

DECISION RECORD

RRT CASE NUMBER: 1002062

DIAC REFERENCE(S): CLF2009/165956

COUNTRY OF REFERENCE: Ghana

TRIBUNAL MEMBER: Jane Marquard

DATE: 10 June 2010

PLACE OF DECISION: Sydney

DECISION: The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act, being a person to whom Australia has protection obligations under the Refugees Convention.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister for Immigration and Citizenship to refuse to grant the applicant a Protection (Class XA) visa under s.65 of the *Migration Act 1958* (the Act).
2. The applicant, who claims to be a citizen of Ghana, arrived in Australia [in] April 2008 and applied to the Department of Immigration and Citizenship for a Protection (Class XA) visa [in] December 2009. The delegate decided to refuse to grant the visa [in] March 2010 and notified the applicant of the decision and his review rights by letter [on the same date].
3. The delegate refused the visa application on the basis that the applicant is not a person to whom Australia has protection obligations under the Refugees Convention.
4. The applicant applied to the Tribunal [in] March 2010 for review of the delegate's decision.
5. The Tribunal finds that the delegate's decision is an RRT-reviewable decision under s.411(1)(c) of the Act. The Tribunal finds that the applicant has made a valid application for review under s.412 of the Act.

RELEVANT LAW

6. Under s.65(1) a visa may be granted only if the decision maker is satisfied that the prescribed criteria for the visa have been satisfied. In general, the relevant criteria for the grant of a protection visa are those in force when the visa application was lodged although some statutory qualifications enacted since then may also be relevant.
7. Section 36(2)(a) of the Act provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia to whom the Minister is satisfied Australia has protection obligations under the 1951 Convention Relating to the Status of Refugees as amended by the 1967 Protocol Relating to the Status of Refugees (together, the Refugees Convention, or the Convention).
8. Further criteria for the grant of a Protection (Class XA) visa are set out in Part 866 of Schedule 2 to the Migration Regulations 1994.

Definition of 'refugee'

9. Australia is a party to the Refugees Convention and, generally speaking, has protection obligations to people who are refugees as defined in Article 1 of the Convention. Article 1A(2) relevantly defines a refugee as any person who:
 - owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.

10. The High Court has considered this definition in a number of cases, notably *Chan Yee Kin v MIEA* (1989) 169 CLR 379, *Applicant A v MIEA* (1997) 190 CLR 225, *MIEA v Guo* (1997) 191 CLR 559, *Chen Shi Hai v MIMA* (2000) 201 CLR 293, *MIMA v Haji Ibrahim* (2000) 204 CLR 1, *MIMA v Khawar* (2002) 210 CLR 1, *MIMA v Respondents S152/2003* (2004) 222 CLR 1 and *Applicant S v MIMA* (2004) 217 CLR 387.
11. Sections 91R and 91S of the Act qualify some aspects of Article 1A(2) for the purposes of the application of the Act and the regulations to a particular person.
12. There are four key elements to the Convention definition. First, an applicant must be outside his or her country.
13. Second, an applicant must fear persecution. Under s.91R(1) of the Act persecution must involve “serious harm” to the applicant (s.91R(1)(b)), and systematic and discriminatory conduct (s.91R(1)(c)). The expression “serious harm” includes, for example, a threat to life or liberty, significant physical harassment or ill-treatment, or significant economic hardship or denial of access to basic services or denial of capacity to earn a livelihood, where such hardship or denial threatens the applicant’s capacity to subsist: s.91R(2) of the Act. The High Court has explained that persecution may be directed against a person as an individual or as a member of a group. The persecution must have an official quality, in the sense that it is official, or officially tolerated or uncontrollable by the authorities of the country of nationality. However, the threat of harm need not be the product of government policy; it may be enough that the government has failed or is unable to protect the applicant from persecution.
14. Further, persecution implies an element of motivation on the part of those who persecute for the infliction of harm. People are persecuted for something perceived about them or attributed to them by their persecutors. However the motivation need not be one of enmity, malignity or other antipathy towards the victim on the part of the persecutor.
15. Third, the persecution which the applicant fears must be for one or more of the reasons enumerated in the Convention definition - race, religion, nationality, membership of a particular social group or political opinion. The phrase “for reasons of” serves to identify the motivation for the infliction of the persecution. The persecution feared need not be *solely* attributable to a Convention reason. However, persecution for multiple motivations will not satisfy the relevant test unless a Convention reason or reasons constitute at least the essential and significant motivation for the persecution feared: s.91R(1)(a) of the Act.
16. Fourth, an applicant’s fear of persecution for a Convention reason must be a “well-founded” fear. This adds an objective requirement to the requirement that an applicant must in fact hold such a fear. A person has a “well-founded fear” of persecution under the Convention if they have genuine fear founded upon a “real chance” of persecution for a Convention stipulated reason. A fear is well-founded where there is a real substantial basis for it but not if it is merely assumed or based on mere speculation. A “real chance” is one that is not remote or insubstantial or a far-fetched possibility. A person can have a well-founded fear of persecution even though the possibility of the persecution occurring is well below 50 per cent.
17. In addition, an applicant must be unable, or unwilling because of his or her fear, to avail himself or herself of the protection of his or her country or countries of nationality or, if

stateless, unable, or unwilling because of his or her fear, to return to his or her country of former habitual residence.

18. Whether an applicant is a person to whom Australia has protection obligations is to be assessed upon the facts as they exist when the decision is made and requires a consideration of the matter in relation to the reasonably foreseeable future.

CLAIMS AND EVIDENCE

19. The documentary evidence in this matter is contained in the Department and Tribunal files and relevant extracts are set out below.

Application to Department

20. In his application forms, the applicant said he left his country because he was in fear of his life and personal safety. He said that he feared the elders of [Tribe A] would kill him.
21. He said that he was born in [year deleted: s.431(2)] in a village called [Village A] near [Town A] in the Brong Ahafo Region of Ghana.
22. He speaks the Twi language and belongs to the Brong ethnic group, and he is a Christian.
23. A copy of his passport on file shows that it was issued [in] June 2009 in Accra.
24. He said he has two brothers and a sister and he is the second eldest.
25. He said he completed Middle School in 1986 and began running his own business as a trader, which he ran for about five years. He took [goods] from the village to the regional capital, Sunyani.
26. He said that in 1991 he started another business as a storeowner in Sunyani, where he sold general goods. He moved to Sunyani and visited home on holidays or for funerals.
27. He said that he continued to operate this business until March 2008 when he was driven away by his family because he refused to give up his religion and worship a stool God.
28. He said he is of the Aduana blood and his family and four others rotate the stool of the Kontihene for the Aduana people of [Village A]. He said within the Aduana he belongs to a tribe called [Tribe A], who are the heirs to the Kontihene Stool. Amongst the five families the first son of each family becomes the Kontihene, unless a son is left-handed, in which case the stool passes to the second son. If there is no son, the family is passed over.
29. The Kontihene performs the duties of the stool such as pouring the libation, visiting the shrine of the stool god and performing other functions for the people. The stool stays in the family until that person dies when it is passed to the next family.
30. He said that in early January 2008 the Kontihene of the town died and the stool became vacant and as tradition demands, it was his turn to occupy the stool and serve the people of [Village A].
31. He said in February 2008 he received a message that he was required back in the village urgently. A day later he went to the village to meet the elders of the family, who told him it

was his time to fill the position because the first son in his family is left-handed. He said that immediately he accepted the role as it was a sign of respect and dignity for himself and an honour for his entire family. He said his family was happy. He went back to Sunyani to organise his affairs and return to [Village A] in 30 days for his initiation. When he returned on the 30th day he was told his initiation would begin the next day at dawn. At dawn one of the elders performed some initiation rites at the shrine. They poured powder and oil on him and chanted to the gods. He was made to pour libation to the gods.

32. He said that after the initiation the elder told him that from that day he was to stop going to church as his duty from that day on was to devote himself entirely to the worship of the gods. The applicant said that this was a problem for him and he told the elder that he had been a Christian his whole life and could not give it up. He said that the elder told him in no uncertain terms that it was not acceptable to be a Christian.
33. He said that when he got home he discussed it with his mother and said he would do the job as a Kontihene as custom demanded but wanted to be able to worship as a Christian. His mother remonstrated with the elders to allow him to worship as a Christian but the elders refused. The applicant said he could not give up worship as a Christian. He said that the family said that that left them with no choice but to kill him. This scared him so he stayed in Sunyani and started running his business again.
34. He said that a week later, three elders and five boys from his village arrived and demanded he return to the village. They said that if he refused they would kill him. He resisted them but they beat him with sticks and he was struck in the head and lost consciousness. He said that when he woke up he was in hospital. He later heard that he had been saved by people in his area after being left unconscious by the assailants who had believed he was going to die.
35. He said that he remained in hospital for about 3 days and when discharged, went to the police station to make a report. The police said this was a family and tribal matter and that they could not help him. He said that they said no when he asked them for protection.
36. He said he became afraid for his life. He thought once they heard he had not died they would come back for him. He left Sunyani for Kumasi where he stayed for a fortnight with an old school friend. One day he was out looking for a job when his friend called him to say that the family had come to his home looking for the applicant.
37. The applicant said he was afraid and ran away to Accra where he slept in a lorry station and washed cars for money. He told his story to a business man who helped him leave the country and get a passport and ticket. He gave this business man \$2000.
38. He said that when he arrived in Australia he was confused and did not know what to do and he was traumatised. He moved to the house of a man he met on the street and in the process lost his passport. He said a month later he saw an agent who said he could not apply for any visa. He was afraid to go back to his country as he was afraid the elders and members of his community would find him and kill him and the police would not protect him. He said he pleads with the Australian government to give him protection.

Departmental interview

39. In an interview with the Department the applicant said that the photograph in the passport was not a photograph of him. The name of the person in the passport was not him and he had

never been to Canada. He obtained the passport with help from a compassionate businessman whose car he washed while working in Accra. He said he gave \$2000 to the man who gave him a Canadian passport and ticket.

40. In Australia he said he attends church at [church and suburb deleted: s.431(2)].
41. He said he feared for his life if he returns as his family were very angry and would kill him. He said he asked the government for protection and they said they could not help him as it was a family and kinship matter. He said he was very surprised the police would not help him. He said his family is looking for him.
42. He showed the delegate a scar on the back of his head which he said was a result of the attack on him.
43. When asked why he took so long to apply for a protection visa he said he was confused after the attack and did not have much money. He lost his passport. He said he had a photocopy at the hotel he was staying in. He did have a copy of his Ghanaian passport as well.

Department decision

44. The applicant found on the basis of country information that declining a stool when offered does not lead to negative consequences, and that state protection is available in Ghana.

Country information

1. The stool of Kontihene

45. While no reports were found on the traditions and rituals of the stool of the Kontihene in [Village A], specifically, there is some information available on the traditional chieftaincy among the Brong people of the Akan group.¹ Sources indicate that the Kontihene is an important chief, second only to the “paramount chief” (Omanhene). The Kontihene is responsible for various traditional duties within his/her community, for example pouring libations (liquid offerings) to the ancestors and settling disputes in traditional court. Succession is matrilineal: the elders select a suitable candidate, usually from a royal family and often with a consideration of additional factors like education level and personal success. No information was found to suggest that left-handedness is an impediment to becoming Kontihene.

The Brong people of the Akan group

46. The Brong, also known as the Bono or Abron,² are part of the Akan, a “culturally homogenous” group that makes up approximately 46 per cent of Ghana’s total population of 22 million.³ (No reports were found of a Ghanaian “[Tribe A]”, but sources identify the

¹ Konadu, K 2007, *Indigenous Medicine and Knowledge in African Society*, Routledge, New York, p 33.

² Olson, J 1996, *The Peoples of Africa: An Ethnohistorical Dictionary*, Greenwood Press, Westport USA, p 5.

³ Omenyo, C 2001, “Akan Religion”, *Encyclopedia of African and African-American Religions*, ed. S Glazier, Routledge, New York, pp 26-31,

<http://books.google.com/books?id=pF6MxGrqdUwC&pg=PA26&lpg=PA26&dq=religious+beliefs+and+practices+Akan+Ghana&source=bl&ots=->

Aduana as an old and important clan within the Akan.⁴) Dr Phil Bartle, a former academic at the University of Cape Coast (UCC) in Ghana and an expert on Akan culture, indicated that information about the stool of the Kontihene in relation to the Akan was applicable to the Brong.⁵

The Kontihene

47. According to Professor Kwasi Konadu, a historian who has researched and written on the Brong, the Kontihene has an “integral [role]...within the indigenous Bono[/Brong] polity”: this chief is “second in command and assumes the role of omanhene [the paramount chief] in his absence”.⁶ Dr Bartle describes the Kontihene as an “important elder in the chief’s court”⁷; s/he is a “kingmaker”, that is, “one of the seven elders in the chief’s court who choose a new chief”.⁸ If the kingmakers decide to destool (or take away the position) of a chief, it is the Kontihene who “performs the act by demanding that the chief give up his sandals to the Kontihene”.⁹ The Kontihene also “holds his own court in his stool house, and settles disputes between those in his jurisdiction”.¹⁰

Practices and rituals

48. Regarding the practices and rituals associated with the stool of the Kontihene, Dr Bartle advised:

[K9tO7M3pu&sig=a9RGTcIq1SHmG4QNKDvKf_KbTUg&hl=en&ei=K6PoS9_QJJHq7AO K67yrCA&sa=X&oi=book_result&ct=result&resnum=2&ved=0CB0Q6AEwATgK#v=onepage&q=religious%20beliefs%20and%20practices%20Akan%20Ghana&f=false](http://www.asanteman.freesevers.com/custom.html) - Accessed 11 May 2010; US State Department 2009, *International Religious Freedom Report 2009 – Ghana*, 26 October.

⁴ See for example: Konadu, K 2007, *Indigenous Medicine and Knowledge in African Society*, Routledge, New York, p 33 – Attachment 1 and Ossei-Akoto, B, n.d., “Akans and their Various Abusua”, <http://www.asanteman.freesevers.com/custom.html> - Accessed 30 April 2010.

⁵ Bartle, P 2010, “Reply to: Request for information on the stool of the Kontihene amongst the Brong/Bono people of Brong Ahafo Region”, 6 May. Dr Bartle has also provided advice to the Immigration and Refugee Board of Canada on traditional chieftaincy.

⁶ Konadu, K 2007, *Indigenous Medicine and Knowledge in African Society*, Routledge, New York, p 36.

⁷ Bartle, P 2010, “Reply to: Request for information on the stool of the Kontihene amongst the Brong/Bono people of Brong Ahafo Region”, 6 May.

⁸ Bartle, P 2010, “Reply to: Request for information on the stool of the Kontihene amongst the Brong/Bono people of Brong Ahafo Region”, 6 May; Immigration and Refugee Board of Canada 2002, “Ghana: Succession traditions for the position of Krontihene in Abetifi Kwahu, Eastern Region, and consequences for refusing the position; names of current and past holders of the position”, 1 November,

<http://www.unhcr.org/refworld/country,,IRBC,,GHA,,3f7d4d9831,0.html> - Accessed 27 April 2010

⁹ Immigration and Refugee Board of Canada 2002, “Ghana: Succession traditions for the position of Krontihene in Abetifi Kwahu, Eastern Region, and consequences for refusing the position; names of current and past holders of the position”, 1 November, <http://www.unhcr.org/refworld/country,,IRBC,,GHA,,3f7d4d9831,0.html> - Accessed 27 April 2010

¹⁰ Bartle, P 2010, “Reply to: Request for information on the stool of the Kontihene amongst the Brong/Bono people of Brong Ahafo Region”, 6 May.

As with all Akan elders, libations to the ancestors: = alcohol poured on the ground, and God, Mother nature, gods and ancestors are called to witness an event, to approve a decision or to bring blessings on those named. If a sheep is to be sacrificed (for very important events), this is done by a young man under the supervision of the elder (e.g. Kontihene). A Kontihene may have his own linguist to pour libations for him, and can do it himself... The stools hold the spirits of the ancestors, and the body of the elder (e.g. Kontihene) is possessed (continuously) by the ancestors. During the enstoolment the elder (e.g. Kontihene) touches one of the ancestral stools and is given that stool name while in office.¹¹

49. When requested, the Kontihene will also pour libations in connection with the opening of public buildings, for example schools, churches or mosques.¹²

Succession

50. Professor Konadu notes that the Brong people are, like the Akan more broadly, matrilineal, “in that the processes of inheritance, in terms of stool (leadership) succession and marriage, are authenticated through the matriclan or mother’s lineage”.¹³ By way of contextualisation, the *Encyclopædia Britannica* notes that:

Traditional Akan society is composed of exogamous matrilineal clans, the members of which trace their descent from a common female ancestor: these clans are hierarchically organized and are subdivided into localized matrilineages, which form the basic social and political units of Akan society.¹⁴

51. Dr Bartle has likened these localised matrilineages to “corporations”: a lineage “owns the ancestral stools of the office of the Kontihene”¹⁵ and it is the elders of the lineage who must “provide a new chief to replace the one who has died or been removed”.¹⁶ An academic dissertation completed at the University of Helsinki indicates that the chief is selected from an elite or “royal” family, “usually the group whose ancestress and other ancestors first found the village and are thus the custodians of the land”, but Dr Bartle has clarified that:

It is not automatic succession like for the King of England. There may be a half dozen persons who are attractive to the elders... The lineage elders try to find the most successful and influential person to fill the post.¹⁷

¹¹ Bartle, P 2010, “Reply to: Request for information on the stool of the Kontihene amongst the Brong/Bono people of Brong Ahafo Region”, 6 May.

¹² Bartle, P 2010, “Reply to: Request for information on the stool of the Kontihene amongst the Brong/Bono people of Brong Ahafo Region”, 6 May.

¹³ Konadu, K 2007, *Indigenous Medicine and Knowledge in African Society*, Routledge, New York, p 36.

¹⁴ “Akan” 2010, *Encyclopædia Britannica*, 17 May,
<http://www.britannica.com/EBchecked/topic/11369/Akan> - Accessed 18 May 2010

¹⁵ Immigration and Refugee Board of Canada 2002, “Ghana: Succession traditions for the position of Krontihene in Abetifi Kwahu, Eastern Region, and consequences for refusing the position; names of current and past holders of the position”, 1 November,
<http://www.unhcr.org/refworld/country,,IRBC,,GHA,,3f7d4d9831,0.html> - Accessed 27 April 2010.

¹⁶ Bartle, P 2010, “Reply to: Request for information on the stool of the Kontihene amongst the Brong/Bono people of Brong Ahafo Region”, 6 May.

¹⁷ Bartle, P n.d., “Akan Studies – Correspondence”, Website of Dr Phil Bartle,
<http://www.scn.org/rdi/kw-cor.htm> - Accessed 18 May 2010.

Once they have chosen, the elders “present the name of the new elder (e.g. Kontihene) to the chief’s court and the court approves or not”.¹⁸

Physical impediments

52. No information was found to suggest that left-handed people cannot take up the stool of Kontihene. On the subject of physical barriers to becoming a Kontihene, Dr Bartle advised that an “elder cannot be seriously visibly deformed, cannot be circumcised, must be mentally competent, and appear normal and sane”.¹⁹ A thesis from Helsinki University said that being circumcised was no longer a barrier to becoming a traditional chief, in part because circumcision soon after birth had become so common.²⁰ Dr Bartle noted that there are no gender constraints on the position: a woman can be a Kontihene, though she “may not enter the sacred ancestral stool room when menstruating”.²¹

2. [Village A]

53. [Details in relation to Village A deleted: s.431(2)]

54.

55.

Tain District

56. Tain District has a population of approximately 90,000 and most of its workforce is employed in agriculture-related industries.²² According to a Ghanaian government website, Tain is “quite heterogenous with [the] Banda ethnic group forming the majority. The other ethnic groups in the district are Kologo, Bono[/Brong] and Lugei.”²³)
57. Christians are the largest religious group in the District, making up nearly 72 per cent of the population.²⁴ Muslims constitute about 16 per cent, and eight per cent of Tain District residents are followers of traditional African religions.²⁵ Another 4.3 per cent are not

¹⁸ Bartle, P 2010, “Reply to: Request for information on the stool of the Kontihene amongst the Brong/Bono people of Brong Ahafo Region”, 6 May.

¹⁹ Bartle, P 2010, “Reply to: Request for information on the stool of the Kontihene amongst the Brong/Bono people of Brong Ahafo Region”, 6 May.

²⁰ Crentsil, P 2007, “Deaths, ancestors, and HIV among the Akan of Ghana” (academic dissertation), University of Helsinki, Helsinki, p 83.

²¹ Bartle, P 2010, “Reply to: Request for information on the stool of the Kontihene amongst the Brong/Bono people of Brong Ahafo Region”, 6 May.

²² “Brong Ahafo Region – Tain” 2010, Ghana Districts website, 14 May, http://www.ghanalocalassemblies.com/districts/?r=10&_=49&sa=4426 - Accessed 29 April 2010.

²³ “Tain District – Cultural heritage and customs” n.d., Ghana Districts government website, <http://tain.ghanadistricts.gov.gh/> - Accessed 30 April 2010.

²⁴ “Tain District – Cultural heritage and customs” n.d., Ghana Districts government website, <http://tain.ghanadistricts.gov.gh/> - Accessed 30 April 2010.

²⁵ “Tain District – Cultural heritage and customs” n.d., Ghana Districts government website, <http://tain.ghanadistricts.gov.gh/> - Accessed 30 April 2010.

affiliated with any religious group.²⁶ The majority of Christians in Tain District are Catholics (approximately 48 per cent), followed by Protestants (31 per cent) and Pentecostals (21 per cent).²⁷

3. Interaction of Christianity and traditional beliefs

58. Christianity is the majority religion across Ghana and in the Brong Ahafo Region.²⁸ The US State Department's 2009 *International Religious Freedom Report* states that almost 70 per cent of the country's population identify as Christians, while less than nine per cent follow indigenous religions.²⁹ However, traditional religion cannot be entirely extricated from Christianity in a Ghanaian context. According to the US State Department, Christianity in Ghana "often includes an overlay of traditional beliefs" and sources indicate that many Christian Ghanaians retain indigenous religious beliefs and practices.³⁰ Some churches have attempted to integrate indigenous worldviews and religious beliefs into Christianity in order to make it more relevant and meaningful for Ghanaians,³¹ while others – for example Pentecostal churches – are less tolerant.³²

Ghanaian Christians and traditional religion

59. Various sources indicate that traditional religion has a place in the lives of many Christian Ghanaians. A Baptist missionary organisation commented that "[b]oth Christian and Muslim

²⁶ "Tain District – Cultural heritage and customs" n.d., Ghana Districts government website, <http://tain.ghanadistricts.gov.gh/> - Accessed 30 April 2010.

²⁷ "Tain District – Cultural heritage and customs" n.d., Ghana Districts government website, <http://tain.ghanadistricts.gov.gh/> - Accessed 30 April 2010.

²⁸ US State Department 2009, *International Religious Freedom Report 2009 – Ghana*, 26 October; "References (Brong Ahafo Region)" n.d., *ModernGhana.com*, http://www.modernghana.com/GhanaHome/regions/brongahafo.asp?menu_id=6&sub_menu_id=14&gender= - Accessed 30 April 2010.

²⁹ US State Department 2009, *International Religious Freedom Report 2009 – Ghana*, 26 October.

³⁰ US State Department 2005, *International Religious Freedom Report 2005 – Ghana*, 8 November, sec 1; Ubink, J 2008, *In the Land of the Chiefs: Customary Law, Land Conflicts and the Role of the State in Peri-urban Ghana*, Amsterdam University Press, Amsterdam, p 156; Pew Research Centre 2010, "Ghana – Interactive Database: Traditional Religion", *Tolerance and Tension: Islam and Christianity in Sub-Saharan Africa*, Pew Forum website, <http://features.pewforum.org/africa/country.php?c=82> - Accessed 17 May 2010.

³¹ Omenyo, C 2001, "Akan Religion", *Encyclopedia of African and African-American Religions*, ed. S Glazier, Routledge, New York, pp 26-31, http://books.google.com/books?id=pF6MxGrqUwC&pg=PA26&lpg=PA26&dq=religious+beliefs+and+practices+Akan+Ghana&source=bl&ots=-K9tO7M3pu&sig=a9RGTcIq1SHmG4QNKDvKf_KbTUg&hl=en&ei=K6PoS9_QJJHq7AO K67yrCA&sa=X&oi=book_result&ct=result&resnum=2&ved=0CB0Q6AEwATgK#v=onepage&q=religious%20beliefs%20and%20practices%20Akan%20Ghana&f=false - Accessed 11 May 2010

³² Atiemo, A 2006, "International human rights, religious pluralism and the future of the chieftaincy in Ghana", *Exchange: A Journal of Missiology and Ecumenical Studies* Vol 35(4), pp 360-382; Ubink, J 2008, *In the Land of the Chiefs: Customary Law, Land Conflicts and the Role of the State in Peri-urban Ghana*, Amsterdam University Press, Amsterdam, p 155-156.

groups are greatly influenced by the old thought patterns of African Traditional Religion”, noting, as an example, that a “local chief” might be a “good church member” and “pour libation to the ancestors...as well as make sacrifices on special occasions as has been done for years”.³³ In 2010, the Catholic Archbishop of Ghana reportedly identified “as a challenge” the “inability of most Africans to dichotomize Christianity...and culture”.³⁴ As a consequence, he said, “some Christian converts still live with some practices in African Traditional Religion” that were incongruent with Christianity.³⁵

60. These somewhat anecdotal remarks are corroborated by an academic source and the results of a survey conducted by the Pew Research Center (PRC), a Washington-based non-partisan think tank. In her study of traditional chieftaincy, *In the Land of the Chiefs*, Dr Janine Ubink said that “[m]any Christians and Muslims still condone or adhere to facets of traditional religion and ancestor worship”.³⁶ Research conducted by the PRC and released in 2010 indicated that a significant proportion of Christian Ghanaians retain at least some traditional beliefs and practices.³⁷ For example, 45 per cent of respondents said they believed that “certain people [could] cast spells and curses” and 26 per cent said that they participated in traditional ceremonies to honour ancestors.³⁸ Some Christians, however, do “refuse to partake in traditional religious practices”.³⁹

The church’s stance

61. A Ghanaian Christian’s stance on traditional religion may be influenced by that of his or her church. Churches reportedly vary in their acceptance of traditional religious beliefs and practises. Dr Ubink said that while “orthodox churches...see no harm in traditional practices such as pouring libation and celebrating [traditional festivals]”, some charismatic churches “agitate against” traditional religious practices.⁴⁰ A lecturer at the University of Ghana said that “Pentecostal culture is antagonistic towards...traditional religion”, a statement supported by the US State Department’s 2009 report on religious freedom, which stated that some

³³ “Africa: Changing Lives – Ghana” n.d., Baptist Mid-Missions website, <http://www.bmm.org/BMM/WhereWeServe/Africa/ghana.htm> - Accessed 3 May 2010 .

³⁴ “His Grace the Archbishop Charles Palmer addressed the Chapter Assembly” n.d. (probably 2010), Don Bosso Technical Institute website, <http://www.donbosco-ashaiman.com/home.html> - Accessed 3 May 2010.

³⁵ “His Grace the Archbishop Charles Palmer addressed the Chapter Assembly” n.d. (probably 2010), Don Bosso Technical Institute website, <http://www.donbosco-ashaiman.com/home.html> - Accessed 3 May 2010.

³⁶ Ubink, J 2008, *In the Land of the Chiefs: Customary Law, Land Conflicts and the Role of the State in Peri-urban Ghana*, Amsterdam University Press, Amsterdam, p 156

³⁷ Pew Research Centre 2010, “Ghana – Interactive Database: Traditional Religion”, *Tolerance and Tension: Islam and Christianity in Sub-Saharan Africa*, Pew Forum website, <http://features.pewforum.org/africa/country.php?c=82> - Accessed 17 May 2010.

³⁸ Pew Research Centre 2010, “Ghana – Interactive Database: Traditional Religion”, *Tolerance and Tension: Islam and Christianity in Sub-Saharan Africa*, Pew Forum website, <http://features.pewforum.org/africa/country.php?c=82> - Accessed 17 May 2010.

³⁹ Ubink, J 2008, *In the Land of the Chiefs: Customary Law, Land Conflicts and the Role of the State in Peri-urban Ghana*, Amsterdam University Press, Amsterdam, p 156.

⁴⁰ Ubink, J 2008, *In the Land of the Chiefs: Customary Law, Land Conflicts and the Role of the State in Peri-urban Ghana*, Amsterdam University Press, Amsterdam, p 156.

Christians, “particularly laypersons associated with evangelical groups, continued to preach intolerance for other groups such as Muslims and indigenous religious groups”.⁴¹

Traditionalists’ stance

62. There is little information available on the position of traditionalists (i.e., traditional elders or followers of traditional religion) towards members of their community who are Christians. The prevalence of Christianity throughout Ghana is such that this is probably a reality for many traditionalists, and a lecturer at the University of Ghana, Abamfo Atiemo, has indicated that conflicts are more likely to arise when Christians come from groups with “exclusivist tendencies” (for example Pentecostals) and refuse to participate in customary practices or obey rules imposed by traditional elders.⁴² Atiemo related several such incidents occurring in the late 1990s and commented:

It seems that African traditional societies are tolerant so long as conversions to new religions of some of its members do not seriously collide with the community’s beliefs and practices.⁴³

63. The US State Department has also reported clashes between charismatic Christians and traditionalists in previous years. For example:
- In 2006 members of a church and a traditional authority “physically confronted” each other after members of the church “violated the annual monthly ban on drumming imposed by traditional authorities”.⁴⁴ This was the latest incident in a longstanding conflict over loud church worship sessions.⁴⁵
 - In 2002 in Brong-Ahafo Region, a mob set fire to a church following traditionalists’ accusations that the church had preached against a traditional festival and a ban on fishing on the Tano River. Traditionalists denied involvement in the fire and the conflict was resolved peacefully.⁴⁶

⁴¹ Atiemo, A 2006, “International human rights, religious pluralism and the future of the chieftaincy in Ghana”, *Exchange: A Journal of Missiology and Ecumenical Studies* Vol 35(4), pp 360-382; US State Department 2009, *International Religious Freedom Report 2009 – Ghana*, 26 October.

⁴² Atiemo, A 2006, “International human rights, religious pluralism and the future of the chieftaincy in Ghana”, *Exchange: A Journal of Missiology and Ecumenical Studies* Vol 35(4), pp 360-382, see p 371-372

⁴³ Atiemo, A 2006, “International human rights, religious pluralism and the future of the chieftaincy in Ghana”, *Exchange: A Journal of Missiology and Ecumenical Studies* Vol 35(4), pp 360-382, see p 371

⁴⁴ US State Department 2006, *International Religious Freedom Report 2006 – Ghana*, 15 September, sec 3

⁴⁵ The 2005 and 2004 International Religious Freedom reports also mention this: see US State Department 2005, *International Religious Freedom Report 2005 – Ghana*, 8 November, sec 3 and US State Department 2004, *International Religious Freedom Report 2004 – Ghana*, 15 September, sec 3.

⁴⁶ US State Department 2004, *International Religious Freedom Report 2004 – Ghana*, 15 September, sec 3 –.

64. Regarding the Akan people in particular, Dr Bartle advised that they tend to be “syncretic”, “adding new onto old rather than removing the old”.⁴⁷

4. Violence directed at individuals who refuse to take up Kontihene or give up Christian beliefs

65. Many reliable sources suggest that among the Akan there are no physically harsh repercussions for those who refuse to become Kontihene, and any punishments are usually of a social nature. Although one Ghanaian news story reported an attempt to forcibly enstool a chief, given the location in which this occurred, those concerned were probably not Akan.

66. Dr Bartle indicated that people who decline the stool of the Kontihene do not face serious danger as a result, advising that:

The one who refuses does so by running away and staying away for a few years until the issue blows over. He will get scorn but no physical punishment. He is at a disadvantage because he could not easily appear in the chief’s court to argue a case or plead a ruling...⁴⁸

67. This information broadly accords with two research responses from the Immigration and Refugee Board of Canada (IRB) that cite academic experts on Akan culture.⁴⁹ To summarise key points, the advice was that forced enstoolment was rare in modern times and elders had “little resource” to punish a person who refused to become a chief.⁵⁰ Punishments were usually of a social nature and could be harsh, for example social ostracism or banishment.⁵¹

⁴⁷ “Brong Ahafo, the nations, food basket” 2007, Ghana Culture government website, 14 March, <http://www.ghanaculture.gov.gh/index1.php/09/swf/privatecontent/File/CISP%20Ghana/privatecontent/File/index1.php?linkid=65&archiveid=393&page=1&adate=14/03/2007> - Accessed 3 May 2010.

⁴⁸ Bartle, P 2010, “Reply to: Request for information on the stool of the Kontihene amongst the Brong/Bono people of Brong Ahafo Region”, 6 May, see question seven.

⁴⁹ Immigration and Refugee Board of Canada 2002, “Ghana: Succession traditions for the position of Krontihene in Abetifi Kwahu, Eastern Region, and consequences for refusing the position; names of current and past holders of the position”, 1 November, <http://www.unhcr.org/refworld/country,,IRBC,,GHA,,3f7d4d9831,0.html> - Accessed 27 April 2010; Immigration and Refugee Board of Canada 2006, “Ghana: Consequences of refusing to assume an inherited position of tribal or clan chief; state protection available to the individual (2004 – 2006)”, 11 October, http://www2.irb-cisr.gc.ca/en/research/rir/index_e.htm?action=record.viewrec&gotorec=450515 - Accessed 23 July 2009.

⁵⁰ Immigration and Refugee Board of Canada 2002, “Ghana: Succession traditions for the position of Krontihene in Abetifi Kwahu, Eastern Region, and consequences for refusing the position; names of current and past holders of the position”, 1 November, <http://www.unhcr.org/refworld/country,,IRBC,,GHA,,3f7d4d9831,0.html> - Accessed 27 April 2010.

⁵¹ Immigration and Refugee Board of Canada 2002, “Ghana: Succession traditions for the position of Krontihene in Abetifi Kwahu, Eastern Region, and consequences for refusing the position; names of current and past holders of the position”, 1 November, <http://www.unhcr.org/refworld/country,,IRBC,,GHA,,3f7d4d9831,0.html> - Accessed 27 April 2010; Immigration and Refugee Board of Canada 2006, “Ghana: Consequences of refusing to assume an inherited position of tribal or clan chief; state protection available to the individual (2004 – 2006)”, 11 October, http://www2.irb-cisr.gc.ca/en/research/rir/index_e.htm?action=record.viewrec&gotorec=450515

One expert advised that even those who followed non-indigenous religions such as Christianity might fear that their clan's ancestors would punish them for refusing a stool.⁵² Overall, it was unlikely that the person who refused a position of traditional office would "suffer any significant consequence" and though they might "incur the wrath of the elders, ...[there was] no evidence of any harm done as a result".⁵³

68. Similarly, the UK Home Office's Ghana "Guidance Note" states that "there is no specific evidence that individuals who claim they are pursued by family, community or tribal leaders to become the next chieftain or high priest in fact encounter mistreatment".⁵⁴
69. The only modern-day report found of an attempt at forced enstoolment was a 2006 article in the *Ghanaian Chronicle*⁵⁵ The paper reported that a parliamentary candidate chosen to become chief had been "abducted by traditionalists" in the city of Teshie near Accra, in the Greater Accra Region. He resisted, escaped, and went into hiding. A few months earlier, another man had "died under mysterious circumstances, after he had been captured and taken through some rituals, in a bid to [install] him on a traditional stool", and "he had declined".⁵⁶ Given where these events occurred, it is more likely that those involved were Ga people rather than Akan, since Teshie is traditionally a Ga area.⁵⁷

Christianity

70. Sources indicate that Christian Ghanaians do not encounter serious problems if they refuse to relinquish their faith in order to take up positions of traditional office. In fact, no reports were found of elders making such demands, though chiefs who refuse to perform customary rituals

cisr.gc.ca/en/research/rir/index_e.htm?action=record.viewrec&gotorec=450515 - Accessed 23 July 2009.

⁵² Immigration and Refugee Board of Canada 2006, "Ghana: Consequences of refusing to assume an inherited position of tribal or clan chief; state protection available to the individual (2004 – 2006)", 11 October, http://www2.irb-cisr.gc.ca/en/research/rir/index_e.htm?action=record.viewrec&gotorec=450515 - Accessed 23 July 2009.

⁵³ "Brong Ahafo, the nations, food basket" 2007, Ghana Culture government website, 14 March, <http://www.ghanaculture.gov.gh/index1.php/09/swf/privatecontent/File/CISP%20Ghana/privatecontent/File/index1.php?linkid=65&archiveid=393&page=1&adate=14/03/2007> - Accessed 3 May 2010.

⁵⁴ UK Home Office 2009, "Operational Guidance Note: Ghana", 28 January, see p 7

⁵⁵ Immigration and Refugee Board of Canada 2006, "Ghana: Consequences of refusing to assume an inherited position of tribal or clan chief; state protection available to the individual (2004 – 2006)", 11 October, http://www2.irb-cisr.gc.ca/en/research/rir/index_e.htm?action=record.viewrec&gotorec=450515 - Accessed 23 July 2009.

⁵⁶ Immigration and Refugee Board of Canada 2006, "Ghana: Consequences of refusing to assume an inherited position of tribal or clan chief; state protection available to the individual (2004 – 2006)", 11 October, http://www2.irb-cisr.gc.ca/en/research/rir/index_e.htm?action=record.viewrec&gotorec=450515 - Accessed 23 July 2009.

⁵⁷ "Resort to alternative dispute resolution - Justice Akuffo" 2004, GhanaWeb.com, 24 June, source: Ghana News Agency, <http://ghanaweb.com/GhanaHomePage/ rumor/artikel.php?ID=60408> - Accessed 12 May 2010 – Attachment 34; Kotey, N 1999, "Ghana: The Black People's Perception of White People", *The Independent*, 23 February, <http://allafrica.com/stories/199902230232.html> – Accessed 12 May 2010.

risk losing their stools. Reports indicate that those chosen to become traditional leaders – and those already in these positions – may come under pressure from churches that consider these roles to involve counter-Christian activities.

71. Being a traditional leader and a Christian are not mutually exclusive in Ghana. In 2006 the BBC reported that a “growing number of chiefs and queen mothers are Christians”, and Dr Bartle indicated that Akan chiefs are frequently adherents of Christianity or other non-indigenous religions.⁵⁸ As noted in the response to question one, the Paramount Chief of [Village A] traditional region is a [Church A member].⁵⁹
72. But there can be tensions between an individual’s Christianity and traditional chieftaincy duties. The BBC has described the position of traditional leaders who are Christians as one of “painful compromise”.⁶⁰ On the one hand, their church and fellow Christians may consider rituals and beliefs associated with chieftaincy to be idolatrous or “against the law of God”.⁶¹ On the other, refusing positions of traditional office can lead to social punishments, including being scorned by elders or having to leave the area.⁶² Those who accept a traditional position but refuse to perform certain essential rituals may be destooled, as happened to one chief after he said in a radio interview that he “no longer believed in the sacred rituals of the stool room” and would not “pour libation to the ancestors” because he thought it was “demonic”.⁶³
73. Despite these difficulties, some elders have managed to balance Christian faith with traditional roles. The BBC report cited above provided two such instances – a Catholic queen mother and a Methodist chief – and noted a meeting of Christian chiefs and queen mothers in which they “encouraged one another to live out the Christian way of life within their traditional roles and settings”.⁶⁴

5. State protection

74. Sources are limited on the availability of state protection for those who refuse positions of traditional office, and differ in their assessments. The UK Home Office and Department of Foreign Affairs and Trade (DFAT) have indicated that Ghana provides sufficient state

⁵⁸ Wellings, N 2006, “Between custom and Christianity” *BBC News*, 4 August, <http://news.bbc.co.uk/2/hi/africa/5239902.stm> - Accessed 3 May 2010; see also, Bartle, P 2010, “Reply to: Request for information on the stool of the Kontihene amongst the Brong/Bono people of Brong Ahafo Region”, 6 May

⁵⁹ [Details deleted: s.431(2)].

⁶⁰ Wellings, N 2006, “Between custom and Christianity” *BBC News*, 4 August, <http://news.bbc.co.uk/2/hi/africa/5239902.stm> - Accessed 3 May 2010.

⁶¹ Ubink, J 2008, *In the Land of the Chiefs: Customary Law, Land Conflicts and the Role of the State in Peri-urban Ghana*, Amsterdam University Press, Amsterdam, p 156 ; Wellings, N 2006, “Between custom and Christianity” *BBC News*, 4 August, <http://news.bbc.co.uk/2/hi/africa/5239902.stm> - Accessed 3 May 2010.

⁶² Wellings, N 2006, “Between custom and Christianity” *BBC News*, 4 August, <http://news.bbc.co.uk/2/hi/africa/5239902.stm> - Accessed 3 May 2010.

⁶³ Ubink, J 2008, *In the Land of the Chiefs: Customary Law, Land Conflicts and the Role of the State in Peri-urban Ghana*, Amsterdam University Press, Amsterdam, p 156

⁶⁴ Wellings, N 2006, “Between custom and Christianity” *BBC News*, 4 August, <http://news.bbc.co.uk/2/hi/africa/5239902.stm> - Accessed 3 May 2010.

protection for people who refuse a position of traditional office. The UK Home Office's 2009 "Guidance Note" states that:

the availability of adequate state protection and a viable internal relocation alternative means that those within a particular community who are unwilling to succeed [a traditional role] are unlikely to encounter mistreatment.⁶⁵

75. In 2001, DFAT advised regarding another Akan applicant who feared he would be killed on returning to his hometown that Ghana "offers state protection if there is a need".⁶⁶ However, an academic expert on Ghanaian political and cultural issues told the Canadian Immigration and Refugee Board (IRB) in relation to a Christian member of the Brong people who refused to become a traditional priest that it was "unlikely that state protection would extend to matters pertaining to traditional religious issues in families, communities and/or villages".⁶⁷
76. No additional information was found regarding police responsiveness to scenarios like that described by the applicant, but a survey of available sources suggests that Ghanaian police face constraints in responding to chieftaincy-related conflicts.

Ghanaian police

77. The Ghanaian police face impediments to enforcing the rule of law, including in relation to traditional disputes. Public trust is lacking; the police have a reputation for "brutality, corruption and negligence" and are widely perceived to be inept.⁶⁸ The force also suffers from inadequate resources and a lack of capacity. The US State Department has noted that there is insufficient office accommodation, vehicles and equipment outside of Accra.⁶⁹ A *Ghanaweb.com* editorial described the police as "overloaded" and a story in the *Chronicle* reported that a police commander in the Northern Region had said that the number of police in the area was "not in anyway commensurate [with] the demand for protection, or peacekeeping". "[L]imited means of transport" also interfered with officers' ability to provide "swift responses to conflict situations", he said.⁷⁰
78. Traditional disputes pose special challenges. A *Ghanaweb.com* editorial said police were caught in a "schism between tradition and modernity" as they attempted to balance respect

⁶⁵ UK Home Office 2009, "Operational Guidance Note: Ghana", 28 January, see p 7

⁶⁶ Department of Foreign Affairs and Trade 2001, "Country Information Report 261/01: Availability of state protection in Ghana", 23 September.

⁶⁷ Immigration and Refugee Board of Canada 2002, "Ghana: Possible reprisals against a Christian member of the Brong tribe, who refuses to accept the matrilineal inheritance of the position of the high priest of the Firi Shrine in the Brong Ahafo region of Kumasi in the Ashanti region", 22 January, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=3df4be3518&skip=0&category=COI&publisher=IRBC&coi=GHA&querysi=brong&searchin=title&display=10&sort=date> - Accessed 5 May 2010.

⁶⁸ US State Department 2010, *2009 Human Rights Report – Ghana*, 11 March, sec 1.d

⁶⁹ US State Department 2010, *2009 Human Rights Report – Ghana*, 11 March, sec 1.d .

⁷⁰ Akosah-Sarpong, K 2010, "Understanding the overloaded police service", GhanaWeb.com, 19 April, <http://www.ghanaweb.com/GhanaHomePage/features/artikel.php?ID=180398> – Accessed 11 May 2010; Gyebi, E 2010, "Ghana: Police Boss Scolds Chiefs for Fuelling Violence", *The Ghanaian Chronicle*, 26 March, <http://allafrica.com/stories/201003260932.html> - Accessed 13 May 2010.

for indigenous ways with “modern rule of law, freedom and human rights”.⁷¹ While the power and influence “of traditional rulers has steadily eroded” due in part to a “commensurate increase in the power of civil institutions”, chieftaincy remains a respected institution in Ghana and the law reserves a space for the authority of elders.⁷² The US State Department states:

The Chieftaincy Act gives village and other traditional chiefs the power to mediate local matters and enforce customary tribal laws dealing with such matters as divorce, child custody, and property disputes.⁷³

79. According to an *Integrated Regional Information Networks (IRIN)* news story, the “Ghanaian constitution holds that the government cannot interfere in chieftaincy matters”.⁷⁴ The extent to which this applies is not clear.

Police responsiveness

80. Reports indicate that authorities have responded to traditional disputes that have escalated into violence. In late 2009, for example, police arrested 24 people in the Eastern Region after an “exchange of gunfire” between rival parties in a chieftaincy dispute.⁷⁵ Three people sustained gunshot wounds, but the *Ghanaian Chronicle* reported that the situation would have been worse “[b]ut for the timely intervention of personnel drawn from the Akuse and Greater Accra Police Commands”.⁷⁶ The US State Department also reported on chieftaincy disputes in which police acted, however questionably, to quell violence. For example:
- In response to an ongoing chieftaincy dispute in the Upper East Region that had claimed 18 lives, “military and police were deployed” and a curfew imposed to aid a return to order.
 - Police arrested more than 75 people including children in connection with a chieftaincy conflict in the Volta Region. Media and NGO sources reported that police

⁷¹ Akosah-Sarpong, K 2010, “Understanding the overloaded police service”, GhanaWeb.com, 19 April, <http://www.ghanaweb.com/GhanaHomePage/features/artikel.php?ID=180398> – Accessed 11 May 2010.

⁷² Ubink, J 2008, *In the Land of the Chiefs: Customary Law, Land Conflicts and the Role of the State in Peri-urban Ghana*, Amsterdam University Press, Amsterdam, p 157 ; US State Department 2010, *2009 Human Rights Report – Ghana*, 11 March, sec 1.e; “Ghana: Tension high as fifth person dies in chieftaincy violence” 2007, *IRIN: Humanitarian News and Analysis*, 6 November, <http://allafrica.com/stories/200711061112.html> – Accessed 12 May 2010.

⁷³ US State Department 2010, *2009 Human Rights Report – Ghana*, 11 March, sec 1.e ; “Ghana: Tension high as fifth person dies in chieftaincy violence” 2007, *IRIN: Humanitarian News and Analysis*, 6 November, <http://allafrica.com/stories/200711061112.html> – Accessed 12 May 2010.

⁷⁴ “Ghana: Tension high as fifth person dies in chieftaincy violence” 2007, *IRIN: Humanitarian News and Analysis*, 6 November, <http://allafrica.com/stories/200711061112.html> – Accessed 12 May 2010.

⁷⁵ Akwetey, I 2009, “Ghana: Bloody clash over Odumase chieftaincy dispute”, *The Ghanaian Chronicle*, 23 November, <http://allafrica.com/stories/200911240630.html> - Accessed 13 May 2010.

⁷⁶ Akwetey, I 2009, “Ghana: Bloody clash over Odumase chieftaincy dispute”, *The Ghanaian Chronicle*, 23 November, <http://allafrica.com/stories/200911240630.html> - Accessed 13 May 2010.

had used excessive force in attempting to control the violence and “extract information” from suspects.

- Police arrested and charged “[a] number of individuals” in relation to a chieftaincy dispute in the Western Region that left three people dead.⁷⁷

81. These incidents were large-scale, involving multiple deaths. While it is possible that authorities’ responses to smaller-scale events went unreported, police acted wrongly in at least one such case. In 2010 the US State Department reported that police had refused to accept a complaint by a woman who was beaten by a Paramount Chief in the Brong Ahafo Region for not kneeling before him.⁷⁸ Instead, police detained the victim and her mother without charge.⁷⁹ In addition, the 2006 *Ghanaian Chronicle* article on traditionalists’ attempts to forcibly enstool a chief in Greater Accra Region made no mention of a police response.⁸⁰

6. Christianity in the region

82. There is very little available information on the type of Christianity practiced in the Brong Ahafo Region. Christianity is the majority religion: nearly 71 per cent of residents identify as Christians. A page on *ModernGhana.com* states that Catholics are the largest Christian group in Brong Ahafo Region, making up nearly 23 per cent of the Christian population. The next-largest Christian subgroup is Pentecostals (approximately 21 per cent) and Protestants (17 per cent).⁸¹

Hearing

83. The applicant appeared before the Tribunal [in] May 2010 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Twi and English languages.

84. The applicant was represented in relation to the review by his registered migration agent who attended the hearing. A law student from his office also attended the hearing with the consent of the applicant.

85. The applicant confirmed that he was born in [year deleted: s.431(2)] in a village called [Village A] near [Town A] in the Brong Ahafo region.

86. He said that he has two brothers and a sister, and his parents and siblings live in [Village A]. He has no relatives in Australia.

⁷⁷ US State Department 2009, *2008 Human Rights Report – Ghana*, 25 February, sec 1.a .

⁷⁸ US State Department 2010, *2009 Human Rights Report – Ghana*, 11 March, sec 1.c .

⁷⁹ US State Department 2010, *2009 Human Rights Report – Ghana*, 11 March, sec 1.c .

⁸⁰ Immigration and Refugee Board of Canada 2006, “Ghana: Consequences of refusing to assume an inherited position of tribal or clan chief; state protection available to the individual (2004 – 2006)”, 11 October, http://www2.irb-cisr.gc.ca/en/research/rir/index_e.htm?action=record.viewrec&gotorec=450515 - Accessed 23 July 2009.

⁸¹ “References (Brong Ahafo Region)” n.d., *ModernGhana.com*, http://www.modernghana.com/GhanaHome/regions/brongahafo.asp?menu_id=6&sub_menu_id=14&gender=- - Accessed 30 April 2010.

87. He confirmed that he belongs to the Brong ethnic group and is a Christian.
88. He described his village as a farming village with a population of more than a thousand. His parents are farmers and they grow corn and yams. They are subsistence farmers primarily and when there is abundance they sell in the markets.
89. He confirmed that a traditional council presides over [Village A] and that chiefs look after the town.
90. He said that he completed Middle School in 1986 and worked as a trader, selling [goods] for about five years to the regional capital Sunyani.
91. He said that in 1991 he started another business as a storeowner in Sunyani, selling [general goods], and he owned this business until March 2008. He said he moved to Sunyani and travelled home on holidays or weekends or for funerals. He was asked why he decided to start a business and move to Sunyani. He said that it was an extension of his [trading], he saw that the market was good in Sunyani and he moved there to expand the business.
92. He was asked which tribe his family belongs to and he confirmed it is [Tribe A] of the Aduana people of [Village A]. He confirmed that he belonged to the Brong people (also known as Bono) and that they are part of the Akan. He said that [Tribe A] in [Village A] is part of the Aduana clan. The Aduana clan exists in the whole Brong region. When asked if the Akan make up about 46% of the population of Ghana, he said the Akan are many and that might be right.
93. He was asked who he fears if he returned to Ghana in the reasonably foreseeable future. He said [Tribe A] people in his town would kill him straight away.
94. He was asked to explain the traditions of the Kontihene stool. He said the Kontihene is the deputy of the chief, the Omanhene, and when the Omanhene is not available, the Kontihene takes over. He said the duties of the Kontihene include the general administration of the town.
95. He was asked to describe the pouring of the libation. He said that it is the process where the chief or Kontihene pours whiskey or spirit to the Gods of the town or house. It is performed on special occasions to honour the dead. In his house there are two Gods whom they believe spiritually protect the house. The pouring honours those who have passed away. The Gods of his house are called tamafofie and tamkwabena. The tamafofie is the god that they pour libations for on Fridays, and for the tamkwabena the libation is poured on Tuesdays.
96. He was asked how the Kontihenes were chosen. He said that in their village the Kontihene was stooled, and only when that Kontihene dies is a new one installed. He said his uncles were always chosen. He said the uncles and mother select who is chosen because there is matrilineal lineage. He said that his grandmother (on his mother's side) chooses from the eldest son. He said that in his village women can be queen mothers but they cannot be Kontihene. He said he had not heard of women being Kontihene in any other place.
97. He said his three uncles and two grandmothers were the elders in the community. His mother was part of the process but others made the decisions relating to him.

98. He was asked if he agreed that elders choose the candidate from a list of royal families. He said there could be a number of houses in the same clan and the elders would move from house to house. They do that after conferring.
99. He was asked if he knew when he was growing up that there was a chance that he would be Kontihene at some point. He said he did not know exactly but knew that his family was royalty in town. He said he did not know he would be called upon. He said that he had an elder brother but he was not called on because he was left-handed as it was unacceptable to wear the cloth on the left handed side of the body. He said there was no way he could wear the cloth on the left side. He said if you were left handed then they would just not select you.
100. He was asked when it was his turn to be Kontihene. He said it was after the death of the current Kontihene and the family invited him to [Village A], and he was informed that it was the turn of the house, and he was to be Kontihene. He said it was about a month after the death of the current Kontihene in February 2008.
101. He was asked how he felt knowing it was his turn to be Kontihene. He said that he was happy as it would give him the opportunity to be called “nana” which is a term of respect.
102. He was asked to describe what happened next. He said that the elders told him to go and think about it and he did. He went back to Sunyani and in about March, he returned to [Village A]. He said he was told that the elders had appointed the head of the family according to tradition, and he was taken in to learn the fetish houses and the involved processes that he had to undertake. He said he was shown how to pour libation and they poured libation. An elder told the Gods that the applicant was the chosen one and he needed to be accepted. Then they went to the tamafofie and tamkwabena fetish and he was accepted by the Gods. Then they went to the family gathering and he was told that he had been accepted by the Gods and he had to give up the church. He said he questioned this and asked why he should stop going to church. The elder said he had been accepted by the Gods and had no choice. He was told he had to serve not only the family but the whole town and had to give up the church. The applicant then talked to his mother and asked her to speak to the uncles about carrying on worshipping at the church as they had always been aware that he was a Christian.
103. He was asked when he had become a Christian. He said at school he was told by teachers to go to church every Sunday, and since then he had always worshipped God wherever he was.
104. He said that his brothers and sisters went to church, but not his mother, father or uncles He said that he and his siblings became Christians through school. He said it did not bother his parents. He said that he saw that the true meaning of life was through Christianity.
105. He was asked how many members of his village were Christian. He said that there were substantial numbers of people in his village that were Christians as well as those who worshipped the fetish priests.
106. He was asked where he worshipped and how often. He said he worshipped at the Presbyterian church. He said he went to church on Sundays and was devoted, and attended programs run by the church. He also went to church in Sunyani.
107. He was asked what the elders said after his mother spoke to them. He said that his mother said that the elders said that he was next in line, and that he had to serve the town and the

stool. This stool had been moving from house to house and he had to honour it. He was told to surrender the church.

108. He was asked why he did not listen to the elders and give up his Christianity so he could take up the honourable duties of Kontihene. He said that he considered the issues carefully and from his religious teachings he knew heaven waited for those who worshipped correctly. He said he did not want to be involved with the fetish Gods but the elders said that he could not refuse that duty. He thought his life as a Christian would be more important. He said the elders gave him no choice.
109. He was asked what he did then. He said that after they rejected his offer there was an argument between the elders and the executioners (people who carried out administrative duties) as the Gods had accepted him already by the pouring of the libations. The elders and executioners decided that the only conclusion was to kill him so that they could pass the stool on as the stool could not be passed on while the current Kontihene was alive. He said that with anger and disappointment he returned to Sunyani to continue his business.
110. He said that [in] March he saw three of the elders in his town, from his family, at his door. He allowed them in and two executioners followed. They said that they had come for a final answer from him and he said he did not want to change his mind. All of a sudden he was attacked and badly beaten and they said he had to be the chief. Someone who lived nearby took him to hospital. He showed the Tribunal a scar on his head. He said he thinks that the elders thought he was dead. He was asked how many of them in total attacked him. He said there were eight, three elders and five big men, some of whom were executioners. He said he was in hospital for three days. He gained consciousness and saw drips in his body. He said he had a bad cut on the back of his head and his forehead, and had bad back injuries.
111. He was asked how the police found out about the attack and he said he went to report the attack when he left the hospital. The police said they would investigate and told him to return the next day. When he returned they said it was a stool matter and they would not get involved and he should sort it out as it was a family matter.
112. He said he was disappointed after this and went to Kumasi to live with a classmate.
113. The Tribunal asked the applicant if he asked his parents for help, and he said that they could not do anything. He said his mother was always crying.
114. He was asked if the attack was reported in the newspapers. He said that it was not reported in the newspapers. He said he was very afraid.
115. He was asked how long he lived in Kumasi. He said it was two weeks and he thought he would investigate establishing himself in Kumasi. While he was visiting the business district one day, he received a telephone call from his friend saying that his uncles were in the house asking for him. Because he could not go back to his friend's house, he hid somewhere and later that night rang his friend, and his friend brought his bags, and he left for Accra.
116. He was asked how his family found him in Kumasi and he said he could only guess but he thinks the executioners have many contacts but it was still amazing to him.
117. He said he could not find a place to live in Accra so he took a job washing cars.

118. He said he did not have a passport. He was asked why he did not apply for a passport in the normal fashion He said that he was hiding in Accra and the process of application is not simple. Having a contact is easier and faster. He was asked why a businessman decided to help him. He said he had done extra work on this man's car, and the man asked for him each time. The applicant talked to the businessman and told him his story. The businessman then decided to help him out of compassion. The applicant did pay the businessman and he returned with a passport and an Australian visa. Prior to this the applicant had not thought about coming to Australia. He said the passport did not have his name and photograph in it. He said that this was because he could not produce his original birth certificate as it was in [Village A].
119. He was asked whether when he left Ghana he intended applying for refugee status in Australia. He said he did think about it as he knew why he was leaving.
120. The applicant was asked why then he took so long to apply for his visa if he genuinely feared returning (April 2008 until December 2009). He said that when he arrived in Australia he stayed in a hotel and was lonely, confused and sick, and he stayed there for some time. He then met a Ghanaian who gave him his address. He said that he had a bag in which he kept his passport. He took a taxi to the [suburb deleted: s.431(2)] address and lost the bag. He said it took him a long time for him to be guided into the process. He went to a migration agent in [suburb deleted: s.431(2)]. The agent said that he could not handle the case because he had lost his false passport. He said he was confused after that and afraid that he would be deported if found. He was so scared of going back to Ghana. Later he picked up courage and applied.
121. He was asked if since he left they had selected a new Kontihene in his village. He said that he had been told that because libation was poured and the process started it was only when he was not alive that they could appoint a new Kontihene. The town is now without Kontihene. He said that if he went back he would be killed even if he said he would give up Christianity because of the disgrace and because they needed a new Kontihene.
122. He was asked whether it may be the case now that as two years have passed, the elders may no longer be concerned about him, and he may no longer be in danger of harm. He said this was not the case because he was next in line to the stool.
123. He was asked if he could name the paramount chief (Omanhene) of the [Village A] traditional area. He said correctly that the name of the Omanhene is [name deleted: s.431(2)].
124. He was asked if he knew that [name deleted: s.431(2)] was a [Church A member]. He said that this was before he mounted the stool but he is not since he mounted the stool.
125. He acknowledged that in the Tain district about 72% of people may be Christians. He agreed that Christianity is the majority religion in Ghana generally.
126. He was asked if he agreed that in Ghana many Christian Ghanaians retain indigenous religious beliefs and practices. He said that this may be right and some have been allowed to combine Christianity and traditional ceremonies.
127. The Tribunal said that if 72% of people in the Tain district were Christian then it indicated that chiefs would have to be tolerant of Christianity. He said this is a complex issue. He said that if a person believes they are worshipping God, then he cannot see how the person

combines this with worshipping small gods. He said there are Christians who have a fetish. Personally he does not think it is proper. The Tribunal said it understood his views but asked if it was true that there are many people in Ghana who have combined Christian and traditional beliefs. He said he understands this but then they cannot worship God properly. He said there are some chiefs who go to church but he does not believe they do both functions. The Tribunal asked why in his village the elders would not allow him to go to church. He said he wanted to be a strong Christian and they would not allow it because he had to be loyal to [details deleted: s.431(2)]. The elders said he needed them to guide him as to the problems of the village. The applicant said worship of the fetish gods was unacceptable to him. He said he does not believe that chiefs who go to church pour libation and worship the fetish Gods. The Tribunal asked if that would not be required of them if they were chiefs. He said that it would depend as not all houses have their own gods that have protected them for centuries. Those chiefs who are Christians could not combine that and may have someone who does the pouring of libation for them.

128. The Tribunal indicated to the applicant that many reliable sources indicate that among the Akan there are no physically harsh repercussions for those who refuse to become Kontihene and that any punishments are usually of a social nature. He said that his case was different because he had been brought to the stools already, and consequently not until he had been eliminated could the process be kickstarted again.
129. He was asked if there was no-one in the village who could stand up to the elders and protest at murder as a solution. He said in the Western world this would be the case but the elders have the right to appoint the Kontihene. He said that in reality the elders would make the death look accidental or lose the body so the police could not control the situation.
130. The Tribunal referred to a BBC report which found that a growing number of chiefs and queen mothers are Christians and a report from an academic who has written about the area who said that chiefs are frequently adherents of Christianity. The applicant said that there are Christians who are chiefs but a Christian who is asked to worship gods around his stool, this is something you would not find. He said his problem was not that he did not want to be chief but that he did not want to worship the fetish gods.
131. The Tribunal told the applicant that an independent source reported information concerning a chief who did not believe in pouring libation, and was destooled but not killed. He was asked why in his situation if he did not wish to be Kontihene, he could not be destooled. He said the report probably refers to a chief. However where there are gods attached to the stool over the centuries, then when you mount the stool you must worship the gods. He said there are processes which he could not do because of his Christian belief. The report of the destooling was quoted to the applicant, as happened to one chief after he said in a radio interview that he “no longer believed in the sacred rituals of the stool room” and would not “pour libation to the ancestors” because he thought it was “demonic”.⁸² The applicant was asked whether the stool could not have been taken away from him. He said that the person quoted may have been an ordinary chief not one with a god attached to the stool. He said in his situation the gods can bring bad omens. He said the process of destooling varies according to the kinds of chief.

⁸² Ubink, J 2008, *In the Land of the Chiefs: Customary Law, Land Conflicts and the Role of the State in Peri-urban Ghana*, Amsterdam University Press, Amsterdam, p 156

132. He was asked if there was any process of destooling of the Kontihene in his village. He said when you mount the stool you are the chief.
133. He was asked if he acknowledge the independent source available to the Tribunal which suggests that the Akan are tolerant, willing to compromise and reasonable and that violence is not rife nor embedded in the culture. He was asked if he wished to comment on how this information fits with his situation. He said that he understands this report, but where chieftainship is concerned, people follow traditions. The elders may be tolerant, but in traditional matters, things must be done the way they have always been done.
134. He was asked whether he has been attending church in Australia and he said he had. He said he had been every Sunday to church since he came to Australia. He said he met a pastor early on and later he met another pastor. The name of his church is [name deleted: s.431(2)] and he also attends [church and suburb deleted: s.431(2)].
135. The applicant thanked the Tribunal and said while the situation looked simple to the outside it was not for him and he would be killed.
136. He was asked if he could move safely to another part of Ghana and live there safely. He said that the elders are still looking for him as set out in a letter, which he handed up to the Tribunal. He said that Ghana is small.
137. He said that the letter is from his brother. He was asked why the letter was written in English and not his language. He said his brother is brilliant. He said not many people write in Twi. The letter was dated [in] January 2010.
138. The applicant's representative said that the primary decision-maker stated that the applicant appeared truthful. He said that the reason the visa was refused by the Department was on the basis of country information. The representative said that the country information referred to by the Department does not apply as this is not a straightforward case of refusing the stool. He said that the elders were pursuing the applicant to give up his religion which he could not accept. The applicant had never said that he would refuse to be the chief.
139. In relation to the state protection issue, the representative referred to the Tribunal Research Report GHA32625, 15 November 2007 (RRT) which reports on police ineffectiveness and vigilante justice in Ghana. He submitted that there was no state protection available to the applicant.
140. The representative also referred to Tribunal decision 0806651 dated 12 January 2009, which he said was relevant to this case.
141. The representative also handed up an article from Ghana News dated 23 March 2010 headed "Chief Murdered in Tamale by angry youth" The article referred to a chief who was killed by his community, which took place in a different region of Ghana. The representative suggested that the article indicated that the police came to the scene too late.
142. He submitted that the applicant should be allowed protection. He said that his case is different to the situations referred to in the bulk of the country information. He submitted that if the chance of serious harm is 1% the applicant should give the benefit of the doubt.

FINDINGS AND REASONS

Nationality

143. On the basis of the applicant's evidence, the Tribunal accepts that the applicant is a national of Ghana and is outside his country of nationality.

Claims

144. The applicant claimed to be a devout Christian from a small village in Ghana. He claimed that a traditional council presides over his home village and that he was next in line for the stool of Kontihene, a position which is deputy to the chief, and comprises many important duties and rites. He claimed that he was selected by the elders of the village, as his family, of royal blood, was next in line for the position.
145. The applicant claimed he was happy to take up the position as it was an honour. However after he had been initiated into the position, he was told he must worship the fetish gods associated with the position, and not worship at church anymore. The applicant claimed that he had expected that he would be able to maintain his Christian beliefs while taking up the Kontihene position. He claimed that his arguments were rejected by the elders and he left town.
146. He claimed that the elders followed him to another town and assaulted him, leaving him for dead. He claimed he escaped to Kumasi where he stayed until he heard that the elders were looking for him and he then fled to Accra, and later, Australia. He claimed that the elders have to kill him, because, according to tradition they cannot appoint another Kontihene while one is alive, and he had already been accepted by the fetish gods during the initiation rites.
147. He claimed that he fears that he will be killed if he returns to Ghana in the reasonably foreseeable future.

Convention nexus

148. The applicant claimed that he would be killed because he refused to give up his Christianity to worship the fetish gods as part of the role of Kontihene in his village. The Tribunal finds that the feared harm, if proved, is for the essential and significant reason of religion.

Well-founded fear of persecution

149. The Tribunal found the applicant to be a credible and honest witness who told his story simply and without embellishment. The Tribunal accepts that he provided a truthful account of his experiences in Ghana.
150. The Tribunal also accepts that the applicant is a devoted Christian. His account of his initiation into Christianity at school and the way Christianity has been incorporated into his life was told openly and naturally. His evidence at the Tribunal hearing contained frequent references to the strength and importance to him of his Christian conviction. The Tribunal was also persuaded by the fact that he had clearly given careful and intelligent consideration to the issues of the inherent conflict between traditional laws and Christianity. The Tribunal accepts that he has continued to practice Christianity in Australia.

151. The Tribunal accepts the applicant's evidence that he was next in line for the Kontihene in the village of [Village A]. The Tribunal relied on extensive country information about the traditions of the Akan people, of which the Brong are a part. The Tribunal was persuaded that the applicant was of Aduana blood, in light of the independent country information, his extensive knowledge of the traditions, and by the fact that he knew the name of the chief in [Village A].
152. The Tribunal has considered carefully reports on the strength of Christianity in Ghana and the interaction of Christianity and traditional religion which generally support a view that there is tolerance between Christianity and traditional religion. In the Tain district, Christians make up nearly 72% of the population. Across Ghana generally Christianity is the majority religion. According to a US State Department report referred to earlier in this decision, Christianity in Ghana often includes an overlay of traditional beliefs. Other sources indicate that many Christian Ghanaians retain indigenous beliefs and practices and that even chiefs may be Christians. An expert on the Akan culture has said that the Akan tend to be "syncretic – adding new onto old rather than removing the old".
153. The Tribunal has also considered carefully a number of reports in the independent country information which suggest that when a person declines the offer of a stool, there are not serious consequences beyond social stigma and banishment from the community. Reports from the Immigration and Refugee Board in Canada (set out earlier in this decision) state that forced enstoolment is rare, and punishments could include social ostracism or banishment.
154. These reports were brought to the attention of the applicant at hearing. The applicant responded that although Christianity is strong in Ghana and many Christians also adhere to traditional beliefs, in his case there were fetish gods attached to the stool and he was required to worship these Gods. This worship was in conflict to his Christian beliefs and for this reason he was required by the elders to surrender his Christianity.
155. The Tribunal also accepts the applicant's submission that his case was distinguishable from the "banishment" cases where a person has refused the stool, as the applicant had already been brought to the stool, and accepted by gods that had protected his village for centuries.
156. The Tribunal accepts that the applicant feared harm because he had already taken up the position of Kontihene, poured libation and been accepted by the Gods, and for this reason, the elders could not appoint a different Kontihene until the applicant's death. While the Tribunal was unable to locate reports of similar incidents among the Brong people there was one report of a man, likely to be a Ga, who had "died under mysterious circumstances after he had been captured and taken through some rituals in a bid to install him on a traditional stool and he had declined." This report provides some indication that elders of particular villages may react in this extreme fashion where the stool has already been taken up by an individual and later rejected.
157. The Tribunal referred the applicant to a report of a chief who said that he no longer believed in the sacred rituals of the stool and would not perform libation to the ancestors because he thought it was demonic. The report suggested that this chief was "destooled" and the Tribunal asked the applicant why he would not be destooled rather than killed. The Tribunal accepts the applicant's evidence that in his village this was not an option because of the fact that two gods who had protected the village for centuries were attached to the stool, and he had already been accepted by the Gods. In light of this, the elders felt that they could not appoint another Kontihene until the death of the current Kontihene. The Tribunal accepts his evidence

that because of this, the town of [Village A] is currently without a Kontihene. The Tribunal was also troubled by the applicant's assertion that such an extreme measure would be taken by the elders rather than destooling, and asked the applicant whether there was no-one in the village who could stand up to the elders to protest against murder. The Tribunal is persuaded by the applicant's response that in the Western world this would be the case, but the elders have the right to appoint Kontihene and the traditional beliefs are so strongly held. The applicant also suggested that in order to avoid suspicion of criminal activity, the elders would make the death appear accidental or the applicant would just disappear.

158. In light of all the evidence before it, the Tribunal accepts that when the applicant refused to stop worshipping at church to perform his duties as Kontihene, the elders of the family followed him to Sunyani and attacked him which resulted in hospitalization. The Tribunal also accepts that the elders later pursued him to Kumasi although they did not find him. The Tribunal accepts that were he to return to Ghana there is a real chance that the elders would seek him out to kill him so that the position of Kontihene could become vacant.
159. The Tribunal is satisfied therefore that the applicant has a well-founded fear of persecution for reasons of his religion, were he to return to Ghana in the reasonably foreseeable future.

State protection

160. The Tribunal has considered whether there was a reasonably effective police force and a reasonably impartial system of justice so that the applicant could avail himself of state protection in the event of an attack by the elders.
161. The Tribunal accepts the applicant's evidence that he reported the attack on him to the police and was told that the police could not help him as the assault arose from a stool or kinship matter. The Tribunal accepts therefore that there was not adequate and effective state protection available to him in this instance. In relation to whether there could be adequate and effective state protection available to him in the future the country information is somewhat ambiguous.
162. While some sources suggest that state protection is available for those who are unwilling to succeed in a traditional role, others suggest that it is unlikely that state protection would extend to matters pertaining to traditional religious issues in families, communities or villages. Country information does indicate that Ghanaian police suffer from inadequate resourcing and a lack of capacity, and that there is not a great deal of public trust because of a reputation for brutality, corruption and negligence. Reports also suggest that laws give chiefs power to mediate local matters and that police are sometimes caught in a schism between traditions and the rule of modern law. One source states that the Constitution holds that the government cannot interfere in chieftaincy matters, although it is not clear how this law is enforced. There is evidence that the police have responded in large-scale outbreaks of violence due to chieftaincy disputes but less evidence of how police have responded in incidents involving disputes between elders and individuals. The US State Department Report in 2010 does refer to one incident in the Brong Ahafo region where the police refused to become involved where a woman refused to kneel before the chief.
163. In light of the fact that the applicant was unable to avail himself of state protection in the past, and the country information refers to a number of impediments to police protection, particularly in relation to traditional matters, the Tribunal is not satisfied that there is a

reasonably effective police force and a reasonably impartial system of justice so that the applicant could avail himself of state protection in the event of an attack by the elders.

Relocation

164. The applicant comes from a small village called [Village A] in the Brong Ahafo region of western Ghana. The Tribunal has considered whether it would be reasonable for the applicant to relocate to a different region in Ghana, where there would be no appreciable risk of the occurrence of the feared persecution.
165. The Tribunal accepts the applicant's evidence that he did try and escape the feared persecution by moving to Kumasi. The Tribunal accepts that the elders of the village followed him to Kumasi. The Tribunal accepts also that once the elders followed the applicant to Kumasi he then moved to the capital Accra which is on the southern Coast of Ghana but that he did not feel safe there. The Tribunal accepts that in the very specific circumstances of this case, the village elders were of the belief that they were unable to appoint a new Kontihene until the death of the appointed Kontihene, the applicant. Therefore the Tribunal accepts that there is a real chance that no matter where the applicant relocated in Ghana, the elders would seek to kill him.
166. The Tribunal finds therefore that it would not be reasonable to expect the applicant to relocate to another region in the country.

Right to enter and reside in a third country

167. There is no evidence before the Tribunal that the applicant has a right to enter and reside in any country other than Ghana.

CONCLUSIONS

168. The Tribunal is satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention. Therefore the applicant satisfies the criterion set out in s.36(2)(a) for a protection visa.

DECISION

169. The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act, being a person to whom Australia has protection obligations under the Refugees Convention.