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Nana Anama II, aged 97 (Seated on Her Throne), Queen of Asuom and longest-serving monarch (75 Years) in Ghana. She has arbitrated over 8,000 cases.
Conflict Resolution in Africa

Language, Law, and Politeness in Ghanaian (Akan) Jurisprudence

Samuel Gyasi Obeng

CAROLINA ACADEMIC PRESS
Durham, North Carolina
Dedicated to:

Obaapanin Nana Yaa Anama II
Nana Kwaku Doku Ofobi
Okyeame Kwasi Ntiamoah
Okyeame Kwasi Manyina
Okyeame Kofi Tibuah
Opanin Kwaku Fenteng
Opanin Yaw Gyasi
Opanin Yaw Mensah
Awo Abenaa Humuu

Chiefs and arbitrators, who allowed me to sit in their various courts;

And to
Members of the various juries, the court criers, the gong-gong beaters (public news broadcasters), and the “court-workers” (who asked to remain anonymous), many of whom provided me with the most important and much needed institutions’ histories, hidden legal geopolitics, and rich cultural mores pertinent to the juridical process and to Akan jurisprudence.

*One person does not constitute a jury* (Akan proverb).
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Series Editor’s Foreword

The Carolina Academic Press African World Series, inaugurated in 2010, offers significant new works in the field of African and Black World studies. The series provides scholarly and educational texts that can serve both as reference works and as readers in college classes.

Studies in the series are anchored in the existing humanistic and the social scientific traditions. Their goal, however, is the identification and elaboration of the strategic place of Africa and its Diaspora in a shifting global world. More specifically, the studies will address gaps and larger needs in the developing scholarship on Africa and the Black World.

The series intends to fill gaps in areas such as African politics, history, law, religion, culture, sociology, literature, philosophy, visual arts, art history, geography, language, health, and social welfare. Given the complex nature of Africa and its Diaspora, and the constantly shifting perspectives prompted by globalization, the series also meets a vital need for scholarship connecting knowledge with events and practices. Reflecting the fact that life in Africa continues to change, especially in the political arena, the series explores issues emanating from racial and ethnic identities, particularly those connected with the ongoing mobilization of ethnic minorities for inclusion and representation.

Toyin Falola
University of Texas at Austin
Agreements on Disagreements and the Language of Peace: A Foreword

Toyin Falola
University Distinguished Professor and Jacob and Frances Sanger Mossiker Chair in the Humanities, The University of Texas at Austin

This major and timely book draws special attention to a much-neglected aspect of African conflict: African ways of resolving differences. Professor Samuel Gyasi Obeng’s well-documented book provides a path for modern-day mediators to adopt peaceful and culturally congruent means of settling disputes in an African context.

Most certainly, Professor Obeng is a competent scholar, who is able to deploy the insights of an insider of a respected scholarly and indeed Akan (Ghanaian) groups, to provide his readers with an invaluable book. Furthermore, he is very well connected to the complexities of the philosophy of his Akan people. At the same time, he is a scholar of extraordinary merit, with an impressive understanding of Western ideas of conflicts. That, in fact, is the reason he understands both African and Western models, hence he moves us in the direction of what he regards as most appropriate in dealing with issues of peace and conflict. His views deserve our serious attention.

A distinguished linguist, orator, poet, storyteller, and practitioner of Akan arbitration, Professor Obeng painstakingly takes us through the pertinent Akan social and judicial structures, coupled with the communicational mores of the Akan Native Court system. Extremely fascinating to me is his discussion of the African concept of politeness, the extent of its application and performance in Akan conflict resolution, and how the traditional courts deal with rude participants. Also engaging to read is Professor Obeng’s elaborate discussion on persuasive strategies used by court participants and how their social and in-
institutional standing, as well as the cultural and communicative contexts, facilitate the seeking of redress in the courts.

The significance of our author’s socio-cultural intervention cannot be over-emphasized. From my own experience in conflict resolution, it is often the case that so-called peacekeepers, regional as well as international courts, and the international community often seem to have limited knowledge and appreciation of the background of African conflicts and the singular significance of African communicative mores that must underwrite a clear majority of conflict resolutions on the continent. Therefore, it is incumbent upon us, as the erudite Professor has cautioned us, to recognize the contributions made across-the-board by Africans to Africa’s position in world peace beyond the shallow and race-based analysis of African conflicts and disputes. In this regard, I am reminded of an Akan proverb that translates literally as: “It is they, who are in a burning house, who possess the knowledge and sensation of how uncomfortable they are feeling and what escape route(s) will best ensure their safe escape and permanent safety thereafter.” In this proverbial context, we Africans are the ones burning and, as a result, we understand our own burning pains.

To affirm Professor Obeng’s ideas, we must bear in mind that, as a continent, Africa and its multitude of peoples are older than their years of independence, if we are to recall many years of kingdoms and empires, some of which have given ancient names like Ghana, Mali and Guinea to some of Africa’s present-day nations. Also, we have had our fair share of conflicts and we have often buried our differences and moved on. African ways of resolving conflicts have, for the most part, worked; but such ways have in recent years been shunned, even disparaged, when needed the most. This book reminds us that it is time to pay attention to our genius, and to use our own indigenous ideas to evaluate what we receive.

Professor Obeng’s innovative book addresses the often-created artificial lacuna about how Africans resolve their differences via words instead of using cutlasses, guns, and imported tools of destruction that do not work. Particularly, he addresses the lack of knowledge and the high level of intellectual dishonesty that characterizes how conflicts in Africa are represented, including how Africans are portrayed as people with no brains who only wait for others to either solve their problems for them or show them the way to live in ‘peace.’

We must pay attention to the unstated worldview in what our people do. As I read the various chapters, it strongly occurred to me that one important aspect of conflict resolution, which is often misunderstood and hence neglected or misapplied by scholars unfamiliar with the African Native Court systems, is the interconnectedness between language ideology and power and how these
impact the court participants and the overall justice system. Power bestows ‘words’ upon individuals based on their institutional standing, just as institutional standings also rely on language to become a reality, a dynamic that Professor Obeng professionally synthesizes.

In a very careful manner, Professor Obeng discusses how conflict resolution is not just about disagreements but also about agreements. Indeed, the main target of any conflict resolution, he argues, lies in seeking an amicable resolution via a peaceful agreement. Professor Obeng confronts, head-on, the taboo speech act of dissension and how it is dealt with by the courts. He illuminates the discursive tools and the power-play that is born and nurtured in the courtroom along with how they impact disputants’ dissensions.

As a practitioner of the judicial process, the distinguished professor and linguist elucidates the process by which facts are established in his examination of the linguistic structures and juridical interactional tools used in cross-examinations. As a trained phonetician and morphologist, this careful scholar delves into juridical participants’ use of suprasegmental features like loudness, tempo and pitch in conflict resolution discourse. I salute Professor Obeng’s professionalism in explaining the use of musical terminologies and relating their intersection with power and conflict resolution.

Readers are advised to pay attention to language matters as Professor Obeng introduces us to literary studies by explicating the extent to which polyvocality is employed by disputants and the courts alike in claiming, asserting, persuading, pleading, dissenting, questioning, and challenging assertions and verdicts. Among the communicative tools via which polyvocality finds expression in this book are proverbs, tales and songs. Such tools, he elucidates, are given new life in the court participants’ narratives and help give credence and authenticity to their speech acts.

An important aspect of structure that this fine book exhaustively discusses is how turns are allocated, who has the power to allocate such turns, and the consequences of not abiding by the courts’ turn-taking rules. He also elucidates how the courts deal with interruptive talk as well as the discursive significance of pre-sequences, utterances that precede apologies, compliments, commands, requests, and other speech acts.

One thing the reader will find useful is the author’s use of authentic data, his word-for-word transcriptions, translations of idioms, and close and systematic attention to the data. The data is rich, and the explications are fresh, lucid, and highly informative.

Beneficiaries of the knowledge in this book are legion: Africanist scholars, peace-seekers, and the world at large, all will find this encyclopedic reference
of legal exposition an important tool toward world peace. We need this peace. Jurists schooled in Western or other non-African jurisprudence will also find this work a valuable mediation tool. We deserve this knowledge. The Akan say, “No one has monopoly over wisdom.” Indeed, no one legal system fits all, so the more we know about conflict resolution in other cultures the closer we will be to achieving world peace. We deserve to respect others and the knowledge they bring to the table. For bringing yet another set of ideas to the table, Professor Obeng has connected knowledge with relevance, policies with theories, and Africanness with progress. This fine book, close to Professor Obeng’s opus, will ultimately stand the test of intellectual scrutiny and, in the end, contribute unlimitedly to several aspects of African Studies in general and, in particular, as an invaluable scholarship in the annals of linguistics.
Acknowledgments

I am grateful to the numerous scholars who painstakingly reviewed the manuscript of this book at various stages of its development. Particular thanks go to Professor Toyin Falola of the University of Texas at Austin for editing this book and for writing the foreword to the book. Dr. Tracy Nigel and Mr. Samson Lotven edited and proofread the manuscript at different stages. Sincere thanks also go to colleagues in law and linguistics who provided critical guidance and direction.

I am grateful to the College of Arts and Sciences at Indiana University-Bloomington, and especially, to Executive Dean Larry Singell Jr., who, after eight difficult (but rewarding) years spent as Director of the African Studies Program, offered me a well-deserved leave that enabled me to complete a considerable portion of the manuscript. Also, the sabbatical leave offered to me in the fall of 2017 enabled me to put finishing touches on the book manuscript.

I am most indebted to all the participants of the courtroom domains from which data for this book were gathered, and to my son, Barnabas Obeng-Gyasi, who kept me on my toes each day. His question was always “When will you finish writing this book on law and move on to that on politics?” Well, this book is done! Let us begin other projects, Barnabas!

Last, but not the least, the other members of my family, Cecilia, Samilia, and Emmanuel, supported me in ways that can best be expressed and amplified in the Akan proverb: The contributions made by the forest that gave you a life-line should not be downgraded or diminished!
Prologue

The Court Crier motioned for all to stand. He cleared his throat and verbalized the following words:

All must stand!
All must give up on words!
No words!
Nothing but silence!
The Owner of this town is coming to court
She is walking gorgeously
Absolute Silence must greet her
From time immemorial,
The Path has crossed the River
And the River has crossed the Path
We know who, among the two, is older.
When the Path was constructed,
The River already was!
The River has been in existence since creation
It is the River that has a Tongue
It is River Apaam that has the power of speech
All must remain silent until the Big River gives permission to speak.

God (Ananse), *The Big Spider,*
Did not sell speech
He gave it without charge
But speech is never free!
The Wise know how to appropriate it for their benefit
Fools use it to their peril
Remain silent, and speak only if you are permitted to do so.
In this palace, speech can be costly
In this courtroom, speech can be used inexpensively
You just have to know when it is “for sale,”
And you must know when it is “free.”
Trouble does not hunt and look for People,
People hunt and look for Trouble.
This court, this assembly, is going to be about Trouble
Then it will be about bringing Peace
Trouble and Peace live on the opposite sides of this town
Peace and Trouble are not on speaking terms with one another.

She is sitting down!
The Owner of this mighty court is sitting down
She has sat down!
She has indeed sat down!
All and Sundry must sit down!
Court now begins.
Remain silent and listen to the rules of this court
Remain silent and let the wise speak first
Speak truthfully!
Speak briefly!
Lengthy speech is forbidden in the court!
After all, a genuine case is presented briefly
A genuine case is indeed argued in brief!
Speak with Modesty
Speak in Modesty
He who speaks arrogantly is hit with a hefty fine
He who speaks humbly, is rewarded by the Elders
I have laid every rule bare for One and All
I have hidden nothing from the Big Spider’s children.

Samuel G. Obeng