

The State and Local Justice in Ghana: Hybridity, Legitimacy and Popular Values

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The provision of effective, legitimate and accessible justice is one of the most fundamental public goods expected from a well-governed state. Much of the current policy discourse on access to justice advocates giving priority to more ‘non-state’ and ‘customary forms of justice on the grounds that state justice is too formal, inaccessible and alien to local cultures. In this paper we present some of the results of empirical research into how state or state-supported dispute settlement institutions in Ghana actually work in practice at the local level, comparing the Magistrate’s Courts, the District Offices of the Commission on Human Rights and Administrative Justice (CHRAJ) and the land dispute committees of the neo-traditional Customary Land Secretariats (CLSs). The focus was on the kinds of codes, procedures and remedies these institutions used, and the extent to which they corresponded to locally-rooted beliefs and expectations about how to settle disputes fairly, as well as their effectiveness and accessibility. It was found that the Magistrate’s Courts and the CHRAJ were in fact quite successful in providing justice which was congruent with the popular belief that fair dispute settlement requires a ‘balanced process for establishing the truth’, their procedures were sufficiently informal to reflect local cultures and their remedies responded to popular demand. The neo-traditional CLSs on the other hand, were in practice more formal and hierarchical, less congruent with popular values, and less likely to be seen as impartial. The main explanations for the outcomes were: (a) being part of nationally coordinated and disciplined state organisations sustained the professionalism and commitment of staff, and enabled rules and authoritative remedies to be enforced; (b) they combined a commitment to formal codes with informal behaviours, assisted by official policies for encouraging Alternative Dispute Resolution (ADR). This hybridity meant that the formal and informal were mutually supportive.