

CHAPTER 13

SUCCESSION AND INHERITANCE AMONG THE FANTI AND EWE:
A COMPARATIVE STUDY OF CURRENT TRENDS

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This paper deals with succession and inheritance among two peoples in Ghana, the Fanti and Ewe. It is based on a modest study of current practices among some Fanti at Cape Coast and Komenda and among some Ewe at Anloga. Chiefs and elders in Komenda and Anloga were interviewed regarding the true custom. This was followed with a study of what was actually done in the case of a sample of persons who died between January 1967 and December 1969 at Komenda and Anloga. Another sample was taken from Court Records at Cape Coast and Ho to ascertain what persons were granted Probate or Letters of Administration and who were the chief beneficiaries of wills. Data from the court records were disappointing. The Court Record Books contained scanty information usually merely indicating who was granted probate or Letters of Administration. The Court dockets sometimes contained fuller information, but many of these could not be traced.

Inheritance among Fanti

The Fanti like other Akan speaking peoples are matrilineal and succession is conferred within the matrilineage. On the death of a member of the family, the head of the maternal family will ensure that the deceased's personal belongings are carefully looked up and an elder or elders may be asked to keep an eye on these. After the memorial service or the ritual known as nsa gu the family will appoint a successor or appoint a special day and summon all members to a special meeting and then appoint the successor. This is attended by the usual rituals of invocation and blessings.

Among the Fanti, the appointment of a successor has a special significance, and is derived from their world view of the role of property. A person is composed of sunsum (spirit) and bogya (blood). The former is inherited from the father, and the latter from the mother.

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What a person acquires as his physical property is therefore treated as part of his physical being. Both the person and his self-acquired property are said to belong to the family as a whole. No real distinction is drawn between self-acquired property and inherited family property. While a person is still alive, he has full control over his self-acquired property and can dispose of this at will. But the maternal family always has certain claims on the property. These claims are diffuse rather than specific. In so far as the family as a whole has residual responsibility to see to the well-being of a member, so the member shares in the collective responsibility of the family for the well-being of other members of the family. His personal fortune is derived not only from his own efforts but from the blessings of his ancestors and family gods.

Traditionally, a man makes use of family resources in building up his personal fortune. The land, which was the main source of wealth, was family land, and wealth derived directly or indirectly from its use cannot be treated as completely self-acquired. Houses again are usually built with the help of members of the family and on family land. Thus both from a conceptual and a practical point of view the family has a claim on a man's personal fortune. This personal fortune is under the continual influence of the ancestors and ancestral gods. The family is a permanent and corporate entity linking the deceased both to the ancestors and to future generations of the family. Property, self-acquired or inherited is therefore an inheritance for the whole family, past, present and future. Practice, however, sets certain limits to the application of this concept.

Succession

On the death of a member of the family, therefore, his property reverts to the maternal family. Figuratively, it is received back into the womb of his mother. Succession flows from the mother. Thus the order of succession is from her sons in order of seniority. If none of these are considered suitable for various reasons, her daughters' sons, again in order of seniority, will be considered. Again if none of these are suitable or available the next of kin in the matrilineal will be considered. Usually men succeed men and women succeed women, but exceptions can be made if this proves more convenient.

The rule of seniority is observed in succession.

This is not chronological, but refers to rank or status vis-a-vis the deceased, i.e. his brothers and sisters, his sons or nephews, or grandchildren. Usually, persons appointed successors are younger than the deceased. But again there is no rigid rule here. If the deceased is quite young and he left a very young family behind and the only adult brother is an older one but fairly responsible, he is likely to be appointed successor.

When a successor has been appointed, his paternal family is informed and their consent is obtained. This appears to be more a matter of courtesy. In the unlikely event of a refusal by the family (this could happen where the paternal family is a patrician and wishes to avoid mixing properties), the family of the deceased have to choose a new successor. Individual members of the family can decline succession on grounds of old age, ill health, etc.

As can be seen from the foregoing there is no rigid right to succession, nothing like primogeniture. There is merely eligibility to succession. If a family feels that the immediate relatives are all unsuitable, they can appoint a more distant relative. It should be recalled that the property is supposed to be family property and the near kinsmen of the deceased merely have greater 'eligibility' but no absolute right of succession. For succession, it is considered far more important to appoint a person who can fulfil, and be faithful to, his trust. This requires a person of proven ability, prudent, thrifty, resourceful, respectful, respectable, and of good character. He must be sound both in body and mind. Above all he must be somebody who shows a willingness to look after the dependants of the deceased with kindness and sympathy. This is the ideal person.

Generally, succession implies the assumption not only of the fortunes and privileges of the deceased but of his debts, obligations and responsibilities. The successor thus inherits much more than property. Indeed he may inherit no property, but debts and responsibilities. Property inherited is therefore part of the resources for discharging inherited responsibilities. It makes succession fiduciary. A successor thus holds the inheritance in trust for the immediate family and dependants of the deceased as well as for future members of the family. The elders of the family are expected to keep a watchful

eye on his activities to see that he performs his obligations and does not needlessly dissipate or alienate the property.

There are sanctions against a miscreant successor. The elders of the family have a right to call upon such a successor to explain his conduct or to warn him. If he persists in dishonouring his obligations or in dissipating the inheritance or if he is found to be incapable in mind or body, he could be deposed and a new successor appointed. This last sanction is one which elders are usually reluctant to apply.

Types of Inherited Property

Property that is inherited from deceased persons falls into two categories:

- (a) Family Property, that is property either inherited from a deceased relative, or property already belonging to the family but in the possession or at the disposal for use of the deceased. This may consist of a family house, livestock, farm, trees, fishing nets and fallow land. There may be trinkets and gold nuggets or gold dust. These are held in trust and cannot be alienated without the consent of the family.
- (b) Personal property consists of all those items or property acquired by the deceased independently of inherited or family property. Again it may consist of houses or other buildings, livestock, farms, trees, land, household items, clothing, trinkets etc. Personal property could be alienated by the owner either by sale or gift during his life time without the consent of the family, but it is prudent that he should let them know they have passed out of his possession to avoid future dispute. This is particularly necessary in a non-literate society, where evidence of change in ownership may be otherwise difficult to procure.

On the death of a person intestate both categories of property tend to merge, except where the personal law of the deceased dictates otherwise (e.g. as a result of marriage under the ordinance.) This point is, however, controversial. Some hold that family property refers only to property held on behalf of the whole family and which such family members can use or enjoy.

It therefore refers only to what is communally owned and used as such by the family as a whole.

The successor may make use of any monies left by the deceased except where this is substantial. In Komenda an amount over ₦200.00 is considered large.

A deceased person can before his death make bequests in the presence of witnesses and the family must honour these from his estate. This is the 'samansiw' or death-bed declaration. If the deceased nominates a successor the family will have to confirm this, unless there are serious objections. But few people name their successors. They tend to name beneficiaries of their property.

The Responsibilities of a Successor

A successor effectively takes over the property of the deceased. If the deceased has outstanding debts he should endeavour to pay them out of the inherited property, or do so himself or with the help of the family. The successor must take on the role of the deceased. This means he must be husband to the wife(s) of the deceased and father to his children.

Widow marriage as an aspect of inheritance is not mandatory and is sometimes merely a formality. A successor may not send away the widows if he is not willing to marry them, especially if they are elderly women. But in that case he has to provide for them and they must be ready to offer their services. On the other hand the widows may elect to leave their husband's home and be free to marry again into another family. In that case there is a symbolic act of setting the widows free, more like a divorce ritual. Thereafter the successor has no more obligations to them. Death of a husband does not automatically break the marriage bonds of widows. For widowers the problem does not arise.

But how free is a widow in this respect? Theoretically, she can always ask leave to end the marriage. But for a woman with young children to look after, or for a middle aged woman who has spent the better part of her life in her husband's house it can be a terrible choice, between co-habiting with and serving a successor she may not like or want and leaving the conjugal home to face life anew with no financial support for herself or her children.

The system equally imposes hardships on some men. Unless an inherited widow is old, the successor is expected to fulfil full conjugal roles and raise children for the deceased. If he is unwilling to co-habit with a widow, she could complain to the elders. At the same time he cannot send away a willing widow without just cause. Some may arrange for the widow to marry another male relative.

The system of widow marriage is slowly dying out, but in many rural areas it is still very much in force.

The children of the deceased, if they are young, must be provided for by the successor out of the inheritance, and even if the deceased left nothing the successor must provide out of his own resources. He must try to treat them like his own children. Where the children are in fact adult and married, there is no obligation to look after them. The "children" on the other hand might recognise their new "father" by paying their respects to him from time to time and giving him gifts occasionally. The responsibility of a successor to provide for his inherited 'children' ceases on their reaching manhood and getting married or begetting children. He must help find wives for the sons, or in the case of women, he receives the bride-wealth on their behalf. Women are always daughters, and they may return if their marriages break down or if they become widows.

Modern Tendencies

The system of inheritance as described above is still largely practised. In Komenda few changes have in fact taken place. The will is not much used, even by literate persons. The samansiw is usually used to direct that certain gifts be made from the deceased's personal property to wives or sisters or children.

Nowadays, there is a growing tendency for the family to offer something to a faithful wife in recognition of her services to her late husband. Children too, may be offered something from their father's estate. These innovations are more prevalent at Cape Coast than at Komenda, which is predominantly a fishing community. Many Komenda fishermen have emigrated to Monrovia, but they still observe the custom. The practice of dividing up part of the property is more common among these.

There have been many adverse comments, especially by

young people on the system of inheritance. They feel that successors who do not discharge their obligations properly are not usually brought to book. In the old days when there was both respect for and fear of the dead, successors were more faithful to their charge. The Fante word for succession is "dzi adze", literally "eat something". It may well have influenced some successors to conceive their role as consumers rather than conservers of the deceased's property. The successor among Fantis has the right to live on the inherited property, and could use it to look after his own wives and children, sometimes to the neglect of the children and widows of the deceased.

The Ewe System of Inheritance

The Ewe unlike the Fanti are patrilineal. For a time, succession to certain chiefly positions was traced maternally, but as far as succession to private property was concerned, this was the prerogative of the patrician.

Generally, beliefs and practices regarding deceased's property are parallel to those of the Fanti. But there are some differences, and these will be briefly noted.

Paternal succession moves from brothers of the deceased, including half-brothers to sons, nephews, daughters and nieces provided they belong to the patrician. Generally men succeed men and women succeed women. But exceptions are permitted if the need arises.

Unlike the Fanti, the successor in Eweland is responsible for sharing the property of the deceased among the children. Certain items are declared family property, usually a house which becomes communal property, sometimes trinkets. These are not divided. But farms and building land are usually divided equally among sons. Daughters have a share in their father's property, but their portion is smaller. Other persons, such as nephews who have rendered good service may be given something. Although wives have no entitlement to the inheritance, the division of property is sometimes done on the basis of equal units for the children of each wife. Thus it may happen that an only daughter of a wife may receive a larger portion than one of many sons of a wife. This practice is not favoured and it is more usual to divide property equally among all sons.

Where some of the children of the deceased are young, the successor has to hold their inheritance in trust for

them until they are older and these can be shared. Until then the successor must cater for them. The true beneficiaries of the deceased's property are usually his own children.

Widows among the Ewe receive much the same treatment as among the Fanti. They may marry the successor where appropriate, or some members of their deceased husband's family. Alternatively, they may wish to be set free, and then they are no longer the responsibility of their late husband's patriclan.

The data gathered from Anlo on current practices show that there has been little departure from custom. This is to be expected from a small town consisting mainly of illiterate farmers.

Thus we see that among Fanti the successor is the chief beneficiary of the inheritance, while among Ewe it is the children who are the chief beneficiaries. Among both groups there is no principle of primogeniture and a successor is chosen at the discretion of the maternal or paternal family. In both systems the families have a claim on the deceased's property.

Widows in both systems come out badly. Because they are regarded as outside their husbands' families they are usually excluded from the inheritance. Sometimes for the sake of their children they may reluctantly marry the successor or a member of their husband's family. In practice therefore they gain nothing as of right from the estate of their deceased husband, except what may come indirectly from their children. If widows fare well it is largely due to the clemency of the particular family.

Comparison of Modern Trends

An attempt was made to see how far certain new trends in inheritance can be assessed by an examination of recent records in the Probate Division of the Courts at Cape Coast and Ho. As has already been indicated the records were silent on many details that would have made the analysis more interesting. In all there were 65 cases from Cape Coast and 41 from Ho. It must be realised that many families do not apply to courts for Probate or Letters of Administration. The chances are that the more enlightened or the more litigious families are more likely

to send such applications to court and even then in cases where there is some property. The sample was restricted to the period 1967 to 1969.

Table 1 shows that very few people make testamentary depositions. It must be realised that the figures from the Cape Coast Court cover a much wider area than Komenda or Cape Coast. Ghanaians appear very reluctant to make use of either the will or even the samansiw, the oral will. Many have a belief that making a will is an invitation to death, and they would rather not think of it, inspite of all the evidence to the contrary, and inspite of the many unpleasant consequences of intestacy within their experience.

Tables 2(a) and 2(b) show court data at Cape Coast and Ho. They show who succeeded whom and they bear out the principle that usually men are succeeded by men and women by women. They also show that maternal inheritance among the Fanti is not really nephew inheritance as many people are prone to say. In fact brothers and sisters were more often appointed successors than maternal nephews. Similarly brothers and sisters were more often appointed successors among the patrilineal Ewe than sons. But these figures are unreliable. Some of the 'successors' in this data were those to whom Letters of Administration were granted.

Table 3 is based on data collected from personal interviews on actual cases since 1967 at Komenda and Anloga. It was not possible to reach the relevant persons in all cases. But here too the figures are similar to those in Table 2. These are more authentic.

One important innovation that comes out is that contrary to the stated custom wives are beginning to be appointed successors or chief beneficiaries of their husbands. The property of wives usually went to their own families, but there is here also an innovation, and husbands are beginning to inherit.

On the basis of the available data one can do no more than state that certain trends are beginning. A much broader statistical base and more detailed investigations are needed to draw any firm conclusions.

The following figures speak for themselves:

Table 1: Testate or Intestate Cases

	FANTI		EWE		NON GHANAIAIAN		TOTAL	
	Actual	%	Actual	%	Actual	%	Actual	%
Testate	8	12.3	1	2.5	-	-	9	8.5
Intestate	57	87.7	38	95.0	1	100	96	90.6
Not indicated	-	-	1	2.5	-	-	1	0.9

Table 2(a) Successor's Relation to Deceased

	FANTI		EWE		TOTAL	
	Actual	%	Actual	%	Actual	%
Brother	11	16.9	8	20.0	19	17.9
Sister	10	15.4	2	5.0	12	11.3
Mother	3	4.6	2	5.0	5	4.7
Father	-	-	3	7.5	3	2.8
Son	3	4.6	3	7.5	6	5.7
Daughter	4	6.2	2	5.0	6	5.7
Maternal Nephew	9	13.8	1	2.5	10	9.4
Paternal Nephew	2	3.1	5	12.5	7	6.6
Wife	6	9.2	3	7.5	9	8.5
Husband	2	3.1	1	2.5	3	2.8
Not indicated	15	23.1	10	25.0	26	24.5

Table 2(b) Sex of deceased by Relationship of Successor

	FANTI		EWE		NON GHANAIAN	
	Male	Female	Male	Female	Male	Female
Brother	11	-	4	4	-	-
Sister	10	-	2	-	-	-
Mother	1	2	2	-	-	-
Father	-	-	2	1	-	-
Son	2	1	2	1	-	-
Daughter	-	4	-	2	-	-
Maternal nephew	8	1	-	1	-	-
Paternal nephew	2	-	4	1	-	-
Wife	6	-	3	-	-	-
Husband	-	2	-	1	-	-
Not indicated	14	1	9	1	1	-
Total	54	11	28	12	1	-

Table 3: Sex of deceased by Relationship of successor

	FANTI		EWE	
	Male	Female	Male	Female
Brother	5	2	5	2
Sister	3	7	-	1
Mother	-	-	1	-
Father	-	-	-	1
Son	-	-	9	1
Daughter	-	3	-	2
Maternal nephew	27	19	3	-
Paternal nephew	-	-	4	-
Wife	-	-	-	-
Husband	-	-	-	1
Not indicated	-	-	-	1
Total	35	31	22	9



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