the bride-to-be directs him to her father's house. Ego then informs his father so that the father can check the background of the young woman and that of her household or lineage as described by Ebusuapanyin Kodwo Amfo:

> When you find a woman whom you love, you inform your father. He chooses someone that he trusts to go and inform the woman's father and asks for his consent to arrange a marriage between you and her daughter. The negotiations begin from here and when it is concluded your wife will be presented to you (Personal communication with Ebusuapanyin Kodwo Amfo, February, 2010).

Nana Nyameful Kurentsir described his own marriage which followed this trend. He stated:

> I met my wife in town. It was a market day. When I first saw her my heart missed a beat. I approached her immediately. She told me that she hailed from Anokyi (a village of about five miles away from Mankesim). After we had interacted for some months, she gave me the go ahead to go and see her father. I informed my father and he also informed my mother. My father's sisters and my mother did the background check. The lady came from a good family so my father went ahead to perform the rites. After that we lived as man and wife. Whenever I was transferred, we went together (Personal communication with Nana Nyameful Kurentsir, February, 2010).

The responses above show that different parties were involved in the selection and celebration of marriage. Many anthropologists and sociologists state that marriage creates an alliance between two families (Mair, 1953, Philips, 1953). This is a grievous error in the sense that African societies distinguish between the patrilineal clan and the matrilineal clans. From the above data, fathers and their sisters (female fathers to sons) seem to be in charge of the negotiations. The onus lies on them but they also assign some
of the roles to their wives. A wife is likely to involve her kinsmen and women, but more importantly, the transfer of rights and responsibilities to the matrilineage, as will be shown later in this work, commissions the marriage into the matrilineage. Each of the couples draws his or her matrilineage and patrilineage into the marriage contract and subsequently the web of kinship. Therefore, marriage among the Fantse unites at least four lineages and commissions them to see to the success of the marriage.

Most often people talk about imposition of husbands on women. The response below, when Nana Kurentsir was asked about how the marriage was contracted, shows that the woman also had a voice in the selection process:

If your father is satisfied about the young woman’s conduct and lifestyle, and more importantly her family’s background, he sends emissaries to the woman’s father with alcoholic beverages [usually a bottle of schnapps]. The drink is not refundable so whether they agree or not, they still take the drink. If the drink is accepted the process has begun. The proposers are informed that they should call later for the reply. The woman’s father informs the woman’s mother (who may not necessarily be his wife if they have been divorced). When both agree, the girl is then informed, “[Ego] has provided a drink to ask for your hand in marriage; should we accept it in good faith or we should refuse to take it.” If the young woman does not accept the proposal but the parents favor it, the parents will continue to dialogue with her and impress upon her to accept the proposal. This continues until they agree or agree to disagree. However a father has the upper hand, because he has the prerogative to contract marriage for his children. After all the prestations have been paid, the bride is presented to the groom (through his father) as his wife and told you have agreed to take over the responsibilities of our royal (relative). Your main obligation, among others, is that you must pay whatever debt she incurs while married to you. However, she belongs to an ebusua and so if she gains anything she brings it to the ebusua (Personal communication with Nana Kurentsir, February, 2010).

Nana Kurentsir’s response captures the participants views mentioned earlier that much more responsibilities are placed on the man as compared to the woman. Perhaps this also explains why the participants, and for that matter the Fantse, will say a father has
transferred his duties to his daughter’s husband, but not the other way round. Nana Ama Amisah provides another perspective to the question of how marriage is contracted:

Every town has its own culture, but many things are common. In this town, you ‘knock’ with about twenty Ghana Cedis (GHc20), and then the family of the would-be bride will direct you as to what materials they require for the marriage. Normally these come in bottles of schnapps, money, and other materials such as clothes and other things that a woman puts on. There are items like a suitcase, Bible, and ring. We also have tsir nsa, (head drink) tsir sika (head money), for the bride’s father, tamboba (stones for washing clothes), for both the father and mother, akonta sekan, (brothers-in-law’s cutlass) for the bride’s brothers; aseda nsa (thanksgiving drink) are presented on the same day (Personal communication with Nana Ama Amisah, February, 2010).

With most of the prestations being given to the bride’s parents many questions arise about the rationale behind. The bone of contention is that if the prestations go to the father, then marriage is basically a sell-out of the woman. Different view exists but the value that the Fantse place on the bridewealth should be the prime consideration and not what other people think.

**Theme Three: Prestations and Power Relations in Marriage**

Marriage, as has been noted, is contracted through the payment of prestations. In order to understand the dynamics of marriage and its implication for social organization among the Fantse, one needs to understand the power relationships of prestations in a marriage contract. In other words, the payment of prestations provides the framework for kinship and social organization. It couches social organization in individualism and communalism, and reciprocal nuances of give and take or rights and responsibilities.

Awedoba (2002) described prestation as the totality of all the goods, services and money that are exchanged between the bridegroom’s family and the bride’s family. The aspect coming from the woman and her family is referred to as dowry while that from the
man and his family is either *bride price* or *bridewealth*. There have been arguments in the literature that the payment of bridewealth sells out the bride and provides wealth for her family. However, the data from the field do depict any of such. Neither the women, including the queen mothers and widows, nor the men ever mentioned a sellout. All the participants stated that the bridewealth of *tsir nsa* (head drink) is just a seal to a contract. Buttressing the point further, Chief Anderson, Nana Eyiaba, Ebusuapanyin Acquah, and Ekua pointed out that *tsir nsa* is also presented when a person is to be apprenticed. Ekua quizzed:

> What about the situation where a person who wants to learn a trade presents *tsir nsa* to the master (teacher). The father of the child who presents the *tsir nsa* does not lord it over the teacher, who received the drink. Rather, the teacher has more control over the learner. Similarly, a father receives *tsir nsa* for his daughter and has more power over the daughter. Therefore, I do not expect a husband who has presented *tsir nsa* to lord it over the wife. Look, let me tell you, when I was presented to my husband and his family, my father’s sister told my husband and his family that we are presenting her to you, take good care of her or we will take her away from you. Therefore, the *tsir nsa* is just a seal in both cases. If my husband had ever maltreated me I would have run away to my father (Personal communication with Ekua, February, 2010).

Ekua’s mode depicted some anger as she spoke with me. Her reaction buttresses Danquah’s (1928) arguments that an Akan head of family will not take it kindly that a member of his clan has been sold out through the payment of presentation. Similarly, Ekua, like many Fantse women, would feel slighted by such a statement. This clearly shows the lack of understanding of the cultural practices by those who wrote that.

Furthermore, Danquah (1928) argued that that the *tsir nsa* does not depend on the beauty or other feminine qualities of the woman, and that the woman is not given to the highest bidder. It is fixed. Sarpong (1974) stated that though there may be an element of purchase
in the transaction, it is just —documentary evidence— that a marriage has taken place. The way the people perceive it helps in explaining the transaction better instead of the explanation that depicts the power relationship that was characteristic of the colonizer. The last statement of Ekua shows that as a woman she had the choice to stay in an abusive relationship or otherwise. Therefore, the payment is not anything close to a sellout. Oheneba-Sakyi (1999) described the system where wives who are being abused seek shelter among their consanguine as a platform of empowerment for women. Asafuaba provides another perspective that also debunks the idea that the bridewealth is a sellout. She stated:

Some of the prestations are presented to the woman. These include a suit case, six half pieces of wax print, 2 pairs of footwear, make ups, and many more. When a father receives the tsir nsa he presents part of it to the representatives of the woman’s clan so that they would use it to inform whoever was not present at the ceremony about the contract. This drink signifies that the woman is now mature and liable to pay family dues and contribute to the welfare of the ebusua. The groom presents one (1) full piece of cloth to the father-in-law and half piece to the mother-in-law because the traditional women’s cloth is made with half piece while that of the men is a full piece. These are token and mere gifts of friendship. They cannot buy human life (Personal communication with Asafuaba, February, 2010).

There are two main arguments in Asafuaba’s response. First, the woman cannot be a commodity because the commodity does not benefit from its price. For instance a slave never gets a share of the money paid for his or her purchase. Second, after the payment of the bridewealth, both the groom and the bride are vested with power in their respective clans. Perhaps those who argue for a sellout should be told that a commodity has no power. Buyers decide to use it in a way that pleases them. Chief Anderson dilated on the prestations from another perspective:
The items that fathers receive as prestation are distributed to parties to the agreement and the people present. Some of the items are insignificant, for example in the past tobacco and salt were distributed to the people present at marriage ceremonies. These are consumable items that do not have any worth. The most important thing is the tsir nsa, which is a ritual item among the Fantse because it is used for libation. Therefore, the prestation are symbols of acceptance and sanctify the marriage, thereby making marriage more religious than social. Therefore, tsir nsa serves as the legal bond that seals the marriage (Personal communication with Chief Anderson, February, 2010).

Thus, on the part of Chief Anderson, the prestation serve as a legal seal and a religious object. The libation brings together, the three entities of the community—the living, the dead and those yet to be born. Therefore, the marriage is sealed with a ritual just as all other contracts are sealed with a ritual among the Akan (Danquah, 1928; Ollenu, 1962, 1966; Sarbah, 2004; Warren 1984). Ebusuapanyin Apprey provides another dimension:

Apart from the tsir nsa, the groom presents asafo nsa which is given to the young men within the asafo. This informs them that the young woman is now married and therefore needs to be accorded the respect that she deserves in public. It also tells potential adulterers that if they play “dangerous games” with her they do so at their own risk. Therefore, apart from uniting the lineages, the liquor provides public recognition for the marriage (Personal communication with Ebusuapanyin Apprey, February, 2010).

Ebusuapanyin Apprey’s response shows the new status that the woman acquires through marriage. Ebusuapanyin Amfo provides another dimension:

The tsir nsa spells out the rights and obligations of the couple and their lineages in life and death. Whenever, there is a social gathering in either of the couple’s households, the other party is under obligation to attend. The most important obligation is to attend funeral. For instance when anybody directly related to your spouse dies, you will have to present nkaa nsa (reminder drink) to your spouse to announce the death, even if they know. This implies that they are under obligation to attend the funeral and to donate towards organizing it (Personal communication with Ebusuapanyin Amfo, February, 2010).
My observations in the field also showed that the payment of the bridewealth drew families together and created a legitimate web of kin types and kin terms among the members of the lineages engaged in the marriage contract. At funerals, I saw groups of women carrying brass trays containing some valuables like pieces of clothes, jewelry, and many more to the homes where funerals were being organized and to the public funeral grounds. Upon inquiry at different times I was told that those things are done on behalf of the sons and daughters in law of the deceased. They were part of the funeral rites that they had to perform. Therefore, the payment of prestations, and, for that matter marriage, sets the tone for social organization among the Fantse.

The prestations serve as the legal bond of marriage that unites the lineages and spell out the rights and obligations of the couple and their lineages in life and death. It gives public recognition and gave them rights. The common rights associated with the payment of bridewealth among sociologists and anthropologists are in rights in *uxorem* rights in *genetriciem* (Bohannan, 1949; Nukunya, 2003). The rights in *uxorem* mean that the man who has paid the bridewealth has exclusive sexual rights to the woman’s sexuality. Because of the practice of polygyny in traditional African societies, men have the exclusive rights but women do not. Among the Fantse women have the right to enjoy sex from their husbands. The rights in *genitriciem* mean that the man who has paid the bridewealth has the right to claim the offspring of the woman as his. In this case when another person, other than her husband impregnates her, the offspring belong to the one who has paid the bridewealth.
The literature on the Fantse and other Akan, states that Akan men have genitricial rights because the adage goes that the thief does not begat a child (Basenheart, 1961; Christensen, 1954; Danquah, 1928; Sarpong, 1974). All the authors linked it to the payment of adultery fees which has been in practice among the Akan. For instance Danquah (1928) stated that the amount of *tsir nsa* determined the adultery fees that the male adulterer had to pay to the husband of the woman. However, none of the participants accepted this. The participants stated that if the man so wishes, then he can claim the child as his but he was not under any obligation to do that. When such a thing happens the men often divorce the women. Apprey stated:

If the man in question is impotent, then that will be a blessing for him. In that case he will even be happy that somebody has made a baby for him. However a man who knows very well that he is potent will make a case out of the situation and possibly have the marriage dissolved because there can be no trust. Furthermore, he will cause the adulterer to suffer public ridicule (Personal communication with, Ebusuapanyin Apprey, February, 2010).

It is difficult to tell whether the authors were right. However, Nukunya (1969), who wrote about the Ewe (an ethnic group of Ghana located on the eastern fringes of the Volta Lake), stated that Ewe men had *uxorem* rights but not *genitricial* right. It could be that there has been a social change among the Fantse and hence the withdrawal of *genitricial* rights. It is worthy of note that the participants were amazed how *genitricial* rights could be a norm, let alone talk about it in terms of social change.

The rules set out in marital rites provide the framework for legal conflicts. For example, the rights in *genetriciem* and *uxorem* determines the rights of children in the society as for instance the right to parental support from the matrilineage and the patrilineage even when a child's parents are dead. The rights in rem help to maintain a
close bond between brother and sister at the expense of the bond between husband and wife. Consequently the rights of the husband over his wife are limited. It diffuses the power relations between a husband and the wife. For this reason, a wife being abused by the husband can seek refuge in her natal home. Similarly, if a father feels that her daughter is not protected, he can cause the wife to leave her marital home and join her natal home.

To conclude, people see both *bride price* and *bridewealth* as derogatory. The argument is that the *bride price* creates the impression that the woman is being sold while the bridewealth also creates the impression that the family of the bride creates wealth by giving off the bride in marriage. Whatever the situation, it is worth understanding the power relationships of prestations for a better understanding of marriage as an institution that is couched in rights and responsibilities, social control and social organization.

Radcliffe-Brown’s (1952b) argument that the bridewealth was supposed to be used to marry another woman to replace their relative who is a potential child bearer does not apply in the case of the Fantse. In the case of the Fantse, the children eventually belong to the woman. The man’s family does not need a replacement for the women who are married off. Furthermore, the many items among the prestations are distributed and probably consumed at the function or later. Therefore, the bridewealth is not circulated among families as Radcliffe-Brown argued. The analogy that the bridewealth circulates is an oversimplification which can be likened to a situation where the same money received for a transaction is also used for a similar transaction. It may be true that the money used
for paying the bridewealth can be used in another transaction, but it is not for the exact or similar transaction.

**Theme Four: Importance of Marriage**

Marriage among the Fantse (as will be examined soon) sets the framework of social organization. It sets the conditions for co-existence among the lineages and clans and thereby set the framework for legal issues among the various clans. A married woman has the right to receive support from her husband. The responses that follow also show the greater responsibility imposed on the man for the upbringing of his children though they eventually get incorporated into his wife’s lineage and clan. To the question what benefit do they expect the woman to derive from marriage, Nana Kurentsir continued:

> The woman is supposed to reproduce and, eventually, the children belong to her clan. All other rewards that she gets in the course of marriage should go to her. She uses it in the name of the *ebusua* (Personal communication with Nana Kurentsir, February, 2010).

Participants identified the importance of marriage as for procreation, companionship, acquisition of wealth or property, transfer of rights and responsibilities, creation of alliances, and as an issue of maturation. All participants acclaimed these with most of them linking them to old age. They stated that people will be miserable in their old age if they fail to marry and procreate. Therefore, one must accept this social responsibility as a security towards ones old age. Participants buttressed the importance of procreation for both men and women to marriage in the social life of the Fantse.

Konuaba of Kormantsi stated:
In marriage you expect to get children and other things that you may be fortunate to have. However when the man dies or gets sick, problems arise. In my case, I expected to acquire property in addition to children. But I did not get these in my last marriage. I had some children in my previous marriage, but when you have children with your husband, it consolidates the marriage and leads to happiness in the marriage. Though we lived happily, when he died, his relatives did not treat me kindly. I believe they did that because I did not have any child with him. They just did not understand why I should gain from the marriage when we had no child (Personal communication with Konuaba, January, 2010).

Ebusuapanyin Apprey and Ebusuapanyin Acquah, both of Baifikrom, expressed the religious significance of procreation as doing the will of the Supreme Being.

Ebusuapanyin Apprey stated, “You are God’s creation. Therefore, you have to procreate in order to praise God and show your appreciation to him” (Personal communication with Ebusuapanyin Acquah, February, 2010). Ebusuapanyin Acquah stated:

Procreation is a commandment from the Supreme Being. It is a way of ensuring that the society never becomes extinct. If a newly married couple does not have a child after some years (about two), the marriage may be dissolved. The marriage is not complete until a child is born (Personal communication with Ebusuapanyin Acquah, February, 2010).

In both cases, they examined how children would take care of both their father and mother without any acrimony arising out of divorce that they might have suffered.

Many of the respondents stated that if people, especially men do not have wives in their old age they are likely to suffer. Nana Nyameful Kurentsir stated:

It is better if a man married from his hometown because in your old age your wife may be given a position in her clan. If you do not come from the same town with her, she may leave you, and you will become miserable if your children do not support you. Even if they do, they belong to their mother’s clan, so they become more inclined to their mother than you. This is one thing that every man will have to examine carefully (Personal communication with Nana Nyameful Kurentsir, February, 2010).
When I asked why women were blamed for infertility the responses depicted gender and generational differences. The males and old women among the participants said males were blamed and not women. For instance Ebusuapanyin Acquah responded:

Women took the blame if only the man had children by other women but even that the women did not accept that until they became convinced that they could not give birth. They tried with different medicines. If it did not work, they sought divorce so that they could try their luck elsewhere (Personal communication with Ebusuapanyin Acquah, February, 2010).

Apprey responded, “In the past, if a man died without children, his relatives inserted ginger and pepper in his anus so that he got healed and returned to the earth (reincarnated) to reproduce” (Personal communication with Ebusuapanyin Acquah, February, 2010).

Ekua of Dago, an old woman, stated:

If my husband and I do not have children it could be that his sperms and my ova are incompatible. If we try different medicines that can enhance childbirth and we do not succeed, then we will have to break so that I can try my luck elsewhere (Personal communication with Ekua, January, 2010).

However, Felicia, a woman who is younger than all the afore-mentioned respondents agreed with the perspective that the woman is blamed for such mishap. She stated:

These are some of the problems that young women face. A woman wanted the husband to go for laboratory test to prove his virility, but hell broke loose. Eventually, the woman sought divorce and had children with her new husband. The ex-husband too had children in his subsequent marriage (Personal communication with Felicia, February, 2010).

Agatha of Baafikrom who was married for almost 6 years before giving birth said, “When we had no children, people advised my husband to seek divorce. He didn’t because we had aborted an earlier pregnancy before we got married. I prayed and asked God for forgiveness and eventually I had 2 children” (Personal communication with Agatha, February, 2010).
The responses emerging depict a generational gap. However, the impression is also that blame games occur. It can go either way.

**Companionship**

The issue of companionship did not feature among the answers so much. Only 8 people, (25%) gave that answer. Companionship was linked to gender role socialization as well as a way of ensuring social security in one’s old age. Nana Nyameful Kurentsir stated:

> As a man, you need to marry so that you will have a woman to help you with the regular house chores. The woman washes and cooks for you so that you can concentrate on your work to increase productivity. A man must appreciate what his wife does in this regard and reward her accordingly. It is a matter of “scratch my back, and let me also scratch your back.” I was a civil servant so I gave my wife capital to sell vegetables. She made a lot of money and decided to build a house in her village. I helped her. After that she also helped me to construct this house (Personal communication with Nana Nyameful Kurentsir, February, 2010).

The description offered is more in line with neolocal rule of residence though some linked it also with duolocality.

The last statement attributed to Nana Kurentsir shows the expectation of married couple with regard to acquiring wealth. Like Nana Kurentsir, almost all respondents identified acquisition of wealth or property, and couched it in reciprocal gestures that seem to explain the Akan philosophy of marriage. For instance, Kwesi Yeboa of Dago stated:

> When a man marries, the wife helps him on the farm and sells his produce for him. Fishermen have more difficulties with regard to selling their fish so their wives help them. The man then provides the needs of the wife and her children, and helps her to acquire wealth for herself. If she is a farmer, she can acquire land from her own clan and the man will help her to farm on it. In fishing communities, the women sell the catch of fish that belongs to the man (Personal communication with Kwesi Yeboa, January, 2010).
Hagan (1983) confirmed this. He stated that the wives who are also fish mongers keep the income obtained from the sales until at the end of the year or a period when they render account. In effect the wives play very important roles in the economic lives of their husbands whiles the husbands also do same, a sort of reciprocity: a major value among the Fantse. This buttresses the responses of the participants that they marry to acquire assets. More importantly, it is not only the men who acquire the property but also the women.

*Transfer of rights and responsibilities*

The transfer of rights and responsibilities came out implicitly and explicitly. Baffoe of Dago stated:

A man bears the cost of socializing and educating his children, both males and females. If the children are in school, he has to pay their fees, and, if they are learning a trade, he has to find a trades person and pay *tsir nsa* (in this case, a drink presented to seal the contract of assigning somebody to teach one’s child or ward). After the training the father has to bear the cost of graduation. When the son marries it means that he can now take care of some people (his wife and children). Therefore, his father does not have to take care of him again and hence he is mature. In the case of a woman, someone (a husband) is about to take care of him so the father transfers some of the responsibilities to him (Personal communication with Baffoe, January, 2010).

Furthermore, the responses showed that there is marked difference between childhood and adulthood, and that entering into adulthood means one has the rights and privileges to take part in discussion in one’s clan and community. If one has children then one can take part in discussions on issues about children. Many authors, especially those of the classical conflict theorist school, describe it as conflictive in the sense that the
sexuality and virginity are transferred from a father to a husband. Therefore, these rights of women are vested in men.

**Signs of Maturity**

In emphasizing another role of marriage in the community 10 out of the 32 participants, constituting 31.25%, indicated that it symbolized maturity. Nana Nyameful Kurentisir stated:

This means that, whereas a woman gives birth, the cost of upbringing the child goes to the man. A father bears this responsibility until a child graduates from childhood to adulthood. The good upbringing of the children and the material wealth of a woman goes to her *ebusua*. Hence the woman supports the man so that her children get the best of upbringing (Personal communication with Nana Nyameful Kurentisir, February, 2010).

Many other respondents, including seven out of the 10 widows reiterated what Nana Kurentisir had said. This response sets the pace for explaining the relationship between marriage and maturity.

The question as to when a person becomes an adult drew some nuances which I would like to share. Some of my participants said 18 years. Upon further enquiries about how age 18 was determined or celebrated they responded that an adult is one who is married. They buttressed this with the point that it was only after you are married that your father ceases to bear responsibilities for you.

**Procreation and childhood**

The Fantse consider procreation as the key to social organization. All the participants mentioned procreation as what is expected in marriage. Ebusuapanyin Acquah espouses the importance of procreation and the expectations for social organization. He stated:
Children are the focus of the family because they are the fruits of the marriage. In the past those who died without having children of their own were not accorded full burial honors. They could not take part in public discussions about children. Any attempt by a person who does not have children to talk about children is likely to be met with the question “how many do you have?” However, procreation goes with the responsibility to take good care of them. Children need the support of their parents, relatives and members of the community for their survival (Personal communication with Ebusuapanyin Acquah, February, 2010).

Ebusuapanyin Acquah seems to be buttressing the rights set up in the international documents on the rights of the child [African Charter, UN Convention on the Rights of the Child (UNCRC)] that all children are entitled to their basic needs for their growth and development into productive adults as inalienable rights until they get to a stage in life that the society expects them to provide certain obligations to the society. As will be seen in the next chapter, children have roles to play in social organization, and society sees it as a social responsibility just as the African Charter on the Rights of the Child (Article 31) and Ghana’s Constitution (Article…) state. For example, everybody, including children, especially siblings, plays major roles in the socialization process of other children, through the age grade system. Konuaba gave a vivid description of childhood:

When a child is born, age or time specific events are celebrated. For example, a child and its mother remain indoors until the eighth day. The mother does not do any work. She is supposed to recuperate after child birth. The child is believed to be transitioning between the spirit world and the physical world. On the eighth day it is “outdoored” as a physical being into the physical world. It is brought outside the room and taken around the compound. Both the child and the mother dress up in white, signifying success and victory. People gather in the mother’s house (or wherever the mom has been living or any designated place for the outdooring ceremony). The father presents a fowl to the mother. This is used to prepare a meal for the nursing mother on that day. It is a way of congratulating her upon a successful delivery.

When the people are gathered the child is given a second name. A child’s first name, kra din (soul name), is given according to its day of birth and gender. The father gives it its second name which is selected among the names of older people who are dead or alive. The first born child is often named after the father’s father.
The subsequent ones may be named after the father's father, father's mother, mother's father, mother's mother or any other person who has led a worthy life (Personal communication with Konuaba, January, 2010).

Konuaba’s response provides a vivid description of the rites of passage associated with childhood. Nana Eduafo’s response added a historical and legal framework to the rites:

In pre-colonial times, children were often identified by these names. The issue of a common surname for siblings was a colonial acculturation. Naming the child signifies that the father has claimed the child as his own and therefore under obligation to provide for his needs and paternal love. When a mother gives a name to the child it means the child has doubtful paternity (Personal communication with Nana Eduafo, January, 2010).

Though the Fantse are patrilineal, from the discussions one could see that a legitimate father for a child enabled a child to get all the good things in socialization in the sense that the society commissions a father to be more responsive to the child by providing it with its spiritual and material needs. The situation where a society did not know a child's father was not only a shame to the mother, but also prevented it from getting all the goodies. Writing on the Asante (a Twi-speaking Akan group), McCassie (1995) referred to children whose fathers were not known as wo nni mu (they are not whole). He stated that if such people were in the royal clan, they would not be able to take up a chieftain position because it would raise eye questions of legitimacy.

Theme Five: Dissolution of Marriage

Dissolution of marriage seems to be on the increase nowadays; however, my participants pointed out that it was rare in a typical traditional Fantse marriage. In this sub-section I examine the imminence of conflicts and the structures that the Fantse have put in place to forestall conflicts in marriage. It will be recalled that Kobina espoused the
imminence of conflict in marriage and the society at large, and the importance of conflict resolution in maintaining the stability of marriage as part of the social organization of the Fantse. In addition to that, Nana Ama Amisah stated:

Our society does not support dissolution of marriage. We assemble the couple listen to their grievances and cause them to ponder over their decision. Most often, we realize that the couples are not doing what they are supposed to do. The fault may also come from one party, but it takes two to quarrel. I have personally realized that most marital problems emanate from sexual performance of the couple. The woman is supposed to yield to the man’s sexual advances, but if the end of the period the man’s performance is not satisfactory, the woman may become angry, not only to the husband, but almost everybody that she comes into contact with.

We counsel them to get back home and do their homework properly. If the problems persist then they can separate and consequently dissolve the marriage. Personally, I do not dissolve marriage (Personal communication with Nana Ama Amisah, February, 2010).

Nana Amisah’s response has been expatiated by Mintah, (1996), Sarpong (1974) and Warren (1984) that the Akan do not encourage the dissolution of marriages. Nana Eyiaba provided another dimension about maintaining marital relationship to withstand conflicts:

The parties to the marriage had to ensure that the marriage survived. Therefore at a marriage ceremony the families of the couple selected two persons apart from the parents of the couple, preferably a man and a woman, from each side as the godparent. The godparents receive all complaints about the marriage and resolve them. In case a godparent cannot resolve it, he or she has to get other people on board to resolve the issue. A good godparent is the one who does not wait for a problem to arise before he/she resolves it (Personal communication with Nana Eyiaba, March, 2010).

Nana Eyiaba’s response buttresses the point that, because society cannot be devoid of conflict, it abhors conflicts; there is the need to put in structures to control that.

Because prestations legitimize marriage many people feel that the dissolution of marriage should be accompanied by the return of the prestations. This is supported by Beattie (1964), Christensen (1954), Danquah, 1928, Ollenu (1962) and many more. I am
yet to come across any literature that disputes the return of the prestations after the dissolution of marriage. Some of my participants said that for dissolution to take place, the woman must return the drink. However, Nana Eduafo presented a point which shows that it is not a return of drinks but a presentation of drinks to announce dissolution. He stated:

If the woman calls for the dissolution, she presents a drink. Similarly, if the man calls for dissolution, he does the same. The drink is used for libation, and whoever asked for the dissolution will smear the other party with talcum powder or chalk. After this each of the parties can remarry. Whoever asks for dissolution has to compensate the other. However the society ridicules a man who receives compensation from the wife because it is assumed that the man is economically stronger than the woman. It is worthwhile noting that in as much as request for dissolution can come from any of the parties, traditional Fantse societies do not encourage it (Personal communication with Nana Eduafo, January, 2010).

Nana Eduafo’s response is very important for a critical examination of situations in the family, the colonial Functionalists have always presented marriage as a sellout and something that is often dictated by men, and, therefore, only men can back out of it. By this information we fail to use the resources for empowerment and always make women play subservient roles by thinking that they are to blame for a break up in marriage.

Summary

A cursory examination of the social organization of the Fantse shows that some of the information that I gathered from the field are in line with Durkheim’s (1997) and other Functionalists’ (Radcliffe-Brown’s (1952a, 1952b) and Fortes’ (1997) descriptions of the clan family. Among the issues that cropped up were the family as the most important agent of social organization (Awedoba, 2002), the exogamous nature of marriage where older relatives selected marriage partners for the younger ones, and the
description of the clan as a corporate entity with responsibilities and liability for the actions of their members. However, some of Durkheim’s claims, which were also highlighted by the other Functionalists, were not manifest in the Fantse clan system. For example, the development of the family units based on a system of evolution where the collapse of one unit leads to the prominence of the other (Durkheim, 1997), and individuals not having property rights (Radcliffe-Brown, 1952b). It is manifest that smaller units of social organization, the household, made up of the conjugal family, but in most case the composite family serve as the fore-runners for effective communication among the lineages. Marriage is not a precondition for setting up a family, however it serves as the cornerstone for social organization because males and females play complementary roles both of which help in the socialization of the young.
Chapter Six: Rights and Responsibilities Among the Fantse And Social Change

This chapter examines research questions two and three. They have been put together for the sake of convenience. Social organization is seen in rights and responsibilities. The occurrence of social change has affected the rights and responsibilities that kinsmen and women have for one another.

Research Question 2: Rights and Responsibilities within the Social Systems

I set out to examine the rights and responsibilities of the kin group as my second research question, using the framework of the nuclear family. Participants identified the nuclear family’s links with the lineage as they explained the concept of kinship. In the course of the interviews, participants’ responses led me to identify some kin terms that are different from regular English usage. From the data the following themes emerged as displayed in the figure 5 below:

Figure 5: Rights and responsibilities within the social systems

Source: Derived from the data
I have limited the discussions of this section to fathers and not mothers because, in the field, participants impressed upon me that, because sons and daughters belong to their mothers’ clan, the emphasis on a relationship between parents and their children, especially those that highlight relationships with the clans, centers around the father more than the mother. They stated that children are also members of their mothers’ clan, so in their mothers’ clans they do not negotiate but argue as right of membership. I conclude with a discussion on the implications of participants’ responses for social organization, rights and responsibilities of members of the kin group to one another, and the implication of the cultural practices (social organization) for enactment of laws.

**Responsibilities of Fathers to their Children**

Fatherhood seems to be universal when considered in biological terms. That is a father gives birth to a child. However, because social and cultural practices differ from one place to another there is the need to examine these practices, taking into consideration where the society being researched differs from the other, notwithstanding the biological framework. Thus fatherhood is a biological construct as well as social construct (Beattie, 1964; Sarpong, 1974). Among the Fantse, the concept *pater* (social father) and *genitor* (biological father) go together. Thus, apart from the biological construction, fatherhood is also conceived in social terms whereby for example, “fathers” may be younger than their children or may be females.

My participants captured the concept of fatherhood as a social concept constructed within the framework of the rights and responsibilities between two people who describe their relationship as father and son or daughter. Nana Eyiaba stated:
Fathers have responsibility to ensure that all the necessary resources are available for running a home. This includes the basic needs of food, shelter, and clothing. He must also ensure that there is a peaceful atmosphere for children to develop very well. If he always picks a quarrel with the wife, or orders the children about, it will hamper the children’s growth, and probably affect their performance in school.

I am not saying that a wife should leave this responsibility to her husband alone. They are both responsible but the onus falls on the man since he is the head of the sub unit family. If things are not going the way they should, the wife has to prompt him. The proverb goes, “The one creating the path may not know if it is crooked until he or she is told so.” Therefore, everybody, including even the children contribute their quota to straighten up the path. After all, “If a child knows how to wash his or her hands he can dine with adults” (Personal communication with Nana Eyiaba, February, 2010).

Nana Eyiaba’s piece is on the social expectations among the Fantse. Although she does not mention any international document, she seems to be reiterating what also exists in international human rights documents such as the UN Convention on the Rights of the Child, and the African Charter on the Rights and Welfare of the Child which states among other things that children should be raised in an environment that will ensure their growth and development into useful adults in the society. This shows that Fantse culture is in line with universal role expectations of parents. However, whereas universalism makes the couple jointly and severally responsible for every aspect of their children’s upkeep, Fantse culture draws gender role socializations which place the husband at the helm of affairs. Nana Enu buttresses the gender role expectations in the response below:

A man bears all the cost of raising his children. As a father he has to train them and set them up in employment. He has to provide accommodation for his sons and daughters, before they get married. When a daughter marries, she leaves her father’s home. A son may continue to live in his father’s house even after marriage (Personal communication with Nana Enu, February, 2010).
The response shows that the rule of residence after marriage is either neolocal or patrilocal but not matrilocal. It also seems to buttress the point that a man is more responsible for his children’s upkeep. However, the literature available shows division of functions at various times and space among the Fantse and therefore needs to be examined. Hagan (1983) showed that in the duolocal arrangement of residence, children live with their mothers from infancy to adolescence when the boys join their fathers, thereby showing a gender based segregation of siblings. Danquah (1928) stated that by custom, children should live under the custody of their fathers and that their mothers can only live with them in a separate environment only if they are too young. In such a situation, fathers may be ordered by a tribunal to leave them in the care of their mothers. Fathers can claim possession of their children after two or three years of “infancy.” He stated categorically that a child ceases to be in the custody of his father, and becomes an appendage of him only when the father has acquired a gun for the male child and is married. Furthermore, he stated that the maternal family can claim a child from his or her father after the family had paid tamboba to the father. Allman (1997) provides a test case in Bompata in Asante-Akyem where a father made a case under ntam (a form of oath among the Akan that hastens a judicial process) to claim compensation from his children’s maternal relationships because they were keeping his children and therefore preventing them from “serving” him. This confirms that a father has a better claim for the upkeep of his children than the mother. It is worthy of note that tamboba is also paid to the parents of a young woman before she is transferred to her husband. Therefore, tamboba serves as a payment of contract that allows one to keep a person from the
rightful person who has legitimate claim to his or her custody. Considering that children belong to their mother’s lineage, eventually, it follows that the father has right to custody before they marry. This buttresses the hypothetical case Kobina described in his own socialization process discussed above (found under Research Question 1).

**Responsibilities of Children to their Parents**

The Fantse couch childhood in reciprocal arrangements of rights and responsibilities to the parents and the community. The responsibilities of the parents become the rights of the child as Wiredu (2001) argued. According to him, the Akan conceived human rights to be derived from the concept of personhood. The child enjoys human rights because he or she has human dignity emanating from the fact that everybody is a child of the Supreme Being. He stated that at childhood the child is weak, and therefore, dependent on the parents and community. However, as a child grows and become less dependent, the rights change gradually to become his or her responsibilities for the people from whom he or she had enjoyed great care and nurturance as rights. These manifested in the data that I collected from the field. I will shelve these for the analyses of my research question two on this topic. Just as parents have the responsibility of providing for their children, children too have similar responsibilities as couched in rights and obligations in the reciprocal framework towards their parents. Chief Seidu stated:

Sons and daughters have the same responsibilities to their parents. There is no difference between them. They are the same but slightly influenced by gender roles. The main consideration is age. A man’s children have no responsibility to him when they are young. They just have to be respectful and obedient. They must listen to his good counsel so as to make their socialization process very smooth (Personal communication with Chief Seidu, February, 2010).
Chief Seidu’s response does not show what it means to be respectful. However, the case that Alman (1997) described shows some basic things that children have to do for their fathers in their childhood days to show their respect for them. This includes, running errands for them and doing other domestic chores as the father may need or as will support the father in maintaining a conducive household. Nana Enu described how sons and daughters show responsibilities in their prime age as follows:

Once sons and daughters are economically active, they are obligated to provide for their parents. It is a gradual process. For instance when a child begins to work, he tries to give gifts. These are gifts that are designed for the parents’ upkeep, for instance clothes. By this time the parents too are likely to be in active economic service so not much is required. However, the best show for concern will be for a son to mobilize his friends to provide labor in his father’s farm. Similarly, a daughter may impress upon her husband, so that once in a while the two of them will provide labor for her father or the husband mobilizes his friends to provide labor just as he will do for his own father. If the parents work in the formal sector, then when they enter into their old age and retire from active service, the children may top up what they get from pension (Personal communication with Nana Enu, February, 2010).

Christensen (1954) stated that a young man’s major responsibility is to construct a house for his mother. However, key informants noted that it is not necessarily the construction of a new home but a child's responsibility to the mother is to see to it that the mother has decent accommodation. In that case, if the mother does not have her own room in her maternal home, then the son has to construct one for her. Otherwise all that a young man needs to do is to ensure regular maintenance of the house. The responsibilities of children to their parents go beyond the parent's life time, as Chief Seidu explained:

If a man dies, his children have to perform his burial and other funeral rites even if they are very young. Even a fetus has to do that. When a person’s father dies
while he or she is still young, his or her mother and her mother’s lineage members will bear that responsibility. In reality, if a man does not have children with his wife, she and her family will be responsible for providing whatever their children have to do (Personal communication with Chief Seidu, February, 2010).

Sam had a similar response with that of Nana Enu. Their responses have situational frames. For instance, once the couple is married, they both have responsibilities to each other. However, there seems to be sharing or a way of passing on some of the responsibilities to other parties as well as to other individuals and lineages. For instance, the wife does not have the responsibility of burying her husband.

**Responsibilities of the Clans to Their Members and Member’s Children**

Sons and daughters perform their father’s funeral rites in consultation with members of their father’s clan because under customary law the clans have the prerogative to bury their members. This has been extended to national law (Ollenu, 1962; 1966). Chief Seidu stated:

The father’s lineage has the right and prerogative to organize a father's funeral. However, the lineage members liaise with the man’s children, because the children have the responsibility to bear the chunk of the cost of the funeral rights. Therefore, when a father dies, his lineage head will present *nkaa nsa* (reminder drink) to remind his children that their father is dead. This means that the children have major roles to play in the funeral rites.

The clan head confers with the deceased's children, whom they also see as their own. Together, they fix the dates for the rites and draw a plan for the funeral. The clan has responsibilities such as providing for space for the funeral and sitting in state to receive messages of condolence from mourners. They provide chairs and canopies for shelter in the open air since funeral rites are observed in the open. The clan is responsible for about 40% of the cost while the children are responsible for the rest (Personal communication with Chief Seidu, February, 2010).

The presentation of *nkaa nsa* (reminder drink) is in line with the Fantse custom where all those who have major roles to play in the performance of a funeral, are
presented with a drink to formally remind them of the roles and invite them to participate in the performance of the rights. People who have roles to play in the funerals do not necessarily need to be reminded of their roles. Where any group feels obligated to participate in the funeral, it may also present a drink to the bereaved family that it has heard about the bereavement, and in line with culture to present their condolences and participate in the rituals. The onus then lies on the bereaved family to inform this and other parties who have presented the drink of any funeral arrangements. The question then is who is responsible for organizing the funeral. Ebusuapanyin Yeboa answered:

The clan is responsible for organizing funerals; however, it has to liaise with the children of the deceased since the children bear most of the cost. Therefore, when your father dies, his clan head will send nkaa nsa (reminder drink) to your clan head to remind you that your father is dead. It is a reminder that you have roles (obligations) to play in the funeral rites. It makes your clan head a stake holder in the funeral. The deceased’s clan head will confer with the man’s children and arrange for the funeral. The deceased’s ebusua invites the townsfolk to the funeral. Therefore, the funeral arrangements and announcements are made in the name of the clan. The children provide the coffin and other materials for the burial. They bear a greater chunk of the funeral expenses. They do this in recognition of what their father has done for them (Personal communication with Ebusuapanyin Yeboa, February, 2010).

In situations where the deceased's sons and daughters are adults, the deceased’s clan places a lot of responsibilities on the children. Some clans attempt to this even when the deceased's children are young. The information that I gathered from significant other’s was that, if the children are young, their maternal relatives ensure that they spend on only what the culture prescribes. The demand is therefore not as much as in the situation where the children are old and capable of doing much. Nana Enu stated:

In case of funeral performance, there is no age limit for the deceased’s children. Even if the children are young and cannot bear the cost, their mother's lineage has to bear the cost on their behalf. They can be charged at the chief’s palace if they
fail to perform this responsibility. I have never heard of a situation where children have refused to do this because people know their responsibilities and, therefore, perform them (Personal communication with Nana Enu, January, 2010).

Nana Enu’s response seems to be normative because every society has deviants. There may be fathers who may refuse to claim ownership of their offspring as theirs. There may be others who may acknowledge their offspring but fail to bear responsibilities. There may be lineages that do not want to have anything to do with a spouse of one of its members. Still, there may be others who will not have any justification for being deviant but may be. Therefore, there is the need to delve into the system and understand the norms of the society.

Growing up as a Fantse, I had seen a situation where a young girl’s mother’s lineage members refused to participate in the girl’s father’s funeral. The bereaved family had sent the nkaa nsa to the lineage in question. The girl’s mother’s brother who received the drink deliberated on the issue with the other members of the lineage. They agreed that the father has not performed his responsibilities as a father. After divorcing the mother, he had not provided for the needs of the girl. Since he had neglected the girl, they could not participate in the funeral. They sent emissaries to the girl’s father’s lineage to announce this. The case ended there. However, the girl and her mother participated in the funeral as community members. In other words they did not have any responsibilities as assigned to relatives of the deceased. The mother helped in cooking, cleaning and doing other jobs, while the girl helped in running errands, cleaning, and many more. After the funeral, the girl’s father’s lineage started taking care of her by showing interest in her education and welfare. She later went to live with her father’s sister. Members of her
father's sister paid for her apprenticeship. When it was time for her to marry, she directed the prospective husband to her father’s lineage members so that he could pay the prestation.

This may be the norm. However, we cannot overlook a situation where children may refuse or fail to perform at their parent’s funeral or where a couple does not have children and the man dies. Chief Seidu reiterated:

Sons and daughters have no justification to refuse to perform their parent’s funeral. Once they have life, they are obligated to perform funeral rites, especially those of their father, because the father belongs to a different clan from theirs. Their roles in the funeral rites fall within the purview outside their household or clan. If for any reason they cannot perform it, their mothers’ lineage will have to do it for them. If they fail, their father’s lineage can summon them before a traditional court. The court will advise them to perform the rites. If they refuse the chief will charge them for contempt, and possibly fine them. If a married person does not have children, the spouse will have to do that. Once you have performed the marital rites, your spouse will have to provide the coffin for your burial. Therefore, a wife buries a husband and vice versa (Personal communication with Chief Seidu, February, 2010).

Sam of Dago, who did not have any children with his deceased wife, buttressed Nana’s statement as he described what pertains in his situation:

In the past, once the surviving spouses did not have children with the deceased, they only had to provide a handkerchief and ring as parting gifts to the deceased, but now it is a law in this community that surviving spouses have to provide all the necessary items for the burial of the deceased. Once the bridewealth has been paid, even if they do not have children, the surviving spouse must provide all what is needed for the burial. If your deceased wife had an offspring from a previous marriage and he is an adult, that offspring has to share the cost of funeral expenses with you. My late wife had a son from a previous marriage. Therefore, I shared the cost of organizing her funeral with this step son of mine. I bore the morgue fees, cost of sound systems to provide music, and the cost of transporting the corpse from Apam to Dago (about 20 minutes’ drive), while he took care of the cost of coffin, laying in state and canopies (Personal communication with Sam, February, 2010).
Sam’s response confirms the importance of procreation in a marriage contract among the Fantse and confirms the claim that a marriage ceremony is inconclusive without an offspring emerging out of the relationship. There were elaborate funeral rites for people who had children. Those who had many children were honored most because it was one of the preconditions for being honored with the position of an ancestor under the indigenous belief systems (Mbiti, 1990; Sarpong, 1974; Warren, 1984). The honor was to pave the way for the descendants to experience the benevolence of the person should he become an ancestor.

The contributions of his step son buttress the point that there are specified items that parties to a funeral provide. For instance the responses outlined earlier showed that the deceased’s lineage is responsible for inviting mourners and providing space. Though the clan is responsible for organizing funerals, the onus falls on the lineage, whose members are closer to the deceased than the rest of the clan; in this case the child is the closest of the lineage members. Therefore he sees to the performance of the lineages side. Though, he may be seen to be providing all the items, his mother’s brothers are likely to help him and counsel him.

Although, Sam’s description provides a different situation of the past, it raises a number of questions with regard to the politics of bridewealth and social organization. For instance, if the step child was young and was not working, would Sam have still borne the cost of burial? He answered:

My step son was also under obligation to perform a befitting burial for his mother. He belongs to his mother’s clan and so whatever role that the clan had to play, he was to ensure that it was really done since he was an adult and a responsible
person. In the son’s case his mother’s siblings supported him (Personal communication with Sam, February, 2010).

This answer buttresses the relationship between the lineage and the clan. The lineage is a sub unit of the clan. Though the responsibilities are for the entire clan it behooves those who constitute deceased’s lineage to ensure that that all that needs to be done are executed properly. Once the lineage does it, it is for the entire clan. The adage goes that *ebusua tse de kwae. Igyina akyir a ihu no wusu*. *Eben ho nna ihu de idua biara si ne siber* (the clan is like a forest. At a distance it looks like all the trees are joined together but a closer observation shows that each stands on its own and that there are a number of strands within the wider unit).

It could also be seen in the previous responses that participants were more interested in the role of the children at the funeral of the father. The clans expected their members’ children to honor their fathers. This was not only considered as a social duty but also a religious duty because the traditional belief is that the father is the spiritual guardian. Based on this, some clans often compel their members’ children to undertake unnecessary ventures that increase the cost of funerals for their members. For example, Ebusuapanyin Yeboa stated

At times some members of the clan make unnecessary demands on the children of our deceased members. For instance, where the tradition demands that they have to provide a bottle of schnapps, they demand two bottles. There are also situations where people quantify certain items in monetary terms. Most often, instead of taking the exact cost of the item they ask for more than that. There are also situations where people add fun fare to the culturally prescribed norms. For instance when a group introduces something new you will see that it becomes the trend in subsequent funeral. Eventually people begin to see it as a norm rather than the exception. This often places the children in a lot of unwarranted debts (Personal communication with Ebusuapanyin Yeboa, January, 2010).
I had observed some of the new trends in Cape Coast. For instance I witnessed a brass band procession with people in mourning clothes carrying some commodities in brass trays. An on looker (old lady for that matter), as they passed, they commented, “So is it; members of this new generation will send us to our graves. Anyway I am glad I have seen this new trend before my maker calls me.” When I described this to a friend, she told me that this is the new trend, so people expect such fun fare. In recent times, many people have been calling for laws to ban expensive funerals. This seems to fall on deaf ears.

Chief Anderson stated:

The *ebusua* reminds the father’s sons and daughters that their father is dead. The reminder means that they have roles to play in the funeral rites. They are in charge of providing *adaka* (coffin), *adaka nsim* (money that is added to the coffin) *eguradze* (toiletries for preparing the body for burial) (Personal communication with Anderson, February, 2010).

From all indications, Fantse social life is couched in a web of reciprocities. The question that came up for discussion was what rewards or punishments are associated with the performance (or otherwise) of these roles, to which Chief Seidu responded, “The clan praises them for honoring their father. If the members are satisfied, they can give them a share of their father’s property if he died intestate. This is not obligatory but it is morally upright” (Personal communication with Chief Seidu, February, 2010). On his part, Nana Enu stated:

The rewards can come from the spirit of your deceased father. Once there is the belief in life after death, the spirit of the father is expected to guide the children in all their endeavors. This is the common belief. However, in physical terms, the deceased father’s clan may allow the surviving spouse(s) and children to use its resources, for example, you can ask for a piece of land to make your own farm (Personal communication with Nana Enu, January, 2010).
Normally, the terms governing such arrangement are that you work on the land free of charge. You only present a bottle of schnapps at the end of the traditional year. The problem is that the members of that clan have a better claim for the use of that land since it is their property.

Tettey et al (2008) stated that inheritance is the key element of cases of intra-family feuds in Ghana, among which are, who has legitimate authority to inherit. The issue here is not about the right to inherit, but the right to use. Therefore, for one to exercise the right to use, one who is a member of the clan that owns the piece of land is likely to say *nea adee wo no odie nna enye nea ekom de noo* [the owner of a thing has better claim to eat (inherit) and not the one who is hungry]. It is worthy of note that *di* in Akan stands for eating but it also used to depict inheritance to property or succession to a socio-political office (Wilson, 2000). What this simply means is that the members of the clan have better claim than the non-members who are just using the land because they have to obtain their daily bread. Once the deceased’s children do not belong to their father’s clan, it is assumed that they are using the land to obtain their daily bread but not because they are the owners. Therefore, it cannot be ruled out that the members of the clan can create problems for people who attempt to use lands belonging to their father’s clan. Fancy a situation where a new head of clan takes over and some members instigate him to foment trouble for the children of the deceased.

Ekua Amisah of Dago provided a similar situation from the coastal areas where fathers usually work with their children in canoes (see Hagan, 1993; Wilson, 2000). She stated:
My son used to work with his father in the same fishing canoe. When his father died, he continued to live in his father’s house and work with his father’s siblings and some of his father’s brother’s children. Later on, they started creating hatred for him because (in their words) he was being disrespectful. My husband and I bought fishing net which they were using in the canoe. My son insisted that, since I was a shareholder, he had legitimate right to use the fishing net. Eventually, they bought a new net and told him to take the net out of the house. We could not use it because it was worn out leaving me in debt. My son now works in another canoe (Personal communication with Ekua Amisah, January, 2010).

This raises a number of issues especially on age, childhood construction, national law, rights, and more. Ekua’s son was above 18 and not married. He has the following rights as provided explicitly by Chief Seidu:

The clan provides the deceased’s children with another ‘father’ (a successor). He has to provide every support that the deceased would if he were alive, provided he can do that. If the sons and daughters exhibit good behavior, the clan ensures that they have very good treatment. There are situations where the successor cannot provide for the needs of the sons and daughters of the deceased.

The successor has to provide for the widow until the end of her widowhood rite. After that, he has to perform rites to divorce her. If he fails to do that, then the woman remains his wife. He cannot have sexual relationship with her unless he has made such a proposal to her, and their intentions are made known to the clan members. If she dies without the divorce ceremony, then the successor will have to provide for a coffin for her burial (Personal communication with Chief Seidu, February, 2010).

Whereas Fantse culture states that a person is an adult when he or she is married, national laws also states that a person is an adult only if he is above 18. If he were to go by Fantse law, he could have insisted that he was not married and therefore had the right to parental support, considering that the father’s relatives had selected a successor to his father. However, because of national law, many people downplay the traditional laws and use the national ones when it favors them. The issue now was that so far as national laws set the upper limit for childhood as 18 years, he was mature enough to be on his own.
Therefore, once he was being disrespectful, he has failed to act like a son; thus, he could not be regarded as such.

Another consideration is that even under Fantse customary law, the son would have considered his personal safety first. The father's relatives could drown him on the high seas and no one will testify for justice to prevail. Even if someone will testify, the life lost cannot be reclaimed. Therefore, nobody will take such a risk.

Inheritance Among the Indigenous Fantse

This section addresses how the family systems of the Fantse address issues on inheritance and succession. It examines how a person could transfer his or her property in their life time, or how the property could devolve after their death. I will also examine the conflicts that often arose out of such transfers and how the Fantse resolved such conflicts.

To start, I inquired about what aspects of a man’s estate belong to his sons and daughters under Fantse customary laws. Nana Enu declared:

They have no rights to inheritance. A father can give anything to them [his children] in his life time. However when he dies, they get nothing, unless the clan of the deceased chooses to give them. In the past, rich men often requested that part of the money that they leave behind be given to their surviving children and spouses. The [immovable] property on family land and those acquired with the clan's resources reverted to the clan (Personal communication with Nana Enu, January, 2010).

Nana Enu explained why it was easier to pass on money children. He stated, "Society places much more value on the immovable asset. For instance the adage goes wobisa wo fie, wommbisa wo sika [people ask for (the direction to) your house, not (where you keep) your money]” (Personal communication with Nana Enu, January, 2010). This value seems to influence the reason for easy devolution of cash as property. Nana Enu's mention of the rich in the society in those days stems from the perception
that one saves what one cannot put to use. However, a critical observation of the system is that in some years back, when banking was not common, only the rich used to keep their money in the bank. As part of the paperwork in the bank, customers have to write an affirmation as to how the bank should distribute the money accruing in case the person dies. Civil servants too indicated how their accrued money from the Social Security Scheme should be distributed. In effect it may not necessarily be the rich men in the community who request that portions of their estates be given to their child.

Christensen (1954) and Sarbah (2004) stated that the first consideration of rights to inherit a man’s property was granted to his mother, then brothers and then sister’s children. Danquah (1928) makes a similar assertion about the Akyem, another Akan group. However Ollenu (1962) argued that as a matter of fact nobody has a right to inherit. The right is vested in the lineage. Therefore, the lineage chooses one to inherit. Furthermore he argued that Sarbah attested to this claim in the sense that Sarbah (2004) stated that the clan selected a successor, and that the succession does not follow any rigid rule that makes any particular person the automatic heir. The choice was on merit. Besides, the one who inherited could be replaced at any time if he was found to be unsuitable. In effect no one inherits as per his or her right.

There are many ways by which people transferred their property in their life time and how the estate of a deceased evolved. The drawing up of wills is not common among the Fantse. Though many participants mentioned the traditional ways by which Fantse transfer their property in their life time or after their death, Ebusuapanyin Yeboa’s responses on wills comes out very handy. He explained:
"Nsew is a vow or oath between two or more people who are closely related. For instance, in marriage a man and his wife vow to each other in matters that are dear to their hearts. "Nsamansew", on the other hand, is a wish that a person makes for something to be done at the end of his or her life. Though it is a wish, it is weighted as a vow because of the seriousness that the person to whom it has been communicated takes it. The recipient of the message conveyed by the will has an obligation to keep it to himself until the maker is dead (Personal communication with Ebusuapanyin Yeboa’s, January, 2010).

As Ebusuapanyin Yeboa was speaking, the impression I got was that the "nsamamn nsew" (verbal will) was like a “wishful oath” in that the description sounded as if the person were communicating his wishes to a person or people that he trusted. It was an oath because it carried with it the concept of promise to give to someone or people. The recipient of the message also vowed to keep it a secret. I saw it as a “wishful oath” that people took it out of discontent or suspicion that, things will not go the way they want it in the future. Therefore it is an arrangement to fulfill ones expectations or wishes after one has died. I asked about the possibilities of cupative wills generating conflicts.

Ebusuapanyin Yeboa stated:

A person could transfer properties that he had acquired privately to people without any problem. It does not matter if the beneficiary is not a member of the giver’s lineage. All that the person needs are witnesses to testify that the property was properly handed over to the beneficiary. To forestall the event where someone may challenge the legitimacy of the deed of title, the giver assembles some members of his clan and declares that he wants to present a self-acquired property to that person. He declares why he deems it fit to give such a property out. If no one raises any objection he presents a bottle of schnapps for libation to be offered and those present share the drink. Customs demands that part of the liquor is kept so that it will be presented to any significant person who was not present when the deed was communicated to members of the clan. If it is a gift, then depending on the magnitude of the gift, the recipient has to present a sheep in thanksgiving. If anybody raises an objection the substance of the objection will be examined and a decision taken by the elders (Personal communication with Ebusuapanyin Yeboa, January, 2010).
One may wonder why some people will object to somebody’s will. Ebusuapanyin Amfo explained, “At times when people make wills, members of the clan complain. When this happens, you may realize that the deceased used family resources such as land and properties of other deceased members to acquire their private property” (Personal communication with Ebusuapanyin Amfo, February, 2010). Ebusuapanyin Yeboa, seemed to be buttressing Ebusuapanyin Amfo’s point:

The clan members could contest the donation if the giver used a clan property to acquire what is being given out. If this is found out that it is the main property that the giver has and he or she has benefitted from a lineage member’s estates, then he will be impressed upon to give out a portion of his property to the lineage (Personal communication with Ebusuapanyin Amfo’s, February, 2010).

The issues that the respondents raised are in line with the arguments that Awusabo-Asare’s (1990) advanced about the Intestate Succession Law. He argued that in a situation where someone has inherited a property from a deceased family member, it will be difficult to calculate how he has used the property to create a personal wealth. The responses show that his concerns were probably prominent in traditional Fantse societies and hence the need for the distinction made between clan or lineage property and private property. It could therefore be argued that this was the bases for finding witnesses to oversee the transfer of an individual’s property.

The guiding principle underlying transfers or alienation is that the clan, as a corporate entity has the right to take over the property of its members when they die (Durkheim, Radcliffe-Brown, 1952b; Ollenu, 1962, 1966; Fortes, 1997; Sarbah, 2004). Therefore under the customary law of the Fantse, among the major requirements for alienation are giving publicity to the deed and, subsequently, an acceptance by the parties
(Ollenu, 1962, 1962; Sarbah, 2004). In other words, the giver should say this to a gathering of family members and the recipient has to acknowledge his or her acceptance, also in public. In any case the clan members, who are also serving as the witnesses, should not raise any objection; otherwise the property cannot devolve as a gift.

I sought to find out what the successor gets as inheritance. Chief Seidu stated, “Everything goes to him.” Nana Enu’s response expatiated this:

[The successor] held the estate in trust. Therefore he could not give out anything without the knowledge of other members of the lineage. He could use the non-durable items but the durable ones had to be preserved as lineage property. Anyone who wanted to use the lineage property had to inform the head of lineage, so that he would intervene on his behalf (Personal communication with Nana Enu, January, 2010).

This buttresses the Functionalists’ perspective that the clan is a corporate body with rights and obligations, including rights in rem and rights in personam (Durkheim, 2008; Evans-Pritchard, 1935, Fortes, 1997; Radcliffe-Brown, 195b). Nana Eduafo expressed misgivings about the system:

Some lineages give something to the surviving wives and children. Others too refuse. By customary law, a man’s children do not benefit from his estates. They can benefit from their mother’s or their mother’s bothers. There is nothing, in particular that sons and daughters enjoy from their fathers’ estates. At times the deceased’s lineage drives out all the children and the widows from their late husbands’ and fathers’ homes. This is sheer wickedness. Such a case can be reported for redress. I personally think that something should be given to the children of a deceased member. However, it all depends on the deceased’s lineage (Personal communication with Nana Eduafo, January, 2010).

Nana Eduafo’s response captures his emotions about the traditional practice which allows people to benefit from only their mothers clan. Nana Amisah seems to be buttressing the point that Nana Eduafo raised. However, she attempts to offer an explanation for the culture:
It depends on what assets the father left behind. The misunderstanding about what belongs to whom arises where the deceased does not have children with the widow or where members of the deceased’s lineage or clan feel the widow and children of the deceased did not treat the deceased fairly, for example, when the lineage feels that the widow did not respect her husband or the lineage members while the deceased was alive. The situation becomes more pronounced if the deceased fell ill, and the family feels the widow did not give the best care to him (Personal communication with Nana Amisah, February, 2010).

Both Nana Enu and Nana Amisah do not provide situations where a father can bequeath his property to his children or avenues for seeking redress in situations of discontent. Chief Seidu clarified issues about the culture:

In the past, a father could bequeath his self-acquired property to his sons and daughters in his life time or in a will. This type of will, called *nsamansew* in Fantse, was done orally; usually on a person’s sick bed. However if he dies intestate, his clan uses its own judgment as to whether to give a portion of his estates to his children or not (Personal communication with Chief Seidu, February, 2010).

Nana’s response provides vivid situations where men bequeathed their property to their sons and daughters. This has also been documented by Ollenu, (1962, 1966) and Sarbah (2004). Ollenu calls the *nsamansew* a non-cupative will. I was somehow convinced from the responses that women could benefit from their husbands property if the right thing was done, so I sought to find out why it often occurred that members of a deceased’s lineage eject widows and their children from the deceased’s house. Chief Seidu explained the evolutionary process that has led to this:

In the past, you could do this, but now with the government’s laws state you cannot. What happened in the past was that many people did not have their own houses. They often lived in their lineage premises. Therefore, when a person died there were many others in the lineage who needed those rooms. Keeping the surviving spouse meant depriving some members of the lineage their rights to live in the premises (Personal communication with Chief Seidu, February, 2010).
Ebusuapanyin Acquah expatiates the indigenous Fantse living arrangements by explaining the circumstances behind the locking up of a deceased person’s boxes and/or room:

In Fantse social life, everyone gives account of themselves here on earth. A person is seen to have led a worthy life if he left behind some property. Though the society does not encourage its members to owe, there is the possibility that a person may leave behind a debt. His lineage is under obligation to pay that so the lineage takes over both the assets and liabilities. A lineage will be ridiculed if it is found that its members do not leave behind assets but liabilities. Therefore, the moment a person dies, his or her property has to be secured, the lineage locks up all his boxes and the room that he used to live in. A year after a person’s death, the head of clan and the successor see to it that his assets are distributed (Personal communication with Ebusuapanyin Acquah, February, 2010).

Chief Seidu’s and Ebusuapanyin Acquah’s responses show the “close” indigenous family system, a situation where everybody knew something about the other person. There are laid down procedures for inheritance, and yet conflicts arising from inheritance rights and the distribution of the estates of deceased people are rampant in Fantse communities as can be seen from the preceding discussions. Upon further questioning, I got some responses that showed that in order to seek ways of resolving the conflicts arising from the distribution of a deceased’s estate, there was the need to delve deep into the entire social systems, especially the observance of funeral obsequies helps to understand the inheritance system. Sam provided a systematic way by which the Fantse social systems tried to ensure that it limited the number of conflicts that were likely to arise after the death of a person. He described how the periodic observance of the funeral obsequies helped to offset the conflicts that are likely to arise:

Once a person dies, there should be a celebration after a week. This celebration allows all the parties that have roles to play in the funeral of the deceased to meet and decide on a funeral arrangement that befits the person. After the burial, the clan sits in state to receive goodwill messages and donations from the public.
The next funeral observance is the celebration of the sixth week. The purpose of this is to create a forum for all the parties involved in organizing the funeral to render accounts to the gathering and to select a successor [known in Fantse as dziadzefo. When the dziadzefo is selected, he or she has to pay some money to the elders of clan for the honor done to him or her.

The role of the dziadzefo is to take care of all the property that the deceased left behind. He also takes care of the widow or widows and children. If he is not able to do this, there is the likelihood that there will be disagreement between him and the widow and or the children. Even if he does not have the money to provide for their needs, he must show interest in all the things that they do and counsel them so that they succeed in life. Where there is the need for one’s father to be present, the dziadzefo has to represent their father or mother, as the case may be (Personal communication with Sam, January, 2010).

I had the opportunity to observe funeral obsequies during the fieldwork. All that Sam said was clearly seen. Furthermore, I observed that the one week celebration was often filled with tension as the deceased sons and daughters disagreed with members of their father's lineage on the funeral arrangements and the contribution of money. Most often, the sons and daughters were asked to renovate and/or paint the lineage house for the funeral to take place. At times, the deceased's lineage asks for money to do this. The sons and daughters feel the demands are too many. This sets them in conflict with their father's lineage members. These conflicts may continue until the burial and final funeral rites and may even continue after that.

When the deceased is a woman, the tension is absent or less because the sons and daughters of the deceased are also members of the deceased’s lineage. Therefore they have equal rights with the deceased’s siblings. The only difference is the intergenerational gaps between them which are often ignored. On the other hand there may be tensions where the deceased’s siblings feel that the deceased had prevented her children from taking part in the activities of the lineage.
The celebration of the sixth week is referred to as *adaduanan* (fortieth day). It is very important for the children because they will have a successor who will also be a father or mother to them. At times, they lobby for a particular person to be the successor. After the successor has been chosen, the deceased’s children smear him with talcum powder to show their acceptance. The successor takes the children to his or her house and serves them with food and drink. This serves as the beginning of the successor’s new role as a parent. He visits the widow latter to signify the beginning of his new role as a “husband” (without sexual rights from her).

In a typical Fantse and, for that matter, Akan community, the fortieth day is used for accountability. As part of the rites, all the parties to the funeral rites rendered accounts on their income and expenditure for the funeral and spelled out how they were going to reimburse their creditors as the case may be. All those who had any contract with the deceased were also supposed to declare the nature of the contract and either continue with it or abrogate it. Those who owed the deceased anything or vice versa had to declare it. If the deceased owed, the creditor has to make it known. He also declares whether the debt remains outstanding or is cancelled. Similarly, if the person owes the deceased, then the clan may decide to cancel or uphold it. If there is any leasehold agreement with the deceased, especially where it involves a parcel of land which belongs to the lineage, the person has to declare and renegotiate. Whatever discussions take place on the fortieth celebration could serve as a tool or evidence for any litigation that may occur later.
Summary and Conclusion

The responses on the rights and obligations of members of the kin group underlie some of the principle guiding customary laws. The principle of double unilineality manifested itself in terms of rights and responsibilities in space and time. It identified who has the right or responsibility in doing what and at what time or prevailing conditions. With regard to space, it showed the rule of residence after marriage and where the socialization process of children should take place and who should intervene. With regard to time, it addresses when and the conditions that people should act to keep the system working or to prevent its derailment. Even though there were no written rules, the respondents provided almost the same answers to the questions that they were asked. This attests to Mbiti’s (1990) claim that African customs and laws are written in their hearts. It also confirmed the principles underlying rights and obligations under customary laws of Ghana that the clan has the prerogative to perform the funeral and has the right to inherit any property that the deceased did not pass it onto any one as a gift in his life time or has not declared (even if it is verbal) to anybody (Klundze, 1973; Ollenu, 1961, 1968; Sarbah (2004).

The discussions on children’s responsibilities to their parents centered on their obligations to provide a befitting burial for their fathers. Though respondents mentioned the proverb, ”Take care of whoever has taken care of you to grow teeth so that they will also lose their teeth,” most of the discussions centered on performing of burial rites for a deceased father. This happens because society assumes that a child has been socialized to accept the responsibility of providing for the aged, especially fathers. The responsibilities
of providing the material needs of a child are stressed in the family system. The father is regarded as the only stranger in the nuclear family because he belongs to a different lineage.

There is the proverbial Ghanaian hospitality that runs through almost all Ghanaian cultures and the underlying principle is that hospitality needs to be extended to the stranger first. If children refuse to provide for their aged father, he may think that they do not have enough. Therefore, he cannot always make it known to the public when his children fail in this regard. At times if the children fail to take care of their parents, people begin to question whether their parents have been able to provide sufficient resources for their children to enable them to look after their parents.

That of the burial comes up because it is within the public domain. Society can only castigate children of the aged if there is ample evidence that they are not taking care of their aged parents. Parents, too, will not like to ridicule their children because it also castigates them for not being able to socialize their children to accept this social responsibility.

**Research Question Three: Social Change in the Fantse Social Life**

Research question three examines the nature of social change in Fantse social life. To help me do this I examined the changes in terms of social life cycle. This was important for the research to delve into the past to make projections for the future. I identified the themes presented in figure 6 below for this section:
Theme One: Changes in Childhood and Adulthood Constructions

Construction of childhood and adulthood, among the Fantse, is now changing. In addition to intergenerational relationships, performance of nubility or puberty rites, and kinship relationships, it includes recognition of age and socio-economic status. Though all these constructs prevail, the recognition of age 18, as provided by national laws such as the Constitution of the Republic of Ghana (Articles 43-45) and the Children’s Act (Act 560), seems to be influencing the traditional Fantse social organization. This construct prevailed in most of the responses of participants in the initial discussions. As I stated earlier, my participants constructed adulthood in Fantse traditions only after they had
been prompted to explain what prevails in the indigenous systems. This shows the nature of social change as seen in the responses that follow. Nana Amisah stated:

Normally after 18 years, people are supposed to be incorporated into their lineages and clans so that they can pay their dues and perform the expected roles and responsibilities within the family and the society at large. At that stage, the individual’s welfare becomes the responsibility of the lineage and clan so the individual has to be responsive to them (Personal communication with Nana Amisah, February, 2010).

Nana Amisah’s response draws attention to the lineage and clan as the main units of socialization. It also highlights the concept of reciprocity as the principle guarding Fantse social life. However, becoming a member of the clan requires transitioning.

Ebusuapanyin Acquah buttressed this in the statement below:

There are many young people who do not get admitted into the clan when they are of age. The government has set 18 years of age as the benchmark for adulthood. Therefore we try to abide by that age. We expect that mothers, especially those residing out of town, will bring their children home (to their home town) so that they will be incorporated into the clan. However by 18 years many people are either in school or about to graduate from apprenticeship in trade. So far as they do not have jobs, their mothers will often ask for exemption from paying the dues on their behalf. Some of them do not even come home regularly so their mothers have to pay their dues which places additional burden on the women. Their (women’s) brothers may help them pay such dues (Personal communication with Ebusuapanyin Acquah, February, 2010).

The responses of Nana Amisah and Ebusuapanyin Apprey show the changing trends occurring in the indigenous family and the factors of change such as, western education, core-periphery relationship, and national laws. By age 18 people will be graduating and therefore unemployed. Under Fantse culture, so far as they are unemployed their parents have to be responsible for their upkeep. Therefore, it is the responsibility of parents, especially the father, to maintain their children until they can be on their feet. People often work in the core areas while their hometowns often serve as
the periphery. For instance those who come from villages may be working in the urban centers within the country or outside the country. Those from urban centers are likely to work in other urban centers within or outside the country. This explains the core periphery relationships. In order to offset the problem of unemployment and encourage people to pay their family dues Acquah stated that he had released all the family lands to their members so that they could go into farming instead of remaining unemployed. He stated that many of the youth have responded favorably to this and that his clan has commercial vehicles that generate income for them.

The contrast between the Fantse customary law and the modern law is that whereas under the customary law children “belong” to their fathers until they marry, under the modern law, people are no longer under their parents’ tutelage after age 18. Therefore, under the national laws, their fathers owe them no obligation after age 18. At that stage society holds them responsible for their own actions and inactions.

Members of the society weave around this situation revealing legal pluralism. Chief Anderson explained:

A good parent should know how to reconstruct this dilemma. He does not have to send the child away if he or she is jobless. If the child gets a job and has to live away from their parents, the parents must provide their basic needs, give them the necessary advice that will guide them in their new environments and dispatch them.

When one of my daughters was posted to her station after she had graduated from a teacher training college, I took her to the station and together, we went to see her boss. I committed her boss to act like a father. She is now married and living with the husband. I have done my job (Personal communication with Chief Anderson, February, 2010).

As Chief Anderson was giving this account I was reflecting on when I was leaving my parents to do my National Service (a compulsory service for Ghanaian
College graduates before they enter the job market). I would like to share this experience for my audience. On the Sunday before I left my parents, they sat beside me during dinner and my father told me something similar to this, —You are now a man. Go into the world and lead a worthy life. Remember that you have been brought up to uphold Christian and traditional values. May the good Lord be with you.” My mother added, —I trust you that you will be alright. However, note that if you allow too many women in your life they can create problems for you.” With these words I set off to “begin” life and I am happy to say that they have been my guiding principles. I always remember those words, even up to today (after about 17 years).

It can be noted that though the laws set adulthood at age 18, parents are circumspect in sending their children out of home. I asked what parents could do if their children of age 18 years or above, who are living with them misbehave. Chief Anderson responded:

Your child is always a child you need to talk to him when he goes wayward. If you find it difficult to do that you can approach some of your friends to do that or get professional counseling for him (Personal communication with Chief Anderson, February, 2010).

The mention of professional services shows the level of education of Chief Anderson, who knows that such services are available. Three of my respondents mentioned elders, four mentioned priests and the six of them mentioned both. Having been in the US for about five years and thinking that the world is moving towards globalization, and the fact that Ghana has laws that commission people, including parents to report deviant behavior to the police for redress, I expected that at least one participant would say —report to the police.” however no one said that. This gives the impression that
Durkheim’s (1997) argument that with development, the state takes over some of the responsibilities of parents through the laws that the state makes, does not work with the Fantse and for that matter the Ghanaian situation.

Recalling that Fantse culture perceived adulthood as the period when a person was gainfully employed and married one can foresee a problem arising with the mode of properly incorporating young adults into their natal clans at age 18. Because children do not perform obligations that make them real members of their clans, their clans too owe them no obligation. If they die at a stage when they have not been incorporated into their natal clans, who should be responsible for their interment? It is worthy of note that national laws make clans responsible for the burial of their members (Ollenu, 1962).

**Changes in Marriage Celebrations**

The changes in social life are also manifest in marriage in the areas of mate selection process, negotiations for the payment of prestations, the cerebration of marriage, and the influence of family laws on the family and inheritance. In the field, participants recalled some of the issues they had raised in the discussions of social organization and attempted to connect them to the influence of western education, core-periphery relations, revealed religion (especially Christianity), and national laws.

**Mate Selection**

Mate selection has evolved from parental obligation through parental participation to parental consent. Participants explained how they got married and their views on the changing trends. Readers will recall Kobina’s account of his socialization from childhood to adulthood where he stated that his father found a wife for him when he was a boy and
that when he was of age, his father paid the bridewealth and the woman became his wife. This comes up readily for the explanation of parental (or specifically paternal) obligation of mate selection. Mrs. Buako’s and Theresa’s responses capture the parental obligations on the part of women (brides). Mrs. Buako stated:

Yes, now young men and women look for their own spouses and they inform us (their parents). In my days many of us were given off to men that we hardly knew. In some cases the men too did not know the women they were going to marry. In other words the couples had never related in any form of courtship. When I was given off in marriage, I did not know the man, but I had a very happy marriage afterwards. Now, times have changed, and I expect that people look for their own spouses (Personal communication with Mrs. Buako, February, 2010).

Theresa describes a similar situation. She stated:

My parents tried to match me to a man. They used to send me on errands to his family house. He would always accompany me back home but I never understood his intentions until at a point in time when my parents informed me that he had come to seek my hand in marriage. I felt I was immature for marriage. I had then completed middle school some years back. The man took pains to explain how we were going to lead our marital lives. I became convinced and accepted the proposal. These days the individuals select their own partners. I support this idea. In our days we did not even have the opportunity to relate to the men who married us. I do not think they were imposed on us. Our parents asked for our consent before they could accept the bridewealth. Being asked if one accepted a man’s proposals by one’s parents was one of the difficult questions that a young woman had to answer.

In those days, relatives, especially mothers, did a good job by educating their daughters on the challenges of marriage. When the time was up for marriage they also impressed upon their daughters to accept or turn down a marriage proposal. This was a decision that a young woman could not make easily by herself. Even though fathers were at the helm of their children’s proposed marital affairs, mothers’ roles in the selection of mates for young women was invaluable (Personal communication with Theresa, February, 2010).

Though, Mrs. Buako’s response does not show the involvement of women in mate selection, the subsequent response by Theresa shows that women played important roles in the selection of mates. It can be seen that while the men were keen in the selection of their sons’ mates, they were not so keen about selecting partners for their daughters.
Theresa said there was no form of courtship. However, one can consider the time that her partner took to explain how their marriage life would be, as an aspect of courtship? There are other situations where parents, particularly mothers, were involved in the selection of partners for their sons as Nana Kurentsir described:

My father went to see my wife’s father for the necessary rites after I had told him that I wanted to marry the woman who became my wife. My father examined her family background and approved. I selected the woman, informed him about my choice and asked for his blessing (consent). However, before he could give his blessing he did the background check to ensure that I had made the right choice. My wife did not come from this town (Mankesim). My father commissioned my mother and his sisters to do the background check. My mom and my father’s sisters traded in the market. They knew my wife but they conducted further investigations by contacting other traders from my wife’s home town (Personal communication with Nana Kurentsir, February, 2010).

Considering Nana Kurentsir’s age (about 87 years old), one may be tempted to guess that his father would select a partner for him. His response shows this. He stated, “In the past fathers looked for wives for their sons, but now young men of today find their own wives. They do not even involve their parents in the selection” (Personal communication with Nana Kurentsir, February, 2010). When I asked, he did not explain why he did his own selection with the active involvement of his parents and other relatives. Considering that Kobina, who is younger, had his father selecting a wife for him, it is possible that some options prevailed in the society. It could also be that Nana Kurentsir’s father was the liberal type, or he allowed his son to do so because he was educated. Kobina did not have western education. He lived in a small town. All these could have contributed to the mode of selection for him. Ebusuapanyin Amfo stated, “When a young man finds a wife, he informs his father. The father chooses some people to do a background check on his behalf. After that he approaches the woman’s father and
the negotiation states.” Perhaps, Ebusuapanyin Amfo’s, who has similar attributes with Nana Kurentsir such as, hailing from the same town (Mankesim), same age, and also a retired civil servant, would have shared similar experiences. However, his response was more general and normative.

**Cost of Prestations Is Also Borne By Grooms and Not Their Fathers**

It would be recalled that participants identified the father’s responsibility to find a wife for his sons and consequently pays the bridewealth. With the change where selection of spouses is the prerogative of the couple themselves, the groom pays the prestations.

Chief Seidu stated:

Now that young men and women select their own spouses and inform their parents, even if it is their first marriage, they also bear the cost of marriage. There is much fun fare associated with marriage nowadays. Fathers may be in their old age and therefore economically inactive. In such a situation, they cannot bear the cost. However, if a father can support his son nothing stops him from doing so. Similarly parents, especially mothers may support their daughters when the need arises (Personal communication with Chief Seidu, February, 2010).

Chief Seidu’s response provides a clue that women are now involved in the payment of the cost of marriage. However, participants, including women, did not state the actual role of the bride in the payment of the prestations. Nana Amisah stated, however, that after the payment of the *tsir nsa* (bridewealth), the bride’s family provided *aseda sika* (money for thanksgiving) and/or *aseda nsa* (drink for thanksgiving). This means that a bride is not supposed to pay any prestations. Her parents are supposed to do that. Deep throat sources would claim that women contribute their quota to the payment; however, this cannot be made in public.
Reduction in the time frame for negotiations and rituals

In the past traditional marriage occurred over a long period of negotiations. There were elaborate exchanges of prestations at different stages, with each stage having its significance. It would be recalled that Nana Kurentsir and Nana Amisah elaborated the number of prestations collected at various points and their significance in their responses.

In addition to the traditional marriages, couples perform church weddings. It's been documented that the Catholic Church in Africa ensured that traditional marriage had taken place before they allowed a church wedding (Schiller, 1968). Hardly does one go to the church or the law court for ordinance marriage when one has not performed the traditional marriage. Felicia, a young Pentecostal, stated, “We got married under customary marriage. After that, we had the wedding. My church does not allow couples to live together unless they have had their wedding” (Personal communication with Felicia, February, 2010). Nowadays traditional marriage and weddings go together and at times they take place on the same day as Nana Kurentsir explained:

Nowadays, all the marriage ceremonies and the payment of their respective prestations take place on the same day, though the couple might have introduced each other to their parents and other important family members. In the past traditional marriages took place first and then after some years the wedding ceremony followed. These days, there are situations where traditional marriage and the church weddings take place on the same day. In my days this was rare. I went through customary marriage. My wife and I decided on church wedding after we have had our fourth child (Personal communication with Nana Kurentsir, February, 2010).

Nana Kurentsir’s response shows the current trend. Apart from the fact that people combine traditional and ordinance marriage, they also save a lot of time.
**Increased community participation**

In the past, marriage celebrations were limited to a few people in the lineages of the couple and very few from the community. Now community participation is very high but even what represents the community has shifted from the town folks to friends, classmates and workplace mates. Though participants talked about *asafo nsa* (liquor for members of the *asafo*) to show the representation of the community the members of the *asafo* did not have to be physically present to receive their drink. Chief Seidu stated:

> The groom presents a bottle of liquor to the young men in the asafo. It is a way of telling them that the bride is now married and so others interested in her should keep off. If after that the young men realize that she plays dangerous games with other men, they will inform her husband.

> Members of the *asafo* needed not be present unless one or both of the couple had been initiated into it. In that case any of the couple should die the asafo will have roles to play in the funeral (Personal communication with Chief Seidu, February, 2010).

These days community participation, including the involvement of friends of the bride and groom, members of the church, and professional bodies, is very common. The couple invites their friends to the traditional marriage ceremony, thereby making community participation more visible. For instance, in the past the community had a share in the prestations, through the presentation of *oman nsa* or *asafo nsa*. Nowadays, *asafo nsa* is presented in situations where one or both of the couple belongs to the *asafo*. Ebusuapan Yin Kwame Ababio elaborates the emerging trend of community participants. He stated:

> In the past marriage ceremonies took place at dawn or dusk but these days they take place in broad day light. Now it is an open ceremony and people feel obligated to attend even when they have not been invited. In the past only the households involved in the contract and a few influential people in the community were actually present. Friends of the couple are now much more involved. Even
weddings were celebrated in the "dark" but now they are celebrated in the "open" with friends and classmates, church members, colleagues at the workplace and other social groups taking active part in the celebrations (Personal communication with Ebusuapanyin Ababio, February, 2010).

Ebusuapanyin Ababio's response is in line with my personal observations. For instance, one thing worthy of mention is preparation of wedding programs in Ghana. One can find in the program an order of taking pictures in which all the groups who are associates of either bride or groom take turns to take a picture with the couple.

*Europeanization of customary marriages*

European influence such as introduction of Christianity, re-monetization of the economy and commercialization of prestations has influenced traditional Fantse marriages. The prestations used in contracting Fantse marriages include items that show foreign influence. For instance it will be recalled that in Nana Amisah's explanation on the prestations taken for marriages, she mentioned items suitcase, Bible and ring as the prestations. In the course of the interview she also showed the influence of Christianity by linking it to the Christian principle of marriage as she examined the importance of marriage in the life of a Fantse. She stated, "The bible states that a man shall leave his parents and be joined (married) to a woman, and the two shall become one" (Personal communication with Nana Amisah, February, 2010). Nana Amisah's response is probably from the books of Genesis (Chapter 2 verse 24) in the Old Testament, and Matthew (19 verses 4-6) of the New Testament of the Bible.

Other respondents such as Aboasi Amisah referred to the Bible in their responses. When asked about the importance of marriage, he stated, "Even in the Bible, God provided a partner for Adam (the first man)" (Personal communication with Aboasi
Amisah, January, 2010). He continued to use the Bible as his reference point in the interview. For instance when asked about the role of a father in the life of his sons, he stated:

The African system is like what prevails in the Bible. If any of your children is becoming wayward you have to spend time on him or her to shape their life. As a parent you have to guide your children when they are selecting their partners (Personal communication with Aboasi Amisah, February, 2010).

For Aboasi Amisah and other participants, referring to the Bible in a discussion of a traditional system of marriage provides a clue to the extent to which Christianity has been incorporated in the Fantse system of marriage. Ebusuapanyn Amfo provided a situation where the church played an active role in the selection of partners to buttress the churches involvement in traditional marriages. He stated:

At times the churches do the ‘matching.’ This may result in conflict between parents and their children. Young man, let me tell you a story of an event that took place in this town, particularly, in one of these new churches which I do not even remember its name. The church matched a young man and woman for marriage and informed the father of the woman about the intention of the young couple. The parents belonged to one of the old churches. They were furious that the church had taken the initiative to contract marriage for their daughter. They were actually against these new churches and therefore had a problem with their daughter for joining that church. They refused to accept the marriage of their daughter but the church went ahead to arrange for the marriage (Personal communication with Ebusuapanyn Amfo, February, 2010).

Readers will recall the responsibilities associated with the payment and receipt of bridewealth confers on the parties. In a situation where the church performs the marriage without the acceptance of bridewealth, will the church have the prerogative of organizing funerals for the any of the couple? What will be the legal implications for the marriage and other social organizations? Though some participants compared Biblical teachings with Fantse culture, one wonders if the two follow the same order. Do they even have
similarities? It will be recalled that the rule of residence among the Fantse is either patrilocal or duolocal. I personally know of some few males who live in their wife’s fathers’ houses. However, it is rare. The rule of residence after marriage does not ascribe to what the Bible states. In the case of the Fantse the woman rather joins the man wherever he is and if the man changes residence he may move with the wife. The man is not the one who often changes residence. Therefore, if the man lives in his father’s house there is the possibility that the couple will live in that house or will move to a new residence. This makes the rule of residence either patrilocal or neolocal.

The engagement Bible, as part of the prestations, shows the influence of Christianity. However, it’s a bit difficult to link the use of engagement ring as influence of modernization. The elders from whom I sought explanation stated that their prestations included *egudze* (jewelry). None mentioned *mpetsia* (ring) but of course rings are part of jewelry. It could be that that rings were not part of the jewelry, but could also be that it was part of it. However, the issue of engagement ring as a traditional prestation is likely to be as part of the influence of modernity. This needs further research.

The use of suit case as part of the prestations is also a recent development in the sense that when I was in high school in the 1980s I used to pack my clothes in a trunk (metal) box. This was the common means by which people packed their clothing at that time. However, after I had left high school people packed their clothes in suit cases. This knowledge compelled me to ask an old woman of about 85 years what the cloths used for her prestations were packed in. She stated that they were packed in brass trays. This was confirmed by some elderly people. They mentioned that nowadays the prestations include
trunk boxes. Perhaps they are not aware that now trunk boxes are no longer in the markets.

*Commercialization and monetization of marriage ceremonies*

The cost of marriage has often become an issue for discussion. Many people complain about the cost and the fun fair. Nowadays, too much money is involved in the payment of prestations. Kobina’s answer on changes captures this. He stated, “There has not been any change, except that the cost of marriage keeps increasing. The cost will continue to rise because the fun fair is too much” (Personal communication with Gladys, January, 2010). Gladys attributes the high cost to fun fair and the development of education. She stated:

Some fathers “calculate” the bridewealth in terms of the educational levels of their daughters. Besides, societal influence has added to the cost of the ceremonies. For instance now the bride has to present souvenirs, bearing inscriptions that commemorate the event, to the people who attend the ceremony, the cost has risen. With the number of people who now attend marriage ceremonies, one may incur a lot of debt (Personal communication with Gladys, January, 2010).

Konuaba attributed the situation to monetization and commercialization of marriage. She stated:

Now many parents examine the educational level of their daughters and determine the bridewealth. In some cases the educational levels of the couple make them have many class mates. Once a person attends a class mate’s marriage ceremony it puts some pressure on them to have theirs in a similar way. This creates a class structure. As the less education watch the way the highly educated perform theirs, they try to imitate them. Therefore, the fun fair has not become the preserve of only the educated but also the less educated. The fun fair has now become the order of the day (Personal communication with Konuaba, January, 2010).

Nowadays, there is even a new outlook with regard to the way things are done to “legitimate” the marriage. Originally, *tsir nsa* was the most significant of all prestations.
It legitimized the marriage, ensured the proper transfer of the bride to her husband, and served as the basis for insisting on the performance of obligations and the enjoyment of rights. Now there are the marriage laws which require registration of the marriage, thereby making marriage a state institution rather than an institution within the social organization of an indigenous group. These laws include the Customary Marriage Registration Law (PNDCL 112), Ordinance Marriage Registration Law (Cap 127) and Registration of Islamic Marriages (Cap 129). The ordinance Marriage includes church weddings where churches ensure the registration. Many people, who have not registered their marriages under the Ordinance Marriage Law, do so under the Customary Marriage Registration Law before they celebrate their weddings. The reason is that the registration is a prerequisite for church weddings. It is on record that people do not register customary registration. Therefore, for the purpose of intestate succession the law was amended to make witnessing a legitimate mode of ensuring that surviving spouses benefited from the estate of their deceased spouses. I will address the implications of national laws on indigenous families in the next research question.

**High Rate of Divorce**

Participants claimed that divorce rates are very high. It is not easy to support this claim with statistics because many people do not register their marriages and therefore do not need to register a divorce. Participants attributed the high rate of divorce to lack of parental involvement and that parents give their consent simply because of the fear of possible elopement or a situation where the young woman becomes pregnant before the marriage ceremony. It will be recalled that respondents such as Nana Ama Amisah stated
that divorce was rare in a typical Fantse marriages and that it only took place where the parties to the contract including the family members were fed up with regular complaints.

Nana Kurentsir stated, “Marriages do not last long these days because parents are no longer involved in the selection of spouses” (Personal communication with Nana Kurentsir, February, 2010). Konuaba stated:

In Fantse culture, a marriage ceremony cannot be performed when the woman is pregnant. It is performed after delivery. However, these days because of core-periphery relationship (urbanization) parents fear that the men will abandon the women they have impregnated—a situation that many parents do not want their children to go through (Personal communication with Konuaba, February, 2010).

Konuaba’s response on marriage ceremony for pregnant women has been espoused by Sarpong (1974). It also shows the breakdown of social order in indigenous societies as a result of social change due to Christianity, Western education, core-periphery relationship, and many more.

**Changes in Organizing Funerals**

Customary laws of Ghana make clans responsible for performing the funeral rites of their members (Ollenu, 1962). Because of clan exogamy as a rule of marriage among the Fantse spouses are not members of their partners’ clans. The clans of a deceased recognize surviving spouses as significant participants in the funeral rites of their members. Therefore, they allow the spouses to perform certain rites as defined by the culture of a particular locality. These rites are referred to as “widowhood rites.” Many changes have occurred in the performance of widowhood rites as noted by Nana Enu, Mrs. Buako, Konuaba, Kobina and Sam. Nana Enu stated:

There have been many changes about the way widowhood rites are performed due to the influence of Christianity. Some churches do not allow their members to
perform widowhood rites. They allow their members to put on white clothes on the Sunday after the burial of the deceased (Personal communication with Nana Enu, January, 2010).

Nana Enu explained the significance of the color white in funeral cerebration as follows:

White is the color for victory or success. In the past, we used white clothes for the funeral celebration of elderly people who had all the attributes that made them potential ancestors. The trend has changed now. We use black and/or red for the burial and sitting in state, and white for thanksgiving services. Since thanksgiving is the climax of the rites it would be expected that once the widows continue to perform the widowhood rites, they should not put on white until they have completed the rites (Personal communication with Nana Enu, January, 2010).

Nana’s response shows how Christianity has influenced the cultural practices of the people. Christians combine their rites with those of indigenous traditions. Thanksgiving service is a Christian rite. The Bible does not prescribe any color for it. Because white color signifies victory and success, among the Fantse, it is a way of expressing a successful completion of the rites just as Nana Enu explained as the significance of colors in the performance of funeral rites.

Though my participants did not highlight the symbolism associated with color, it is worthwhile identifying it for the purpose of this work. My personal observation is that the Monday or Tuesday after the thanksgiving ceremony is used for observing what in Akan is known as the *adaduanan* (fortieth day) rites. Even though mourners use white cloth for thanksgiving, they use black and or red for the *adaduanan*. How then do Christianity and indigenous culture draw the symbolism associated with colors and the climax of funeral rites? I will examine the significance of *adaduanan* in the judicial system of the Akan shortly in this chapter under the research question four.

Many people have described widowhood rites as cruelty against women. Human rights activists, especially the women’s rights organizations, called for a ban on them. A
law was enacted to criminalize the cruel aspects. However, as will be seen from the following discussions, both men and women observe widowhood rites, though cultural practices such as polygyny and the situation where husbands are often older than their wives generate more widows than widowers, and therefore make it more of women’s issue.

When I sought the views of my participants about the rites, they were divided on whether to maintain them as it was or maintain them with some changes. None said they should be totally abolished. The following responses capture their experiences, the extent of change, and their views about them. Mrs. Buako, who feels that the widow should have a free choice, stated:

I did widowhood in the Christian way. When my husband died his relatives wanted me to remain at home at a point in time. I wanted to travel to Accra but my husband’s sister told me not to do that, but to stay at home and receive sympathizers. I went any way. We do not have to worry ourselves with unproductive things associated with the culture, for instance staying indoors, letting someone cook for us, etc. The widow should be free. Fantse culture demands that widows give the clothes they used for the rites to their aids. The reason is that since it has been used for cleansing, the cleansed person should not use it. I feel that a widow should not give her cloth to anybody. I washed mine and I use it when I feel like using it (Personal communication with Mrs. Buako, February, 2010).

Mrs. Buako’s response shows some form of cultural resistance. Her reason is the need for freedom for widows. She wants the rites to be performed in line with one’s religion. It would be interesting to have a description of what the Bible prescribes as widowhood rites. However, it seems nothing of that sort exists. Every church has its own traditions and the churches prescribe what should be done. This is a clear picture of adaptation of culture. Her response also shows ways by which women entrench some of
the cultural practices that affect women negatively. For instance why should her sister-in-law insist that she stayed at home to receive sympathizers, when she also had to prepare towards the funeral. Her resistance seems to be a call for adaptation and not a total rejection of the culture because she goes through the rites the way she deems fit. The power relations being drawn here is that a woman can be assertive if she has economic power. This is a business woman who would not depend on anybody for economic support.

Furthermore, the extent to which the factors of social change can combine to free people from some of the cultural practices that create obstacles becomes manifest. In other words, any single factor of social change cannot free people from traditional ways of life on its own, but a combination of all, including the level of education of the woman and her parents, especially her mother, and their economic powers. Mrs. Buako had the support of her mother in all her tribulations. This is typical of Fantse mothers. They are always ready to help their daughters as have been described earlier about how they help their daughters to take decisions on marriage proposals. If a woman is educated and her illiterate mother wants her to go through the rituals the woman is likely to do that as a sign of respect for motherhood. Felicia had a similar opinion. She stated:

I think people have the choice. It is theirs. I did not go through any widowhood rites but I will not disclose this to anybody in town because it may lead to problems for me (explains why she does not want to disclose off record). When my husband was laid in state I sat by the corpse. I was given the opportunity to part ways with him before he was laid in the coffin (Personal communication with Felicia, February, 2010).

Felicia’s statement shows how people misconstrue widowhood rites as the painful ones that women go through. She describes aspects of the widowhood rites which seem
to be the basic trends but she does not see it as widowhood rites. Sitting by the corpse while it lay in state is how widows perform funerals for their departed spouses among the Fantse, as will be seen in all the responses. Agatha had a different opinion. She argued that widowhood rites should be maintained:

Widowhood rites are traditional practices so I felt that I should do it. My friends and relatives supported me to perform them. I thought it was idolatry but after I had gone through it, I realized that it was not. I also realized that it was not as painful and cruel as I had thought (had been made to believe) (Personal communication with Agatha, February, 2010).

I do not think that there should be any change in the way widowhood rites are performed. I did not encounter any difficulties when I performed mine. I had the support of my friends and relatives. I did not spend so much money. It is good because it makes the widow get the necessary support at a time that she needs it most.

Agatha’s response shows that she favors the performance of the rites, because it is not as cruel as she had been made to believe, and that she enjoyed the support of friends and loved ones who were often around her while she was observing the rites. Konuaba’s response seems to support Agatha’s. She stated:

It is worth going through the rituals. It is just like the routine rituals that a woman goes through when she delivers. It cleanses her. It makes people in the community have a share in your situation. They sympathize with you and rejoice with you. After that they accept you as the way in which you were before you entered into the state that you temporarily found yourself.

Some people describe it as fetishism but whatever the situation, they perform them. I do not agree with them because whereas they are apprehensive about going through the widowhood rites, they enjoy the rites they go through when they give birth. There are similarities and they almost follows the same procedures. For instance, a woman who has given birth, remains incarcerated until the child is outdoored. She invites people to join her to celebrate the birth, a joyful mood that all must share (Personal communication with Agatha, February, 2010).
Konuaba’s response depicts the concept of communalism as described in the previous chapter. A mother should not celebrate the birth of a new born child alone. Similarly a widow should be supported to endure the pain associated with the loss of a loved one. She wants it to be maintained because it is the people’s culture. Asafuaba wanted the rituals to accommodate Christian principles. She stated:

When [my husband] was laid in state, I sat by him. I could only leave the place to attend to natures call. Wherever I went, I was escorted by an elderly woman who had also observed the rites. She was my aid and guardian throughout the period. I lived in my father’s house till the corpse was brought in. On that day, I left my father’s house for my late husband’s house. I and my relatives joined his when he was laid in state. While the body was being taken to the cemetery, I was led to the beach for ritual bath. After that I was led to my husband’s clan house and then to my house. My church members accompanied me on these rounds. On Sunday, I went to church. After that I went to all the traditional religious houses so that the elders would pray for me. After that, it was all over. When you are going through the religious houses, you take along tobacco, ehon leaves and coins. The religious leaders take a bit of the items you are carrying in your hands. Then you place a coin in front of him and he steps on it three times. After that he shakes hands with you and ushers you into the house. He goes round with you three times and then prays for you that such a calamity will never befall you again. After that you shake hands with all the people in the house. I cannot say that any part should be taken off, since it is the culture. Once you are a widow you have to do this. However, for those of us who are Christians, we should not be made to go through these rites. They are the customs of the people. Those who are not Christians can observe it. Once my stains have been removed through rituals by my church I should be good to go (Personal communication with Asafuaba, February, 2010).

Asafuaba’s response shows the significance of the rites in cleansing a widow for both Christians and traditionalists. She does not explain why she has to perform the rituals in both customary and Christian traditions. However, it is significant here that the widowhood period was relatively short. This raises some questions. Was it because she combined traditional cultural practices with Christianity? Sam too combined Christianity
with indigenous culture. His description helps to infer from tradition and modernity as we shall see in the following accounts:

I sat by [my wife’s corpse] while she lay in state. While she was being taken to the cemetery, two old women, who had also gone through widowhood rites led me to the beach. They dipped me three times in the sea.

My wife’s relatives gave me a share of the eguradze (toiletries) that I presented to them, for preparing the corpse, so that I could use it for the widowhood rites. While returning to town, I had to take a long route in order to avoid some houses that have traditional religious significance – houses that have traditional stools (residence of a chief), house that have asafo whips (residence of Asafo leaders), shrines and residence of traditional priests. I was spiritually unclean so I avoided these places in order not to desecrate them. The penalty for such offence was to slaughter an animal for cleansing those places.

We went to my wife’s house first and remained there for two days. After that, I went through town barefooted, particularly to those houses of religious significance to shake hands with the people there. I carried in my hands three items – tobacco, ehon leaves (commonly used for roofing sheds), and coins. At the entrance to the house, the person who led our party, knocked and sought permission from the occupants to allow me into the house. One person, usually the office holder, came out to receive me at the gates. He or she took bits of the tobacco and ehon leaves and stepped on the coin three times. They ushered me in and prayed that I should not go through such a calamity again. While observing the widowhood rites, my wife’s relatives provided me with foods for a week. After that they gave me a fowl for the ritual food and that ended the rituals (Personal communication with Sam, January, 2010).

Sam’s response corroborates that of Asafuaba. However, whereas Asafuaba went to the “sacred” houses on a Sunday, Sam waited for two days (Tuesday) before doing that. Tuesday is significant in that it is regarded as the resting day for fishing communities. It is the day on which many rites and rituals are performed. It is also the day that many people are likely to remain at home, especially in the morning. On his views about keeping the rites, Sam stated:

It is not good, but once our elders brought it we have to do it. All those who go to church do it the traditional way. Therefore, Christians too observe it. If you do not do it your movement is restricted in the town. You do not have to come into contact with places of spiritual significance, for example, the palaces, and houses
with sacred stools, whips, or drums. If you do that, you would be charged in the chief’s court; and the penalty will include offering an animal for sacrificing to cleanse the sacred places.

I wanted to purge myself of the evil that follow me. I have to follow the customs associated with this. It is all about cleansing and purging one’s self from stains of evil. I strongly believe that these could be done by offering libation (Personal communication with Sam, January, 2010).

The response show that in as much as people do not want to go through the pains associated with the rituals, they were ready to perform them because they believed it was a way of cleansing them. One may wonder how a person who feels spiritually unclean will not allow himself to be purged. However Sam’s response shows clearly that he was not against cleansing but the mode of doing it. He suggested that libation should be enough for a purification rite.

None of the participants mentioned above identified any cruel thing in the rituals that they went through. They rather mentioned the pain of walking through the town and visiting houses which have religious significance within the social systems with some calling for removing that aspect. Asafuaba did that but she did not say it was cruel. Whereas Sam stated that he did his rounds barefooted, Asafuaba never mentions that. Though, most often footwear is not permitted in houses that have religious significance, there is the high possibility that either the members of the party took their footwear off before they entered the religious houses or were permitted to enter with their footwear on.

However, it is worthy of note that of all the descriptions provided so far, Sam’s was more painful. Kobina, another male participant went through very cruel rites. He did it about 22 years ago. He gives the following accounts:

When my wife died, I went through widowhood. I stayed within the confines of my house for one week, after she had been buried. I stayed away from work for
one week. The women in my lineage cooked for me for that period. In those days the rituals involved the carrying of fire in a pot. I had the support of people who had gone through the rites. With those supporting me, we gathered fagots and lit them in the night. I sat by the fire. I could not move anywhere. I could not even leave the fireside to pass urine so I had to do that by the fireside. The fire was set in an open space. Whenever the fagots were charred, I had to collect the fire with my bare hands and throw them in all directions around me. Around 4:00 am, I carried the fire (char) in a pot to the outskirts of the town and dumped it. After that water was poured on me. While I was carrying the fire someone took the lead announcing that no one should come into contact with me. In other words, everyone should avoid seeing me because I was [supposedly] unclean.

After I had dumped the fire, those who gave me support took me to the beach for the ritual bath. I was immersed into the sea three times and each time I was returning to the shore, I had to move backwards. They shaved my pubic hair and cut my fingernails. After the ritual bath I went to the town center (public square). Some people had gathered there and were drumming and dancing. They were people who had also gone through widowhood in their life time. I joined in the dancing. They brought me home and I handled money for the first time, since my wife died. My guardian (for the rites) gave me money on three occasions. Each time he gave it to me, I dropped it. It was only at the third time that I took it for keeps. Finally, I ate the ritual meal, prepared with chicken (Personal communication with Kobina, February, 2010).

 Asked why he had to go through all these and whether he was forced, Kobina responded:

I did it for myself and the community. I was told that if I did not do it some calamities would befall me. I had seen people who had refused to go through the rituals and their lifestyles were nothing to talk about. Such people were often haunted. We can adopt the Christian rituals and discard some of the traditional ones such as the carrying of the fire (Personal communication with Kobina, February, 2010).

All the responses show the significance of the rites – a purification rite. The mention of the community makes it a taboo. In that case failure to perform will mean denigrating the entire community (Sarpong, 1974). Many participants talked about the need for changes, especially changes to accommodate other religions, specifically Christianity. None of them wanted the rituals to be totally abolished. It is worthy to note that the males went through more painful experiences with regard to the widowhood rites.
This offsets the situation where social problems are presented as those for women and thus ignoring the part of men for solving the problem.

Surprisingly, majority of the participants mentioned Christianity as the major factor of change in the performance of widowhood rites. Only three participants mentioned the enactment of the law as the possible cause for the changes. It could be that people were not aware of the law or the changes had taken place before the laws were enacted. It will be interesting area for research to find out the effectiveness of local and national laws. The situation in Mankesim where the state organizes ritual cleansing for all widows is worth studying. Nana Amisah attributed the change to Christianity and enactment of law and described how she has effected a change in her own way to maintain the rituals while at the same time making it more of fun. She stated:

In the past many people involved themselves in obtaining magical powers. There was fear among the people that others would use such powers to wreak havoc on them. Because of fear many people had to go through a number of cruel treatments at certain points in their lives as a way of atoning for their sins and seeking mercy from the supernatural. Now with Christianity, many people have shed the fears and so society is gradually discarding some of the cultural practices, which they used to carry out because of fear. I had heard that so many cruel things were perpetrated against widows but since I became a queen mother I have not heard of anything of that sort. There is now education of the masses so such cruel treatments, even if they exist, will only occur in isolated case. Besides, the enactment of government laws has also brought about sanity in the society. We are hoping for the day when many people, especially women, can rise up and speak their minds out. With my elders, we have now instituted a cleansing ceremony for all widows in the traditional area as part of the program for our annual festival. They gather at the Okye River for the ritual bath. After that brass band music is provided to usher them into the Mankesim Township. It is full of fun (Personal communication with Nana Amisah, February, 2010).

Nana Amisah’s response highlights the glorification of deviant behavior as the norm. When some people misbehave towards others and nobody stops them, the victims
may turn their anger on other people. If this is not stopped it may become the emerging
trends of the social order. The abuses that people go through are distortions of the
tradition and confirm Ollenu's (1962; 1968) argument that because customary laws are
not written, some people in authority tend to distort it as they interpret it. This provides
food for thought for researchers and those who may have something to with policy
making and enactment of laws. She also makes a number of suggestions for effecting
social change. These include the need for freedom from fear (which many participants
shared), education, the enactment of laws and the need for victims of obnoxious cultural
practices to wake up and speak for themselves. She does not mention the need for one to
lead in the crusade though she has led the way. Thus she reinforces the collective
approach to effecting a change as exists in indigenous Fantse social and political systems.

Summary

The family continues to be the main unit of social organization among the Fantse.
The responses identify the sub units, made up of the nuclear or composite families and
the lineage and clan, play their respective roles in social organization. Another thing that
the responses manifest is the breakdown of the transitional process from the primary unit,
the nuclear or composite family, to the lineage and clan. As noted earlier, rights and
obligations interplay to bring out the concepts of reciprocity and communalism within the
family. All the sub units are very important in entrenching these cultural values. People
who try to downplay the importance of the lineage and clan are brought to order so that
they begin to appreciate these units. These entrench the cultural practices.
One other thing that emerged was the upholding of traditional Fantse cultural practices. Many respondents favored changes in the way things are done and the need for people to choose what they felt was good for them. The responses confirm the strength of the cultural practices as a tool for entrenching identity among the people, as most of them claimed that the culture should be upheld. Though respondents suggested the need for changes, they did not identify the need to enact laws to effect these changes. Their responses rather suggested evolutionary process of change that is more gradual and based on common sense understanding of the implications of the cultural practices. This reinforces the dynamism associated with culture. Therefore, a concerted effort is required for effective social change.

Respondents identified Christianity as the main factor of social change in the social organization. Other factors that they identified were education, core-periphery relationships, and enactment of laws. I expected national laws to have more prominence in the factors of social change but this had less prominent. Since national laws set the frame for education, and both influence the role of the family in social organization, I will examine the influence of the national laws in the next section.
Chapter Seven: Influence of National Laws On The Fantse Family Systems

The fourth research question sought to examine participants’ knowledge about inheritance and succession laws associated with the various types of marriage and participants’ views about the intestate succession law (PNDCL 111) and its re-enactment. The major question that I used to solicit information was “How effective is the Intestate Succession Law, on the customary practices of the Fantse?” This research question was important in view of the Kom’s (1992) assertion that the Ghana Law Reports show that many cases on the Intestate Succession Law are still pending in the law courts. Besides, once in a while it appears in the newspapers that an opinion leader has said something about intestate succession that warrants a discussion by newspaper reviewers. It is worthwhile noting that most often the reviewers drew conclusions, some of which were hasty. Furthermore, at the time that I was conducting the fieldwork for this research, the Ghana branch of the African Women Lawyers Association (AWLA) had sponsored a new bill that sought to re-enact the law, and another bill for the spousal property law, as provided under the Constitution of Ghana (Article 22 (2). The themes that emerged were as presented in figure 7 below:
Changing Trends and Inheritance

In this section, I examine the influence of national laws on the inheritance systems of the Fantse. Of particular interest is the situation where property of deceased males passed on to their clan members is a real problem to men as well as women. In the case of men, it becomes more prominent in situations where they have a happy family resulting from a happy marriage. In such situations they identify the harm they have done to their wives by using family property. These were gathered from the responses of the widows. Both Asafuaba and Agatha espouse this as they recounted in their late husbands’ words to them. Asafuaba stated,

My husband did not make any will. However, he expressed his regret for not building a house that the children and I could conveniently occupy. Two weeks before he died, he told me that in future his relatives could take over the house. I
got to understand his words after he had died. I soliloquized if at the time he was
telling me this he was predicting his death and what would happen after that
(Personal communication with Asafuaba, January, 2010).

On Agatha’s part she stated:

During the last days of my husband’s life he used to weep bitterly. On several
occasions, he expressed his gratitude to me for all the care I had given to him. He
said he wished that he had built his own house which my daughters and I could
conveniently live in (Personal communication with Agatha, February, 2010).

Asafuaba and Agatha have one thing in common – their husbands fell ill before
they died. The deceased realized that they had no better chances of survival so they could
reflect on what would happen after their death. It cannot be said that people think about
life for their surviving relatives only when they are faced with death, in the sense that the
Fantse adage, innyim wu a hwe nda (if you do not know what death looks like reflect on
what sleep looks like), is a common daily expression. This adage is based on the
knowledge that one does not reason while asleep. One would be able to take decisions
after sleeping but not after death. Therefore, sleep is a milder form as compared to death.
This adage is similar to the English adage – make hay while the sun shines. It admonishes
people to be conscious of the future and prepare for it, instead of waiting until they are
confronted with challenges that they cannot address at that time.

I asked participants if they knew about the inheritance system associated with the
type of marriage that they had contracted. As they recounted the their marriage types,
none of them mentioned that they had registered their marriages under the Customary
Marriage Registration Law (PNDCL 112). Their responses showed knowledge of the
rules that exist under the traditional system of inheritance as well as the national laws on
inheritance. However, they were more inclined to the traditional system than the modern
system under the laws. Their responses also depicted gender inequalities skewed in favor of women in the traditional inheritance system. For instance, Mrs. Buako’s response was:

I was a wedded wife. I knew that by that marriage I was entitled to a fair share of my husband’s estate, but I was not interested in it. I realized that his clan members were covetous. I suggest that covetousness among members of clans should cease (Personal communication with Agatha, February, 2010).

Mrs. Buako response shows a deviation from the law. Under ordinance marriage a surviving spouse and her children were entitled to the estate of the deceased spouse. Perhaps her response was influenced by her view that a deceased belonged to a lineage and hence the lineage also should have a share in the estate of the deceased as we will learn later. It could also be that she was self-sufficient. She often expressed her strength in the fact that she was a trader and had economic autonomy. This presupposes that she and her husband never had a joint property. She now has her own house.

The question for discussion is whether Ghanaians who enter into ordinance marriage, which was borrowed from the British, maintain joint savings and acquire joint property as the British do. Acquisition of joint property by spouses was not a common practice among the Fantse. As I stated earlier, Ghana’s constitution charges Parliament to enact a law on joint property immediately as the constitution comes into effect. At the time that I was doing my fieldwork, the bill was being prepared for enacting that law. In the absence of a law on the property rights of spouses, the only available legal opportunity in case of divorce or death will be to apply the customary law. This means that one of the parties has to prove beyond reasonable doubt that the property was really acquired jointly. Ekua Amisah provided a response that describes the situation:
My husband and I bought a fishing net. When he died, his co-wife, who did not contribute towards buying it, wanted to have a share in the net. Members of my husband’s clan attempted to resolve the matter but could not. The net remained with them and none of us benefitted from it. My child was driven out from his father’s house on the grounds that he was disrespectful. He left with the net (Personal communication with Ekua Amisah, January, 2010).

Ekua Amisah showed the net to me. When I asked for events occurring after her son brought it to her house she answered:

Nobody has said anything, but unfortunately we cannot use it. It needs to be repaired before it can be used again. We have asked the one who sold it to us on credit to exercise patience so that we repay him (Personal communication with Ekua Amisah, January, 2010).

The problem arising is who owns the net. I am sure that the creditor could have attested if the elders of the clan had sought evidence from him. Is it possible that Ekua Amisah did not tell the elders of her husband’s clan? Could it be that the elders of the clan had refused to offer a fair arbitration because they seemed to be a party to the conflict? In the event that no one was able to prove that the net belonged to them, it would have been theirs, since under native law property devolves to the deceased’s clan. They might have also delayed judgment because they could not readily pay for the debt on the net. How would the law courts treat this if the case had been brought before it? What about the chief’s court? These are questions that will be important for policy or law-making.

Agatha presents another scenario where she and her late husband established an orange farm on a land belonging to the latter’s clan. She stated:

I have this problem but I do not know how to handle it. The land on which this building is sited belongs to the clan. I have heard that they intend to eject me at the end of this year. There is also another one which we have planted oranges. That one too belongs to his clan. I know the law, but I do not intend to do
anything because they may harm me spiritually. God will provide for my needs (Personal communication with Agatha, February, 2010).

Agatha expressed a genuine concern that baffles many people, especially women. The farm is on a family property, so naturally it belongs to the clan. Under customary law Agatha and her children have the right to keep the farm and have access to its proceeds but subject to good behavior. If, for any reason, members of her late husband accuse her of being insolent, then they can tell her to quit working on the land (Danquah, 1928; Kom, 1993; Ollenu, 1962, 1966; Sarbah, 2004). In a situation where a widow and members of the clan of her deceased husband are already involved in a brawl, as is the case with Agatha, the likelihood that the widow will be accused of insolence is very high. They may level this accusation right after the death of the husband and, therefore, may not even consider how they would take care of her or offer any form of help that custom demands should be accorded the widow. When this occurs, the widow’s toils in helping the husband to acquire property amounts to nothing.

Ekua Amisah’s and Agatha’s cases are clear manifestations of the problems that many couples encounter. They limit a couple’s ability and willingness to join hands to acquire property. With the developments where couples live more closely than the lineage members, should husbands and wives invest with their siblings? What about the situation where most lands in the rural areas belong to clans and the clans are not even prepared to sell them to individuals? These issues need to be examined for effective law-making.

Women’s economic autonomy has been documented by many authors including Field (1962), Oduyoye (1995), Okali (1983), and many others. In some fishing
communities the women do not only have economic autonomy but also they keep the sales from their husbands’ share of fish for almost a year before they render accounts to them (Hagan, 1983; Wilson, 2007). In these situations the rule of residence was duolocal and thereby made the women socially and economically autonomous. The autonomy of women is an area that needs further research in view of the emerging trends of gender activism and also in the of the demands of the upcoming laws, particularly the Constitution of the Republic of Ghana (Article 22) and international covenants and protocols, such as the Protocol on Women on the African Charter on Human and Peoples Rights and the CEDAW, which demand property rights of spouses. Women lawyers and other organizations in Ghana are advocating for the enactment of the enabling act.

There were mixed responses on the issue of fairness with regard to the question of how deceased spouses’ estates were distributed. The responses which emerged showed that, while the widows were either bitter or happy about the distribution, the widowers felt they had no business in their wives’ estates. For instance, Mrs. Buako stated:

They gave out only the old clothing that could not serve any purpose to my children. I expected [husband’s relatives] to give the best to our children. They should have sought the children’s welfare, by giving them the best of education since their relative [my husband] had laid the foundation (Personal communication with Mrs. Buako, February, 2010).

Mrs. Buako’s response seems to be in line with traditional Fantse socialization process that it is the responsibility of a man to educate his children since the period of formal education precedes marriage. It would be expected that a successor continues with the education of the deceased’s children. This is a good idea, but fancy a situation where the successor’s own children do not have the best of education. This situation needs
critical examination by policy makers. Agatha expressed a perspective similar to Mrs. Buako’s:

There was no distribution. Members of my late husband’s clan have taken over everything. They continue to sell the pigs that [my husband and I] reared, but I do not complain. My children and I did not benefit from his estates. For instance, my children could not use the clothes that he had left behind because they are females. We are living in this house because my children are too young to be on their own. Members of my husband’s clan have told me that the land, on which the house was built, belonged to my husband’s grandfather so the children can live in this house till they become adults and get married (Personal communication with Agatha, February, 2010).

Agatha’s response shows the traditional Fantse social systems where property of a clan cannot be alienated and the concept of adulthood which is tied to marriage. In any case the children have right to be cared for by the successor. Under customary law, the successor has to use the proceeds of the piggery for the children’s education. This is a clear case of deviant behavior on the part of the members of the clan.

The response also raises some questions about the rights of Agatha’s husband to build a house on that plot of land, not forgetting that the Fantse are not patrilineal. Agatha explained, “His grandfather passed it onto his children as a gift. My husband could build on it because that right was passed onto him by his mother and her siblings.” This explanation shows a shift in ownership from the grandfather’s lineage. I sought clarification of this from a number of elders and the common explanation was that once the siblings did not divide the plot among themselves, it became their joint property and therefore devolved automatically to their lineage. As a lineage property, the males among the siblings could not pass it onto their children. The females’ children could use it.
Hence, Agatha's husband could not pass it to her children, because his children are not members of that lineage.

The other concern is the relationship between national laws and traditional laws in the face of legal pluralism. With the national laws setting the age of adulthood at 18 years, some members of Agatha’s husband’s clan may contest the legitimacy behind her daughters’ stay in that house in the near future. This, as will be examined later in this work, shows that the modern laws are not always in the interest of the child. Meanwhile, an examination of some of the other atrocities being meted out to Agatha will suffice here. She stated:

One day they told me that they had some visitors and would like them to lodge in my late husband’s room. When the visitors left and they gave the key back to me, I realized that the mattress and some gadgets, such as the boom box, video deck and many more, had been taken away. I have never asked why those things are not there (Personal communication with Agatha, February, 2010).

Once again Agatha’s husband’s relatives are exhibiting deviant behavior. She is encouraging them to put up such behavior since she does not complain or ask questions. By failing to ask where those things are, she can be accused of stealing them or being negligent. Under normal circumstance an inventory of the property of a deceased is taken immediately after the death is reported, and the key is given to the head of the lineage or any person assigned by the lineage. It is never opened until after a year. If for any reason it becomes necessary to open it, all the parties that took the inventory need to be present before it can be done. It is possible that because she did not raise any concerns, they know that she cannot do anything.
One who is not well versed in the Fantse culture may wonder why Agatha and Mrs. Buako mentioned clothes as inheritance or why used clothes could became a problem in sharing a person’s estates. The clothes that are normally distributed are rich traditional clothes, which the Fantse cherish because the present generation may not have any. Keeping such things means the keeper is trustworthy. Therefore, it becomes prestigious when one wears them. However, after those clothes have been carefully distributed, people present are allowed to pick whatever they want before the rest are disposed of.

Considering that the widows and their children did not get a fair share of the property, one wonders whether that is evidence of deviant behavior on the part of the deceased’s lineage or that is the norm. There is the likelihood that it is not the norm because, if it were, they would have not complained about that. Furthermore, there are situations where widows get a fair share of their husbands’ estates as Chief Seidu, Nana Eduafo and Nana Enu have stated. The accounts of the other widows and widowers about how their late spouses estates were distributed buttress the point that the chiefs raised that it all depends on the members of the deceased’s lineage. Mercy stated:

My late husband’s younger brother, who succeeded him, distributed the property. I had a room from the estate. I did not have any child with my late husband. However, he had children with other women whom he had divorced. Each set of children had a room. Everybody was content, nobody complained. Yes, I was content with the distribution (Personal communication with Mercy, February, 2010).

Though it could not be ruled out that some people might not have been content, Mercy might be imagining that everyone was content, but it could be that some people complained. Some might have complained that their set of siblings was larger than the
others and should have gotten more than a room. If Mercy were not the only surviving wife who was still married to the husband, what would have been the implications? Would the others in her category receive a room to themselves and a room for their children? These are issues that other people will examine for the sake of equity, fairness, and justice.

Another widow whose husband’s estates have not been officially distributed but who has access to what the husband left behind is Felicia. She stated:

No distribution [of my husband’s estate] has taken place. I am still using the electronic gadgets that we used, and living in the rooms that we lived in. His younger brother who is the successor provides for my children. For instance during the Christmas he bought some dresses for them. He also has children but he provides for his as well as mine. My late husband’s relatives help me and I also help them. In my case I still provide for his parents when I can. My husband used to provide for them when he was alive, so I see it as a moral obligation to continue with that (Personal communication with Felicia, February, 2010).

Felicia’s response depicts the moral values espoused in the indigenous culture of the Fantse. She values the need for a symbiotic relationship and peaceful co-existence between spouses and the clans of their partners. Her values confirm the traditional Fantse principle that a marriage is not between the couple alone but draws a network of kinship relations with their associated rights and responsibilities that are couched in reciprocities.

The widowers’ responses also show that customary laws on inheritance were skewed in favor of women. Whereas a wife could benefit from the estate of her husband, a husband had no business in his wife’s estate. The way all the participants reacted to my questions about the benefits a man could derive from his wife’s estate showed that it was unheard of to think about that. For instance, Kobina, a widower, stated, –No, a man had
no business with the estates of his wife” (Personal communication with Kobina, January, 2010). As to how his wife’s property was distributed he stated:

They did not open my wife’s boxes in my presence. As a man I had no business to do with my wife’s property. However, I expected that her relatives would take care of our child who was eight months old at that time. They did not, so my mother took care of him. This was unfair (Personal communication with Kobina, January, 2010).

Kobina’s feeling that he has no business in his wife’s estate stems from his value that a man should rather help the woman since he is physically stronger than she is. He justified his discontent for his late wife’s relatives for not helping him to raise the son despite the fact that a child belongs to the father until he marries. He stated, “My wife’s successor should have played the role of a mother to our son. After all, he belongs to their lineage and will be incorporated into it at the appropriate time.” As I discussed earlier under social organization (in this chapter), parenthood is a shared responsibility between a wife and her husband, notwithstanding the support systems that their lineages have to offer. Furthermore, the support systems that the lineage members provide in terms of gender roles is not associated with the sex of the provider, but rather, the sex of which of the parents the person is related to. Thus, a father’s sister is considered as a female father. Her support is considered as a paternal role and not a maternal role, because she does it on behalf of her brother. Therefore, by failing to do this, the maternal family of Kobina’s son has evaded being party to the boy’s socialization process. In future, will he seek incorporation into her mother’s clan – a clan which had failed to take care of its prospective member while he was a child?
The responses that followed the questions to the widows as to whether their spouses left any will and the type of will associated also captured how skewed the Fantse culture on inheritance is in favor of women. Sam, also a widower, responded:

No, my late wife didn’t make a will. I have never heard of women making wills. I do not have one either. My wife’s family members have not informed me of when they will open the boxes. I am not interested in it because it is a lineage affair. If I were to die first, part of my property would be given to her. Since it has turned the other way round I do not think there is anything of hers that will be given to me. Even, I don’t think I need them. If I die, a third of my estates would be given to my children. It is now a national law that children should be given a greater portion of their deceased father’s property. The people of Dago have accepted this law and so they abide by it (Personal communication with Sam, February, 2010).

Sam’s response seems to confirm Kobina’s that men do not bother about getting a share of their late wife's property. His claim that he has never heard of women making wills may look myopic. However, the claim that he does not have one either creates the impression that wills may not be common, but even where they exist, it is always the men who make the will. This was buttressed by the responses of the widows. For instance Gladys, a widow, narrated how she lived with her late husband and the fact that the husband did not make a will:

No, my husband did not make a will. He died at age 45. He selected his brother as the next of kin for his Social Security Pension Scheme, so his brother took everything. I had a child who was below 18, so he was given part of that money. My late husband had a house in this town, but his relatives took over it. I never lived in that house. He used to work in Abura Dunkwa. He lived in a rented premise over there. I lived here with my parents doing my business. I sell fish in the Mankesim Market. I travel to other places to trade (Personal communication with Gladys, February, 2010).

Gladys’ response shows the attitude of people towards the records that they keep. Many people begin to work and contribute to the pension scheme when they are single. When they marry they do not change their records. They procrastinate and never get it
done. The office of the social security pension scheme has been educating the public to make changes on their documents whenever their statuses change. It will be interesting to know how the pension scheme resolves such anomalies in the face of the Children’s Act which states that children have inheritance rights to their parents’ estates (Section 7) and the Intestate Succession Law which attempts to distribute the estate of a person who dies intestate. The question that arises is whether a declaration on the Social Security Pension Scheme be regarded as a will. And if a person fails to give a fair share of the pension to his or her children, what happens?

The response also shows the ramifications associated with a typical duolocal type of residence. Though they were married, each lived in their own houses. I asked Gladys how she related with her husband. She answered:

I used to visit him on regular bases. He also used to come home frequently so all was well. If I had gone to live with him it would have affected my business. I am a market woman and so relocating would have created problems for me. Once we did not live together, even while he was in this town, there was no urgent need for me to join him when he went on transfer (Personal communication with Gladys, February, 2010).

Duolocality, as conditioned by Gladys’ marital life, depicts more of women’s autonomy. This has the potential to raise questions about bequeathing property to women because duolocality may not enhance joint acquisition of property. Each of the partners may be more inclined to their natal families, and, in many cases, the business they engage in may be a cooperative venture with lineage members. However, spouses may consider acquiring a joint property when they decide to pool their resources together. They may build a house and change their rule of residence after marriage to neolocality.
When I asked Gladys if she ever made a will her answer was, “Make a will for what? What would I have given to my husband? Is he going to wear kaba soot (women’s traditional clothes)?” Konuaba, also a widow made a similar remark. She exclaimed, “What, will a man put on kaba soot?” These responses buttress Sam’s claim that he has never heard of women making wills. It cannot be the case that women do not have the resources to acquire property because, like Gladys, many Fantse women are traders. Rather the devolution of their estates does not create as many problems as that for men because women’s property devolves to their children if the children are old enough to take them up; otherwise it goes to their sisters. The risk is that their estates may be administered to the detriment of their children if their successors do not care about their children’s welfare.

As the issue of wills generated a gender response just like the distribution of a deceased person’s estates, I became more curious about wills. The women felt their husbands should make wills. The men did not dispute the need for them to make wills. However, they were apprehensive of making wills as their responses showed. For instance, Ebusuapanyin Ababio stated, “We advise members of our clan that they should make a will immediately they start working. However, a will is a secret document. They are often in favor of children.” Another head of clan, Ebusuapanyin Apprey, mentioned the secrecy associated with a will. He explained the need for secrecy as follows:

A will is a secret document and should always remain as such. Since secrecy cannot be maintained for a longer period, people should wait until their old age and keep it a secret from all those who are likely to benefit from the property. If they fail to do this, they risk dying earlier than what their maker has ordained (Personal communication with Ebusuapanyin Apprey, February, 2010).
Pressed for more explanation he stated:

If sons and daughters are aware of the property that has been bequeathed to them they may be eager to have them even when their father is still alive. In that case if the man is in his old age, then they may create problems for him to die. You cannot overrule a situation where a woman and her children can give a man ‘slow poison.’ I have heard of a situation where a woman grounded some bottles and added it to a man’s food. The man died gradually (Personal communication with Ebusuapanyin Apprey, February, 2010).

In the absence of wills, and in a situation where making of wills is seen as a man's business, and in a situation where people have benefitted directly and indirectly from other people’s estate, will it be prudent to advocate a reversal to the traditional system of distributing estates? Because this seemed to be the trend, I found out from some elders why males do not want to have a share of their wives’ property when their wives died. They asked me if I would like to take over my wife’s property if she died before me. They said that the social structure dictates that the older person should always give out something to the younger person until the older one is indisposed. In a marital relationship the wife is often younger than her husband. They reiterated that a man does not have any business to take over any property that belongs to his wife. He has to identify the potential to acquire a property and ask his wife to help him acquire it. After that he also has to help the wife to acquire her own property but not take away her property. That will be exploitative. Furthermore, Ebusuapanyin Amfo explained:

At times, we advise the entire membership to make a will. However the onus seems to fall on the males because, in the case of females, their own children are likely to succeed them. This does not generate any problem, but for the males, either a brother or sister or sister’s son succeeds him (Personal communication with Ebusuapanyin Amfo, February, 2010).

It will be recalled that participants’ responses to the values attached to marriage included acquisition of property. This was evident in both the responses of males and
females. Therefore, it can be concluded that these are the dynamics of property acquisition. A woman helps a man to acquire property. Then a man also helps her to acquire her own property. This is a kind of reciprocity.

Every society is bedeviled with deviants, and, therefore, merely offering the platform to create a harmonious situation does not mean that everybody will abide by the laid down procedures. Nana Enu described how such conflicts can be resolved:

The clans resolved their own conflicts. Chiefs cannot intervene because it is a clan affair. The clans handle these without many problems. In the past people used magic if they were not content with the resolution of such conflicts. Whenever magic was invoked, it often resulted in deaths (Personal communication with Nana Enu, January, 2010).

One wonders if magic results in cohesion, equity, and justice. However, the fear of the possibility of an opponent in the feud could also deter people from misbehaving or cheating. In effect, the possibility of invoking magic served as a social control mechanism that ensured that people put up appropriate behavior for cohesion among the lineages who are parties to the funeral and everything associated with it such as the distribution of estates. It is worthwhile that, in spite of all, these people may choose to bypass or dishonor these procedures. Therefore, it behooves the clan to resolve the disruptions that occur.

From the previous responses participants mentioned that they did not intend to follow the legal battles because they wanted to be safe. This presupposes that magic does not result in equity but in survival of the fittest. The implication of this is that, even where people are sure that the law backs them, they will prefer to live in peace. The law is practicable only when it is invoked, otherwise it serves no purpose. Chief Seidu
described how he and his elders resolved such conflicts: “When an aggrieved person lodges a complaint, my elders and I listen to the substance and advise the parties accordingly.” Similarly, Nana Amisah stated, “Nobody has reported such cases to my court. In fact I do not have any answer to this question. However, if that happens we will listen to the substance of the matter and put things in their right perspectives.”

The responses from Chief Seidu and Nana Amisah are more in line with restorative justice – a situation which does not necessarily inflict any form of suffering on the part of the perpetrator but restores the previous relationships between the feuding parties that had been shattered. This justice system is inclined to the deliberative principles reminiscent of Fantse traditional systems. Feuding parties are likely going to use this system to forestall a strained relationship between them. However, Chief Anderson provided another alternative. He stated, “People don’t report, but they have to report to the chief’s court or CHRAJ. This depends on where they are sure of getting the best of justice.” Perhaps, Chief Anderson prefers the CHRAJ to the law courts because it uses the principles of alternative dispute resolution, which is more restorative than retributive. The CHRAJ uses retributive justice only when the feuding parties fail to agree.

The responses above show the rural/urban disparities. Chief Seidu’s town, Baifikrom, is a rural one where the services of the law courts are not readily available. There is the likelihood that the inhabitants will use the chief’s court to seek redress unlike in the urban centers where the services of the law courts and the CHRAJ exists. Even though the PNDCL 111 entreats people to seek justice in the law courts, people will
prefer to go to CHRAJ because of the reason above. This conforms to Durkheim’s admonishing for the need to re-examine the law from the popular beliefs of the people, the origins of the beliefs, the historical circumstances within which the rules have been promulgated, and the authority behind them. It will be recalled that at the time the PNDCL 111 was enacted the CHRAJ did not exist, hence, the need to seek justice from the law courts.

**Knowledge about the Law**

Most of my participants (but three persons) said they had knowledge about the Intestate Succession Law (PNDCL 111). Those who said they did not know about it were able to tell me some aspects of it. However, only a few could really tell me the salient points raised in the law. It also emerged that nobody among my respondents knew about the bills for the spousal property law and the restatement of the intestate succession law, though both bills had been laid before Parliament since October 14, 2008 and subsequently, referred to the Constitutional, Legal and Parliamentary Affairs Committee for its consideration and report. Surprisingly, the Intestate Succession Bill had gone through the first reading out of the required three and was about to be read for the second time. The good thing I learned from participants was that even those who indicated that they had no knowledge about the law could say something about it. For instance, Kobina stated:

All that I know is that if I die without a will my wife and children would take over my property. Rawlings [the former head of state] changed it. They explained that the property is divided into three; a third each for the children, the wife and the lineage of the deceased (Personal communication with Kobina, February, 2010).
Kobina’s response is typically what the lay person would tell you about the law. At least many people from the matrilineal societies now know that, with the law, their spouses and children can benefit from their estates, unlike under the customary law where they had no legitimate right to inherit. Therefore, for men like Kobina, they need not worry about giving out the property as a gift in their life time. What about women?

Agatha stated what the law has for her, in her capacity as a widow:

I know that if a late husband’s relatives disturb the widow she can take the matter to the law courts. I know this, but I do not intend to do anything because they may harm me spiritually. God will provide for my needs (Personal communication with Agatha, February, 2010).

The fear of being harmed seems to be the concerns of Agatha. This often prevents people from seeking redress from the law. What other reason do people have? Gladys provides another perspective, perhaps the more socially common and acceptable reason:

I did not know of any law when my husband died. I hear people talking about it but what is a law to the person who will never get access to it for some reasons which I do not want to talk about? (Personal communication with Gladys, February, 2010).

Gladys’ concern runs through many of the responses. It seems that when people are distanced from the domains of the law, especially when they cannot seek redress, they do not even bother to find out the details and, more importantly, ways of seeking redress through it. Like Agatha, Felicia’s knowledge about the law is from hearsay:

I learnt the government has brought a law that permits property to be divided into three so that the spouse can have a third, the children a third, and the deceased’s family a third. This is what I know about the government’s law (Personal communication with Agatha, February, 2010).

There are others who have shown interest in the law because there are avenues for them to learn more about it. Mrs. Buako is one of such people:
Yes, I know the law. I belong to the women’s group in my church. We invite resource persons to speak to us on the topic, and we go for counseling, so I have heard a lot about it. I know a bit about the mode of distribution. The law divides the property into about 16 parts depending on what is available and who are the parties. It is difficult to recount what the law states, but the divisions and the scenarios are very clear in the law (Personal communication with Mrs. Buako, February, 2010).

Mrs. Buako exhibited thorough knowledge of the mode of distribution as stated by the law. Attributing her knowledge to availability of opportunities to learn and follow ups in the form of one-on-one counseling, she was able to examine the implications for people’s actions with regard to the law and advocated an objective way of handling it so that everybody can benefit from it.

There are others who have a fair knowledge of the law but feel that it is difficult to apply. Therefore, they have to weave around it and make it simpler to apply. Ebusuapanyin Kodwo Amfo and Nana Enu are some of those people. “The law provides for distribution based on fixed percentages. It is difficult to apply them,” Ebusuapanyin Amfo said, but could not identify any difficulties associated with the law. However, Nana Enu provided the general difficulty associated with the distribution formulae. He stated, “Yes, there are some percentages for the distribution, but these are not practicable. It would be simpler if the distribution adopted the 1/3, 1/3, 1/3 for sons and daughters, wives, and the lineage.” Chief Seidu and Nana Eduafo stated that when faced with the law they would listen to the substance of the case and advise accordingly. However, in the course of the interview, Chief Seidu also stated, “We go by the law. The only difference is that we have a different formula for sharing. In our case it is 2/3 for the
children and spouses and 1/3 for the lineage.” On Nana Eduafo’s part, he stated, “We do not use the law. We do not go by the formulae for distribution. We weave around it.”

The responses from Ebusuapanyin Amfo and Nana Enu stem from the fact that they come face to face with the law as they apply it. However, with the responses, especially that of Nana Eduafo, one needs to be careful in admitting that the law is being applied. Suffice to say that it does not provide for a third each for the identifiable beneficiaries, but the —1/3, 1/3, 1/3” formula seems to be popular among the people. What boosts such a formula to be so popular? Every society makes laws based on its history and culture (Friedman, 1977). Therefore, it becomes easier to apply a law when its tenets conform to the culture. Consequently, examining the social systems to identify a possible linkage with the one third as a formula will be interesting here.

Christensen (1954) stated that during the period of the trade with Europeans, non Fantse merchants made wills devolving their property to their children and wives, while the Fantse merchants adopted the —1/3, 1/3/, 1/3” formula. Danquah (1928) identified a similar situation where the Presbyterian missionaries ensured that property devolved in that formula. A quick examination of the implications of this is important. The parties mentioned; the merchants were often married under the Christian or ordinance marriage, for which property devolved to wives and children as provided by the Ordinance Marriage Law. Why did the Fantse merchants circumvent the order in their wills? This shows that something was inconsistent with the law as provided under the ordinance marriage. Christensen (1954) and Danquah (1928) did not identify any conflict that probably arose with this formula, so one wonders if the people accepted it as something
that was consistent with Fantse customary practices. From the responses, participants have identified one of the important aspects of marriage to the Fantse as acquisition of property though it has also come to light that joint acquisition was not the norm because it created a number of problems. Even though nobody has provided a historical link, I am confident that the popularity of the formulae stems from the indigenous system of land tenure known as *ebusa*. Besides, there is evidence that in the past part of a man’s property devolved to his wives and children either as gifts or non-curative wills. Therefore, giving part of a person’s private property to wives and children who are not members of his clan is not new. There is also evidence that some successor, recognizing the needs of widows and children of their deceased relatives, allowed the widows and their children to continue enjoying them.

One thing that respondents did not mention was the link between the Intestate Succession Law (PNDCL 111) and the Customary Marriage Registration Law. From the onset, the benefits of spouses applied to only customary marriages that had been registered. It was amended later on because people were not registering their marriages.

**Equity and Justice**

As stated earlier, because customary law is not written and applies to local communities they differ from one place to another and become a bit difficult to apply. For these reasons a number of conditions that will ensure the application of the law have evolved from time to time. This ranges from non-interference to interference with the clause that it should be equitable and not repugnant to justice to the present day under the

In this section, I examine participants’ views about how the Intestate Succession Law (PNDCL 111) brings about equity and justice. All participants, except some significant others (not part of the sample) stated that the law was good. For instance Nana Enu stated, “it is good. Life is full of difficulties. Wives, sons and daughters go through difficulties with their parents so there should be a way of rewarding them.”

Nana Enu seems to be buttressing the support systems that prevail in a typical traditional society like that of the Fantse. He also highlights the concept of reciprocity (as espoused by authors such as Awedoba, 2002, and Sarpong, 1974), particularly the need for people to enjoy the fruits of their toils. The Fantse proverb goes; *wona nna w’egya hwe wo ma wose fifir nna wo nso ahwe hon mma hon se etutu* (your parents take care of you to grow teeth so that you will also take care of them to lose their teeth). The use of the teeth is to represent stages in the growth and development of human beings.

Developing teeth represents childhood while losing teeth represents old age. Nana Enu does not share these concerns alone. Chief Seidu had a similar concern:

The law is very good. It allows the widow and her sons and daughters to enjoy from their toils. In the past, a man used the services of his wife and children to acquire property. If he failed to arrange for his sons and daughters, everything went to his sister’s son (Personal communication with Chief Seidu, February, 2010).

All the subsequent responses seem to communicate the same message. Nana Eduafo stated, “it is good; because it brings about equity and justice to the children who often toil with their father. The previous system was not equitable.” Agatha stated, “Yes I
think it is good because it allows women to enjoy from their toils. It favors women” (Personal communication with Agatha, February, 2010). Kobina stated, “Yes I think the law is equitable. It is good, because the wives and the children do most of the work” (Personal communication with Kobina, February, 2010). Ebusuapanyin Amfo stated, “It is good, because you suffer with your wife and children, so it is worth that they enjoy from their toils” (Personal communication with Ebusuapanyin Amfo, February, 2010).

Whereas all the participants seemed to be elaborating the benefits to wives and children to ensure equity and justice, Sam identified the benefits that males are likely to derive from the law:

Yes it does. It is good for both men and women. For me as a man, it gives me the opportunity to share and be able to provide for my children even when I die. The customary law on inheritance brought about division. That was why the government came up with the Intestate Succession Law (Personal communication with Sam, February, 2010).

Sam’s call is not an isolated one. All the widowers alluded to this. For instance, it will be recalled that in explaining his knowledge about the law, Kobina was happy with the law because he stated that, if he died intestate, a law provided that part of his estates should devolve to his wife and children, and, therefore, he did not need to make special arrangement to pass the property onto them, as was provided under customary law. All these show that men too have interest in the law.

Sam’s response also captures the need for unity and coexistence between families, a potential recipe for peace. Some widows were in favor of the law, not because it was a way of acquiring property, but for the peace and tranquility that it offers for widows. Mercy and Felicia, both widows, share this value. Mercy stated, “Yes, I have heard that
the law states that widows should not be disturbed. The law is good because in the past
widows were maltreated.” Felicia buttressed unity:

Yes, I think the government’s law is good. It offers relief for widows and children. However, it should rather keep the widow and the deceased’s family together because it offers some reciprocity. They help me and I help them. In my case, I still provide for his parents when I can (Personal communication with Felicia, February, 2010).

Protection of the widow and the sanity associated resulting in justice as identified by Mercy and Felicia are a recipe for peace just as Sam identified.

The mention of government’s law needs some clarification. It simply means laws coming from the central government or local government (modern government institutions). This is differentiated from customary law which emanates from the chiefs and their councils. *Aban* is the Fantse word for government. *Aban* is also the word for fortress or castle. In the colonial days, when the colonial government’s seat was the castle, the people used *aban* (castle) synonymously with *aban* (government). Therefore even after independence, they still referred to modern system of government as *aban*; hence any law emanating from the modern system is referred to as government’s law.

Mrs. Buako attempted to provide an objective description of the rationale for the way estates are distributed to further buttress the fact that the law is good:

It is good because men toil with their wives and children. Therefore, they [widows and their children] should have a fair share of the estate. The *dziadzefo* (successor) should always get a portion. The law states this. It is not good that the sons and daughters should take over everything. Once the deceased belongs to a clan the clan members should also benefit from the property that the deceased left behind. It is good. We marry for better or worse. However, making a will is the best. The law is good because it helps women (Personal communication with Mrs. Buako, February, 2010).
Though Mrs. Buako’s response offers equity for all stake holders, it fails to identify the fact that a widower can also benefit from his deceased wife’s estate, and that the onus to acquire property and be willing to pass it onto others does not lie with only males.

The responses gathered from all the widows and male community leaders are that inheritance is a women’s issue. The erroneous impression created is that only women and children benefit from it, and that men do not have problems with the status quo. Therefore, men should be proactive by ensuring the easy application of the law. A discussion in parliament captured a similar trend as can be seen in the debate below:

**Mrs Gifty Ohene-Konadu**: Madam Speaker, I think this Bill [Intestate Succession Bill] is very critical as far as women of this country are concerned. As the Ranking Member rightly said, it was referred to the joint Committee —

[Interruption.]

**Madam Speaker**: Hon Member, why is it only women in this country? It affects both men and women, this Intestate Succession Law.

**Mrs Ohene-Konadu**: Madam Speaker, it was referred to both committees [Committee on Constitutional, Legal and Parliamentary Affairs and the Committee on Gender and Children], but I do not think — It affects both men and women, but it affects women the more.

**Madam Speaker**: You are a woman and you are speaking for them. (Curled from the Hansard of Ghana’s Parliament, March 5, 2010)

What makes the Member of Parliament feel that it is a women’s issue? She stopped midway in a sentence, may be to check the validity of the statement that
inheritance affects only women. The impact of the law on women and development needs to be critically examined. I have already stated that there are likely to be more widows than widowers, other things being equal. Therefore, when the law is considered in terms of married people, then it is likely to affect more women than men. However, it is a social problem and therefore affects men too. For instance, men are likely to be the executers since customary practices make men successors of deceased men. There is also the likelihood of more men seeing to the distribution of the estates because heads of clans are often men. Men are drawn more into the equation because the men have sisters to whom they have responsibilities according to rules of kinship. They also have responsibilities to their sisters’ children as customs demands. Therefore, men too feel the brunt of succession and inheritance. Even if the issues affect more women than men, it is more of a social or gender issue than women’s issue. Therefore, while examining the laws impact on women and children, overlooking its impact on men does not serve the society’s interest. The widowers, especially Sam, provided insight to the benefits on the part of men. The problem needs to be treated as a social problem rather than women’s problem.

It does not augur well if the discussion is rendered on a gender basis. Rather it should be seen as a problem for the society. Female respondents have shown how they helped their husbands to acquire property though in some cases the property devolved to their husbands’ lineages. Male respondents have also confirmed that their wives played major roles in their lives, especially, helping them to acquire property. This may not be the situation with everybody but then there is enough justification that it happens. What is new or what is missing is that society seems not to recognize that is that conflict
resolution calls for renegotiations, where every party has to give in something to attain another. Therefore, the situation where members of any particular gender adopt an entrenched position does not help in the resolution of conflicts.

Some participants raised concerns about the percentage that surviving spouses would enjoy in the new law as restated, and the situation where a child born out of marriage enjoys equal shares with those born within marriage and the situation where surviving parents would not get a share of the deceased’s estate. Others are the need for the law to clarify who pays the liabilities of the deceased and the need to strengthen the institutions for applying the law. These are genuine concerns that are peculiar to the Fantse and for that matter many Ghanaian situations.

In the restatement of the Intestate Succession Law which was before parliament, surviving parents do not enjoy from their sons and daughters estates. Many participants were not happy with the sidelining of the surviving parents, especially the mother. This was contrary to customary law which made the mother of a deceased person the preferred and potential heir unless she was ready to relinquish it to someone else (Christensen, 1968; Sarbah, 2004). In the original law, the surviving parents had a share of the estate. I solicited the views of participants on this and had the following responses. Chief Seidu responded:

[Sons and daughters] of the deceased have greater responsibilities to their grandparents, so that should not be a problem. They are supposed to care for the old ones just as their parents would have done if they were alive. There have been situations where children have accused their grandmothers of possessing witchcraft, but that is unfortunate. Parents have a greater responsibility to ensure that their children respect and revere their grandparents. Therefore, if the surviving parents do not get anything, the surviving children have to take care of them (Personal communication with Chief Seidu, February, 2010).
Chief Seidu’s response seems to be a panacea for a situation where the grandchildren are old enough to take care of their grandparents. There is a higher probability of a deceased’s children not being able to take care of deceased’s parents because they may be too young to do that. Nana Amisah provides another dimension:

I think the percentage given to the surviving parent under the present law is alright in the sense that they may have their own property and may be content with it. For any reason there is the need for husbands to inculcate the need for their wives and children to love their grandparents and mothers-in-law. If this is done, the deceased’s children would take very good care of them in the absence of their father or mother (Personal communication with Nana Amisah, February, 2010).

The responses of Chief Seidu and Nana Amisah communicate the societal expectations. They are in line with the concept of reciprocity and the support systems in the Fantse culture where the young are expected to take very good care of the aged. However, can a widow take very good care of her parents-in-law when she herself needs more care and support? If the widow and surviving children do not live in the same town with the deceased’s parents how can they care for them? In the Fantse social systems the kin groups supports their members, especially the older ones. Under the indigenous culture a young man is supposed to ensure that his mother has a good place to live before he acquires a house. This is normative. Therefore, the law should be made in such a way that the older generation have been taken care of. Nana‘ Amisah’s statement that the surviving parents may have their own property may not always be the case. This is typically a situation of lumping certain groups together as underprivileged when each has a peculiar problem and makes some of them more disadvantaged than the others; a situation that Spivak (1994) admonishes.
Felicia, a widow, buttressed Chief Seidu’s and Nana Amisah’s points. She stated, “I do not see anything wrong with the proposed distribution in the sense that if your spouse used to care for his parents, it will be your duty to continue with that. This is a divine duty” (Personal communication with Felicia, February, 2010). I expected to get at least one response that was contrary to this but none of the participants provided such an answer. Perhaps the respondents were just examining a situation where the surviving parents would be cared for by a deceased’s siblings. Maybe the deceased was the bread winner of his or her parents. In such a situation, the surviving siblings may not be able to provide for their parents. Therefore, the responses of other participants which buttressed those afore-mentioned show how entrenched this position is.

On the other hand the responses of those afore-mentioned presuppose the norm that people should take care of the aged, especially their parents, and that anything contrary to that will be a deviant behavior. Perhaps, because that is the norm, they do not envisage a situation where people will fail to bear this social responsibility. I am of the view that the law should capture this so as to entrench that value within the social fabric supported by 64% of participants.

Nana Eduafo stated, “No, it is not fair that surviving parents would not have a share. In my opinion, the surviving parents and the widow should have equal percentage of the share of estates” (Personal communication with Nana Eduafo, January, 2010). This is the response of an opinion leader. What about the situations where widows benefit from the estates and members of the man’s lineage see them as parasites that benefit from the toils of the relatives of the latter? Mercy stated:
Yes, I agree with you, that surviving mothers should have a fair share of their children’s estate, because they suffer a lot in the upbringing of their children. In fact, they should be given a fair share of the estate. Men should treat women fairly. The surviving parents should get more than what the law provides for (Personal communication with Mercy, February, 2010).

Mercy’s response seems to buttress the point that women are not always wives, as I have stated. She seems to be hammering the point that the mother is also a woman, one who may be more vulnerable than the wife because of her age and perhaps the love a mother has for her children for which tradition demands reciprocity. On the other hand, Felicia provides a more explicit response:

I would not be happy, if in the future, the children that I am now taking care of with my meager resources will turn against me and concentrate on providing for only their wives and children. That will be sheer wickedness on their part so I do not expect people to do that to their mothers, especially when the mothers are aged (Personal communication with Felicia, February, 2010).

To buttress the points of the others, Agatha stated, “The situation where surviving mothers do not get a fair share is not the best because they take care of their children to get to that stage. There is no equity in this” (Personal communication with Agatha, February, 2010). I would have expected that Agatha, who is being maltreated by her late husband’s relatives, would say the contrary. Her point is interesting in understanding the norms of the society, particularly the position accorded to motherhood in the Fantse culture. The men who may be torn between their wives and mothers suggested equal shares for a wife and parent. Kobina stated:

I agree that that the situation where the widow gets a fair share and a surviving parent gets nothing is unfair. The widow and the surviving parents should get equal proportions of the estate, because if your mother had not taken good care of you, you would not have been in that position (Personal communication with Kobina, February, 2010).
Similarly, Ebusuapanyin Amfo stated, “Indeed the surviving parent should have a greater share. I suggest that 30% goes to the widow, 30% goes to the surviving parents and 40% to the surviving children.” His position buttresses the points that have been made so far that sons and daughters need to be considered first for inheritance.

All the widows bolstered Felicia’s points that they would not be happy if, in the future, their sons’ wives would prevent their sons from taking good care of them, let alone claim absolute control over their sons’ estates when they (the widows) have toiled to educate them single-handedly, at times to the extent of selling their pieces of cloths and trinkets which they value so much, for their sons to get good education. From all indications, they seemed to have the feeling that they have better claims to their brothers’ property than wives. In certain cases they might have given up their own education for that of their children’s property.

The issue of sisters quarrelling with their brothers wives also came up for discussion. Asafuaba answered:

When my husband died, his siblings thought he had left some money in the house. When the key was given to them, they ransacked the room in my absence with the intension of getting money, but they did not get any. His sisters attacked me verbally because of this. They said I had spent their brother’s money. These were not his mother’s children. All his mother’s children are males. I had their support but not that of their mother’s sisters’ children (cousins) (Personal communication with Kobina, February, 2010).

Ekua Amissah gave another dimension to the relationship with husband’s sisters:

A husband’s sisters are likely to cast insinuations at you that you are the parasite whose livelihood depends on their brother. Even when you put on nice clothes, they will make fun that their brother bought it for you. At times it is annoying, but every hardworking woman knows that if a woman depends on her husband she is likely to go naked. At times, the men do not even have the money. They get it from us. A woman needs to be tactful about such insinuations, otherwise she is
likely to engage herself in a useless fight, an unproductive one (Personal communication with Ekua Amisah, February, 2010).

The response shows the kinship construction among the Fantse and how this affects inheritance. This category of cousins referred to in Fantse as nna mma (mothers‘ children) are members of the lineage and therefore have better claims to the estates as compared to, for instance, a person‘s half siblings from the father‘s end or father‘s brother‘s children.

From all indications, a man‘s sisters felt that they have better claims to their brothers‘ property than wives. In certain cases they might have given up their own education for that of their brothers (Adusah-Karikari, 2008; Annin, 2009). Kobina and Nana Amisah share their views on this. Kobina stated, “In the case of a sister, I think that the law cannot satisfy everybody. You can do whatever you want to do for your sister before you die.” This is a genuine response, but one wonders if there can be sanity in a situation where a sister needs her brother’s help and the wife too needs a similar help. Nana Amisah buttresses the point and suggests, “Sisters make genuine sacrifices for their brothers. However, they can also benefit from their husbands estates. Besides they may have other benefits” (Personal communication with Nana Amisah, February, 2010).

Nana Amisah‘s response may be due to her position as a wife and a marriage counselor. Her position demands that she encourage people to uphold marriage and family values. Therefore, she is likely to speak for marriage life. This may not be tasteful as the world is gradually moving into a stage where everybody is clamoring for monogamy, and remaining unmarried is no longer an issue. In such situations, society upholds single motherhood. In a situation where the state does not help such mothers to
give the best to their children, it would be prudent for siblings to support each other as prevails under the indigenous family support system.

Another issue that arose was who pays the liabilities of the deceased. The law is silent on this. Participants were divided on this. For instance, Chief Seidu stated, “The children have to take over the liability” while Nana Eduafo stated, “The successor should pay such debts.” The most prominent among the explanations was that since children and the widow have greater access to the estates, they should pay the liabilities. What about the situation where the deceased did not leave any assets? Do the children have to pay that even if they are not capable of doing that? If it were to be under customary law the children’s mother’s siblings would take over that debt. With the present development how many people will see the need to be committed to paying such a liability, when they also have to get the best for their own children?

Felicia was much concerned about the rationale for making “illegitimate children” having a fair share of being legitimated by law:

I have also heard that the law states that if your husband had children with other women, those children are also entitled to a share of his property. Their mother did not contribute to anything, so why should such children benefit to such property? (Personal communication with Felicia, February, 2010).

Felicia’s response seems to be a genuine concern for many married women. However the laws including the Intestate Succession Law (PNDC L 111) and the Children’s Act (Act 560) are unanimous about making children born out of marriage have a fair share of their parents’ estate. These are in line with the Article 3 of the United Nations Convention on the Rights of the Child (UNCRC) and Article 31 of the African Charter on the Rights of the Child (ACRC) which advocates the “best interest of the
child.” The argument behind the need for children to benefit from their parents’ estate is that children do not choose their parents. Furthermore, it is in their best interest.

**Seeking Redress Through the Laws**

It would be recalled that on the question where people could seek redress when they are not content with the distribution of estates, chiefs and heads of clan stated that such conflicts were resolved as inter clan conflicts and hardly appeared before the chiefs’ courts. Furthermore, those in the urban centers recommended that such conflicts could be resolved in the law courts, while those in the rural areas said it could be resolved in the chiefs’ courts. Chiefs in the rural areas stated that they would listen to the substance in the case and advise accordingly, as is in line with Fantse customary ways of resolving conflicts and also inclined to restorative justice.

In order to buttress the information on the resolution of conflicts in the face of the Intestates Succession Law, I asked the chiefs to describe how they have resolved such misunderstandings. Once again their answers showed clearly that such cases do not appear in their courts. Nana Enu’s response captured what almost all the chiefs said. He stated, “This [PNDCL 111] is a government law so it does not come under my jurisdiction. The law states how people can seek redress. People do not often complain about the distribution of estates” (Personal communication with Nana Enu, January, 2010).

It was quite indicative that people do not complain about distribution of estates, but the discussions so far shows that people are in favor of the law. Why then are they not seeking redress through the law?
Sam suggests that the law be allowed to operate. He stated, “It does not matter if there are difficulties associated with the application of the law. Once it is the law, we have to allow it to operate. If it has shortfalls, we will address them later on.” Perhaps Sam does not know that the law has been in place for 30 years. It will be recalled that Sam said he did not know what the law was about, but his subsequent responses showed that he was aware of some of the issues raised in the law. With the zeal that he has for the law to operate and the fact that many people think the law is new, there will be the need to identify some of the potential bottlenecks to the application of the law. These include cultural values and the weaknesses associated with the legal systems. Felicia and Konuaba identify some cultural values that challenge widows in their efforts to seek redress from the law courts. Felicia stated:

Seeking redress from the court is not the best. It breeds a lot of conflicts in the society. A widow needs her peace of mind to address the new challenges that she is faced with. She has to be in good relationship with his deceased husband’s relatives and the general public (Personal communication with Felicia, February, 2010).

Konuaba identified another cultural value that seemed to be in line with Felicia’s:

A widow needs the support of the community. Everybody tends to sympathize with her upon the death of her husband. Members of the community feel obligated to provide this support. Traditionally, people involved in feuds needed the support of family members. The widow does not fight it alone. Therefore, well-wishers have to accompany her to the law courts. If the members of the lineage, who constitute the first point of support, see this as a bother, they may not support you. Even if they do, your subconscious mind will be against you.

Because society sees issues associated with inheritance as inter clan affairs, a widow will have to inform other relatives before they take such action. There is the possibility that the widow will be discouraged in her endeavors (Personal communication with Konuaba, January, 2010).
Konuaba’s point explains how the indigenous family system is intertwined into the legal system. With the indigenous system, a person’s head of clan was likely to be on the chief’s council. The system demanded that he supported his relative who was standing trial. Besides, the family support system was highly visible. This was evident in all the cases that came before Chief Seidu‘s court which I had privilege to observe.

The legal system has its share of the blame for which people will not seek redress from the law courts. Felicia expressed this:

The law courts adjourn cases unnecessarily, so it results in a long period of acrimony between the feuding parties. This may continue after the resolution of the conflict. Such a conflict may not augur well for the children (Personal communication with Felicia, February, 2010).

Gladys‘ response reinforces Felicia’s:

Though I knew that the law existed when my husband died, I could not take his relatives to court because I knew that could be tedious. The law courts keep adjourning cases, so it is not worth seeking redress from there. They should be proactive by staying off unnecessary adjournment of cases. Legal aid should also be given to those who need it because widows do not often have money to pay for legal services (Personal communication with Gladys, February, 2010).

Gladys and Felicia’s responses show some of the problems associated with the modern legal systems. The impression is always created that one needs the services of a lawyer before one can succeed in a legal case. The impression is that the modern law courts are for the privileged few. Though the system provides for legal aid, many people do not access the aid. The offices of the Legal Aid Board and other NGOs, like FIDA, are located in the regional capitals, and thus make the service inaccessible.

The Urgency of Law Making

The institutional structures create a number of problems for people. Time constraints have been identified as one of the reasons why people do not want to seek
redress from the law courts. Participants did not get the opportunity to review the performance of House of Parliament in the review of the law. Otherwise I am sure it would have also been criticized for delaying the re-enactment of the law. If after 25 years, members of the public feel that intestate succession creates so many problems, why will society continue to postpone reshaping the law to ensure social order? The parliamentary debate below shows some of the delay tactics that members of parliament play:

**Mr. William O. Boafo:** Madam Speaker, on Friday, we are taking the Second Reading of the Bill. Madam Speaker, I do not think that between Tuesday and Friday, the public will have sufficient time to provide any inputs to the Committee. So I am urging the Leadership to take this into account and reschedule the Second Reading to another date so that we can advertise in the Papers, inviting the public to provide their inputs for a meaningful debate in this House.

**Mrs. Ohene-Konadu:** Madam Speaker, I support the Hon Member that we should be given adequate time to look at the Bill because the Gender Committee was not adequately represented. I think we were invited only once to the meeting and I think that we need some time to look at the Bill to exhaust every possible — [Interruption.]

**Madam Speaker:** I think as has been decided, when we see the Report and it is inadequate, then we could order that it goes back — the inadequacy will be pointed out by us. We could all point it out and then do it. So we will do the right thing, I think.

**Mrs. Ohene-Konadu:** Madam Speaker, especially when it is not by the two committees because it should be the work of the Committee on Constitutional, Legal and Parliamentary Affairs and the Committee on Gender and Children but it is not so. So I think we would have to re-look at it (Curled from the Hansard of Ghana's Parliament, March 5, 2010).

The delays in addressing the issues associated with inheritance results result in a travesty of justice. Justice delayed is justice denied. How much time do the members of Parliament need? Considering the gravity of the issue at hand, members needed information from the public so the subject matter should be open to public debate. I have
been following events in Ghana, but I am yet to know if after a year the public forum has taken place. Up to date, Parliament has not been able to debate it and the public seems to be silent on it. For how long will parliament delay the re-enactment of the law? The restatement was introduced in the house in 2008, so why the feet dragging? Mrs. Konadu seems to be apportioning blame to the Committee on Constitutional, Legal and Parliamentary Affairs for not inviting the Committee on Gender and Children. It would have been more interesting if she had told the House what the Gender and Children Committee had done and not what the other committee had failed to do.

Members of Parliament seem to have no knowledge about indigenous culture. It was possible to refer the matter to the traditional institutions and the National Commission on Culture. The impression being created is that parliament does not know about the existence of other national institutions. Since inheritance and succession are also cultural issues and there are diverse cultures in Ghana, can parliament frame the law so that it can be laid before the local governments institutions for a grassroots discussion? If members of parliament say it will affect the social system how come that the respondents never identified this? What about making laws to fix some of the problems? Apart from the delay tactics there are many more concerns for justice.

It has not come to the notice of the proponents of the law as a potential conflict that the original law was specific on the registration of customary marriage. Couples were supposed to register their marriages as provided by the Customary Marriage Registration Law (PNDCL 112). The PNDCL 111 was amended because it was realized that couple were not registering their marriages. Therefore to ensure that women benefitted from
their husband’s estates, the law mandated that once there was evidence that the couple lived as married people, the woman should have property rights. Though the two laws, the Intestate Succession Law and the Property Rights of Women, address two different issues, they seem to address the same thing because of the gender perspectives associated with them.

Fancy a situation where a person (man or woman) is married under Ordinance Law and lives in a different place from where he or she works. Such a person may have a regular spouse that he or she may be living with but at the place of work may also have another sexual partner whom they may be living with as they conduct their business. How will the law apply when it is evidenced that the partner at the location where he works never knew that the person with whom he or she was flirting was also married to someone else legally. In this case will the law court accept the evidence that the actually lived together?

Summary

Many people knew some aspects of the laws but were fully aware of the law. Even though many people talked about a third to each party, this cannot be seen as knowledge of the law. Many Ghanaians really talk about this mode of distribution, but this is not what the law provides. People seem to know the traditional concept of ebusa (division into three parts), a concept used in crop sharing under the indigenous Fantse (and Akan) system of land tenure. This clearly shows how easy it is to transfer a common indigenous knowledge into a new knowledge system. It would therefore be prudent if we
try to re-examine the common and popular indigenous knowledge systems before we add to them.

Many respondents said that the law was good because it offered women and their children the opportunity to get a fair share of what they have contributed to helping their husbands and fathers acquire property. It prevented widows from being maltreated, as, for instance, sacking them from their marital home, meting out cruel treatment to them all in the name of keeping the traditions, and many more. It also came to light that heads of clans, who often serve as executors, did not apply the law but wove around it to create sanity, in the sense that instead of applying the percentages of distribution as provided by the law, they used a system that has its roots in indigenous land tenure systems.

Gender issues are not women’s issue. The moment we begin to see these as women’s problems and not that of the society we miss the point. Men also see the inheritance system as problematic and so they have been looking for ways to circumvent the system. This can be seen in Agatha’s response to the question as to whether her husband made a will.
Chapter Eight: Summary, Conclusion, Implications and Suggestions

I have been examining inheritance among the Fantse of Ghana. The study was prompted by the idea that applying inheritance laws in Ghana has become problematic probably because the inheritance law, PNDCL 111, might not have taken into consideration the intricacies of the culture. Guarded by the Functionalist theory that society exists as a system, there is the need to understand the entire indigenous social systems of any particular group in order to understand their inheritance system. I set off with the assumption that, in the case of the Fantse, the kinship systems help to understand social relations such as childhood construction, adulthood, and gender relations. Furthermore, this study was based on the assumption that inheritance is mediated by power relations which are culturally and socially constructed on the bases of gender, age and marital relations, and intergenerational relationships. In this chapter, I present the summary of my work, examine the implications, and offer suggestion for future strategies in policy-making and research.

Summary of Study

I set out to investigate the complex problems associated with inheritance systems of the Fantse-speaking Akan that have been caused by the existence of legal plurality in Ghana – customary laws (localized) and national (statutory) laws that follow the western system. Under the customary laws of the Fantse, spouses do not have inheritance rights from each other. Furthermore, whereas daughters and sons can inherit from their mothers, they cannot inherit from their fathers. However, men can bequeath part of their personal
property to their wives and/or children as a gift in their life time or through a cupatory
will which is often made in the presence of people whom the testator trusts within his
lineage (Christensen, 1954; Lundgren, 2002; Ollenu, 1962, 1968; Oppong, 1984; Rattray,
1923).

Many problems arise in the case of inheritance for sons and daughters and
spouses, especially when the couples come from different towns and more importantly
when they are from different unilineal descent groups or systems. Attempts by successive
governments of Ghana from the colonial times to the present have not yielded the
expected results. The closest that a government has achieved was that of 1985 where the
then military government passed a decree on Intestate Succession. Having realized some
shortfalls associated with the law, a new bill for restatement of that law has been laid
before parliament since 2008. However, it is yet to see the light.

Among the areas that I reviewed under the literature are importance of the culture
in policy making, Akan philosophy of personhood, social organization among the Fantse,
and cultural history of the Fantse, including the historical development of inheritance
laws. Others are traditional cultural values, legal plurality, and international documents
and their influence on the Fantse family. Under the importance of culture, I read that
many authors, including Adu-Febiri (1995), Gyekye, (1992), Hagan (1992), and
Mararike, (1995), had argued that development programs and laws should take the
culture of the group involved into consideration and that Africans face a number of
challenges in their effort to develop because the development strategies premised under
modernization ignore the traditional value systems. They also argued that tradition has
been presented as if it is dichotomous with modernity, but the two have a transition. With this in mind I examined how inheritance laws would fare if they do not take cultural values such as mutual aid and responsibility into consideration. Their works enabled me to draw the interrelationships between tradition and modernity on a continuum rather than in dichotomous terms.

Under the Akan philosophy of person, family cohesion, and inheritance, I examined authors including Gyekye (1996), Ikuenobi (2006), and Wiredu (1990). They argued that African communal values are couched in the concept of personhood, and that personhood sets the framework for socio-cultural expectations of moral behavior, rights, and obligations of the individuals as well as the community. Furthermore they argued that personhood conditions the rationale behind individualism, communalism, and reciprocity, and that the community is the basis for defining and articulating the values and goals shared by many individuals and communities. Their arguments enabled me to connect the interrelationship between individuals and their community and how these set up the frameworks of rights and obligations in determining rights to inheritance.

In examining social organization among the Fantse, I reviewed authors such as Awedoba (2002), Boateng (1996), Oheneba-Sakyi (2006), and Christensen, (1954). Others are Sarbah (2004), Stanton (2006), Weisner (1997), and Wilson (2007). The authors contended that kinship (family) is the bedrock of human society and most permanent human institution of affiliation. They argued that, in Africa, the family serves as the base for development, continues to be the center of all social institutions, and therefore, the focus of investigation by sociologists and anthropologists and other
scholars on family. Furthermore, some of them described the Fantse family in such a way that it fitted more into the double unilineal descent system but more inclined to the matrilineal descent system by spelling out the specific roles of the matrilineage and the patrilineage. Their works enabled me to examine the strengths and weaknesses of the kinship system and the social changes that it has undergone.

Regarding the historical development of inheritance laws I examined works by Ardayfio-Schandorf (1996), Kom, (1993) Oheneba-Sakyi (2006), Ollenu (1962, 1968), and Smock (1977). These authors examined the various attempts made at enacting new laws on marriage and family as well as amending existing ones. They noted that laws on family were enacted as far back as 1884 by the colonial authorities. They described those laws, including those that were enacted after independence, as Eurocentric, and, therefore, their implementation created serious problems for the indigenous people. For instance, the law on marriage which sought to make monogamy the only form of marriage and the subsequent formulae for distributing the estate of a deceased person were resisted by Ghanaians including women’s organizations. They also identified how the death of a husband could be a traumatic life experience for widows and called for the enactment of laws that will govern property rights of spouses. Their works enabled me to examine the bone of contention among stakeholders in the process of making family laws and the subsequent resistance to such laws.

Under the traditional cultural values, legal plurality, and their impact on the society, I examined the works of authors such as Awedoba (2002), Busia (1968), Oppong (1974), Saha (2007) and Sarpong (1974). They argued that cultural and socio-economic
variations in diverse societies have been erased for the sake of uniformity. They
compared the western style of individual rights to those of traditional societies and
argued that individual rights, as exist in the western system, make little meaning to the
traditional societies, in the sense that the former tends to isolate the individual from the
community. They also argued that society tends to be drifting towards western
ideologies; however, indigenous social control mechanisms ensure that the African
system of family does not disappear. Appiah, (1992), Awusabo-Asare (1990), and Kom
(1993) drew the links between traditional ways of family life and those of the modern.
They described how, in the 1980s, the issue of inheritance became so disturbing in
Ghanaian societies that women activists pressed for the enactment of a law to safeguard
their interests and those of children. The result of this was the enactment of the Intestate
Succession Law (PNDCL 111) in 1985.

International documents such as the UN Convention on the Rights of the Child,
CEDAW, Protocol on African Women, and many others describe women and children as
vulnerable and advance special rights for them. The UN declared 1994 as the
International Year of the Family, with the theme, “Families in the Process of
Development.” For instance, a report on the International Year of the Family indicates
that almost all developed countries have experienced changes of four principal types: a
decline in fertility rates, the ageing of the population, an erosion of the institution of
marriage, and a rapid increase in birth outside of marriage. The situation in Africa is not
different from that of the advanced nations; however that of the advanced nations is more
manifest than those of the African countries.
I adopted Functionalism (Durkheim, 1997) and Postcolonialism (Fanon, 2004; Said, 1995; and Spivak, 2006) in a triangulation for the theoretical frameworks for this study. It is noteworthy that the triangulation was not to create a hybrid but to use Postcolonialism to bridge the gaps in Functionalism and fine tune it to shed some of the derogatory remarks that tend to polarize the world into two regions of inequality in power relationships. Therefore, the triangulation was used to reshape the work to recondition some colonial tendencies and make them more suitable for Afrocentric study. I also linked Durkheim’s theory to others like those of Radcliffe-Brown (1952) and Fortes (1997), who had used Functionalism for ethnography in traditional African societies, so that I could place the social systems of the Fantse in context.

Durkheim’s (1997) concept of “collective conscience” explains the concept of communalism – a principle by which individuals view themselves as part of any given group and work towards holding themselves together as a community. This is a common principle in many indigenous African societies and gives them a distinctive common identity. Durkheim’s argument that societies with mechanical solidarity have a strong collective conscience is demonstrated by many African societies including the Fantse. They have beliefs and sentiments which are common to almost all their members and connect them in different patterns of social solidarity. It formed the basis of enculturation. There is this Akan maxim that the human being descended from the spiritual world into the human society, particularly into the family and the community (Gyekye, 1995) The community’s values are more important than the individual’s own values, because “I am because we are and since we are, therefore, I am” (Mbiti, 1990, p.
Durkheim (1997) stated, "Although society is nothing without individuals, each one of them is more a product of society than he is the author" (p. 288). These values espoused by Durkheim and the afore-mentioned authors were also espoused by the participants. Therefore, they are values that should be advanced for maintenance of social order and peace in the various communities.

Gyekye (1992, 1996) stated that the community is the basis for defining and articulating the values and goals shared by several individuals and also constitutes the context, social or cultural spaces, in which the actualization of the individual can take place. It also provides individuals the opportunity to express their individuality, to acquire and develop their personality, and to fully become the person that they want to be. In spite of the communitarian life that Gyekye (1996) espouses he also identifies some Akan proverbs that suggest that the Akan also espouse individualism is a value. Therefore, he suggests that there is the need for people to come to terms with the natural scalability and the individuality of the human person.

The theoretical frameworks adopted for the study such as Durkheim's have some semblance with Postcolonialism, though with slight differences. Both identify change as condition for evolution of the society. However they identify different modes of change. Whereas Durkheim urges people in the society to beware of the changes that occur in the society so that they can survive under the changing trends, the postcolonialists urge the people to change the way they do things so as to influence the balance in the power structure. Therefore, the intersection point for the two is that the Postcolonialists urge the underprivileged group to be the agents of the change that the Functionalists advocated.
Durkheim’s call is for people to stay calm and wait for the change, while the postcolonialists call on the people to be the agents of change.

Durkheim argued that the totems of the clans are the focus of family life in the clans. Though among the Fantse, clans respect and revere their totems, the focus of life is not the totem but solidarity among the members and the way some of the attributes of the totems engender solidarity. For example, in the field, Opanyin Yeboa stated, “Members of the Anona clan, whose totem is the parrot, have an adage: ‘If you see a single parrot fly past, note that it is not alone but a multitude is behind it.’” The meaning I gathered from the observations I made on the field, and through my own socialization, explains this as members of that clan are many and always move together. They may be dotted around but once they come together, they are a force to reckon with, especially in oratory skills. If you see one which is not in a group, it is temporary. Opanyin Yeboa’s response demonstrates clearly the conscience collective that Durkheim talks about. His assertion on the oratory skills was supported by Ebusuapanyin Apprey who said that “every clan has attributes that its members [are believed] to share. Members of Anona clan are good in delivering public speech.” To say that the totem is the focus of life for the group is to denigrate the symbolism associated with the conscience collective.

Even though Durkheim’s ideas seem to be fostering social integration, his theory of evolution tends to polarize the world into two extreme groups - primitive and modern, simple and complex. This creates a binary situation which the postcolonialists critique. Durkheim’s work provides the framework for mine, but I must say that it does not foster integration. To be charitable to him, I can say that his work fosters integration within the
micro society and not in a global world because he polarizes the world. In other words, the collective conscience is not collective for the world. The Postcolonialists address this by pointing out some of the issues that create stereotypes and therefore polarize the world. They call for a system that attempts to synchronize ideas and knowledge. I will attempt to identify some of the words that create stereotypes and are considered derogatory for describing the Fantse situation.

Durkheim talks about a primitive society. This is derogatory. It shows the way the colonialists attempted to categorize the world into two extreme poles through the ethnographic studies that they undertook in the 19th and 20th centuries. This has been amply identified by the postcolonialists in the arguments they make on “othering,” as presented earlier in this text. To buttress this point further, Uchendu (2008) stated:

When the colonial powers of Africa sponsored ethnographic studies of African societies, it was by no means a product of a sincere desire to understand Africa and Africans but an opportunity to collect materials to back up what they considered to be the disparity between the civilized and enlightened world on one hand and the barbaric and dark continent on the other …. These early ethnographers often shared the perspectives of European commissioned officers who served in colonial Africa. European societies became the standards against which Africans were judged and were found lacking (pp. 2-3).

Uchendu’s words show the dichotomy associated with Functionalism and the need to avoid it. Furthermore, he explained how the colonial ethnography became a tool for serving colonial interest. This study did not have in mind serving anybody’s interest but to re-present the situation as it is on the ground. The words primitive, archaic, barbaric, uncivilized, pagan, and many more became the common ways by which they described Africans and things about Africa.
Durkheim (1997) argued that society relies on law when it becomes complex. He describes the progression of law from societies resembling mechanical solidarity to those of organic solidarity. Under this, he asserted that as society develops from less primitive to more complex they become less “repressive” and more “restitutory” in their form and substance. Lukes and Scull (1983) concur with Durkheim that the reliance of law as an expression of social interest among individuals makes Durkheim’s views so important to the sociology of law. Stojkovic also agrees with them and buttresses the point that the law becomes more severe and repressive when societies develop socially, politically, and economically. However, he argues that there is limited understanding of the role of power in the politically and economically advanced societies such as those of the western world. Stojkovic (1973), in a review, mentions a number of works that have alluded to this. He remarked that, as a result of the shortfall associated with the political and economic strength, what Durkheim describes as the conscience collective may be attributable to those societies with political and economic strengths.

Stojkovic (1973) argued that at times the law creates conflicts when it is not a representation of social solidarity but the representation of the interest of those who can influence the direction of the law to their personal individual or group benefit. Furthermore, he argued that, when this happens, the punishment and penal law do not become the instrumental expression of the amorphous collective but, more accurately, of those who are in collective and accurately of those who are in political, economic, and social positions of power. This is a clear situation of “re-presentation” as advanced by Spivak (2006) under Postcolonialism.
Durkheim noted that the mechanical solidarity society is homogenous and has no structure but the Postcolonialists disagree with that. Spivak (1994, 2006) did not couch the subalterns within “simple” or complex societies, but the description he offers provides the clue that the subalterns are invisible. For instance, she argued that not all women can be classified as subalterns; and even among the subalterns some are more disadvantaged than others. This means the subalterns are likely to be found in any society. Therefore, a cursory examination of any class will show that there are class structures within classes in every society, including the subaltern class. Such classism is also expected in the Fantse and, for that matter, other African societies.

The research design of this work was done as a phenomenological case study using qualitative data analyses. It is a case study because I used the Fantse for situational study that has the potential for examining other groups and collectives, in the final analyses, to come out with a viable conclusion. It is phenomenological because the widows and widowers told their stories about the treatment they went through, how they were able to adjust, the situation in which they now find themselves, and an examination of the way forward towards the enactment of new laws.

**Major Findings**

The study sought to find answers for the following research questions:

1. What is the nature of the social organizations?
2. What rights and obligations do the social institutions confer on their male and female members?
3. What changes have taken place in the family systems and customary practices?
4. What is the influence of national laws on the Fantse family systems and their customary practices in the face of social change?

Consequently, the following findings were made from the literature, the theory, and the fieldwork. I will first address the findings and then move on to elaborate the implications of these in the wider picture.

**Research Question 1**

The literature and the theories showed that social systems were woven around the lineage and the clan. It showed social change occurring in marriage and family. The theory supported this and also showed that the clan demised gradually into the conjugal family as a result of development of communication and other infrastructure such as roads. More revealing was the prediction of the demise of the matrilineal clan system, with a possible replacement of patrilineality. The theory was implicit and some of the literature supported that the family’s orientation is now towards the nuclear family (Nukunya, 1975).

The data from the field either supported the theory and literature or strayed from them. Those that buttressed the literature were on issues about the social organization where the nuclear family was gaining more ground. More glaring was that, among the Fantse, the social systems are woven around the lineage and clan. However, the smaller units of kinship, the conjugal family and/or composite family, as the case may often be, are woven into the lineage and clan systems such that social responsibilities are molded in dual roles conceived in rights and responsibilities to the conjugal and composite family and the clan or lineage. In other words the conjugal family and the composite family on
one side and the lineage and clan on the other are interdependent. For instance, upon the
death of a person, the nuclear family members interacted a lot and made arrangements for
funerals with the lineage of the deceased. The laid-down procedure for communication is
of inter lineage rather than between a lineage and a nuclear family. Therefore, the field
notes confirmed that marriage was basically a relationship between lineages, but also it
sets the couples as the links to the various lineages.

Attention was drawn to the need to differentiate father's lineage from the
patrilineage as Chief Anderson buttressed. According to him, Ego’s father traces his
lineage through the patrilineage, so Ego’s patrilineage, though, includes Ego’s father’s
but differs from Ego’s father’s lineage because it will not include Ego’s father’s father,
but Ego’s father’s mother. This revelation was very important in reexamining some of the
suggestions and predictions that sociologists and anthropologists have made about the
demise of the matrilineal family and the need for matrilineal groups to embrace
patrilineality as soon as possible.

Participants discredited derogatory remarks on marriage ceremonies including the
payment of bridewealth, and some of the types of marriage, specifically the payment of
bridewealth as a sellout and “widow inheritance” and widowhood rites as cruel treatment.
All participants were resolute that payment of bridewealth does not mean a sellout. It is
rather a plea from the family of the groom to have the family of bride release her to them
and hence the payment of tamboba which they perceive as a legal permit that allows a
person to keep another person that he or she intends to keep with the full knowledge that
you are not the rightful person for his or her custody.
Another argument that arose was around the ideas propagated by the colonialists and European missionaries about the inheritance of widows.” The participants spelled out clearly what the laid-down procedure is. Understanding a concept within the framework of the language as expressed by Sapir-Whorf and Beattie is very important. Widow inheritance to the Fantse does not come anywhere closer to inheritance, but rather, taking a cue from agriculture, the secondary marriage is perceived as transplanting of the marriage. The belief is that seedlings are transplanted to a permanent place which is supposed to offer better opportunities for the plant to grow well, instead of the previous abode, for example the nursery. Therefore, a woman is likely to accept a proposal for transplanting if she anticipates a positive growth and development of the remarriage.

Many authors, including Dolphyne (1995), have stated that widowhood rites are cruel. Participants described widowhood rites as a ritual that cleanses them and offers them opportunities to receive sympathies from friends and relatives. No respondent talked about cruelty meted out by their deceased husband’s family members. Most performed them on their own accord because that was the cultural practice, and they did not want to have problems with the traditional political and religious authorities.

**Research Question 2**

Rights and responsibilities have not changed so much by space and time. However, social change influenced by factors such as western education, urbanization, Christianity, international laws, and many more tends to create a situation where parents can no longer be held responsible for the actions of their sons and daughters whom national laws consider as adults. However, for the sake of sanity and in the best interest
of the child, some parents ignore the age clause in the national laws and continued to be responsible to their children until they felt that their sons and daughters were old enough to be on their own.

There is clear distinction between the role of the father and the role of the mother’s brother. The literature (Christensen, 1954; Danquah, 1928; Kupper, 1967; McCarthy, 1985) suggests that though Fantse children are members of their mother’s clans, the psychological bonds between a father and his child are very close, and that the mother’s brother cannot keep a child without the concern of the father of the child. However, the emerging literature, especially the laws, seems to create the impression that, under the tradition, fathers take care of their sister’s sons to the detriment of their own children. Furthermore, they create the impression that the development where fathers are more responsive to their children is an emerging phenomenon brought about by modernity. However, the field notes state categorically that traditionally a father has responsibilities towards his children until they are married. Moreover, the data supported the literature that the sister’s son is the least in the line of possible heirs to a person (Basehart, 1961; Christensen, 1954; Fortes, 1950; Ollenu, 1962, 1968; Sarbah, 2004). Therefore, sisters’ sons do not benefit as much as the literature portrays.

The child-parent relationships continue even after their father’s death because the father’s lineage selects a successor who is expected to ensure the deceased children’s welfare. Problems arise where the deceased’s children are very young and dependent because the successor may not be economically sound to perform this role. Field notes
indicated that in some cases the surviving children and the widow continue to obtain the support while in others they do not.

A participant, Nana Enu, stated that in the past the rich ensured that part of their money which they had saved devolved to their children and that the lineage did not have any qualms with that. Christensen (1954) made a similar assertion, particularly where both Fantse and non-Fantse merchants passed on some of their wealth to their children. Ollenu (1966) stated that the lineage and clan were interested in the real estate of the person in the sense that they wanted to preserve and use, and prevent it from being sold, the reason being that, when estate is sold, the owner’s name does not get preserved and that, considering the Fantse religious belief in reincarnation and the role of the ancestors, the preservation of the property becomes a socio-religious duty. It is also worthy of noting that land was previously passed on as leasehold and not outright purchase. All these were part of the socio-religious duties of members of the clan.

**Research Question 3**

There have been a number of changes in marriage ranging from selection through the performance of the ceremony to the party responsible for the payment. Factors of social change identified by participants included western education, core-periphery relationship, and national laws. Among the prominent changes were that the couples made their own selections, but parental consent was still necessary and that the absence of parental consent was regarded as a deviant behavior and not the norm. Furthermore, in recent times, the would-be groom paid the prestation with the support of the bride.
Parents may contribute to the payment of prestation that their children pay, but it was not obligatory.

Traditionally, wives were supposed to support men in their businesses, so that the trickling down effect would be on the wife and children. In effect men were supposed to pay all the debts that their wives incurred. Participants could not give concrete answers about the expected role of women in contributing to any business venture that the man may undertake now that both men and women are employed in the formal sector. However, they were also resolute that modernity does not come with concrete solutions to the modern development and that bridewealth spells out rights and responsibilities including that responsibility of a man to his wife.

Responsibilities of parents and their children are constructed in reciprocities. In other words they are set off in responsibilities. They go beyond life time experiences. Just as fathers have the responsibility of providing for their children, children too have similar responsibilities as couched in rights and obligations in the reciprocal framework.

Just as customary laws are not always in the interests of children so are modern. For example pegging the age of adulthood at 18 when the children are not economically self-sufficient cannot be in their interest. The traditional system offers a better option, but then it needs a good lawyer to defend this interest of the child with regard to the rule governing the use of customary law and international documents on human rights.

Children have rights that they obtain from their father. These rights change when they get married. The father transfers some of his obligations to the children themselves, their clans, and their spouses, depending on their gender. Their responsibilities to their
parents increase in line with the adage, *nyea oahwe wo ma wo se esifir no wo nso hwe no na ne se ntutu* (take care of the people who took care of you to grow teeth so that they would lose their teeth).

Creating a hybrid out of a national law and customary law may result in a number of conflicts. However, indigenous societies use dialogue as a means to solve problems. For instance, it becomes very difficult to transfer children’s responsibilities to their clan when there are different parameters in measuring childhood. One of such problems is that, by 18 years, many people are either in school or about to graduate from apprenticeship in trade. They cannot be asked to perform an obligation when they do not have the means to do so. This creates potential burden for mothers and their brothers as they have to pay such debts when they arise. Participants were unanimous that the changes in marriage arrangement were overwhelming, but the need for parental consent was one thing that society could not f0rg0. The parental consent is very necessary for social cohesion as shall be examined in the implications.

**Research Question 4**

Customary law seems to be more registered on people’s minds than the national laws. People can easily reckon the customary laws but have a bit of difficulty in doing that for national law. Moreover, a method of sharing the estate that has devolved more on the customary practices indicates that people are more inclined to the customary law than the national law. Customary law states that a person’s property devolves to his or her lineage after death. This has registered on the mind set of many Ghanaians. Legal pluralism is upheld by the constitution and the constitution states that the two sets of laws
will run concurrently (Ghana, 1992; Banda, 2005) unless any of them is against human 
rights. The law needs to be clear on when one set can really be applied.

Some of the culturally entrenched positions need to be reexamined in the face of 
social change. For instance participants stated that the traditional Fantse socialization 
process shows that it is the responsibility of a man to educate his children since the period 
of formal education precedes marriage. Besides, they gave the impression that a woman 
does not have to bequeath any property to a man. Moreover, they said a man should make 
a will in his old age, but they could not tell at what particular age they should make the 
will.

Some participants raised concerns about the percentage that surviving spouses 
would enjoy in the new law as restated and the situation where a child born out of 
marriage enjoys equal shares with those born within marriage and the situation where 
surviving parents would not get a share of the deceased’s estate.

The findings show that none of my respondents, including the gender advocates, 
knew that the two bills had been laid before parliament. This brings to question the 
interactions between Members of Parliament and their constituents or Parliament House 
and the electorates. Eventually, the law may not be subject to public discussion before it 
can be passed.

Implications of the Study

In this section, I examine the importance of this study and the implications of the 
findings to policy and law-making. By getting to the bottom of the ladder to collect data, 
much has been obtained from the people who are mostly affected by the Intestate
Succession Law – the widows. From this study, it has been found that there are a number of generalizations in the literature on Africa. This leads to misinformation thereby leading to lack of understanding of many concepts in indigenous African societies, particularly the Fantse family systems. Subsequently, law and policy-making have been based on misunderstanding of the situations. I examine the implications of this research, not for individuals or groups, but rather for actions to be taken in view of the multifaceted roles that the individuals and the groups play. Therefore, I examine them under implications for family studies, for gender activism, for child rights activism, and for law-making. The rest are for institutional arrangements, for African studies and contribution to the literature, and finally, for further research. However, these are not mutually exclusive. In other words, the points raised under a subheading may be useful for discussing another subheading as and when necessary.

**Implications for Family Studies**

I examine the implications for family studies under the misunderstanding and false impressions created about the lineage systems. This includes the argument that inheritance is becoming patrilineal; the description of the matrilineal family systems in Africa as one in which a father has no legal authority over his children; the payment of bridewealth as a sellout and the use of the term “widow inheritance” to describe those types of secondary marriages instead of what the indigenous Fantse offer through their language and perceptions. Others are the description of widowhood rites as cruel and therefore, negating the support system that it offers; and the arguments that the clan system seems to persist in the rural areas alone and not the urban centers.
Many have predicted the end of the clan family system (Durkheim, 1997), especially the matrilineal family (Nukunya, 1992), but that of the Fantse system subsists. Some of the specific findings that emerged from this study are the differences between the father’s lineage and the patrilineage, the multiple roles that people have to play in the indigenous Fantse society under the spirit of communalism, and the continuous growth of the matrilineal Fantse against the information provided by authors like Nukunya (1992) that matrilineality is giving way to patrilineality. The need to differentiate the father’s lineage from the patrilineage helps to debunk the idea that matrilineality is giving way to patrilineality. The differentiation helps to understand that, rather, inheritance is becoming patrifocal in the sense that when a father passes on his estate to his sons and daughters, it does not continue to devolve through the patrilineal kin.

Ollenu (1966) stated that Ghanaian societies abhor the situation where family real estate is divided. Rather the real estate exists and people occupy it so that nobody can treat an inherited property as a private one and, subsequently, attempt to sell it. There is no gainsaying in contemporary times many people try to stay away from lineage property and acquire their own private property. When such a property devolves to an individual in his or her personal capacity, it remains his or her bonafide property. However, the beneficiary cannot sell it because the society sees such a move as a dishonor to the deceased. When the property devolves to a group, it becomes more difficult to treat it as private in the future, let alone sell it.

It has become common that husbands and fathers bequeath their private properties to their wives, sons, and daughters, but the continuum of devolution does not follow the
patrilineal principle. From the data, Agatha’s situation, where her husband’s lineage members informed her that her children could live in the house that her husband’s grandfather built, provides a typical test case. After the grandfather had bequeathed his house to his sons and daughters, they did not apportion it into parts. They lived there, and their children also continued to live in the property. In as much as the sons’ children cannot live in that house when they are of age, and the sons’ grandchildren (like Agatha’s husband’s children) cannot live in that house, it means the estate has once again devolved through the matrilineage. This shows clearly that when real estate is passed on to sons and daughters by their father, the estate devolves through the matrilineage, because the males cannot pass their part onto their children. A private house of the males can devolve to sons and daughters, but after that generation, it reverts to the matrilineage, and it can only devolve through it. In the field I tried to seek more information about this.

Surprisingly, Opanyin Yeboa used the house that my mother lives in as a typical example for his explanation. He stated:

The house which serves your igurezde (female household) was passed onto your mother and her siblings [on one side] and your grandfather’s nephews and nieces [on the other side]. Look around and see if any of your mother’s brothers’ children live there. [The answer is obviously no]. Similarly, when your mother’s generation passes, you will be the elders in charge. However, your children cannot live there because you are a man. Look on the side of the nephews and nieces of your grandfather and the story is similar. The male’s children do not live there. Similarly, your house [constructed through contributions with your male and female siblings] will devolve through your sister’s children and not yours (Private communication with Opanyin Yeboa in March 2010).

After the discussions with Opanyin Yeboa, I went home and let my mother help me to trace the family tree on the part of my grandfather’s nephews and nieces. I found that all those who lived in that section, as by right, could be traced to their mothers. I was
baffled about the revelation, and I told myself that, if I had not delved into this, it would have never been manifest to me. The reality would have only dawned on me if, in the future, I do not construct a house of my own and my children have to find a place to live. Since they may never live in my village, it may never occur to me that these are the implications. It dawned on me that women have better opportunities for inheritance in their own lineages and not as appendages of their husbands. Similarly, when others in the society delve deep into the systems around them, they are likely to see certain things that they have overlooked and hence the need for research on indigenous systems to continue.

Some of the derogatory remarks that people make about the indigenous family systems misinforms society, makes members of the society turn a blind eye on the family values, and eventually prevents the society from knowing the situation on the ground. As part of the social organization and the communalistic way of life among the Fantse, people have multiple roles to their family of orientation (the family they were born into), family of procreation (the family that they established through marriage and childbirth), the lineage, and clan. In this situation, Ego who is now married, has responsibilities to himself or herself, responsibilities to his or her offspring, responsibilities to his or her parents and parents’ relatives, responsibilities to the clan as a corporate and co-operative entity, and responsibilities to their communities. It is by taking up such responsibilities that society may regard one as being a person (Gyekye, 1996; Ikuwonse, 2006; Wiredu, 2002). Fortes (1997) stated:

The concept of the “person” as an assemblage of the statuses has been the starting point in some interesting enquiries. A generalization of long standing is that a married person always has two mutually antagonistic kinship statuses, that of
spouses and parent in one family context and that of child and sibling in another (p. 20).

In the case of kinship networks, the Fantse systems go beyond that because, as a sibling, Ego is also a father to his brothers’ sons and daughters. In the case of women, they are mothers to their sisters’ sons and daughters and fathers to their brother’s sons and daughters. The responsibility may seem too much, but the indigenous system recognizes every little effort that one makes to help others. Besides, under the principles of individualism and communalism, a person is to provide for the community based on his or her capabilities (Gyekye, 1992, 1996). Addo (1974) stated that kinship obligations demand that whoever has succeeded in life must support other relatives so that the latter would also be successful. All these create the impression that individuals are overburdened and would like to shed their responsibilities by detaching themselves from the lineage system. However, considering Maslow’s Theory of Needs, especially under esteem and self-actualization stages, after people have achieved their basic needs, they move to fulfill community needs, in order that they would become popular. In the case of the Fantse, people would like to be recognized by the community as demanded by the concepts of personhood and communalism as espoused by authors such as Gyekye (1992, 1996), Ikuenobe (2006) and Wirredu (2002). This enables them to get to higher positions within the society.

The existence of the family of procreation does not devalue that of the family of orientation as Durkheim argued. The situation offered by Durkheim fits better in the Euro-American situations where their social systems are supported by the legal systems to maintain such family structures. In a situation like the indigenous Fantse systems,
where the political structures are built on the family units, particularly the clans, society cannot overlook this and allow the system to die. Moreover, the customary laws support the system to survive the rudiments of what Durkheim described as organic solidarity society because people who ignore their families and attempt to solve community problems come under constant attacks from members of the society.

The description of the matrilineal family systems in Africa as one in which a father had no legal authority over his children (Basehart, 1961; Beattie, 1964; Radcliffe-Brown, 1952) but rather the mothers’ brothers, does not apply to the Fantse. The data shows clearly the roles that fathers and the mothers’ brother’s played in space and time, and that the father’s responsibility to his sons and daughters was very prominent in giving them a sound training for the future. The literature may lead to a situation where fathers can become irresponsible and go scot free. For example, the literature emphasizes the role of the mother’s brother in the upbringing of children in matrilineal societies instead of that of the father. Other examples are bridewealth as a sellout, widow inheritance instead of transplanting of marriage, and widowhood rites as cruelty, without examining the support that it is supposed to offer.

The payment of bridewealth as a sellout and the use of the term “widow inheritance” made Cote d’Ivoire ban the practice though the indigenous people continue to receive it (Banda, 2005). In some societies, like those of Tanzania, it culminated into pushing for a law against it (Omari, 1993). To be candid, before I went for my field research, I had thought that secondary marriages were no longer in existence, but as shown by this study, they still exist. The indigenous people do not see it as “inheritance”
but —transplanting.” Besides, in the process of contracting such marriages, the widows are contacted for their consent before the successors can engage in any sexual relationship with them. Moreover, it is worthy to note that the successor holds whatever is bequeathed to him in trust for the clan. If the woman were even to be a property, he would have been holding it” in trust for the entire clan. Furthermore, the offspring coming out of a transplanted” marriage belong to those in that relationship. Considering the Sapir-Whorf Hypothesis supported by anthropologists such as Beattie (1964) that kinship should be understood in the terms of the language of the people who are being described, such derogatory terms can be eschewed if people seek understanding of the situation through research. This will eventually help to get the best description of a situation for policy and law making.

Widowhood rites have been portrayed as cruelty by many authors such Botei-Doku and Kuenyehia (1998) and Osam (2005), thus overlooking the support and sympathy that widows get at the time when they most need them. Similarly, there is the likelihood of other traditional practices being overlooked. There may be some cruelty, but this may not be the norm but as a result of the selfish nature or human being. It may also be due to the perception about cruelty. However, Cusack (1999) describes the situation where the consanguine of the deceased prepare sumptuous food for the widow, and just as she is about to eat, they begin crying, therby preventing her from eating. This cannot be described as supportive. Cusack (1999) did not attribute this to any particular ethnic group. However, participants said that in most parts of the rites they lived with their own consanguine. Therefore, the situation offerd by Cusack (1999) may be rare, even if it
occurs among the Fantse. This not withstanding, an impartial study of all these practices will help us to understand the system for policy-making and engendering cultural-based development policies. In any case, a deviant behavior should be seen as such and not the norm.

The literature states that, in rural Akan communities of Ghana, matrilineal organization and norms still generally prevail and have not been ousted by patterns of conjugal family (Fortes, 1974; Gokin, 1990). The impression being created by this statement, which also finds room by other researches, is that the situation exists in the rural areas. Though Ghana’s population is more rural than urban, it is evidenced that the rate of urbanization is rising. With this in mind it is expected that urbanization will eventually lead to the development and strengthening of the conjugal family at the expense of the lineage or clan; and that eventually this development will trickle down to the rural areas. However, the increasing urban population is mostly made by squatters (United Nations Human Settlements Program, 2003). Infrastructural developments have not increased in space and time to correspond with the increasing urban population. Such squatterers have low incomes. They are likely to depend on communalistic principles for their survival, and so the individualism which is expected to effect the changes to what Durkheim describes as the conscience collective in the organic solidarity society will be absent. It has been documented by Awedoba (2002) and Peil (1995) that people who travel to the core areas (cities in Ghana and outside) are inclined to their peripheries. In the cities in Ghana, there are ethnic and village based community associations that mobilize resources to help their home towns. Such groups help to foster cooperation and
pass on the indigenous cultures even while they are outside. Eventually the communal life which people erroneously attribute to rural communities subsists within the urban centers.

**Implications for Gender Activism**

The Functionalists and the Postcolonialists call for changes in the society. The Postcolonialists move a step further by urging underprivileged groups to be the agents of change. Their arguments are important for enacting laws for effective social change. For instance, Durkheim (1997) argued that the reliance on law is an expression of social interest among individuals. Stojkovic (1973) argued that, at times, the law creates conflicts when it is not a representation of social solidarity but the representation of the interest of those who can influence the direction of the law. Fanon (2004) identified the elite in the society as the new colonialists when they entrenched the colonial tendencies instead of abiding by the indigenous systems. Finally, Spivak (2006) argued that lumping a group of people together without identifying their basic differences creates avenues for the privileged within that group to re-present the views of the less privileged instead of representing them. Furthermore she argued that such situations create more problems for the underprivileged.

The gender relations that emerged in this study can also be seen within the context of the Africana womanism. This is a philosophy or theory for women of African descent which calls for changes in societies and cultures that are dominated by inequalities such as racism, classism, and subjugation of women (Brookfield, 2005; Hudson-Weems, 1998; Mikell, 1997). Africana womanism provides alternatives to feminism, which has been
described as an aggressive way of fighting for social justice with no recognition for some of the cultural values associated with African societies. Africana womanism encourages African women to seek social justice and equity for themselves and other marginalized groups. It addresses the conflicts and confusions that African women find themselves in as they try to assert themselves. In Africana womanism, women’s struggles are conceived in the sense of the politics of survival. It embraces African value systems such as the concepts of communalism and collectivism, family centeredness, and a struggle that involves men as partners and not as a fight against men. Thus the women seek to represent themselves and not to be re-presented.

The situation these days is that gender seems to be misconstrued for feminism. This goes with tagging and branding where everybody must speak for women and the words very tasteful for the feminists. Terms like, anti-feminists, sexists, and many more have been given to people who do not speak favorably for the cause of the feminists. However, in this study, the Fantse women saw themselves as women for who prestations have been paid and thereby making them powerful in their marital homes as well as their lineage and clan households. They see themselves as people who deserve the best of treatment from their husbands or, in the absence of that, remind their husbands of their obligations to take good care of them or be returned to their parents who can take better care of them. They are women who need to be protected by the society; women who have the right to be consulted on proposals for marriage in situations where the proposal was not addressed to them directly; and women who are part of the decision-making process, especially those that concern them and their children.
The Fantse women have political and economic autonomy. They take decisions about issues that concern them. They can acquire their own property and not those who have to rely on their deceased husband’s estates. From all indications, the women have better claims to family property, and the situation where they become appendage Brookfield, 2005; Hudson-Weems, 1998; Mikell, 1997) of their husbands does not help them. The emerging patrifocal mode of devolution of property favors them because, when the estate of a deceased person devolves to his sons and daughters, only the children of the females can have access to it in the future. Though, the ideal Fantse woman must be married to be ushered into adulthood, the emerging trend where women can remain single will not affect her chances of inheritance if she remains single because she can inherit from her mother, her mother’s sisters, and she can enjoy from the clan patrimony with all honors.

**Implication for Law-Making**

The major implication for examining the social organization in the process of making laws on the family is that a good law is one that considers the structure of relationships and the network of support within the family. This conforms to the situation where law is seen as a social process (Allot, 1984; Friedman, 1977; Radcliffe-Brown, 1952). Allot (1984) argues that compliance with the laws does not depend on being able to persuade the law subjects to accept new laws as important. In a democratic society, the laws have to be made by the people. Their contribution to making them is very important.

The law-making process takes the history and culture of the people into consideration. The history of making laws shows that modernization has not been
effective in changing indigenous laws (Allot, 1984). Furthermore, indigenous peoples decided on the changes that occurred in customary laws, especially those on family life and inheritance, through their day-to-day practices and attitudes. Allot’s statements reflect the case of family laws in Ghana (see Appendix D) and the data. The use of the customary laws has become more complex in diversity because judge-made laws and colonial English common laws have become part of the laws of Ghana (Allot, 1984; Daniels, 1988; Goonsekere, 2007; Woodman, 1985). However, in spite of all these influences, the customary laws have survived and remain the living law for many people (Goonsekere, 2007).

From all indications, the emphasis on enactment of family and inheritance laws has always been in need of modernizing, but modernization should be gradual. Changes that have occurred in the family have affected social life of the Fantse. Past judgments in respect of inheritance have often been incorporated with modernity (Daniels, 1987). Furthermore, the memoranda of both the PNDCL 111 and the restated bill (Intestate Succession Bill) introduced in 2008 identify the need to modernize family laws to conform to family life and structures. However, considering that the law-making process takes the history and culture of the law subjects into consideration, modernization is not about jumping from one place to another but a gradual movement from one situation to the other (Gyekye, 1997; Kuper, 1982). Therefore, modernization of the law demands re-examining the history and culture in line with what exists within the statutes to find out the potential advantages and the bottlenecks that are likely to arise.
The timing of the laws needs to be considered. Apart from the literature (Allot, 1984, Awusabo-Asare, 1990; Daniels, 1987), the Hansard of Parliament of Ghana and the data also show that attempts at enacting the laws on inheritance are problematic. The reasons have often been attributed to the proposals being against customary principles and, therefore, a potential for losing the indigenous Ghanaian identity and causing disunity among people, especially family members. For instance, it will be realized that the most comprehensive process made to enact law on family and inheritance had taken place between 1959-1963. That was when many African states became independent and made calls for self-identity. It was also the time when the laws that the British had made under colonialism had come under scrutiny (Schiller, 1965). Those tasked with identifying possibilities of enacting a law had collected inputs from a wide range of people and perspectives as the principles of self-determination demands. Such a situation will not warrant a law that has aspects of foreign culture that have the potential to impinge on the integrity of the people. Therefore, any attempt to downplay the culture and identity, as happened with the publication of the government white paper which sought to make monogamy the only form of marriage, was likely to be met with resistance.

With all these, the people are not likely to renege on their identity as Ghanaians and, for that matter, Africans, especially in a situation where Ghana has always been at the forefront of African nationalism and Pan Africanism. Similarly, the sovereignty of Ghana has been maintained to a large extent. Therefore, the calls for modernization and globalization cannot be against the need to maintain the Ghanaian identity. However,
maintaining the identity does not also mean taking an entrenched position that hinders the enactment of the law. Otherwise, the dynamism associated with culture will manifest itself in the way the people react to the enactment process.

Participants' view that making of wills is a man's business and male participants' apprehension about making wills need to be re-examined in line with the principle of equity and justice. For instance, women's contribution to the process of acquiring the property is very important. However, acquiring the property in the name of the man creates problems for the woman in the future. The fact that women have economic autonomy and can freely acquire property makes it imperative that women are also called upon to make wills.

The way national laws follow international conventions without examination of their ramifications on the social systems of indigenous people should be a matter for concern. It has become the order of the day that the various continental organizations such as the African Union and European Union attempt to synchronize universal documents to common practices on their respective continents. Besides, international documents need the enabling acts of the various countries after they have been ratified. Most of these international documents were drawn at a time when African states were not independent, and, even when they were, the laws were framed in the dominant group's culture. Attempting to steer our laws to the western concepts when, in the wisdom of the framers of the constitution, the nation should continue to abide by legal pluralism based on national statutory laws and customary laws creates double standards in our societies. We may not even understand the concepts underlying them, and, when this happens,
people will ignore the law or try to synchronize it to their knowledge systems just as the formula for disposing of estates have been synchronized with more emphasis on an indigenous knowledge known as *ebusa*. The situation is similar where the Western world draws a clear distinction between the family of orientation and the family of procreation (conjugal family).

Framing laws within the context of the conjugal family is not the best because marriage is now a choice. It is no longer a developmental issue of showing that one is an adult. Therefore, the society does not expect everybody to marry. If society frames its laws with the conjugal family as its basis, those who do not marry will never be considered or protected under the law. This makes the law discriminatory and, therefore, against the Constitution of Ghana (Article 17) and international laws such as the African Charter (Article 18) and the CEDAW (Articles 1 & 2). This form of discrimination is not in terms of gender, but about one group within a class of gender against another. The Protocol on Women mentions discrimination of all women in Article 2, and then stresses every woman in Article 3. Therefore, the rights of women are not to be considered on group bases but on individual bases. This is exactly what Spivak (2006) argues for.

Considering that the new bills in parliament attempt to consider concubinage as marriage for the sake of enabling the spouses to obtain property rights and inheritance rights from each other, society will be heading for social and legal problems which will soon negate what the laws want to forestall. One wonders if this is not an attempt to break values that have kept the societies together. It seems to be an attempt to legalize illegalities simply because the society is not conforming to the legal, as for instance,
legalizing concubinage because people prefer to be concubines, instead of marrying to enable them enjoy the legal rights associated with marriage. Society cannot run away from the fact that cohabitation is becoming common; but it will be important to know the percentage that does that and the reasons for their action before society attempts to glorify the illegalities by changing the law. An examination of the problem that the recognition of cohabitation can create is very important here. Fancy a situation where spouses, especially husbands leave their wives in other localities, especially the rural areas, and get attached to others when they work in other places. More importantly, how will the law courts treat a situation where a spouse married under ordinance marriage, which should be monogamous, gets attached to another woman and they live as husband and wife. Will the law courts say that there is evidence that the man and his concubine lived together and therefore should be regarded as spouses? Such a situation will be creating double standards in the law, considering the concept of bigamy. The Fantse adage goes that when you use the cheaper means to have a wife, you will also find yourself in cheap (unwarranted) troubles. Similarly, when society attempts to legalize the illegalities instead of ensuring that the law prevails, it will pay dearly. Therefore, a look at some of the local issues is worthwhile.

Some participants raised concerns about the percentage that surviving spouses would enjoy in the new law as restated and the situation where a child born out of marriage enjoys equal shares with those born within marriage and the situation where surviving parents would not get a share of the deceased’s estate.
Participants were unanimous that the changes in marriage arrangements were overwhelming, but the need for parental consent for marriage was one thing that society could not forgo. Whereas parental consent has been attacked as a way of making the older generation have control over the younger generation and keeping resources from women because they have to be “bought” through the payment of prestation and be subordinated, participants of this research have upheld parental consent as a rich cultural value that is very important for social cohesion.

Readers will recall the responsibilities associated with the payment and receipt of bridewealth conferred on the parties. The situation where the church performs the marriage without the acceptance of bridewealth, and the provisions in the Children’s Act (Act 560) of Ghana that makes it possible for people of age 18 and above to marry without the consent of their parents can really create a lot of problems within the social systems. One wonders if the church can conveniently organize funerals for either of the couple. Customary law provides that clans have the responsibility to organize funerals for their members (Ollenu, 1962, 1966). In the situation where national laws on marriage do not require parental consent, there will be the need for the law to identify other possibilities of doing this; otherwise in the future if families are to go strictly by the customary laws vis-à-vis the national laws, the health authorities will have the problem of giving mass burials to people. These have already started as there are often advertisements that families should go to the morgue to identify their corpses. In Kenya the law on marriage states that parental consent is necessary. A similar move in Ghana will be beneficial.
The situation where the husband is obligated to take over the responsibilities of the woman, especially her financial obligations, coupled with that where both men and women do not see the need for a woman to bequeath their property to their husbands, has the implication of making the women subordinates. Unfortunately, women do not also want to lose that privilege. Awedoba’s (2002) argument that Akan women are admonished by their consanguine to grab whatever they can from the marriage when it becomes necessary before the man dies needs to be investigated further. Addo, (1974), McCarthy, (1985), and many more attest to the contribution of married women to household budgets and submit that this it is in line with the economic and legal autonomy that is characteristic of the status of women of certain ethnic groups in Ghana, particularly the Ga and Akan.

Surviving spouses are not responsible for organizing the funerals of deceased spouses. It is the responsibility of clans to do that. All funeral announcements begin with a list of chief mourners. This list is often followed by the statement ―regrets to announce the death of…” and a burial arrangement. The head of clan is always the first on the list. The surviving spouse’s name and those of the children are never included in the list of the chief mourners. They appear on their own as widow or widower and children. Strictly speaking, the head of clan and the chief mourners have the right to invite people to come and mourn with them and not the widow and children. If it is the children who design the announcement and pay for the cost and yet follow this procedure rigidly, then there is the need to recognize the role of the lineage when enacting family and inheritance laws.
Many of the indigenous cultural practices do attest that one can always replace a spouse but not a sister or brother. This may be true considering the fact that serial monogamy due to divorce and remarriage on the part of both men and women is common among the Fantse (Christensen, 1954). However, I do not totally agree with the fact that you can never find a substitute for a sister because it is also on record that blood relations may also break (Christensen, 1954; Ollenu, 1966; Sarbah, 2004). The Fantse expression used for this is *woetwa ammodzin mu* (they have broken the broom), but in context they have severed relationships. The data indicated that just like the process of dissolving marriage, a ritual for this occurs after several efforts to bring the feuding relatives together has failed. The most important thing is that wives and sisters play different roles in social organization which are complementary. A call for substituting one for the other is not the best.

**Implication for Child Rights Activism**

The derogatory remarks and the generalization of African situations are misleading. For instance, description of the matrilineal family systems in Africa as one in which a father had no legal authority over his children (Basehart, 1961; Beattie, 1964; Radcliffe-Brown, 1952b) does not apply to the Fantse. The data shows clearly that the roles that fathers and the mothers' brother's played in space and time and that the father's responsibility to his children were very prominent in giving the child a sound future. Following the literature may lead to a situation where fathers can become irresponsible and go scot free.
If the African Charter on the Rights of the Child recognizes the need for children to support their parents’ families, communities and states, and childhood in African societies is conceived in terms of age, gender, kinship relationships, intergenerational relationships where sons and daughters of a person are often regarded as children, and where intergenerational gaps define some people as children in relation to other generations even when they are adults, it would be prudent that young people should uphold the sanctity of marriage the way the community upholds it. If we believe that the community includes the dead, then some of the policies we make should take cognizance of this and uphold, defend, and continue to transmit it to the next generation. Society is now trying to vilify the traditional norms, but it will be the same people who in the society will say the youth of today do not respect and therefore are problematic.

Bearing in mind that society has gone through a number of changes, and there is the likelihood that not all the changes were not in line with indigenous principles but a way by which those with power made the rules to favor them, there will be the need to present a cogent argument based on the customs and institutions of the Fantse. The argument goes that the estate of a person devolves to blood relations. This should be examined in line with moral discourse. For instance, inheritance to real estate of a person is seen as a religious and moral duty that the clan must undertake to preserve the estate of a person from being divided and possibly sold by the beneficiaries (Ollenu, 1966). If it is a religious duty, then those who are members of the same egyabosom or ntoro will be the rightful people to perform that duty. In such a situation, it is only the siblings who belong to the same father who will have the right to inherit because the father is the spiritual
guardian. That means that apart from siblings from the father’s side, a man’s children also can also inherit as a religious right and obligation. In that case it is worthwhile that the father’s brother can live with the deceased’s children as the fieldwork showed. If the sister’s son assumes the duty of a deceased father, he does not belong to the same egyabosom with them and, therefore, cannot offer any spiritual guardianship to the deceased’s children.

Another argument may be that the clan is a corporate body with a religious function. Therefore it can carry out such a function for the deceased. The moral side of religion dictates that life is made up of reciprocities. Therefore, whoever has helped in creating the wealth should benefit from it. In this case the children have a better claim to the estate than any other people. Considering that the children are the very ones that the father’s lineage calls on to renovate and preserve the house of their father, the lineage demonstrates that the children are the best to preserve the house. It will therefore be more sensible if the lineage will allow the children to remain in the house and preserve it as a monument. These are some of the arguments that can go for the children to have access to their father’s real estate.

The way parents offset the age limit that national laws set for childhood is significant for discussions. Apart from the fact that parents ensured that their sons and daughters were old enough to be on their feet before they disposed of their social responsibilities to their children, one prominent practice that still exists is that sons and daughters continue to be children of their parents when they are adults. It is worthwhile noting that they are not children to be dictated to but children who have rights to be part
of discussing issues bothering them and those in their own interest as the UN Convention on the Rights of the Child shows. The Fantse adage goes, *se abofra hu ne nsa ho hohor a onye mpanyinfo to nsa dzidzi* (when children learn to wash their hands properly they eat with adults from the same bowl). Here they are considered as children of their parents, but as adults; they can use deliberations to arrive at conclusions that will be pleasing to all parties—a major component of the communalistic way of life that shapes the Fantse and for that matter, the African (Awedoba, 2002; Gyeke, 1992, 1996; Ikuenobi, 2006; Mbiti, 1990; Wiredu, 2000, 2001).

**Implications for Institutional Arrangements**

There are also institutional problems associated with enacting laws. The debate on the floor of parliament that I captured in the last chapter provides ample evidence of this. Even though the bill was laid before parliament about three years ago, it has gone through only two readings with the last one occurring over a year ago. Law makers have been paying only lip services to the law. In as much as they agree that it is a problem, some of them, especially the women, just see it as problem for women and hence the sectorial approach to the problem. One wonders why the case was referred to the two committees of parliament when many identify the problems associated with marriage and inheritance as cultural issues. Furthermore, there are institutions that have roles to play under the constitution.

The lip service that the house of parliament is playing with the law shows the lack of attachment that members have for the constitution. Mr. William Boafo’s contribution to parliament on March 5, 2010, is worth examining here. He drew the attention of the
speaker that the law is going to affect the family and the social systems of the country. It was clear that the law was a cultural issue affecting the larger family to a large extent, and it is equally something which is going to affect our social structure, and, as such, we need to give time to the public to provide us with inputs. Though Mr. Boafo was concerned about the breakdown of the social systems, other people saw it more as a women's problem.

The constitution recognizes culture as a tool for national integration and development (Article 39). The first two sub sections of Article 39 mention the integration of the appropriate culture and adapting the cultural values for development. The law establishing the National Commission on Culture (NCC) commissions is meant to ensure the promotion of culture in national life. It states clearly that Ghana will be developed using the culture of the people. The constitution also recognizes the National Commission on Culture as the conduit for development. Therefore, one wonders why parliament has bypassed the commission in finding solutions to a cultural problem.

The commission has identified as its main objective in the National Cultural Policy the need to document and promote values in law and order, enhance Ghanaian cultural life to the nation's human development, and much more (Article 3). There is also a ministry of Chieftaincy and Culture, and parliament has a subcommittee on culture.

Members of parliament said the Intestate Succession Bill was going to affect the family system which is the bane of indigenous culture. It would have been better if that subcommittee had also been involved in the discussion on the bill.
Implication for Literature on African Studies

The literature seems to have affected the way intellectuals in the academy and those in charge of policy and law making present the situation. The studies by authors such as Gockin (1990) Goody (1982), and Nukunya (1992), arguments put up by judges such as Justice P. E. N. Archer in the case *Re: Antubam, deceased* (Daniels, 1987), and the memorandum of the laws and bills favor the conjugal family. For instance, Goody’s (1982) description of the conjugal family is about a perfect situation where there is no conflict between the couple, where the clan grows weaker and is no longer a property-owning institution, and where it has less control over its members. The functionalist’s arguments suggests that the moment a person marries, the family of procreation takes off and diminishes the importance of the family of orientation. Furthermore, the trail in the family systems ends when one of the couple dies. This is totally in contrast with the Fantse situation where the family of orientation and the family of procreation exists side by side with the former forming the core of lineage in many cases, and the various family groups (conjugal family, composite family, lineage and clan) interdepend on one another and interact in a like manner.

Gockin (1990) argued that all the arguments put up for matriliney’s ability to survive in Ghana focus on rural communities, and that the important urban societies were different. Nukunya’s (1992) arguments were not only based on similar write ups, but he also argued about the demise of the matrilineal system. The situation where judges used their discretion in interpreting the law followed this description. For instance Justice Archer’s remarks that — the proposition that children of [of Akan marriages] are not
considered members of a father’s family is contrary to all biological principles, alien to well-known doctrines of accredited religions and opposed to common sense” (Daniels, 1987). The memorandum accompanying the Intestate Succession Law (PNDCL111) and that of the bill also state, “The growing importance of the nuclear family brings with it its own logic of moral justice. Simply put…a surviving spouse [should] be compensated for his or her services to the deceased spouse…. This is similar to the arguments put up by the afore-mentioned authors and judges.

The arguments put up by all the people mentioned above can be debunked within the context of postcolonialism. This study was undertaken in urban and rural areas, and the data clearly shows that society is organized along the matrilineage. Gokin’s argument about the need to re-examine matrilineality from the point of view of the important urban community warrants the question about how many live in the urban communities. Within metropolitan Accra, the indigenous settlements exhibit more of rural communities. Besides, Ghanaians are connected more to their home towns which are often rural by nature (Awedoba, 2002; Peil, 1995). Daniels (1987) disagreed with those who drafted the law on the issue of the growing importance of the nuclear family because he saw the Ghanaian society as dominated by polygyny and therefore the conclusion more imaginary than real. Polygyny is not the preferred marriage among the Fantse and for that matter Ghanaians (Oheneba-Sakyi, 1999). However, fostering is a common phenomenon among Ghanaians (Awedoba, 2002; Kuenyehia & Aboagye, 2003, Nukunya, 2003). Furthermore, the use of house helps is a common phenomenon (Kuenyehia & Aboagye,
Therefore, a conjugal family in Ghana is likely to have a "stranger" thereby making it more of a composite family as described by Radcliffe-Brown (1952b).

Though, one may put up the argument that by mentioning the other kin members, I am referring to the household and not the family. Bearing in mind that there is no concrete definition for the family, and the fact that kin terms and kin types are framed in responsibilities, an examination of the family within the framework of a residential unit and rights and responsibility will help in framing a comprehensive law. This is because all those living together play roles in socialization, which is one of the responsibilities of the family. Furthermore, the family is not a biological institution but a social institution.

In as much as I accept Daniels' arguments, I do not agree with his submission that polygyny is dominant in Ghanaian societies. Census figures do not capture the rate of polygyny and even if they do, there are many men who have not paid any prestations for a woman but are living with them happily (perhaps even happier than they do with their legal wives). Such men are likely not to disclose that they are in polygynous relationship for fear of being reprimanded by the society.

This study has enabled me to appreciate some of the indigenous value systems and the way they can contribute to policy and law-making. Hopefully, it will enable me contribute my quota to the literature on social systems that are likely to inform law makers, policy makers, analysts, the judiciary, and all other social partners who are concerned with peace and stability in Ghana. It will also enable the disadvantaged groups in the family, especially women, to be conversant with customary practices so that they can obtain the tools for fostering advocacy. Other professionals such as lawyers, social
workers, and marriage counselors will benefit from this work. Through these, I will be helping to promote research, teaching, and service that consider children and women, the most marginalized population groups that need the world’s attention in Africa’s development process.

**Implications for Future Research**

Taking cues from all the arguments presented in the literature and the data, I realize the need to reexamine what society is fighting for in line with the needs of the real people who are most affected by the law. Once the law is made for the society, it should examine social issues in the context of what exists on the ground as well as what exists globally. However, it is worthwhile noting that taking an entrenched position based on wrong assumptions does not encourage proper negotiations through dialogue. Eventually, the downtrodden, whom Spivak (2006) refers to as the subalterns, will not benefit from the laws and policies because they have been re-presented instead of represented.

The call has often been the need for laws on inheritance because people do not want to make wills. Furthermore it has always been laws for ensuring that women enjoy their rights to property. Even where the focus is on all spouses, it is inherent that women are singled out as the ultimate beneficiaries. Many respondents said a man should make a will in his old age, but they could not tell at what particular age they should make the will. I will attempt to conduct research on the viability of wills, considering the life expectancy and the fear that a will can lead to premature death.

There are a number of documents prepared and published with the tax payers‘ money that is lying idle and begging for implementation. Among these is the National
Cultural Policy which states that cultural education shall be pursued at all levels. Recalling that my participants such as Ebusuapanyin Acquah and Nana Amisah have contributed their quota in solving some social problems in their own small way within their outfits, I will follow suit. As a faculty member in the Department of African Studies, I will encourage my students to debate the problem through the assignments that I will give. As a class project, we will design modules for targeting people including those in governmental units and NGOs so that the training will begin from there. We shall source for funds and organize trainings workshops to equip people with advocacy skills so that they would train others for this endeavor.

**Conclusion and Suggestions**

Banda (2005) stated, “The customary law invoked in post-independence states was not the flexible, dynamic custom of pre-colonial years, but rather the court/state/man manufactured hand me down of the colonial era” (p. 22). What are the implications of this? Legal theory states that if laws are not in line with the general practices of the people the law cannot be effective (Friedman, 1977). It is documented that in Cote d'Ivoire where bridewealth has been abolished by law the indigenous people still accept it as the the seal for legitimating marriage (Banda, 2005). Similarly, in places like Ghana where the law requires that people register their marriages, it is only when circumstances compel married couples to do so that they go to register. The laws are not sufficient. The laws cannot be upheld when access to the law courts is not easy. Ghana’s family courts use Alternative Dispute Resolution (ADR) which is more inclined to the traditional legal
systems than the inherited colonial ones. The people who are agitating for the laws seem to have lost touch with the majority of the people that they claim to be fighting for.

Considering the fact that marriage and inheritance laws in Ghana have existed under statutory laws since the colonial days and continue to be problematic, there will be the need to get all hands on board in solving the problem. Nana Ama Amisah does not mention the need for one to lead in the crusade though she has led the way. Thus she reinforces the collective approach to effecting a change as exists in indigenous Fantse social and political systems.

On the national scale, some culturally entrenched positions need to be reexamined in the face of social change. The situation where society would expect a successor to continue with the education of deceased’s children, the norms that a woman does not have to bequeath any property to the husband, that a man should draw a will in his old age and that a woman does not need to draw a will, all need to be examined thoroughly to effect a social change. In an era of gender equity, what is good for men is equally good for women and vice versa.

Participants stated that the traditional Fantse socialization process shows that it is the responsibility of a man to educate his children since the period of formal education precedes marriage. It would be expected that a successor continues with the education of the deceased’s children. This is a good idea, but fancy a situation where the successor’s own children do not have the best of education. The successor will likely not be able to continue providing the best of education for the deceased’s children when he has not been able to do so for his own children. In this case it will be prudent that members of the
community be educated to accept insurance policies for the education of their children. The insurance companies have already started doing this, but more education by civil societies should be the bedrock.

My form of activism will not be a revolution but gradual processes through education (Chambers, 1995) so that heads of lineages/clans will understand the implications of the law and the social change that that has affected the larger family. I will try to obtain funds and help organize workshops so that chiefs, heads of clans, youth leaders, and local government representatives will examine the inheritance laws and see how best they can implement them within the districts. By doing this, I will be involved in what Chambers (1983) refers to as participatory research.

Goonsekere’s (2007) arguments can serve as food for thought when examining the way of admonishes of making workable laws. He stated:

The CRC, CEDAW, and human rights instruments require holistic approach to the integration of international human rights standards within countries. Initiating reforms and effectively implementing and enforcing rights through law based initiatives become even more complex when the legal system is based on several legal traditions that apply within the one country. Harmonizing domestic law with treaty commitments and creating the necessary institutions to support the implementation must take account of the interaction between the various systems, as well as the opportunities and challenges posed by this diversity (Goonsekere, 2007, p. 219).

Goonsekerwe seems to be vouching for international standards. His words apply to the situation in Ghana in the sense that he advocated the examination of the opportunities and challenges that affect the systems. Because a legal system is framed within the socio-cultural and historical situation of a country, Ghana’s the traditional legal systems have persisted over the years of colonial rule and over 50 years of
independence and participation in international conferences. Those who attend the conferences are not the people who are most affected by the laws. If those who attend the conferences, for example government officials, academics, legal pundits, and many more do not know what those who are most affected need, then they cannot ensure the applicability of the law.

Another thing that should be considered for the legal process is the level of access to the law courts. The unavailability of legal experts, limiting the number of people who want to enter into the law school, coupled with the flexibility of customary laws as indicated by the data will definitely be disincentives for enacting family laws, especially when the traditional family systems have their own mechanism for addressing discontent. The introduction of Alternative Dispute Resolution in Ghana’s justice system and its use especially in the case of family feuds is worth it. However, there is the need to open up more of such courts and possibly fill the position with volunteers and train them to execute their tasks with alacrity.

The data showed that participants advocated a law based on the one-third each for a wife or wives, children, and the lineage. It would be recalled that widows recognized the need for the lineages of men to have a fair share of the estates. Based on the indigenous principles of communalism, reciprocity, and deliberative democracy, and the fact that changes in social life are influenced by the people’s attitudes, I recommend that education should begin based on the indigenous knowledge systems and not on the assumptions that the nuclear family is gaining more grounds in the social fabric. I
advocate for a proper historical and cultural analyses of the situations under which the laws have been rejected so as to come out with something more meaningful.

Considering that Fantse women have economic autonomy, making wills should not be seen as men’s business. Society should see the need for women to prepare to give out some of their property and entrenched positions. At the helm of the call for the law is women lawyers, and their arguments have always been in favor of property devolving to wives. Women belong to their lineages even after marriage, and they have inheritance rights in those lineages. Since the women acknowledged the importance for part of the estates to devolve to the lineages, these should be considered. Besides, the increasing rates of divorce and single parenthood should be an indication that the conjugal family has not been the ideal for society.

The data show the level of flexibility in applying the customary laws. For instance, chiefs and heads of clans indicated that when judging cases they examine each situation on its merits and judge accordingly. However, it has also been noted that the customary laws that were invoked in the post-independence era were not the flexible type (Banda, 2005). This may probably be because they had to be in line with the central national justice system instead of the local systems under which the customary laws prevailed. With the heterogeneity of Ghanaian societies, the national law should be framed in such a way that the local government structures will be the deciding factor in the end. This calls for strengthening the local government institutions such as the Unit Committees and involvement of indigenous civil society institutions such as the asafo
companies in decision-making. This will enhance a high level of participation among the people.

There are situations where the arguments for the laws are premised on the wrong notions. For instance, instead of perceiving the larger family system to be giving way to the nuclear family, it will be more prudent to consider how the nuclear family serves as the forerunner for communication and support among the lineages. This underscores the importance of framing laws and development policies by being sensitive to the culture of the people. For the sake of Afrocentricism, the following need to be considered for revising the literature so that the situation does not always portray uniformity about African culture:

1. Gender relationships should not be always constructed on the basis of sex but also on the basis of kinship.

2. Marriage is between four families among the Fantse. There is the need to re-examine this in other ethnic groups, considering that many African societies adopt the unilineal descent system and that each of the spouses brings into the marriage their paternal and maternal relations, and, in most cases, each of these groups of relations has distinct roles to play in the marriage.

3. Societies may differ in the rights that marriage provides for the couple and their families. For instance, not all societies have genitricial rights and the nature genitricial and uxorem rights may differ from one society to the other. The literature should also highlight how certain rights that males seem to enjoy apply to women and vice versa.
4. The independence of the woman from her husband and his lineage needs to be considered for analyses about the family. For instance it will be recalled that women have inalienable rights from their natal families. Insisting on obtaining such rights from their family of procreation may wither the rights of single parents and those who decide not to give birth at all.

Finally, I advocate for series of conferences from the grassroots. A national conference can help, but it will give undue opportunity to the highly educated women to speak for the masses. Spivak (2006) advocates the need for representation and not re-presentation. Therefore, local conferences will enable both the subalterns and the educated women to speak for themselves. It will be recalled that such local and regional conferences have been used in constitutional issues; for example the one that led to the adoption of multi-party democracy in 1990 and recently the Constitution Review Commission set up by a Constitutional Instrument (C.I. 64) of 2010 as a Commission of Inquiry to conduct a consultative review of the operation of the 1992 Constitution.
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Appendix A
Ohio University Consent Form

Title of Research: Mother's Wealth: Matrilineality and Inheritance Among the Fante of Ghana

Researcher: Alex J. Wilson

Participants: Chiefs, Elders of the Clans, Widows and Widowers

As the Chief/Regent of this town, you are being asked to participate in this research on behalf of subjects. For you to be able to decide whether you want to participate in this project, you should understand what the project is about, as well as the possible risks and benefits in order to make an informed decision. This process is known as informed consent. This form describes the purpose, procedures, possible benefits, and risks. It also explains how your personal information will be used and protected. Once you have read this form and your questions about the study are answered, you will be asked to sign it. This will allow your participation in this study. You should receive a copy of this document to take with you.

Explanation of Study
I will have an interview that is going to last about an hour with you. Many are of the view that modern laws on inheritance should be enacted where they do not exist. In places where they exist, people claim that the modern laws should override the traditional ones. Many claim that the traditional laws are archaic, primitive, etc but it is surprising that most often the traditional customary laws are practiced even where there are modern laws.

This interview will center on customary marriage, divorce, widowhood and inheritance systems of the Fante and how national laws negotiate these issues. I will, therefore, be asking questions about Fante customary laws, the Intestate Succession Law, and other related laws, mostly, PNDCL 111, 112, 113, and 114.

The study seeks to find answers for the following questions:
- What is the nature of the social organizations of the Fante [Ebusua (matrilineal clan) and Asafo (patrilineal socio-politico-military organization)], and what are the differences and similarities between the two social institutions.
- What are the rights and obligations that these social institutions confer on their members and what are the gender differences associated with them?
- What are the changes that have taken place in the family systems of the Fante over time? What factors contributed to these changes?
- What is the influence of national laws on the Fante family systems and their customary practices?
Risks and Discomforts
I do not envisage any potential risk, however, if you feel uncomfortable with some of my questions you are free to refuse to answer. If for any reason you feel uncomfortable and you want us to stop the conversation please let me know.

Benefits
By the end of the interview you will be happy that they have contributed your quota to a project that has solicited your opinions in the process of advancing arguments for making laws.
I will give the chief of this town a copy each of the dissertation before final submission, when the work is accepted and when any material from it is published. They will keep them on your behalf so you can contact them to have a look at the information.

Confidentiality and Records
I assure you that when all is done I will destroy the tapes. I will label tapes and other materials your official title, or any other that you want me to use. If for any reason you do not want me to disclose the sources of any information tell me and I will do your wish.

Compensation
As the chief, I will give you a copy of the dissertation before final submission, so that you can refute some of the things I have written or comment on them. Besides, when any material from the work is published, I will give you a copy which can be kept in the palace/library for public use. You may also use portions of my work as documented reference in your judgments in the traditional courts in future.

Contact Information
If you have any questions regarding this study, please contact Dr Francis Godwyll @ godwyll@ohio.edu or Telephone # (740) 593-4484

If you have any questions regarding your rights as a research participant, please contact Jo Ellen Sherow, Director of Research Compliance, Ohio University, (740)593-0664.

By signing below, you are agreeing that:

- you have read this consent form (or it has been read to you) and have been given the opportunity to ask questions
- known risks to you have been explained to your satisfaction.
- you understand Ohio University has no policy or plan to pay for any injuries you might receive as a result of participating in this research protocol
- you are 18 years of age or older
• your participation in this research is given voluntarily
• you may change your mind and stop participation at any time without penalty or loss of any benefits to which you may otherwise be entitled.

Signature________________________ Date________________________

Printed Name________________________

Political Position _________________________________________________________

Town/Village _____________________________________________________________
Appendix B

A determination has been made that the following research study is exempt from IRB review because it involves:

Category 2: research involving the use of educational tests, survey procedures, interview procedures or observation of public behavior

Project Title: Mother's Wealth in Matrilineal Societies: A Case Study of Inheritance Among the Fante of Ghana

Primary Investigator: Alex J. Wilson

Co-Investigator(s):

Advisor: Francis E. Godwyll
(if applicable)

Department: Educational Studies

Jo Ellen Sherow, MPA
Office of Research Compliance

Date: 11-25-09

The approval remains in effect provided the study is conducted exactly as described in your application for review. Any additions or modifications to the project must be approved (as an amendment) prior to implementation.
Appendix C (i)
Interview Guide for Chiefs and Queenmothers

Mother’s Wealth in Matrilineal Societies:
A Case Study of Inheritance Among the Fante of Ghana

- Could you please tell me something about yourself?
- What is your marital status?
- What are some of the key political positions that exists in this town?

Social Organizations Among the Fante

1. Under Fante culture, what age/bench mark in a person’s life is he/she considered to be an adult?
2. What is the importance of marriage in the life of a Fante?
3. How is marriage contracted?
4. Could you please describe expectations that the society has for a married couple?
5. What is the procedure for dissolving a marriage? Who are the key parties and what roles do they play in the process?

Rights and Responsibilities within the Social Systems

6. (a) Under Fante culture, what role does a father play in the life of his sons?
(b) What about daughters?

7. (a) What is a son’s responsibility to his father when he is young?
(b) What about a daughter?

8. (a) What is a son’s responsibility to his father when he becomes an adult?
(b) What about a daughter?

9. (a) What are the responsibilities of a father to a son?
(b) What about a daughter?
10. What are the responsibilities of a clan head or the clan during the burial of a father?

11. What are the roles of sons and daughters in the burial of their father’s copse?

12. At what age/benchmark in life are the sons and daughters responsible for performing these?

13. If the sons and daughters are not capable of performing these responsibilities, for any reason, what happens?

14. What rewards or punishments are associated with the performance of these roles?

15. What roles do widow/widowers play in funeral of their spouses?

16. What are your views and those of your council members on the performance of widowhood rights?

17. What support should the clan of the deceased provide for the widow?

18. Can a man’s lineage members summons his children/widow before a traditional court if they fail to perform the obligation mentioned above?

19. Do the rules apply equally in a situation where the deceased is a woman?

20. What are the responsibilities that members of a father’s clan have towards the children of the deceased?

21. We have mentioned a number of issues, how and why do they differ in the case of a mother?

Social Change in the Fante Social Life

22. What have been the changes associated with marriage among the Fante and what factors have influenced it?

23. What have been the trends over the past years? Have there been any changes?

24. What changes do you expect in the future, why do you expect them, and when do you expect them to occur to occur?

National Laws, the family systems, Inheritance and Succession
25. Under Fante customary laws, what aspects of a man’s estate belong to the sons and daughters?
26. What about the successor?

27. How do your subjects resolve conflicts arising from inheritance/succession?

28. What do you think about the intestate succession Law? Does it provide equity and justice? Could you explain how it does?

29. Could you please describe how often your court considers the Intestate Succession Law in the course of giving judgments?
Appendix C (ii)
Interview Guide for clan heads

Mother’s Wealth in Matrilineal Societies:
A Case Study of Inheritance Among the Fante of Ghana

- Could you please tell me something about yourself?
- What is your marital status?
- What other official positions exists in this clan?

Social Organizations Among the Fante

1. What is a clan and how does it work within the social and political framework of the Fante?
2. Could you please describe the relationship between a clan as an entity and the individual members of the clan?
3. What about the relationship between the clan and the individual members’ nuclear families?
4. What roles does the clan play in the marriage of its members?
5. What is the relationship between the Asafo and the clans in this town/village?
6. What roles do the Asafo companies have in the marriage of members of your clan?
7. What about the funeral ceremonies roles ceremonies of members of your clan?

Social Change in the Fante Social Life

8. What have been the changes in the roles of the clan in the past?
9. What changes are you expecting in the future?
10. What have been the changes in the roles associated with the rights and responsibilities of the father and the children?

Rights and Responsibilities within the Social Systems

11. What roles does the clan play in the performance of funeral rites of its members?
12. What roles does this clan play in the performance of funeral rites of members of other clans

13. How cooperative are the members of your clan?

14. Could you please talk about some who exhibit excellent qualities and those who exhibit deviant behaviors without mentioning their names? I am interested in the behaviors they put up.

National Laws, the family systems, Inheritance and Succession

15. Could you please tell me something about the attitude of members of this clan to the drawing up of wills?

16. What are some of the discussions you have had with your elders or the entire membership about wills?

17. What are your views about wills?

18. What do you think about the intestate succession Law? Does it provide equity and justice? Could you explain how it does?

19. How do you and your elders react to the Intestate Succession Law?

20. How do the widow/widowers in this clan often react to the wills that their deceased spouse have drawn?

21. How do they react to the distribution of their deceased spouses, estate? Please touch on testate and intestate situations.

22. Have you ever complained to other lineage/clans head over the way your subjects have been treated with regard to the distribution of an estate?

23. Have you ever been summoned before any court, be it traditional or national, on issues of inheritance? Can we talk about it now?
Appendix C (iii)
Interview Guide for Widows
Mothers’ Wealth in Matrilineal Societies: Inheritance among the Fante of Ghana

Gender: M F Date: February 25, 2010
- Accept my condolence for the death of your spouse.
- Could you please tell me something about yourself
- How many children did you have with your spouse? Sons…………… Daughters………

Social Organization among the Fante

1. Could you please tell me something about your marital life?

2. What values do you attach to marriage?

3. What were your expectations about married life before you entered into it, and how did

Rights and Responsibilities within the Social Systems

4. What were your responsibilities towards the burial of your spouse?

5. Could you describe the rites that you went through as a widow?

6. What do you think about widowhood rites?

7. Could you narrate the level of support you have received from your spouse’s relatives since he/she died? You can break that into:
   a. The period between the time he/she died to the time that he/she was interred?
   b. During the funeral celebration
   c. From funeral celebration to date

8. Overall, do you think your spouse’s lineage/clan has been supportive. What were your expectations? Have they been able to meet your expectations
Social Change in the Social Life of the Fante

9. What have been the changes associated with marriage among the Fante and what factors have influenced it?

10. What have been the trends over the past years? Have there been any changes?

11. What changes do you expect in the future? Why do you expect them, and when do you expect them to occur?

12. If you were in authority, what aspects of widowhood rites would you like the society to keep?

13. Which aspect would you like the society to discard?

National Laws, the Family Systems and, Inheritance and Succession

14. What do you know about the inheritance system associated with the type of marriage that you were in?

15. (a) Did your spouse leave any will? (b) What was the type?

16. Could you please relate the way your deceased spouse's estates were distributed?

17. How did the distribution meet your expectation? In other words, how would you distribute the estate if you were in the capacity to do that?

18. Could you please tell me something about the government's law on inheritance [Intestate Succession Law of 1985 (PNDCL 111)]?

19. What are your views about the law? Does it provide equity and justice? Could you please explain how it does?

20. Could you please expatiate on the level of equity and justice associated with the proportion that is given to the surviving parents of the deceased?
Appendix D

Time line on Laws about Family and inheritance in Ghana

<table>
<thead>
<tr>
<th>Year</th>
<th>Action</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-colonial Period</td>
<td>Every ethnic group has its own customs and laws on marriage and family</td>
<td>Marriage performed according to the woman’s family but family life mostly according to the man’s family</td>
</tr>
<tr>
<td>1884</td>
<td>Marriage Ordinance (takes care also of devolution of property in case of death intestate of people married under this law)</td>
<td>Centers on monogamy and Eurocentric by nature, because it provided that 2/3 of an estate should be devolved as in English law. It was also gender discriminatory because a surviving husband had more than a surviving wife (Quansah, 1987)</td>
</tr>
<tr>
<td>1909</td>
<td>Marriage Ordinance amended</td>
<td></td>
</tr>
<tr>
<td>1959</td>
<td>Ollenu Commission formed to examine customary laws in the country</td>
<td>Commission collected reports from a wide range of individuals and groups</td>
</tr>
<tr>
<td>1961</td>
<td>Government White Paper</td>
<td></td>
</tr>
<tr>
<td>1962</td>
<td>Bill on Marriage Divorce and Inheritance</td>
<td>No Legislation enacted (see Daniels, 1988, Quansah, 1987)</td>
</tr>
<tr>
<td>1963</td>
<td>Bill on Marriage Divorce and Inheritance restated</td>
<td>No Legislation enacted (see Daniels, 1988, Quansah, 1987)</td>
</tr>
<tr>
<td>1967</td>
<td>Law Reform Commission established to review the existing laws of the country for reforms</td>
<td>Customary law and legal pluralism discussed at length</td>
</tr>
<tr>
<td>1975</td>
<td>Law Reform Commission publishes draft proposal for Intestate Succession Bill</td>
<td>No Legislation enacted (Quansah, 1987)</td>
</tr>
<tr>
<td>1985</td>
<td>Intestate Succession Law (PNDCL 111) enacted</td>
<td>Law in favor of the nuclear/composite family. Law Reform Commission under the Chairmanship of Justice Wiredu who was instrumental in judgments on such issues (see Daniels, 1988, Quansah, 1987)</td>
</tr>
<tr>
<td>2008</td>
<td>Restated Bill Laid Before Parliament</td>
<td>Bill sent to the Legal and Constitutional Committee for consideration (No Legislation)</td>
</tr>
<tr>
<td>2010</td>
<td>Second reading of the Bill</td>
<td>Bill abandoned for MPs to get more information (No Legislation)</td>
</tr>
</tbody>
</table>

Source: Obtained from the literature