

Boekpayoo Customary Ceremony of Ga-Dangme in Nungua: Culture Versus Law in Ghana's Fight Against Child Marriages

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Abstract

Child marriage has been an age-long problem in Ghana's quest of protecting the rights and development of young girls. Though there are various international and domestic legal frameworks to assist the Ghana government in taking proactive steps in fighting against child marriages, there are some deep-rooted cultural practices commemorated in some Ghanaian traditional communities that seem to derail the government's efforts. This paper aims to analyze the Boekpayoo customary ceremony organized by the Nungua Traditional Council in Ghana at the Gborbu temple on the 30th of March 2024. It offers a deeper understanding of the appropriateness and legality of the Boekpayoo customary ceremony to show how Ghana struggles to end all forms of child or early marriage. This paper puts the customary ceremony under the lens of existing domestic and international legal frameworks and cultural anthropology perspectives. This paper has relied on and has been critically analyzed through secondary data from national and international legal instruments, cultural anthropology literature, and news reports. This study revealed that the procedure for the Boekpayoo ceremony, as well as the fitting appointment for occupying the position of Naa Yoomo Ayemuede, is legitimate, as it helps in the preservation and promotion of the place-identity history and culture of the Ga-Dangmes. However, the timing and selection of Naa Okromo need to be analyzed as they are not in accordance with the established national and international legal frameworks.

1. INTRODUCTION

Child marriage, also known as or associated with the term early marriage, refers to a form of marriage carried out before the age of 18 years when a child is physically, physiologically, emotionally, and psychologically able to shoulder the responsibilities of marriage and childbearing.¹ Child marriage unjustly takes away a child's agency to freely, and without any

¹ Seraphina Bakta et. Al, "A Children's Rights-Based Approach to Child Marriage," Training Manual, Mzumbe University and University of Antwerp, 2022, 2.

coercion, to fully consent to marriage at full age.² It involves the betrothal of young children and even babies.³ It is mainly carried out with or without legal registration and may be performed under religious, civil, or customary rules.⁴ Due to its dire consequences, particularly robbing millions of girls of their childhood, rights, and dignity, child marriage has become an important discourse globally over several decades.⁵

It is a practice that negatively impacts five of the United Nations' Sustainable Development Goals (SDGs) 1, 3, 4, 5, and 10, which focus on poverty eradication, good health and well-being, inclusive and equitable quality education, gender equality, and reducing inequality.⁶ Several studies and reports have underscored the negative implications of child marriages. For instance, the United Nations Population Fund⁷ reports that girls who are given off to early marriages face numerous health risks, such as high rates of stillbirth, abortion, sexually transmitted diseases, maternal mortality and morbidity, and vesicovaginal fistula (VVF) among others. Other researchers, such as Nasrullah et al (2014)⁸ and Hamilton (2012)⁹ add that these girls are exposed to high risks of heart attack, diabetes, stroke, and cancer. This is because they are expected to take up roles that they are not psychologically, emotionally, and physically prepared to perform because of their age.¹⁰ It is no wonder that many of these girls due to social stigmatization by their peers¹¹ develop psychosocial effects that usually

² Jennifer McCleary-Sills et.al, "Child Marriage: A Critical Barrier to Girls' Schooling and Gender Equality in Education." *The Review of Faith & International Affairs* 13, no.3 (2015): 71.

³ Francisca Mary Danquah, "Child Marriage in Ghana: Assessing the Legal Implementation of Child Rights Standard," Master of Human Rights' Thesis, the Faculty of Graduate Studies, the University of Manitoba, 2023, 12.

⁴ International Planned Parenthood Federation, "Ending Child Marriage: A Guide for Global Policy Action", 7, https://www.ippf.org/sites/default/files/ending_child_marriage.pdf, 7.

⁵ Theresa Ayertey, "Child Marriage: A Recurring Issue in Ghana and South Africa (Cultural Perspective)." MA Capstone Thesis, Central European University, 2020, 2.

⁶ World Vision Ghana. *A Study on Child Marriage in Selected World Vision Ghana Operational Areas 2017*. University of Ghana Press: Centre for Social Policy Studies, 2017: 33-34.

⁷ United Nations Population Fund, "Child Marriage," <https://www.unfpa.org/child-marriage#readmore-expand>

⁸ Muazzam Nasrullah et.al, "Knowledge and Attitude Towards Child Marriage Practice among Women Married as Children-a Qualitative Study in Urban Slums of Lahore, Pakistan," *BMC Public Health* 14 (2014): 1-2.

⁹ Vivian E. Hamilton, "Age of Marital Capacity: Reconsidering Civil Recognition of Adolescent Marriage," *Boston University Law Review* 92 (2012): 1844.

¹⁰ World Vision Ghana, *op.cit.*, 35.

¹¹ Geetanjali Gangoli, Melanie McCarry, and Amina Razak, "Child Marriage or Forced Marriage? South Asian Communities in North East England," *Children & Society* 23, no. 6 (2009): 422.

result in suicidal thoughts and even attempts to commit suicide.¹² This confirms the results from the 2009 survey conducted by the Ghana Socio-Economic Panel Survey (GSEPS) in Ghana that one out of every five child brides experience hopelessness.¹³

The United Nations Children's Fund reported that 650 million girls below the full age of 18 years were given out in early marriages as of 2021.¹⁴ This implies that every minute, 23 early marriages are performed.¹⁵ Out of the 20 highly rated countries that engage in early marriages, the Human Rights Watch¹⁶ notes are cited in Africa with 10 of them with the highest prevalence of 37%, located in sub-Saharan Africa.¹⁷ In the case of Ghana, De Groot et al (2018) reveals that about twenty percent girls marry before the age of 18 while five percent girls marry before the age of 15.¹⁸ As pointed out by Adegbite (2023) many females have been fleeing issues of child marriage by migrating from the rural areas of northern Ghana to the southern region to become head porters.¹⁹ Statistics then are promising as the number of communities and young girls given out to early marriages is on the decline. For instance, Krafft et al (2022) noted that about 52 communities that had high cases of child marriages have been declared child-marriage-free.²⁰ This has been credited to the rigorous advocacy, education, and intensified research on child marriages undertaken by Ghana's Ministry of Gender, Children, and Social Protection via its three departments which are the Departments of Gender, Social Welfare, and Children. The ministry has been largely assisted by other Non-Governmental Organizations (NGO) such as

¹² Nusret Soylu, Muhammed Ayaz, and Tuğba Yüksel, "Early-Married and Sexually abused Girls Differ in their Psychiatric Outcomes," *Child Abuse and Neglect* 38, no. 9 (2014): 1555-1556.

¹³ The ISSER-Northwestern-Yale Long Term Ghana Socioeconomic Panel Survey (GSPS). "Ghana Socio-Economic Panel Survey Wave II Report." The Economic Growth Center (EGC) at Yale University, the Global Poverty Research Lab at Northwestern University and the Institute of Statistical, Social, and Economic Research (ISSER) at the University of Ghana, Legon, <https://dataportal.issereu.edu.gh/index.php/catalog/3/download/11,23>.

¹⁴ UNICEF, "Child Marriage," <https://www.unicef.org/protection/child-marriage>.

¹⁵ Girls Not Brides, "Child Marriage," <https://www.girlsnotbrides.org/learning-resources/child-marriage-gender/>

¹⁶ Annerieke Smaak and Nisha Varia, "Ending Child Marriage in Africa Opening the Door for Girls' Education, Health, and Freedom from Violence," <https://www.hrw.org/news/2015/12/09/ending-child-marriage-africa>

¹⁷ UNICEF, "Child Marriage," *loc.cit.*

¹⁸ Richard de Groot, et.al, "Child Marriage and Associated Outcomes in Northern Ghana: A Cross-Sectional Study," *BMC Public Health* 18, no.1 (2018): 1.

¹⁹ Olusola Adegbite, "A Load too Heavy: Kayaye Practice and Ghana's Child's Rights Obligation under Domestic and International Law," *Ohio Northern University International Law Journal* 1 (2023): 7.

²⁰ Caroline Krafft et.al. "Conflict and Girl Child Marriage: Global Evidence," 4. <https://documents1.worldbank.org/curated/en/099224508032213918/pdf/IDU0ea79b47b0ab0b049730a3270150a58640978.pdf>, See also Alissa Koski, Shelley Clark, and Arijit Nandi, "Has Child Marriage Declined in Sub-Saharan Africa? An Analysis of Trends in 31 Countries," *Population and Development Review* 43, no. 1 (2017): 17.

World Vision Ghana, Girls not Bride, Resource Link Foundation, Campaign for Girl Child Education (CAMFED), Global Sisters, and many others.²¹ While their efforts are commendable, there are still prevalent drivers of early marriage that continue to haunt their success stories in many communities in Ghana. In a recent study, Danquah (2023) observed that poverty, religion, peer influence, as well as traditional and customary practices, derail the successes chalked in Ghana in ending child or early marriages.²²

Regarding poverty, some low-income families give their girls out for early marriage so that their parents can be free of their responsibility of taking care of them.²³ Other families, such as those in Northern Ghana, give their daughters out in early marriage so that the family could get cows paid to them as dowry by the potential husband, which is in turn used by the girl's brothers as dowries for their wives.²⁴ Thus, the decision to send the girl for early marriage is in the interest of her family, especially her poor brothers to enable them to get married.

Religious beliefs drive another notable reason. A girl is expected to be pure or a virgin to be given out in marriage in most Muslim-dominated communities.²⁵ This is seen as an honor to her family. A girl who engages in pre-marital sex is labeled as a curse and a shame to her family.²⁶ Thus, families give their daughters out for early marriages while they are still children with their virginity kept intact or risk losing their purity or virginity when their marriages are delayed as their years advance. Still on religion, polygamy is endorsed in most Muslim-dominated communities. In such societies, the urge to marry a younger wife by men, particularly the rich, is high.²⁷ Therefore, young girls are given out for early marriages to be younger wives of men in these communities.

Some girls get married early because of a lack of a progressive life course, such as pursuing education or learning a vocation. This could be a result of poor grades at school, which stifles their progression to pursue higher education as Steinhaus et al (2016) noted in countries such as Zambia and Kenya, and prevalent in Ghana too.²⁸ Due to such limited

²¹ Ministry of Gender, Children, and Social Protection, the Government of Ghana and UNICEF, "Resource Guide on Ending Child Marriages in Ghana," <https://www.unicef.org/ghana/reports/resource-guide-ending-child-marriage>, 14.

²² Danquah, *op.cit.*, 34.

²³ Azza Karam, "Faith-Inspired Initiatives to Tackle the Social Determinants of Child Marriage," *The Review of Faith & International Affairs* 13, no. 3 (2015): 62.

²⁴ Danquah, *op.cit.*, 37.

²⁵ Karam, *op.cit.*, 62-63.

²⁶ World Vision Ghana, *op.cit.*, 21-22.

²⁷ Danquah, *op.cit.*, 23.

²⁸ Mara Steinhaus, et.al, "She Cannot Just Sit around Waiting to Turn Twenty: Understanding Why Child Marriage Persists in Kenya and Zambia" <https://www.icrw.org/wp-content/uploads/2016/10/160609-ICRW-Packard-Report-web.pdf>, 4-6.

opportunities, they are coerced to get married so that their husbands can take care of them.

Moreover, in some societies in Africa especially, child marriages are a result of harmful cultural and/or traditional practices. The situation in *Trokosi* community in Ghana is an example where young girls are coerced to serve as enslaved peoples in shrines to atone for the sins of their family members.²⁹ Usually, when such young girls are sent to the shrines, they end up being forced to marry the traditional priest who engages in carnal relations with her as a wife. Others are given out as child brides to some deities. In these societies, it is believed that the deities have taken special interest and selected them as their brides. When this proclamation is made by a traditional priest, families who hold this traditional belief in a bid to uphold and/or respect the tradition³⁰ do not question the choice of their young daughters as brides of the deity but instead offer them on a silver platter as an honor to merit a family blessing. Since child or early marriage is a culturally affirmed violence against girls³¹ robbing them of their childhood, dignity, and human rights, none of the drivers or causes exemplified is justifiable for it. Any action or practice that could potentially lead to a child or early marriage should be vehemently spoken against and repudiated as a means of ensuring that the rights of these young girls are not violated or compromised in any way.³²

Three key recent studies in the Ghanaian context have examined various aspects of early or child marriage. For instance, Ayertey (2020) conducted a comparative study on the cultural perspective of child marriages in Ghana and South Africa. The study explored how some cultural practices, such as *Trokosi* and *Ukuthwalain* in the Northern region of Ghana and the Eastern Cape of South Africa led to early marriages. The study contends the need for governments to ensure the full implementation of legal frameworks aimed at rooting out child marriages. It encourages the organization of structured programs and policies to ameliorate the canker of early or child marriages in the two countries.³³

Sarfo, Yendork, and Naidoo (2022) investigated how the constructions of adolescence, sexuality, and gender could potentially lead to child marriages and examined its negative implications on the life and well-being of young girls in Ghanaian society. Their study unearths how gender

²⁹ Ayertey, *op.cit.*, 24.

³⁰ Jane E.M. Callaghan, Yaganama Gambo, and Lisa C. Fellin, "Hearing the Silences: Adult Nigerian Women's Accounts of 'Early Marriages,'" *Feminism & Psychology* 24, no. 4 (2015): 510.

³¹ Ayertey, *op.cit.*, 28.

³² Ignatius O. Nwimo and Sarah O. Egwu, "Girl Child Marriage: Implications For Community Intervention Programmes," *Journal of Law, Policy & Globalization* 37 (2015): 141-142.

³³ Ayertey, *op.cit.*, 7-11.

stereotypes and disrespect for women in patriarchal societies in Ghana result in child marriages. The study underscored the physical, emotional, and psychological woes of young married girls who were given out for early marriages. It finally argued for immediate policy interventions by the government as well as NGOs to offer structured support to young girls who are victims of early marriage to enable them to cope with the challenges that they face.³⁴

Danquah (2023) examined four key legal statutes in Ghana and how they advocate against child marriages in Ghana, specifically Ghana's Constitution, Children's Act, Criminal Code, and Domestic Violence Act. The study aimed to assess whether the proper standards are upheld in such legal statutes and whether they are resilient enough to prevent child marriages in Ghana. It found that while the legal statutes are resilient in upholding the sovereignty of law, they are somehow trailing in their implementation. As such, it called for introducing specific programs, policies, and services to enhance the implementation of the legal statutes so that the overarching goal of ending child or early marriages in Ghana is realized.³⁵

These studies offered various layers of understanding of the practice of child or early marriages in Ghana, however, there are still gaps in establishing a theoretical debate on the discourse on child or early marriages in cases where culture meets the law. While cultural perspectives on child or early marriages in Ghana have subtly been investigated, they have been limited to only the practice in the Northern region of Ghana. Thus, there is a need to discuss academically the theories of culture that drive cultural practices to better understand the position of traditional authorities in the performance or cultural ceremonies that sometimes instigate child or early marriages. This will help appreciate the underlying cultural drivers to better marshal an intervention that could potentially regulate cultural practices that could fester and promote child or early marriages while upholding the sovereignty of the law in connection with international, regional, and domestic legal statutes on early or child marriages. More so, examination of legal instruments in the scholarship on early or child marriages in Ghana has often been geared toward only domestic legal instruments with a little touch on some of the international legal frameworks that Ghana is a signatory. There is a need to critically examine international, regional (herein African context), and domestic legal frameworks on child or early marriages in the Ghanaian context using a typical known case of child marriage.

³⁴ Elizabeth Anokyewaa Sarfo, Joana Salifu Yendork and Anthony Vernon Naidoo, "Understanding Child Marriage in Ghana: The Constructions of Gender and Sexuality and Implications for Married Girls, Child Care in Practice," *Child Care in Practice* 28, no. 2 (2022): 229.

³⁵ Danquah, *op.cit.*, 11-14.

Currently, in Ghana, there is an organization of a customary ceremony known as *Boekpayoo* by the Nungua Traditional Council (the council) in Accra, Ghana that is suggestive of promoting early or child marriage, a rot in Ghana's social fibre that is frowned upon. *Boekpayoo* is a *Ga* word which is literally translated in English language as 'the giving of a six-piece cloth as dowry to a woman.' The customary ceremony that was performed was between the spiritual priest for the Gborbu deity and a minor named Naa Okromo. The traditional ceremony has received an intensive public outcry since its organization on March 30, 2024, raising questions on the resilience of Ghana's legal frameworks in rooting out child or early marriages and the right position of culture in this debate.³⁶ Therefore, this paper sought to critically examine the *Boekpayoo* customary ceremony within the ambit of international, regional, and domestic legal frameworks and cultural anthropology theories such as cultural relativism, cultural conservatism, cultural nihilism, and true modernization. This academic discourse would offer a deeper understanding of the appropriateness and legality of the *Boekpayoo* customary ceremony in Ghana's quest to end all child or early marriage forms.

This academic probe is crucial because the human rights discourse on women and girls has been engulfed in what Ertürk and Purkayastha (2012) referred to as 'a culture-versus-rights dualism.'³⁷ Therefore, the overarching aim of this paper is to holistically study the *Boekpayoo* customary ceremony and the current Ghanaian environment, within the context of relevant legal frameworks. This would aid in offering a more scholarly and nuanced layer of understanding culture and tradition change in the context of modern legal frameworks and the quest for an innovation-friendly traditionalism and pseudo-conservatism of culture. The academic discourse examined pivots on two main research questions. The first research question is aimed at unraveling the historical antecedents and cultural processes of the *Boekpayoo* customary ceremony to offer a contextual background to its purpose in the culture of the Ga-Dangme of Ghana. On the other hand, the second research question sought to analyze the legality and appropriateness of the *Boekpayoo* customary ceremony within key international, regional, and domestic (Ghana) legal frameworks. This paper then submits 2 (two) research questions that underpinned the study. First, how was the *Boekpayoo* customary ceremony conducted between Gborbu Wulomɔ and Naa Okromo in the Nungua Traditional Area of Ghana within the cultural

³⁶ Modern Ghana, "Ga-Dangme Lawyers Condemn Gborbu Wulomor's Marriage to 12-year-Old Girl," <https://www.modernghana.com/news/1303045/ga-dangme-lawyers-condemn-gborbu-wulomors-marriag.html>.

³⁷ Yakın Ertürk and Bandana Purkayastha, "Linking Research, Policy and Action: A look at the Special Rapporteur on Violence against Women," *Current Sociology* 60, no.2 (2012):149.

and historical contexts of the Ga-Dangme?. Second, how appropriate is the *Boekpayoo* customary ceremony that was conducted between Gborbu Wulomɔ and Naa Okromo in the Nungua Traditional Area within the context of Ghana's relevant legal frameworks?

2. RESULT AND ANALYSIS

2.1 *Boekpayoo* Customary Ceremony Between Gborbu Wulomɔ and Naa Okromo in Nungua, Ghana: Historical and Cultural Contexts

2.1.1. Historical Context

The *Boekpayoo* means giving a six-piece cloth as a dowry to a woman in the Ga language. This paper uses the term "*Boekpayoo*," while several other publications spell it as "*Bo ekpaa yoo*,"³⁸ or "*Boi ekpaa yoo*."³⁹ *Boekpayoo* is a customary ceremony celebrated by the Ga-Dangme people at Nungua traditional area of Ghana to publicly announce the traditional and/or spiritual marriage of a child, girl, or woman specially chosen by the Gborbu deity to be his wife.

Since the 6th Century, the practice of *Boekpayoo* has been in existence among the Ga-Dangme residing in the Nungua traditional area as a conduit for the performance of special traditional rites for the Gborbu deity who is the spiritual overload of the area.⁴⁰ The betrothal to the deity as a spiritual wife is seen as unique since the selection is solely from a particular family lineage of Ga-Dangme indigenes of Nungua. It is a general belief among the Ga-Dangmes that particular families are spiritually 'married' to a specific deity.⁴¹ Thus, the deity specifically chooses a representative of the family. Customarily, the Gborbu deity is supposed to have four wives. Thus, the Gborbu deity selected her divinely, and spiritual consultations affirmed the choice. It is said that this special position as the fourth wife of the Gborbu deity has been vacant for over 300 years now due to a lack of a suitable candidate.⁴²

After spiritual confirmation by the Gborbu traditional priest who is the mouthpiece of the Gborbu deity, Naa Okromo had been chosen as the suitable candidate and a spiritual wife to occupy the position as fourth wife

³⁸ Ragnhild Overa, "Partners and Competitors Gendered Entrepreneurship in Ghanaian Canoe Fisheries" (Dissertation for the Dr.Polit. Degree, Department of Geography University of Bergen, March 1998), 214.

³⁹ Naa Kuorkor Kotey, "Ethnomedicine and Children's Medical Knowledge among The Ga of West Africa" (PhD.Dissertation, Department of Anthropology Washington State University, May 2012), 59, 62, 66.

⁴⁰ Okay Fm, "Naa Yoomo Ayemuede is 16-Years old not 12- Nungua Traditional Council Clarifies," <https://okayfm.peacefmonline.com/pages/local/202404/501359.php>.

⁴¹ Samuel S. Quarcoopome, "*The Decline of Traditional Authority: The Case of Ga Mashie State of Accra*," in *Chieftancy in Ghana: Culture, Governance and Development*, ed. Irene K. Odotei and Albert K. Awedoba (Accra: Sub-Saharan Publishers, 2006), 399.

⁴² Okay fm, *loc.cit.*

of the deity.⁴³ This is not a new phenomenon in the culture of the Ga-Dangme because historically their deities have chosen servants or wives regardless of age, profession, or religious affiliation.⁴⁴ In tandem with its historical antecedent, on March 30, 2024, the *Boekpayoo* ceremony was performed at the Gborbu temple in Nungua to officially announce the traditional and/or spiritual marriage between the girl, Naa Okromo, and the Gborbu deity represented by the Gborbu traditional priest, Gborbu *Wulomo* to enable her to assume the role of Naa Yoomo Ayemuede, one of the four traditional and spiritual wives of the Gborbu deity.⁴⁵ This marriage is believed to be important in aiding in the performance of special traditional rites to be performed by only the spiritual wife who has assumed the role of Naa Yoomo Ayemuede. Accordingly, when these rites are performed, it will appease the Gborbu deity to continually offer spiritual guidance for the people as he's done for the Ga-Dangme since their exodus from Israel about 6th century B.C. through Egypt, Ethiopia, Southern Sudan, Niger, Ile-Ife in Nigeria, Togo and then to the present Gold Coast, now Ghana.⁴⁶

Kroop (1968)⁴⁷ noted that the Ga-Dangme has a select group of men and women who dedicate themselves to serving the Gborbu deity and other deities to ensure a spiritual balance among the people.⁴⁸ As such, specific persons within their fold are appointed to play various roles in numerous rites believed by the Ga-Dangme to prevent misfortune such as sickness and untimely death.⁴⁹ When such a person is spiritually married to a deity, s/he is obliged to do the dictates of the deity. The choice of his or her attire is based on the gender of the deity. Kwakye-Opong (2014)⁵⁰ noted that if a deity is a male, the spiritually married person must wear male attire and *vice versa* exclusively during the observance of special rites for the deity. Female servants spiritually married to a male deity wear jumpers and big togas meant for males during ceremonies for the deity.⁵¹ Aside from this, the spiritually married person dedicated to the service of the deity is mandatorily asked to put on special identifying marks on either the chest,

⁴³ *Ibid.*

⁴⁴ Regina Kwakye-Opong, "Clothing and Identity: Ga Deities and Spiritual Responsibilities," *Arts and Design Studies* 25 (2014): 48.

⁴⁵ Emelia Ennin Abbey, "Nungua Residents Divided over Alleged Child Marriage", <https://www.graphic.com.gh/news/general-news/ghana-news-nungua-residents-divided-over-alleged-child-marriage.html>.

⁴⁶ Joseph Nii Abekar Mensah, "Hebrew Israelites Origin of Ga-Dangmes of Ghana in Brief", <https://thegadangme.com/wp-content/uploads/2016/02/Hebrew-Israelites-of-Ghana.pdf>.

⁴⁷ Mary Esther Kroop, "A Comparative Study of Ga and Adangme with Special Reference to the Verb," PhD Thesis, University of London, 1968, 34.

⁴⁸ Margaret Joyce Field, *Religion and Medicine of the Ga People*. London: Oxford University Press, 1961, 103, 100, 104, 74.

⁴⁹ Kwakye-Opong, *op.cit.*, 52.

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

arms, biceps ankles or nape as well as put on the hairstyle ascribed to the deity.⁵² This indicates that the acceptance of the position or privilege to serve a deity among the Ga-Dangme is a serious responsibility that automatically affects the right to choices of the person. Yet, such appointments are usually automatically accepted by persons chosen by the deity because oral tradition among the Ga-Dangme indicates that persons who decline such appointments could fall sick, go mad or become restless until the person finally accepts the appointment.⁵³

2.1.2. Cultural Context

The *Boekpayoo* ceremony is akin to the performance of 'knocking', an initial rite to publicly betroth a woman in a typical Ga-Dangme society, where six pieces of clothes are officially given to the woman's family.⁵⁴ As such, the clothes were given to Naa Okromo by *Gborbu Wulomɔ*, the priest, who represented the deity during the rites. As a ceremony meant to bring untold blessings to Naa Okromo and her family, white clothing were worn by her, her family members, the deity's representative, *Gborbu Wulomɔ*, and other members present. Kwakye-Opong (2014)⁵⁵ observed that Naa Okromo was clad in a beautiful white cloth, symbolizing victory, success, and purity among various traditional communities,⁵⁶ including the Ga-Dangme. She was adorned in colorful beads worn around the wrists, neck, and left leg, meant not just for beautification purposes but also for spiritual protection against evil forces.⁵⁷ In celebrating the success of finally getting a suitor for the *Gborbu* deity, the ceremony was marked by the playing of music, drumming and dancing.

The 'full roles' of Naa Okromo as Naa Yoomo Ayemuede, publicly announced at the *Boekpayoo* ceremony are diverse and would be performed under the direction of the *Gborbu Wulomɔ*.⁵⁸ She is responsible for assisting the spiritual priest in performing the preliminary rites to usher in the *H[m]w* festival in the Ga-Dangme state.⁵⁹ As the mother of all the priests and

⁵² *Ibid.*, 53.

⁵³ *Ibid.*, 56.

⁵⁴ Adoma Addo, Taline, and Lesego, "Ga-Adangbe Traditional Weddings," <https://prezi.com/vkdjz-1k8rg/ga-adangbe-traditional-weddings/>.

⁵⁵ Kwakye-Opong, *op.cit.*, 57.

⁵⁶ Dickson Adom, *General Knowledge in Art*. Kumasi: Adom Series Publications, 2014, 147.

⁵⁷ Kwakye-Opong, *op.cit.*, 57.

⁵⁸ According to the Nungua Traditional Council, Naa Okromo started performing her duties as Naa Yoomo Ayemuede six years ago. So, to usher her fully into the position, the *Boekpayoo* ceremony had to be performed.

⁵⁹ According to Ga oral tradition, the *H[m]w* festival is celebrated to mark the agricultural success of the Gas during their migration to present-day Accra, the capital town of Ghana. A famine broke among the people so they were asked by the *Gborbu* deity to undertake a massive food production exercise that resulted in a bumper harvest. The people hooting at the hunger (known in the Ga language as *H[m] yi wam*) that earlier

priestesses, Naa Yoomo Ayemuede is responsible for feeding all deities at the Cardinals of the Rocks situated in Nungua and carrying the corn to the town square for praises and thanksgiving to *Ataa Naa Nyonmo*, believed to be the almighty God seen as a dual-gender divinity (also referred to as *Ofe* or *Maawu*), *DzemaWodzi*, *Wodzi* and ancestral spirits.⁶⁰ She also responsible for the physical as well as spiritual cleansing and ablution of the Gborbu temple during the *H|m|w|* festival.⁶¹ After the announcement of her full responsibilities, Naa Okromo officially consented to her willingness to perform them which was hailed by all present with loud shouts of admiration.⁶² Prayers and libations were performed led by the Gborbu deity and other traditional members in the council. The elderly women and men engaged in Kpanlogo dance to thank the deities and ancestors for the successful commemoration of the ceremony.

The council is the supreme traditional authority of the Ga-Dangme people of Nungua legitimately recognized by the Ministry of Religious and Chieftaincy Affairs of Ghana for the organization of customary ceremonies for the 'living God' known as *Ataa Naa Nyonmo* and their 99 deities.⁶³ The Ga-Dangmes in Nungua comprises of eight clans which are Nii Mantse We, Nii Moi We, Nii Borte We, Nii Adzin We, Nii Borkwei We, Nii Osokrono We, Nii Odarteitse We and Nii Djenge We. The council is headed by the Nungua Mantse King, Odaifio Welensi III who is the paramount chief of the Nungua Traditional Area. Other council members include divisional or caretaker chiefs within the Nungua jurisdiction who are nominated and inducted to be members after their enstoolment and/or spiritual appointment which is by family lineage.⁶⁴

Aside from the *Boekpayoo* customary ceremony, the council also organizes other customary ceremonies such as the *H|m|w|* festival, also known as *Kplejoo*.⁶⁵ Also, it organizes various pre-*H|m|w|* rites such as the *Jenten Nishwamo* during which they feed their deities with unleavened corn-

plagued the people, hence the celebration of the festival to mark this landmark victory over hunger. See Samuel Nortey, "The H|M|W| Festival in Accra: Its Artistic and Other Cultural Aspects," PhD Dissertation (African Art and Culture), School of Graduate Studies, Faculty of Fine Art, College of Art and Social Sciences, Kwame Nkrumah University of Science and Technology, February 2009, 87-89.

⁶⁰ Daniel Teteh Osabu-Kle, "The Ga People and Homowo Festival," <https://carleton.ca/africanstudies/wp-content/uploads/Ga-People-and-Homowo-Festival.pdf>, 6.

⁶¹ *Ibid.*

⁶² Abbey, *loc.cit.*

⁶³ Nungua Traditional Council is among the twelve recognized traditional councils in the Greater Accra Region of Ghana by the Ministry of Religious and Chieftaincy Affairs. See the Ministry of Religious and Chieftaincy Affairs, <https://mcra.gov.gh/regional-houses-of-chiefs/>.

⁶⁴ Chieftaincy Act (759) of 2008, Sections 12-14.

⁶⁵ See Nortey (2009), *loc.cit.*

made dish locally known as *Kpokpoi* prepared by the traditional priests and priestesses under the oversight of Gborbu Wulomɔ.⁶⁶

Other rites performed by the council includes *Shi Baa* (cleaning and clearing of the sacred farms), *Nmaa Dum* (planting of sacred millet in the sacred farms), *Nmaa Faa* (harvesting sacred millet in the sacred farms), *Dipo* rites (initiation rites for females), and others.⁶⁷ The recognition of the Nungua Traditional Area in their jurisdiction is their ability to impose and lift a weeklong ban on drumming and noise making known as *Odadaa/Odadao* as part of the celebrations leading to the annual *H[m]w* festival.⁶⁸ However, their powers are not absolute. All their activities including the performance of their numerous customary rites are mandatorily required to follow the legal frameworks in Ghana.⁶⁹

2.2 The *Boekpayoo* Customary Ceremony Between Gborbu Wulomɔ and Naa Okromo in Nungua, Ghana: Cultural Anthropology and Legal Perspectives

2.2.1. Cultural Anthropology Perspective

The council said that the *Boekpayoo* ceremony between the Gborbu Wulomɔ and Naa Okromo in Nungua, Ghana, was to enable her to perform essential spiritual duties required to maintain their allegiance to the Gborbu deity. While these spiritual duties are important as they are a part of the people's cultural heritage and must be performed, various individuals and organizations have raised concerns about the customary ceremony, which is akin to a typical marriage rite. For instance, the BBC report pointed out that the woman present made some remarks suggesting advice to the minor, Naa Okromo, to gear her up toward wifely duties, such as using perfumes to enhance her physical appeal to her husband.⁷⁰ This episode of the customary ceremony gratified the fear and/or anger that the minor had been ushered into an early or child marriage. The startling statistics on child marriages in Ghana may fuel this fear and/or anger. For instance, the UNFPA-UNICEF Global report in 2020 revealed that there are over two million child brides in Ghana representing 19% of all young women married

⁶⁶ Nungua Traditional Council performs *jensen nishwamo* ahead of *homowo* celebrations. See Ghana News Agency, https://gna.org.gh/2024/04/nungua-traditional-council-performs-jenten-nishwamo-ahead-of-homowo-celebrations/#google_vignette.

⁶⁷ Visit Ghanam, "About Homowo", <https://visitghana.com/attractions/homowo-festival/>.

⁶⁸ Samuel Nortey, "A Cultural Appraisal of *Odadaa*: An Artistic Practice of the Lifting of The Ban on Drumming and Noise-Making Amongst the Ga People of Ghana", *Arts and Design Studies* 2 (2012): 10-11.

⁶⁹ Chieftaincy Act (759) of 2008, Section 24.

⁷⁰ Favour Nunoo, "Ghana Child Bride under Police Protection after Marriage to the Priest," BBC News, Accra, 2 April 2024, <https://www.bbc.com/news/world-africa-68711869>

before their 18th birthday.⁷¹ While this statistic is still high, it is better than the 34% of child marriages that were reported in 1993.⁷² Thus, the worry that Naa Okromo is forced into an early marriage seems legitimate on the front that it will stamp negatively on Ghana's ambitious goal of ending all forms of child marriage by 2030 and the failure of the country to honor its commitments to implement the legal frameworks.⁷³ This includes a national strategic framework which frowns on child marriages with the ideal age of marriage set at 18 years.⁷⁴

The council has strongly intimated that the *Boekpayoo* ceremony was not a typical marriage rite that involved carnal or wifely duties.⁷⁵ It stated that the items that were presented to Naa Okromo which were six pieces of cloth as dowry to a woman, suggestive of *Boekpayoo*, was not ideal for an actual marriage.⁷⁶ This is true because twelve pieces of cloth are often given to women in a typical marriage setting in the Ga-Dangme state.⁷⁷ Moreover, the council has officially debunked and disassociated themselves from the comments made by the women present at the customary ceremony of Naa Okromo, labeling those unruly comments as 'excesses like any other event where verbal misrepresentations and over-exaggerations' often happen after the official program is over.⁷⁸ The marriage, according to the council, was spiritual because they claimed the Gborbu deity chose her to be one of his ideal four wives.⁷⁹ Therefore, it would be unfair to accuse the council of

⁷¹ United Nations Population Fund and United Nations Children's Fund. "UNFPA-UNICEF Global Programme to End Child Marriage Annual Report 2020- Act Now: Accelerating Gender Equality by Eliminating Child Marriage in a Pandemic," October 2021. p. 28-30. <https://www.unfpa.org/publications/unfpa-unicef-global-programme-end-child-marriage-annual-report-2020>

⁷² UNICEF, "Ending Child Marriage: Girls Need Rights Not Rites," <https://www.unicef.org/ghana/ending-child-marriage>

⁷³ It will be discussed in Part 2.2.2.

⁷⁴ Ministry of Gender Children and Social Protection of the Republic of Ghana and UNICEF. "National Strategic Framework on Ending Child Marriage in Ghana 2017-2026." UNICEF, 2016. National Strategic Framework on Ending Child Marriage in Ghana (2017-2026), Ministry of Gender, Children and Social Protection, UNICEF. pp. 11-13. <https://www.unicef.org/ghana/media/1001/file/National%20Strategic%20Framework%20on%20Ending%20Child%20Marriage.pdf>

⁷⁵ Blema TV, "Nungua Traditional Council Response Nuumo Gborbu Wulomo," 5 August 2022, <https://www.facebook.com/share/v/LzVSg2qtYAbtAQmY/?mibextid=oFDknk>

⁷⁶ Naa Adjeley Tsofanye, "Gba-Krobo Marriage," The GaDangme, <https://thegadangme.com/gba-krobo-marriage/>

⁷⁷ Addo, Taline, and Lesego, *loc.cit.*

⁷⁸ Blema TV, *loc.cit.*

⁷⁹ During the press conference organized by the Nungua Traditional Council held on April 3, 2024 at the Gborbu Wulomo's Office in Nungua, Accra, Ghana, <https://www.facebook.com/share/v/LzVSg2qtYAbtAQmY/?mibextid=oFDknk>, it was made known to the public that Naa Okromo was chosen by the Gborbu deity to be one of his wives. Customarily, the deity is supposed to have four wives. Thus, divinely, the Gborbu deity selected her and spiritual consultations affirmed the choice.

engaging in an unethical and illegal ceremony that would force a minor into engaging in a carnal relationship with the suitor.

Further, the council said that Naa Okromo's position as the fourth wife to the Gborbu deity has been vacant for over 300 years and that Naa Okromo was the right choice to occupy that position through divine consultation.⁸⁰ This purported spiritual consultation syncs with events in the life of Naa Okromo that affirm her uniqueness and appropriateness to occupy the position as a wife to the Gborbu deity and play the role of Naa Yoomo Ayemuade.⁸¹ The council claims that Naa Okromo was prophesied long ago before her birth to take up this spiritual position. They claimed she stayed in her mother's womb for two years and was born only by the spiritual assistance of the Gborbu deity.⁸² After her birth, she delayed walking for two years and was only able to walk as a result of the intervention by the Gborbu deity. As such, the council asserts she is a special child.⁸³ While issues that bother spirituality and the metaphysical arena cannot be scientifically proven but are often believed by those who hold belief in traditional African cosmology and religion, her condition before and after birth should not be the singular reason for her selection.⁸⁴ The post-term pregnancy claim is highly contestable since there is no scientific evidence to it and knowledge of the date for Naa Okromo's conception was not established.⁸⁵ More so, her delayed motor skills happen to several other children, which might be normal based on the child's personality or as a result of a medical condition.⁸⁶ Health-wise, delayed walking or delayed motor skills may be caused by brain damage, muscular disorders, or infections or it could be as a result of the distinct personality of a child.⁸⁷

Regarding her choice by the Gborbu deity, ideally, every suitor has the right to choose who to contract a marital union. Therefore, the Gborbu deity has the spiritual or legal right to choose a marital partner. However, any marriage, physical or spiritual, must be consensual. The one the suitor selects must also consent to the marital union. Legal frameworks that Ghana has been a signatory require that consent is prioritized in all marital

⁸⁰ Blema TV, *loc.cit.*

⁸¹ *Ibid.*

⁸² *Ibid.*

⁸³ *Ibid.*

⁸⁴ Adom, *op. cit* 165

⁸⁵ A post-term pregnancy is a pregnancy that lasts more than 42 weeks or nine months sometimes referred to as late-term, prolonged, or overdue pregnancy. Scientifically, all babies are expected to be born a maximum of four weeks after the due date. Beyond this threshold is likely to result in stillborn (death at birth). National Center for Biotechnology Information, "Pregnancy and Birth: When Your Baby's Due Date Has Passed," Institute for Quality and Efficiency in Health Care, <https://www.ncbi.nlm.nih.gov/books/NBK279571/>

⁸⁶ *Ibid.*

⁸⁷ MedicineNet, Inc, "What Causes Delayed Walking in Babies?," 13 February 2024, https://www.medicinenet.com/what_causes_delay_in_walking_in_babies/article.htm

unions to rid every form of coercion, which is seen as an infringement on the rights of the woman. In Ghana, the age of consent is 16 years,⁸⁸ while the marriageable age is 18. When the news of the customary ceremony emerged on March 30th, 2024, the age of Naa Okromo was changed from 12 years to 13 years, and then finally, the council said at a press conference that she was 16 years old. Later, the Executive Director of Child Rights International set the matter straight: her age was 15 years and not 16 years as purported by the council.⁸⁹

While it is understandable that the actual marital rites to the Gborbu deity may be slated at a later time when the minor, turns 18 years old in tandem with the Children's Act, Act 560 of 1998,⁹⁰ the *Boekpayoo* ceremony that was organized for her at the age of 15 is illegal. This raises a serious concern on the issue of consent of the minor in first accepting the 'marital proposal' of the Gborbu deity and the heavy responsibility to occupy the position of Naa Yoomo Ayemuede. While the council claims that the minor, Naa Okromo has consented to the spiritual marriage, she is not of the right age to take that decision. She can only legally take this decision at the age of 16 years or even more.⁹¹ This paper agrees with the National Commission for Civic Education (NCCE)'s position that a pre-pubescent and pre-teen minor cannot consent to such an arrangement.⁹² As such, the council should have resented its decision to organize this customary ceremony knowing this was against the legal frameworks accepted in Ghana. The law stipulates that they should have waited for the minor to attain the consensual age of 16 years or even get to the full age of 18 years to freely agree to accept the marital proposal by the Gborbu deity before organizing the *Boekpayoo* customary ceremony. Moreover, it was wrong for them to have made the minor perform duties as the Naa Yoomo Ayemuede and betrothed fourth wife of the Gborbu deity. Though the council asserts that it is the Gborbu deity who decides the timing for every traditional event including the *Boekpayoo*, they need to remember that universal human rights always take precedence over cultural traditions.⁹³ In the past and few rural communities in Ghana, minors have been and are still betrothed,

⁸⁸ Criminal Offences Act (29), Sect. 14.

⁸⁹ Hamdia Mohammed, "Girl in Underage Marriage is 15 years, not 16 – Child Rights International," City Newsroom, 6 April 2024, <https://citinewsroom.com/2024/04/girl-in-underage-marriage-is-15-years-not-16-child-rights-international/>

⁹⁰ The Children's Act, Act 560 of 1998, Section 14 (1) & (2) determine 'the minimum age of marriage of whatever kind shall be eighteen years' and 'no person shall force a child a) to be betrothed; b) to be the subject of a dowry transaction; or c) to be married.'

⁹¹ The Children's Act, *ibid*

⁹² Ghana News Agency, "Traditional, Cultural Practices Must Agree with National Laws," 2 April 2024, https://gna.org.gh/2024/04/traditional-cultural-practices-must-agree-with-national-laws-ncce/#google_vignette

⁹³ Joseph Yaw Asomah, "Cultural Rights Versus Human Rights: A Critical Analysis of the Trokosi Practice in Ghana and the Role of the Civil Society," *African Human Rights Law Journal* 15, no.1 (2015): 134.

minors have been and are still been betrothed⁹⁴, referred to as *asiwa*⁹⁵ while young minors were given out in spiritual marriages and even treated as slaves of deities⁹⁶ with no cognizance of their age and status, modern legal frameworks in Ghana vehemently oppose these unhealthy cultural practices. Unfortunately, the rights of women and girls are most often violated on the grounds of culture and tradition.⁹⁷ This situation must not be allowed to fester in this era in human societies where human dignity is highly prioritized. Although universal human rights recognize, promote, and accommodate cultural rights, its power immediately ceases when it breaches any human rights legal framework that has been signed and ratified by state parties.⁹⁸

Regarding the *Boekpayoo* that was organized, the consent age as stipulated in Ghana's legal framework⁹⁹ should have been upheld by the council. Suppose the Gborbu deity could wait for over 300 years for the right person to occupy the position of Naa Yoomo Ayemuede. Why can not he wait for three years extra after the minor has attained the right age to consent to this traditional/spiritual marriage? Countless accounts of changes in the timing of special traditional events due to restrictions such as state emergencies and the need to heed government directives. For instance, the mass gatherings and other public traditional events that mark the *Fetu afahye* (festival) celebrated by the people of Cape Coast were halted during the COVID-19 pandemic period as a result of the government of Ghana's directive on limited gatherings.¹⁰⁰ Therefore, the timing for the commemoration of the ceremony could have been slated at a later date when the minor is of age to consent to it.

The council mentioned that they have not diluted their culture and traditions and they would uphold them till their last breath.¹⁰¹ It is commendable if they take steps to prevent unhealthy 'dilution' of their culture and traditions. Though there are calls for the need to celebrate and

⁹⁴ Simon Füllekruss, "Forced Marriage among the Konkomba of the Northern Region," Report on the Findings of a Research conducted by Commission on Human Rights and Administrative Justice Ghana, May 2008, 35.

⁹⁵ This practice is known as *asiwa* among the Asante, *bi twi opi* among the Konkoma and *ngugu* among the Dagomba. *Ibid.*

⁹⁶ Michael Odijie, "Ritual Enslavement in West Africa," Oxford Research Encyclopedia of African History. 23 August 2023, <https://doi.org/10.1093/acrefore/9780190277734.013.854>

⁹⁷ Ertürk and Purkayastha, *op.cit.*, 146.

⁹⁸ Asomah, *op.cit.*, 142.

⁹⁹ The Children's Act, Act 560 of 1998, Section 14 (1) and (2) determines 'the minimum age of marriage of whatever kind shall be eighteen years' and 'no person shall force a child a) to be betrothed; b) to be the subject of a dowry transaction; or c) to be married.'

¹⁰⁰ Vincent Assanful & Peter Boakye, "COVID-19 and the Celebration of the Fetu Afahye Festival in Ghana," *Journal of Religion in Africa* 50, no. 3-4 (2020): 328-343.

¹⁰¹ Blema TV, *loc.cit.*

respect cultural diversity, this cannot be done at the expense of the fundamental human rights aimed at protecting human dignity, well-being, and integrity.¹⁰² This paper does not sit in the seat of cultural annihilists who label anything tradition as obsolete and unnecessary.¹⁰³ Neither is he advocating a blind embrace of modernity or proposing a wholesome conservatism of culture, pursuing an agenda of revising traditions.

This paper is of the opinion that constancy may be an important ingredient of tradition rather than change¹⁰⁴ as it promotes cultural conservatism and less adulteration of handed-down traditions from one generation to another generation. The idea of cultural relativism that prioritizes the preservation of culture and tradition is criticized as being the bane behind local cultures refusing to engage in needed social transformations that bring progress.¹⁰⁵ This paper agrees with Jeffers' theory of ethics of cultural preservation which postulates that the preservation of any cultural practice or tradition should be based strictly on its usefulness because 'doing so will not result in the erosion of the dignity, liberty, security, and freedom of others'¹⁰⁶ After taking a critical and holistic view of the *Boekpayoo* ceremony that was organized by the council, this paper would rather take the position of Zheng (2012)¹⁰⁷ and borrow his concept of reconstruction and neo-construction of tradition that calls for a transformation of cultural traditions to meet healthy modern societal demands. The council must know that the world is experiencing a revolutionary change in culture and traditions, and what they must resist from cultural adulteration or conserve are the productive elements that positively reflect on the self-identity and rich cultural heritage of the Ga-Dangme people and are in unison with accepted legal instruments. It is reasonable to believe that halting unproductive and harmful elements of a culture and a tradition is in no way a dilution of a people's highly esteemed culture and tradition. A conscious cessation and/or removal of the unproductive elements of one's culture and tradition is instead a hallmark of a progressive and dynamic culture.¹⁰⁸ Governing a state solely on cultural traditions without recognition and compliance with international and

¹⁰² Asomah, *op.cit.*, 133.

¹⁰³ Alexey Zhavoronkov, "Nihilism and the Crisis of Tradition: Arendt and Contemporary Radical Conservation." *Russian Sociological Review* 17, no. 4 (2018): 148.

¹⁰⁴ Gergely Szilvay, "Tradition – Constancy Is More Important than Change," Hungarian Conservative, 30 March 2021, https://www.hungarianconservative.com/articles/culture_society/tradition-constancy-is-more-important-than-change/

¹⁰⁵ Asomah, *op.cit.*, 134.

¹⁰⁶ Chike Jeffers, "The Ethics and Politics of Cultural Preservation," *The Journal of Value Inquiry* 49, no. 1-2 (2015): 207.

¹⁰⁷ Hangsheng Zheng, "On Modernity's Changes to 'Tradition': A Sociological Perspective," *History and Theory* 51, no. 4 (2012): 106-107.

¹⁰⁸ *Ibid.*, 109.

national legal frameworks would lead to increased disregard and violation of human rights¹⁰⁹ as has been the case with many traditional ceremonies.

This paper supports the view of Archbishop Emeritus of Cape Town and Nobel Peace Laureate, Desmond Tutu that traditions are man-made and can be changed.¹¹⁰ Cultural dynamism is often in response to transformations in the behavior and values within the social system.¹¹¹ Xinzhong (2015) described true modernization must characterize a progressive culture and tradition which is both a continuity and transformation of culture and tradition; both local and global, proving as a resilient and effective pathway to solving problems in modern societies.¹¹² It should be noted that 'culture can be invoked to assert human rights and, at the same time, it can be deployed to rationalize the violation of the rights of others.'¹¹³ Also, human rights supersede any cultural tradition, norm, or practice.¹¹⁴ As such, when culture and tradition meet legal frameworks that uphold human dignity and integrity, the latter overrides the former. Based on this premise, the paper contends that through the observance of the *Boekpayoo* ceremony and the appointment of someone to occupy the position of Naa Yoomo Ayemuede to play diverse spiritual roles in preserving and promoting the rich place identity, history, and culture of the Ga-Dangme is legitimate, the timing and selection of Naa Okromo need to be revisited as they are not in agreement with the established and accepted legal frameworks meant to protect the dignity, rights, and welfare of girls.

2.2.2. National Legal Frameworks of Ghana

This section of the paper discusses the *Boekpayoo* customary ceremony from significant legal frameworks in Ghana. The first legal instrument is the Constitution of Ghana which highlights the need for the protection of the rights of children.¹¹⁵ Therefore, any customary ceremony, such as the *Boekpayoo*, suggestive of early or child marriage, whether physical or

¹⁰⁹ The Challenge of Human Rights and Cultural Diversity – United Nations Background Note by Diana Ayton-Shenker Published by the United Nations Department of Public Information DPI/1627/HR–March 1995, p. 3. <https://www.deinayurveda.net/wordpress/2011/04/saving-the-bedouin-heritage-and-biodiversity/>

¹¹⁰ Desmond Tutu, "Traditions are Man-Made, They Can be Changed," *The Elders*, 20 September 2012, <https://theelders.org/news/traditions-are-man-made-they-can-be-changed>

¹¹¹ E.S. Akama, *Introduction to Religious Studies*. Port Harcourt: University of Port Harcourt Press, 2012, 18.

¹¹² Yao Xinzhong, "Tradition and Modernization Revisited," *Journal of Peking University (Philosophy and Social Sciences)* 52, no. 3 (2015): 54-55.

¹¹³ Asomah, *op.cit.*, 147.

¹¹⁴ Santino Ayuel Longar Dau, "International Human Rights Standards Versus Cultural Practices: A Case Against Harmful Cultural Practices in Sub-Saharan Africa, with a Specific Reference to FGM", *Discover Global Society* 2, no. 21 (2024): 3.

¹¹⁵ The Constitution of Ghana of the 1992, Chapter 5, Art. 28.

spiritual, that could potentially deprive the freedom and violate the rights and dignity of young girls must not be allowed. Granted, if a native of Nungua has attained full age and is physically, emotionally, and psychologically mature is freely allowed to consent to and agree to a spiritual marriage with the Gborbu deity. She has the legal right to marry anyone she wants.

The Children's Act, Act 560 of 1998 states that 'the minimum age of marriage of whatever kind shall be eighteen years' and 'no person shall force a child a) to be betrothed; b) to be the subject of a dowry transaction; or c) to be married.'¹¹⁶ This implies that it was illegal for the council to initiate the *Boekpayoo* customary ceremony for the minor, Naa Okromo of 15 years of age, meant to betroth her to the Gborbu deity in a spiritual marriage. Moreover, she has not attained the minimum age of marriage, 18 years, as stipulated in the law.

The Ghana Criminal Code defines rape as carnal knowledge of a person 16 years of age and above without consent.¹¹⁷ Thus, girls and boys can engage in consensual sex when they are at least 16 years old but cannot marry unless they are 18 years old. While the council claims the spiritual marriage between the Gborbu deity and the minor, Naa Okromo will not involve any carnal relationship, historical antecedents of betrothed girls in Ghana who serve in shrines have most times been subjected to performing wifely duties and bearing children for resident traditional priests.¹¹⁸ Unfortunately, such cases are not made public by the victims and their families for fear of been spiritually attacked by the deities.¹¹⁹ As such, since Naa Okromo is still below the stipulated age for a carnal relationship, she cannot stay in the shrine to perform the spiritual duties assigned to her. Also, she is not mature enough to make this decision. Hence, the decision to give her out to the Gborbu deity is an attempt to subject her to the known consequences of early marriages that happen to betrothed girls, such as in the case of the *Trokosi* in Ghana.¹²⁰

2.2.3. International Legal Frameworks

This section of the paper discusses the *Boekpayoo* customary ceremony in the context of existing international legal frameworks that may be used to analyze the legal and cultural issues of Ghana, which are discussed in this paper. The first is the Universal Declaration of Human Rights (UDHR), a document adopted by the United Nations General Assembly in 1948. It has no legally binding character like a convention but is universally accepted by

¹¹⁶ Children's Act, Act 560 of 1998, Sect. 14 (1) and (2)

¹¹⁷ The Ghana Criminal Code 1960 (Act 29 amended up to 2003), Chapter 6, Sect. 98

¹¹⁸ Danquah, *op.cit.*, 94.

¹¹⁹ *Ibid.*, 95.

¹²⁰ Ayertey, *op.cit.*, 23-24.

states worldwide. The UDHR states, "Men and women of full age, without any limitation due to race, religion, or nationality, have the right to marry and find a family. They are entitled to equal rights to marriage, during marriage and its dissolution."¹²¹ The declaration also mentions that "Marriage shall be entered into only with the free will and full consent of the intending spouses".¹²² In respect to this legal instrument, Naa Okromo, the minor, is not of full age to marry the Gborbu deity. Moreover, even though the deity chose her, she has the ultimate right to accept or reject the marital proposal. While the latter is required, she is not legally allowed to decide now due to her age.

UDHR also states that "everyone has the right to education" and calls for universal access to free and compulsory basic education.¹²³ The minor, Naa Okromo, has the full right to education. Therefore, the assumption of the roles of Naa Yoomo Ayemuede could potentially halt her educational plans. Though the council has assured ensuring that this does not happen, which is a commendable step, the Ministry of Gender, Children and Social Protection must put in place a monitoring system to ensure that this materializes, that is, if Naa Okromo consents to the position when she is of full age.

The second international legal framework is the international convention/treaty. Ghana's Constitution is regarded as 'international law friendly' as it creates a defined role for international law in their national legal order. Further, Ghanaian courts generally use international law as a means of legal interpretation.¹²⁴ Once Ghana ratifies a convention, Ghana automatically has an international obligation to perform norms stipulated in the convention. However, several conventions that Ghana has not ratified yet have no legal effect, meaning Ghana only has a moral or political obligation to respect the provisions of those conventions.

Ghana signed the Convention of the Rights of the Child (CRC) on 29th January 1990 and within a week Ghana became the first country in the world to ratify CRC and expressed its commitment to adopt it into national law.¹²⁵ The CRC sets the legal marriage age at 18.¹²⁶ However, the Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child categorized child marriage as any

¹²¹ Universal Declaration of Human Rights, Art. 16 (1).

¹²² *Ibid.*, Art. 16 (1).

¹²³ *Ibid.*, Art. 26 (1).

¹²⁴ Julia Selman Ayetey and Bolanle T. Erinosh, "International Law in Ghana: A Study of the Attitudes, Knowledge and Use of International Law by Judges and Lawyers," *African Journal of International and Comparative Law* 31, no.2 (2023): 256.

¹²⁵ UNICEF Ghana, "Convention on the Rights of the Child For Every Child, Every Right," <https://www.unicef.org/ghana/convention-rights-child>

¹²⁶ Convention on the Rights of a Child, Art.1.

marriage where at least one of the parties is less than 18 years of age.¹²⁷ Moreover, the CRC instructs the state, parents, guardians, policymakers, and all in charge of managing the affairs of children to prioritize the best interests of the child before considering any other factor.¹²⁸ In Ghana, as previously explained in Part 2.2.2, the Children's Act determines that the legal minimum age is 18 years, and as such Naa Okromo is not qualified by law to marry the Gborbu deity. Three years on, when she attains the minimum legal age of 18, the Department of Children under the Ministry of Gender, Children and Social Protection tasked to safeguard and protect the welfare of children in Ghana must get involved to see to it that her decision to consent or not to consent to the spiritual marriage is not coerced and/or influenced by her family, peers, or any member(s) of the council.

Ghana has also been a state party to the International Covenant on Economic, Social, and Cultural Rights since 7 September 2000.¹²⁹ By virtue of ensuring the equal right of men and women to the enjoyment of economic, social, and cultural rights, the Committee on Economic, Social and Cultural Rights (2009) underlines the obligation of state parties to eliminate institutional and legal obstacles as well as those based on negative practices, including those attributed to customs and traditions, that prevent women from participating fully in cultural life.¹³⁰ So, while women and young girls have the freedom to engage fully in cultural life, all the events must inure to their collective good and geared toward their development. As such, any cultural practice or ceremony that negatively infringes on their rights must be abolished. The council has the cultural right to perform the *Boekpayoo* customary ceremony. However, as it stands now, the leading actor, Naa Okromo, is not qualified to be assigned the responsibility of Naa Yoomo Ayemuede because her age does not allow her to do so. Any attempt to make her perform these roles will be tantamount to discrimination against her rights. This underscores the need for the National House of Chiefs in Ghana to advise the council to rescind its decision. They must stand on the Chieftaincy Act, 2008¹³¹ to harmonize and transform customary laws in Ghana that violates human rights and ensure that appointed candidates to

¹²⁷ Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child, Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the Committee on the Rights of the Child, CEDAW/C/GC/31/Rev.1-CRC/C/GC/18/Rev.1 (2019) on Harmful Practices, para 20.

¹²⁸ Convention on the Rights of the Child, Art. 3.

¹²⁹ United Nations Treaty Collection, "Chapter IV, International Covenant on Economic, Social and Cultural Rights New York, 16 December 1966," https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4

¹³⁰ Committee on Economic, Social and Cultural Rights E/C.12/GC/21 (2009), General Comment No. 21 Right of Everyone to Take Part in Cultural Life (art. 15, para. 1 (a), of the International Covenant on Economic, Social and Cultural Rights), para 25.

¹³¹ The Chieftaincy Act, 2008, ACT 759, Art. 49-55.

take up spiritual duties are of the right age in tandem with international laws.

Ghana is not state party to the Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages.¹³² The convention states that “marriages should be entered into with the ‘full and free consent’ of both parties” and that States Parties shall take legislative action to specify a minimum age for marriage.”¹³³ This means Ghana only has a moral or political obligation to respect the provisions of those conventions.

In the context of the United Nations human rights mechanism, the Special Rapporteur in the Field of Cultural Rights (2016) states that:

“It is perhaps useful at this juncture to recall what cultural rights are not. They are not tantamount to cultural relativism. They are not an excuse for violations of other human rights. They do not justify discrimination or violence. They are not a licence to impose identities or practices on others or to exclude them from either in violation of international law.”¹³⁴

This indicates that though countries have cultural rights, it is in no way a panacea for discriminating against women's rights. Thus, any cultural ceremony that could lead to any discrimination against the rights of women needs to be abolished. Further, the Special Rapporteur in the Field of Cultural Rights (2018) states:

“In order to effectively challenge cultural relativism, the Special Rapporteur calls on States to: (a) Review laws and legal norms that discriminate against anyone on the basis of cultural or religious arguments, and take the steps necessary to bring them into line with universal human rights standards; (b) Refrain from using culture, cultural rights or tradition to justify violations of international human rights...”¹³⁵.

This means that countries, including Ghana, must ensure that any cultural ceremony that infringe on the universal rights standards need to be annulled.

The previous international legal frameworks are in line with the development at the regional level, as the practice of child marriage has already been prohibited by regional standards in Africa. Such a legal

¹³² Until 14 July 2024, there are 56 states are parties to this convention, exclude Ghana. See United Nations Treaty Collection, Chapter XVI Status of Women, Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, New York, 10 December 1962, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVI-3&chapter=16&clang=en

¹³³ Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, Art. 1 and Art. 2

¹³⁴ Report of the Special Rapporteur in the Field of Cultural Rights A/HRC/31/59 (2016), para 27.

¹³⁵ United Nations General Assembly A/73/227 (2018) Report of the Special Rapporteur in the Field of Cultural Rights, para 75 (a) and (b)

prohibition is enshrined in the African Charter on the Rights and Welfare of the Child (ACRWC); the African Charter on Human and People's Rights, and the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (known as the Maputo Protocol).¹³⁶ In 2005, Ghana ratified the ACRWC.¹³⁷ The charter determines that 'In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration.'¹³⁸ Thus, the big question is whether or not the decision to make Naa Okromo marry the Gborbu deity is of her interest. Indeed, the answer is no because she is a minor and not mature enough to shoulder the responsibilities of Naa Yoomo Ayemuede. This paper builds an argument, in line with Danquah (2023),¹³⁹ that the best interests of a child cannot be guaranteed if her views are not heard, at least after her maturity. Therefore, the decision to marry her off to the Gborbu deity constitutes child marriage and is not in the interest of Naa Okromo. That decision must be rescinded by the council, at least to allow the young girl to attain the full age and make her free, consensual decision as to whether to accept or reject the Gborbu deity's proposal.

3. CONCLUSION

This study investigated the *Boekpayoo* customary ceremony in the contexts of both theories in cultural anthropology as well as international, regional, and domestic frameworks that specifically target early or child marriages. The study has shown that the decision taken by Nungua Traditional Council to conduct the ceremony that aimed at publicly announcing the traditional/spiritual marriage between Naa Okromo and the Gborbu deity, was illegal, because the girl was not of the proper age to consent to and marry. Though the performance of the customary ceremony is a heritage for the Ga-Dangme in the Nungua Traditional Area, since it is a conduit to renew their allegiance to their overload and needs to be carried out, the study contends that it must be in unison with all the existing domestic, regional and international legal frameworks. Going forward, to disarm any unhealthy and harmful cultural tradition(s) that violate fundamental human rights, more resilient civil society organizations with strong networking potential and vigorous in their activities are essential. Therefore, there is a need to harmonize and transform customary laws in

¹³⁶ Joar Svanemyr et.al, "The Contribution of Laws to Change the Practice of Child Marriage in Africa," Inter-Parliamentarian Union Geneva, October 2013, 10.

¹³⁷ The African Committee of Experts on the Rights and Welfare of the Child, "Ratifications Table List of countries which have Signed, Ratified/Acceded to the African Charter On the Rights and Welfare of the Child," <https://www.acerwc.africa/en/member-states/ratifications>

¹³⁸ The African Charter on the Rights and Welfare of the Child (ACRWC) 1990, Art. 4(1) <https://www.acerwc.africa/en/member-states/ratifications>

¹³⁹ Danquah, *op.cit.*, 94-95.

Ghana that violate human rights. For this to materialize, a culturally sensitive approach must be adopted to unravel this and other similar unproductive and harmful elements in specific cultural traditions among various ethnic societies in Ghana. This situation elevates the need to establish a culture versus law dualism model aimed at rooting out and handling potential conflicts that ensue from all forms of questionable, unproductive, and harmful cultural traditions within the diverse cultural ecosystems in Ghana. This feat can only be achieved through the concerted efforts of a consortium of experts in the fields of international and customary law as well as culture in partnership with the Ministry of Tourism, Arts, and Culture, Ministry of Justice and Attorney General's Department, and the Ministry of Gender, Children and Social Protection of the Republic of Ghana.

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