

**LAND, URBANISATION, AND CUSTOM IN THE UPPER-EAST REGION OF
GHANA: THE CASE OF NAVRONGO, 1927- THE PRESENT**

BY

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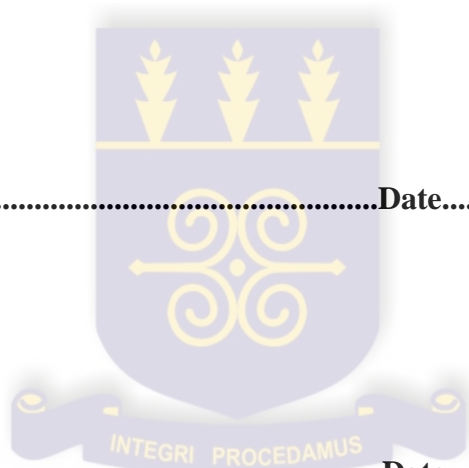
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DECLARATION

I hereby declare that this thesis was written by me and presented to the University of Ghana for the award of a Doctor of Philosophy (PhD) Degree. The ideas expressed in this thesis are mine except those that are cited. It contains a true account of the research I carried out and it has not been published or presented anywhere for the award of a degree.

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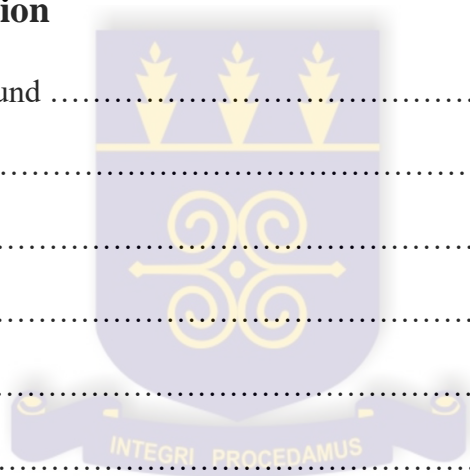


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LIST OF ABBREVIATIONS

The meaning of some of the abbreviations used in this study:

ICOUR---Irrigation Company of the Upper Regions

FASCOM---Farmers Services Company

IDA---Irrigation Development Authority

PRAAD---Public Records and Archival Administration Department

NTs---Northern Territories

DC---District Commissioner

PC---Provincial Commissioner

TIP---Tono Irrigation Project

TIS---Tono Irrigation Scheme

KNED---Kasena-Nankana East District

KND---Kasena-Nankana District

WFD-----White Fathers Diaries

GSS---Ghana Statistical Service

LAP---Land Administration Project



ABSTRACT

Ghana's land tenure system is a blend of customary and statutory tenure systems and this is viewed as a complex network of interrelationships, characterised by various actors. In such a situation, it is expected that land disputes and tenure insecurity will be rife, especially in the urban and peri-urban areas. This study reveals that the tension between customary, statutory land regulations and practices, are a result of a clash of jurisdictions. The study also provides insights into observable social change patterns that are instructive for land administration, where customary laws evolve in a rapidly changing society. The study investigates on the basis of oral testimony, together with archival and published documents, the relationship between land, urbanisation and custom in Navrongo, in the Upper-East Region of Ghana.

It provides an ethnographically enhanced history of Navrongo from the twentieth century to the present, locating that history within the context of the regional resources and political culture of Navrongo. A consideration of earth priests, chiefs, and state, amply demonstrates how the history, which is often assumed by scholars, has been created by the prejudices of colonial anthropology, the requirements of indirect rule and some political manipulation. The study also demonstrates how political agency has shaped the evolution of customs around land, as it gradually assumed importance as a commodity and a resource for development, especially in the face of irrigation farming. The internal land disputes in Navrongo are shown as a product of a blend of customary norms, politics, western education, Christianity and economic opportunism. The study presents a detailed analysis of the complex relationship between secular and ritual or religious sources of power over natural resources and how these have changed over time in the face of urbanisation.

CHAPTER ONE

1.0 INTRODUCTION AND BACKGROUND

Africa has been regarded as a predominantly rural continent, but this is changing and most countries on the continent are now urbanising at a rate that is thrice faster than the developed world (Balancing Act, 2008). More than half of Africa's people are expected to reside in cities by 2020. The location of a city usually depends on its function which is often related to defence, trade, natural resources, administration or religion, especially during the colonial era. Strategic needs were very important in the past, especially when the control of movements through an area was essential. Cities established as administrative centres often occupied a central position in order to give more or less equal access to all parts of the country.

From very early times, what could have linked different African regions and then joined them to the rest of the world is urbanisation. Through this process rural villages that originally served the needs of only their immediate inhabitants grew into centres of trade, religion and government serving a larger region. Urbanisation and the commerce it engendered resulted in the great states of the African continent.

Ghana is still primarily a rural country, though the country has a long history of urban development, particularly in southern Ghana where substantial cities existed even before colonial rule mainly due to trade. Accra, the national capital, remains the country's economic centre, while Kumasi serves as the cultural centre. Navrongo, which is a town in the north-eastern part of Ghana, has been a district administrative capital since colonial times. Its choice by the colonialists over other towns in the area was influenced by its central location, as it lay on one of

the important caravan routes from Ouagadougou in Burkina Faso to Daboya, Asante and the Coast in Ghana. Another reason assigned by the British was that its chief appeared to have had the “power of command and common sense” (Bening 1975: 625). In November 1905 therefore the British colonial government establishment of a military post at Navrongo. A year later, in 1906, the Society of Missionaries of Africa, also known as the White Fathers, who are often accredited with the introduction of Christianity and formal education into Northern Ghana came and settled at Navrongo from where they propagated their message.

Navrongo falls within the Sudan savanna zone in the North-Eastern part of Ghana and forms part of the Upper-East Region. It is the capital of the Kasena-Nankana district and lies approximately between latitudes $11^{\circ} 0^1$ N and $10^{\circ} 30^1$ N; and longitudes $0^{\circ} 30^1$ W and $1^{\circ} 30^1$ W. It is 30kilometres North-West of Bolgatanga, the Upper-East Regional capital and 7kilometres away from Ghana’s border with Burkina Faso. The White Fathers opened a school there in 1907 representing the first successful attempt to introduce Western education in the then Northern Territories of the Gold Coast. Incidentally even in colonial times, Navrongo (Navarro) was the headquarters and administrative centre of the then Navarro District. Currently its population stands at 1:19,999 (Encarta Premium, 2009).

Although the location of a city reflects the function of the original settlement, the pattern of its land- use results from the interaction of a variety of factors including its location, history, and commercial or colonial function. From the time of its origin Navrongo has been home to a diverse multiethnic population. Before colonial rule the town was largely populated by the indigenous Kasena, Nankana and other minority settler groups like the Fera, Mossi and Kantosi. To this day, Navrongo’s inhabitants have been spared the ethnic conflict which has torn other

parts of the country apart. The majority of Navrongo's people are Christians although there are also Muslims and adherents of traditional African religion. Educational institutions of higher learning in the town include a campus of the University of Development Studies, the St. John Bosco's College of Education and the Community Health Nurses Training School. There are five Senior High Schools in the town: Navrongo Senior High School, Notre Dame Semi-Seminary Senior High School, Awe Senior High School, St. John's Senior High School and Our Lady of Lourdes Senior High School. The War Memorial Hospital, built by the colonialists in 1932 largely takes care of the people's health problems though there are also a few public and clinics in the town. The town's economic base is agriculture and residents are chiefly engaged in activities of animal husbandry and farming. To this latter activity the Tono Irrigation Dam, built in the early 1970s has been of tremendous help to farmers who engage mainly in farming tomato and rice, the major crops of the dry season. Other crops like onion, pepper, okra and leafy vegetables are cultivated all year round.

Like most rapidly growing urban areas in Ghana and Africa, Navrongo has experienced a variety of problems in recent years. In colonial times, increasing amounts of land had been seized for commercial, residential, educational and civil development. To prevent private business concerns and individuals from acquiring land in northern Ghana, the colonial administration enacted the Northern Territories Land and Native Rights Ordinance in 1927 which declared all lands of this area public land, directly controlled by the Governor but for the "use and common benefit, direct or indirect of the natives". Though well-intended, so as to prevent foreigners from taking undue advantage of the local people, the ordinance indirectly dispossessed people of their lands. A later revision of the ordinance in 1931 acknowledged that the land remained the property of the

people of the Northern Territories, but it was put in trust in the governor with respect to applications by non-natives for concessions and plots of land. As legitimization or delegitimization is produced by communicative means particularly through justification narratives, the media of communication becomes crucial in a subject of this nature. The study will therefore look at the discourse around urbanisation, commoditisation and the clash of jurisdictions in land matters and their representations in the media.

1.1 STATEMENT OF THE PROBLEM

The research attempts to look at the nature of urbanisation, commodification and the conflict of jurisdictions in the study area against the background of the cultural beliefs of the people of the area regarding land and how the people concerned think these affect them. The fact that hereditary right to land is recognized in Navrongo and that land as a common good should be managed for posterity alone is another problem for this study. Conflicts arising out of land disputes between individuals and communities, which were not common in the past have become everyday occurrences probably because of the way land is exploited and managed these days. The high rate of land disputes, particularly in the national capital, where 50% of all court cases are land-related (Crook, 2005), is quite disturbing.

This apart, policy seems to have marginalised the Earth-priest and his role appears to be facing contestations, especially from the chiefs and other people, as people have generally become too individualistic and selfish over the years. This is consequently promoting the commodification of land, thereby negatively affecting family cohesion, which does not augur well for the development of any society.

Additionally, though the people are aware of their traditional beliefs regarding land such as, “The land abhors disputes”, they engage in land disputes. So what pushes such people to practise the reverse of what they preach? This is one of the problems of the study.

The mad rush to acquire land in Navrongo town has worsened the plight of the urban poor. This questions sound spatial planning in the town. Space related challenges ,failed socio-economic public projects, lack of committed effort to acquire, protect and ensure development of urban space for posterity’s public good, especially aimed at the urban poor have necessitated this study. It will be the concern of the study to examine how institutionalism has generated economic inequality as a result of the monopoly of knowledge and ideas. So also will it consider how far normative orders in this area have determined the practice they attempt to regulate. The concern of the study would also be to consider how conflict in land matters affects: resource management, power and authority; morality, culture and legality; and religion and tradition.

The cultural factor is key in purposes of education and development in the context of developing societies and so the insecurity supposedly associated with customary land tenure in Navrongo town is a matter of interest.

1.2 OBJECTIVES OF THE STUDY

The overall objective of this study is to examine how commodification of land is resulting in marginalisation of the earth priests. It examines local norms about land ownership and their transformation and modifications. It also seeks to unearth through discourse what relevance these norms have for the local people. The study tried to examine traditional beliefs about land in the

area in relation to what they mean today in the modern world. How such beliefs are practised and the causes of land disputes in the study area are also looked at. So also were the roles of various stakeholders and interested parties, including the youth examined as such disputes are indicative of a potential risk that land developers will find their transactions embroiled in needless and costly controversy and litigation. This impedes productivity from any front.

Its objective is to examine spaces like the media and the law courts where these issues around land are discussed and contested. Another objective was to add to existing knowledge on the socio-economic impact of colonial and post-colonial land reforms and to albeit indirectly uncover interpretive parameters which could also be important for comprehensive analysis of present-day processes of commodification and globalization.

The main research questions addressed examine:

- The processes of commodification of land and their affects on the role of the earth priests;
- The normative values of the earth priests in relation to the management of land and the interaction of these with the process of the commodification of land;
- The role of institutional pluralism in land management and emerging conflicts between earth priests, chiefs, family heads and land purchases.

1.3 THEORETICAL FRAMEWORK

This study attempts to understand land relations through a framework rooted in plural normative orders. Normative orders are at once, cultural and intellectual structures that intervene in the social and political order of society. Normative orders exist in three levels: Justification narratives; plurality of normative orders; and fields of social conduct. Every one of the three impacts the other. Normative pluralism posits a plurality of bearers of value. According to Lund and Boone (2013:1-13), the normative and institutional pluralism prevailing in many poor societies, including most African societies, implies that the people struggle and compete over access to land by referring to competing principles of tenure, such as ancestral or cultural entitlements, actually use, market acquisition or government allocated.

The description made by Bailey (1971:18-19) of normative rules being general rules of action which do not prescribe any specific type of action but determine a field of possible actions according to moral criteria of good or bad, helps explain a weakness of normative orders in general and their plurality in particular. As Holy and Stuchlik (1983:81-98) point out, norms can be manipulated, applied, or disregarded but they have no compelling force to summon action. The conflict between normative claim and social and economic reality is assuming alarming proportions and this study tries to develop a differentiated concept of normativity, while holding on to the intricacies of current constellations and simultaneously enhancing sensitivity of the plurality of normative orders. The plurality of normative orders is a core component in understanding conflicts over control of land in Navrongo.

As the study is about contestations and since homogeneity is not absolute, the plurality of normative orders, will serve adequately to inform and elucidate the thesis, especially in the light of the diverse and overlapping nature of land rights. As the control of land gradually shifted from the earth priest to the state, individuals and families, there resulted a plurality of normative orders from the plurality of sources of authority, or what Kunbour (2003, p. 125), rightly terms ‘multiple layers of land rights with associated multiple owners’. For what is norm for the state or individual, might not be the norm for a family for instance, and so the consequent clash of jurisdictions.

The study also examines the general processes of institutional change. Moore (2000) has argued that there are two distinct types of processes in institutional change that run counter to each other. The first are concerned with *processes of situational adjustment*. These are the means through which people arrange their immediate situations by exploiting the indeterminacies’, or by reinterpreting or redefining the rules or relations. The second are *processes of regularization*, through which people try to control their situations by struggling against indeterminacy and “trying to fix social reality---, to give it form and order and predictability” (Moore 2000:50).

This study attempts to establish a link between the plurality of normative orders and the issue of land, urbanisation and custom. This is to suggest that customary land tenure is characterized by the plurality of normative orders and the process of commodification marginalizes those who do not facilitate the sale of land. It is further argued that it is possible for this normative pluralism to co-exist with urbanisation and its consequent effect of the evolution of normative orders, without conflict, if policy would be considerate of all major stakeholders. As Mongho,(2002:98-108);

Abudulai, (200:72-85); Traore, (2002: 145-156) and others have shown, change comes about as old and new stakeholders seek to exploit opportunities available to them, choosing between customary or state law or at times, a combination of both, depending on their interests and how best these would be served. In practical terms, resource management and use is not a direct incongruity between old and new but of intricate strategies adopted by actors who try to play on the plurality of rules to their best advantage.

1.4 METHODOLOGY

Based on reconnaissance visits throughout the peri-urban area of Navrongo in 2008, six contextual situations were observed that indicated various degrees of tenure security, conflict or custom violation associated with land access. The four case studies of Telania, Pinda, Biu and Gia were considered since primarily they relate to customs around land dealings, as autochthonous communities. In addition, the last two were affected by the construction of the Tono Irrigation Project under Irrigation Company of Upper Region (ICOUR), thereby developing peculiar security and conflict situations. The fifth, Nogsenia was chosen as a special case because it is the central part of Navrongo Town, where central government since colonial times compulsorily acquired land for development. Some of these family lands that were compulsorily acquired have over the years not been used by government or are no longer in use. There are problems here because rates of compensation negotiated were subsequently not paid or paid fully by government. This has caused resentment and ill-will in the community. Serious disputes have arisen between local authorities and central government, and these have been accentuated by the 1992 Constitution, which states that government acquired lands no longer in use should revert to their original owners. The sixth situation of Doba was chosen because it

happened to have a lot more literature in the archives than the rest. At the National Archives there are recordings of land disputes almost immediately after the colonialists arrived, first out of Doba's earlier land transfers to neighbouring communities. At that time there were fresh troubles to do with the colonial government's Land Settlement Programme, where government settled other people, from Kandiga and Mirigu on Doba land in order to achieve population equity distribution and consequent food sufficiency.

The researcher opted for focus group techniques based on participatory research methods for data gathering. I also thought it appropriate to interview the local people because it was their story and no other person could tell it better. A triangulated survey design was chosen, where a one-round structured interview was held with: four chiefs and their council of elders; four autochthonous - *Tigatiina* and their families, six assembly and former assembly persons, three youth groups, mostly male and identified as united and vocal on youth issues. Each group was interviewed separately, except in the case of Doba where all the *Tigatiina* met me with the Chief and his elders at his palace. But this was understandable as Doba is not an autochthonous community and in fact, unlike other communities in the area who have one *Tigatu* each, has five, including the Chief's. Among the autochthonous groups also, Gian alone has no chief and so the interview was with just the *Tigatu* family. To each group, a standard set of questions, related to land tenure issues in Navrongo.

The structured interviews examined: settlement history of the community; principal mode of land access; incidence and kind of land conflicts experienced by the group; principal modes of livelihood by group; trends in employment and land scarcity; local land administration; and

attitudes towards public land policy. The structured informal questionnaire served as a general guide to help focus the interview. However, in practical terms the researcher had considerable latitude to emphasize or de-emphasize specific lines of inquiry to suit the interview as much as possible to the immediate issues and interests of the community concerned. The researcher took notes while an assistant recorded the interviews on audio cassettes. In theory, each community's response could be cross-checked by sequential and second and third stages of interviewing. Practically, there was consistency and agreement within the groups. Interviewing all the groups helped in filling gaps and rounding out perspectives that could have been missed as a result of time constraints interviewing.

Prior to the commencement of the specific cases the researcher collected secondary data, and as well conducted informal interviews with officials from **two Land Sector agencies** - Town and Country Planning and Survey at the regional and district level. I also interviewed the Regional Lands Commissioner. At the District Assembly I interviewed the District Chief Executive. Then I interviewed a registrar of the District Magistrate Court and two top officials of two FM Radio Stations that serve Navrongo - URA Radio and Nabina Radio. The interviews were largely based on an interview guide of twenty-five open-ended questions. With the permission of the informants the interviews were recorded on audio tape and later transcribed. This was aimed at assessing their perceptions of successes and challenges, to evaluate related issues in Navrongo generally. Their views together with community fora, follow-up interviews, as well as the secondary data, provided a comprehensive treatment of the issues at stake. The offices of the Public Records and Archival Administration Department (PRAAD) in Tamale and Accra were

visited for archival material. Some data were also collected from the District Magistrate Court. All these were to supplement the other sources.

The researcher and her assistant entered each community through a focal person, the Assemblyman, who was well-known to the Chiefs, the *Tigatiina* and the youth groups and had already won their confidence. The various communities frankly voiced their concerns and sometimes sharply criticized government and government officials. The assemblyman in each community fixed appointments with the Chiefs, *Tigatiina* and youth groups.

The formal meetings were arranged according to local custom, which involved the offering of gifts of drinks, kolanuts and tobacco. After an introductory meeting, at which the purpose of the research was explained to the Chief and elders, interviews were carried out with the Chief and elders first, then with the *Tigatu* family and then the youth. Traditionally, there is no space for the youth and women in land matters. Nonetheless, the researcher decided to hear their views on what is happening around them and how a better tomorrow could be worked towards in relation to land. The meetings lasted an average of three hours each, as custom had to be kept to.

The youth fora took place at their meeting points, popularly called “Bases”. The researcher and her assistant often started the topic with greetings and introductory remarks about the study and its purpose. The various groups were then led to discuss the topic based on the interview guide. They also asked their own questions about the research or any other related issues at the end of the formal interviews.

About eight months were spent on the community case studies and interviews with government officials. Unfortunately, the District Chief Executive sometimes because of his tight schedule had to reschedule meetings with the researcher. Structured informal questionnaire were administered, which helped to focus the individual interviews while the focus group approach was employed where appropriate, as in-filling for lacunae and for rounding up perceptions. These methods were to check subjectivity and contradiction. Information gathered from the archives led to further interviews in the field and allowed apparent contradictions to be clarified. Most of the fieldwork was conducted in Kasem, Nankan, Buli and English which fostered the building up of high level of intimacy than could have been achieved through the services of an interpreter.

1.4.1 Data Processing and Analysis

After the data had been collected, it was edited to free it from errors. Data analysis was then carried out quantitatively, using indepth assessment of the various thematic areas. First, the observation which had been recorded in the field notes was coded and note taken of emerging patterns. Then the interviews were transcribed and the observation and interview data coded for themes and patterns. Follow-up consultations were made with some of the respondents to deal with some missing links in their responses. The data was was then analysed in the form of descriptions andnarrations, based on the evidence obtained, to allow for a detailed description of the topic.

The main instruments used for the data collection were interview guides, interview sessions, and focus group discussions. The data was then analysed using transcribed interviews and documents on the land question globally, in Africa, Ghana and Navrongo in particular.

1.5 OUTLINE OF THE STUDY

The thesis is divided into seven chapters. Chapter One, which is the introduction, defines key concepts and deals with the background and the research questions. Chapter Two reviews main trends that are documented in the academic literature. This is to create the framework and lay the ground for the subsequent chapters. Chapter Three focuses on the study area in terms of its administrative, physical, economic, and political and land data, in order to provide the right context within which to fully appreciate the relationship between land, urbanisation and custom in the study area. Chapter Four, explores institutional pluralism in land management and the emerging conflicts between earth priests, chiefs, family heads, government and land purchases. This is to provide better insight into the gradual shift in land customs and use, in the face of urbanisation and commodification. Chapter Five discusses the value systems of earth priests and the claims and counter-claims on land, which are at the heart of the study. Chapter Six analyses the processes of commodification of land, the role of the earth priests, development and legal frameworks as they relate to land rights and irrigation. This analysis brings to the fore the challenges ahead. Finally, Chapter Seven draws conclusions from the analysis of the literature review, the fieldwork and archival findings. The concluding chapter summarises key findings, makes final comments, and suggests next steps for further research. It also makes some policy recommendations.

CHAPTER TWO

2.0 LITERATURE REVIEW

Land among the people of Navrongo in the Upper East Region of Ghana is considered to be a wife of the God of creation. Thus their reference to her as God's wife-*katiga*, and the 'couple' as *Banga We de okane Katiga*. She is treated with utmost reverence not because she is God's wife, as in Kasena-Nankana culture a wife does not necessarily share her husband's position and prestige. Reverence for her is because she is the spiritual force that regulates agriculture and its allied activities. This includes all human activity from birth to death. Even after death man goes to *Churu*, the land of the ancestors, which is in fact the bosom of the earth. Here, he continues to live albeit in a different form (Awedoba 2000) - She is a mother; libation is poured on her (through) her to be commuted to God. Since the two entities are partners, man is their common property. For this joint partnership the people argue that since they cannot sell God, so can they not sell land. This is why even to this day, it is an abomination to spill human blood on the land and when this happens even accidentally, the land has to be pacified through libation and the sacrifice of a bull. This is known as 'blood washing off the land'.

As a means of livelihood, land is of immense value. It is the land that holds the trees and other forest plants and animals for man's nutrition and health needs. It is in the land that man sows his crops and with her partner (God) showering rain, new life springs up and bears fruit for man's use. It is also from the land that these people got minerals such as iron for the local industry.

In regarding land as a living organism, the people of Navrongo treat her as such. For instance, for fear of scalding her, hot liquids are left to cool off first before they are thrown away. It is

additionally believed that since the ancestors lie buried in the land, any harm that comes to the land is automatically shared by the ancestors.

2.1 Land Tenure and Boundaries

The concept of ownership, trusteeship, access and transfer were not unknown to the people of Navrongo, but the concept of ownership was perhaps the most vague and unthinkable, since ownership was enjoyed by all as they would enjoy air and water, albeit in an orderly manner. Land was titled for use and not for profit. Traditionally, man is born unto it, lives on it, cultivates it, dies on it and is buried in it, in order to return to his Maker.

In dealing with land, the issue of boundaries cannot be ignored as it impacts administration and management. The idea of land boundaries is therefore, everywhere of prime importance. As argued by Pogucki (1955), boundaries of land could either be in terms of allodial ownership or boundaries allocated for farming. He made the important point that there was the growing tendency to identify political boundaries with land boundaries, although the two did not always coincide. In fact, it is this idea of equating political boundaries with land boundaries that brought about the disputes between the Builsa and Kasena-Nankana Districts. Although that problem was solved a few years ago, there are still some strong undercurrents as the settlement was not amicable.

Bening (1973:1-20), in an interesting discussion asserted that the basic territorial or political boundaries in northern Ghana belong to the various settlements and such boundaries define the spheres of influence of the various Earth—gods under the jurisdiction of the first known settlers.

He further emphasized the certainty of these spheres of influence, citing the Kasena *tigatina* as an example. Although times have changed, the certainty of these spheres of influence have remained, except that the jurisdiction of the first known settlers, especially as it relates to government acquisitions is only now nominal and the earth priests themselves have been marginalised.

2.2 Urbanisation and Custom

A lot of the archival material and published literature on the Navrongo area is not easily accessible to the Kasena-Nankana (people of Navrongo) themselves. Colonial reports on this area begin as far back as 1901 after the Boundary Commission journeyed through the area in 1900.¹ In this report the people of Navrongo were referred to not as Kasena-Nankana, but as ‘Tiansis’.² These early reports provide valuable information on labour, migration, trade, the war on slavery, communal disputes, agriculture, disease, and perceptions of marriage and family life in general. Some of these reports and letters also contained personal opinions, misconceptions, and sometimes unsavoury remarks about the local people and their way of life. A case in point is the Annual Report for the Northern Territories for 1907, where northern people were portrayed as lawless in their marital affairs and absolutely lacking in respect for the head of family. Awedoba (1985) denounced these descriptions and pointed out their inaccuracies.

The earliest and most detailed reports on the Kasena-Nankana were written by the White Fathers of Navrongo, in diaries and other unpublished material. Equipped with the local language, they were better positioned to appreciate much deeper knowledge of the Kasena-Nankana. These

¹PRAAD -A. ADM.56/1/20. Annual Report on the Northern Territories, for the Year 1902.

²PRAAD -A. ADM 56/1 /19 Annual Report on the Northern Territories for the Year 1901. Lt. Col. Morris to the Governor, 30-8-1901.

White Fathers' Diaries (WFD)³ provide insight into the establishment of the Navrogo Mission, their impressions of the Kasena-Nankana people, challenges encountered by them and the local people and also recorded crises, climatic changes, epidemics and locust invasions. Though portions of these diaries refer to Kasena-Nankana culture and customs, their reference is often accompanied by passing comments aimed at denigrating African culture to the advantage of Christianity. Again, these diaries were originally authored in French and later translated into English. Therefore, like all translated messages, they suffer a certain shortcoming.

Colonial Political Officers of the area like O'Kinealy and Nash had studied traditional customs of the people of the study area and had embodied them in their reports to Headquarters in Tamale. But the first published document in English, of the customs of the people of Navrongo area (Kasena and Nankana), provides only subtle insight with reference to land. Cardinall (1920), an account of the Kasena though took advantage of the White Fathers of the Roman Catholic Mission in Navrongo and their interpreter's services, falls short in providing insights for understanding the Kasena-Nankana cultural background. This is partly because he for instance, treats the three groups as though they were one and the same and erroneously used Nankani terms for the guardian of the earth shrine to Kasem-only speaking areas like Katiu. His description of their geographical location is also flawed. He states also that he used personal observation. On those aspects that he judged the people based on personal observation, one wonders if between the time he was posted to the area and the time he wrote his book, there was time enough for him to have known these people enough to understand their actions. Like other observers of Kasena-Nankana life, he clearly did not understand the people's distinctions between *we* as the sun, the sky, time, rain, personal god, the Supreme Being and *We* or *Banga*

³Our Lady of Seven Sorrows, Navarro Mission Diary.Vols.1 and 2.

We as the Almighty God. For this reason, he contradicted himself in saying that people could propitiate the earth gods but not *We*. This ambiguity accounts for other inexact assumptions he made about the way the Kasena-Nankana relate to God.

In contrast to Cardinall, Rattray who was contracted by the colonial government to do a study on the social and political structure of the people of the Northern Territories, tried to study each on its own, coming out in 1932 with the two volumes of his ‘Tribes of the Ashanti Hinterland’. Although his account is superficial, as he contends in the text that he had very little time within which to get the work done and he did not get the cooperation of some key informants like the chief of Paga, who feigned ignorance of his own history. He notes a few things about the people, their custom and their land which are quite insightful. He also briefly describes Kasena shrines and their marriage and funeral observances. When subsequently between November, 1949 and June, 1950 Pogucki, the Assistant Commissioner for Lands was tasked with conducting an inquiry into the customary law related to land tenure in the Northern Territories, he published his findings in 1955 in his “Gold Coast Land Tenure Volume 1”. Though sound research methods were applied he had too little time to have adequately covered such a large area. This resulted in a superficial report for any specific area in the region. And although he stayed in Navrongo for about two weeks, this time had to be used to investigate issues in not only Navrongo but also the surrounding areas and neighbouring Upper Volta, now Burkina Faso. For this reason, though he had a reliable interpreter in Mr. Achana Kaba, a Native Authority Teacher, he could not have provided a detailed description of the issues as they pertained to Navrongo or any other specific area, especially so when that was not the aim of his study – as he points out.

Der, (1980) examines the Dagaba and the Kasena and their relationship to God and sacrifice. He erroneously concluded that the Kasena-Nankana sacrificed directly to God. Awedoba (2000) rightly discounts this as the Kasena sacrifice to their ancestors on whom they depend for the good things of life. The Kasena believe their ancestors are close to the local gods, the Earth and God.

Awedoba (1985) examined Kasena-Nankana notions of wealth and exchange, basing his study in Navrongo and Paga. He asserted that both Kasem and Nankani are widely spoken and understood in a kind of bilingualism. Though this may be true of Navrongo, Nankani is hardly understood in Paga, where people persistently stress the difference between themselves and the Nankana or the people of Navrongo. This notwithstanding, his work aptly described marriage customs, funeral practices and values of wealth and exchange. Subsequently, Awedoba (2000) examined the institutions and practices of the Kasena of Ghana through their proverbs. This study analysed and interpreted Kasena proverbs and sayings as a way of shedding light on their culture and society. Applying the analytic approach, Awedoba considered the literal meanings of the proverb statements and other sayings, together with their deeper meanings and significance. In portions of this piece, the author draws a clear distinction between the *pe* (chief) and the *tigatu* (controller of land).

Yaro and Zakaria (ISSER 2008), a Technical Paper investigates changes in the customary land tenure system and how they affect the livelihoods of different categories of people in Northern Ghana. Using data from a nation – wide survey and qualitative interviews conducted in the three northern regions of the country, they observed that tenure systems in this part of Ghana have

been commoditised, beyond the means of ordinary people. They further asserted that although land was not being sold, the shortage of land in the two Upper Regions had resulted in new mechanisms for borrowing and alienating land which are detrimental to land users, with a loss of livelihood for most peri-urban dwellers who used to farm. The paper finally makes a number of recommendations. In spite of the fact that this paper provides insight into certain land related issues in the area, its focus is sustainable livelihood, whereas the immediate focus, of this study is normativity.

Meek (1946), on land law and custom in the colonies, dedicates a chapter to the then Gold Coast (now Ghana) in which he reviewed land tenure conditions. He blamed land tenure problems on what he calls the 'laissez-faire' policy of government which he claimed left the development of land law largely to English and African lawyers, trained to consider all forms of transactions in land, from the point of view of European rather than of African law. He pursues his argument by further blaming the confusion on the ambiguous use of the term 'individual ownership', on the failure to realise that self-acquired property may become family property on the death of the owner, and land once alienated to Europeans and held under English law may again become subject to native custom upon returning to native ownership; by applying the term 'chiefs' and 'stool lands' to heads of extended families and family lands, as well as to the recognised public authorities and state lands, and on the supposition that the sale of land was a new idea to native customary law. He also argued that it had been assumed that native law was ancient custom and incapable of providing security of tenure demanded by modern conditions. Though this study is comprehensive and the author may be right in some of his assertions, he erroneously concludes that, whereas in the South, Government had assumed no rights over land, in the Northern

Territories, it found it possible to assume a general control. The fact is that there are “government” lands in southern Ghana. Also, to the extent that Meek’s book is about tenure of agricultural lands in British colonies in Africa and Asia, it would not have adequately dealt with the specific case of the Gold Coast, not to mention Navrongo. Finally, tenure as it relates to commodification, beyond agricultural lands is the core of the current study.

Urbanisation is a universal trend which promises to persist in the years to come and whether cities of the future will withstand the pressures of rapid and often unplanned growth remains to be seen (Encarta Interactive World Atlas). It is assumed that only about 37% of Africans live in urban areas thus ranking Africa as the least urbanised continent, though it is also the most rapidly urbanising continent. Considering rapid urbanisation processes in sub-Saharan Africa and other parts of the world, the issue of land becomes pivotal. The definition of an urban area varies from country to country, although most demographers consider cities as large, densely populated built up areas.

Nukunya (2003) maintains that most countries combine the criteria of typical population size and the extent of the built up areas. In the United States for instance, an area is considered ‘urban’, if it has at least 2,500 inhabitants, in the United Kingdom the figure is 1,000 and in Ghana any settlement with a population of at least 5,000 inhabitants is urban. To Nukunya, urbanisation is a vital element in any study of social change and social change should be considered in terms of the proportion of the city’s population, how these places grow and develop and the way of life that is characteristic to such places. He names the major factors of change in Ghana as colonialism, Christianity, formal education and a cash economy, with the last three stemming

from the first. From investigations carried out in the study area, people generally identify the same factors. He makes the strong case that change does not result in the removal or replacement of what existed before but involves interplay of the new, resulting in a combination of the two.

Songsore (2003), however, believes that dysfunctional urbanisation; a post-colonial society is due to urban centres existing not as industrial bases and sources of wealth as erroneously accepted internationally, but as satellites dependent on imports from technocratic centres of production from outside. Whereas Nukunya's emphasis is on the importance of urbanisation in matters of social change, Songsore's is on dysfunctional urbanisation as it results from colonial rule. In a way, the latter implicitly chastises the global meaning of rural/urban that is unfair, as numbers only do not make much meaning. Both authors, however, seem to agree that modern urbanisation appears to have developed in African post-colonial societies as a reaction to distortions and perversions of capital adventure by foreigners rather than as a direct and exclusive result of industrialism. The latter's assertion that urban centres developed to provide protection in trade aptly describes the development of Ghanaian towns like Navrongo as an urban centre.

Urbanisation itself has as its greatest angles - population, a centre's growth and development, and the way of life of the people. And so ideas on development would be helpful in dealing with urbanisation. Cowen and Shenton (2005) examine development as an idea and practice from its origins into late twentieth century, and question if its purpose has come to an end. With elaborate case studies from Australia, Canada and Kenya they show how and why development doctrine

came with early capitalism. Applying case studies of India, Latin America and Australia, they examine how development theory has been part of the history of development doctrine. Their argument is that trusteeship has been a powerful force in the formation of development doctrine and that claims for a new orthodoxy notwithstanding, trusteeship remains central to increasingly perverse theories of alternative development (Cowen and Shenton, 2005). Though their study presents a global picture and some insights, their interest is not specifically normativity, which is my focus. Besides, although both Kenya and Ghana experienced British colonial rule, the settlement stories were different and so would the consequences be.

Early scholarly interest in African land tenure and local systems of access to land appears to have been renewed within the last three decades. Most of this recent literature appears to focus on the colonial ‘invention’ of ‘customary law’ and the dynamics of property regimes before this foreign intrusion and the invention of customary land tenure is in itself all about social change and conflicts over land. They will therefore provide the needed insights as the notions of the contestation of custom, tradition and invented traditions are very relevant to this case study on rival claims to land of chiefs and earth priests.

Ribot and Peluso (2003) develop a concept of access and examine a number of factors that differentiate access from property. Applying this framing, they suggest a method of access analysis for identifying the constellations of means, relations and processes that allow various actors to derive profits from resources. They argue that access differs from property in various ways that have not been systematically accounted for within the property and access literature. Focusing on natural resources as ‘things’ in question, they explore the range of powers that affect

people's ability to benefit from resources. They conclude by summarising the key points and discussing the analytic and practical importance of a near-complete understanding of access, but their scheme is deficient in that it is silent on access as it relates to normativity.

Generally, these writers have assumed seven main positions: that the customary reflects African egalitarian and customary rights and guarantees the rights of everyone, giving custody of land rights to chiefs to reflect the interest of the living and future generation (Kasanga,1992 and Meek, 1946); that customary relations need to be changed since they do not give individuals security in land and hamper investment in land (modernisation theory); that custom is ever changing and that land relations are dynamic and reflect changes in the factors of production, such as scarcity of land and growing population (Platteau,1996); that custom is negotiated and people invest in social networks to be able to change customary relations in their favour (Berry,1993; Lentz, 1993,2001; Hagberg,2006;Lentz,2006; Lund,2006); that the customary is based on the codification of colonial law and reflects interests accommodation of interests worked out in the colonial period and reproduces rural people as subjects rather than citizens (Mamdani,1996); that the customary reflects power and class relations and those who hold power are able to transform the customary in their interest _ this includes gender relations (Amanor,1999, 2006; Boni, 2000; Ubink, 2006; Peters, 2002).

There are differences in approach between those who see customary tenure as essentially communitarian and being corrupted by chiefs, who under modern conditions are using custom to follow their own selfish interests and those who see custom as being originally in egalitarian; and

that the institutional relationship between popular perceptions of customary and statutory institutions and which they prefer to use under different conditions (Crook and Ubink).

Having taken a look at the general and older literature, I now concentrate on the more recent critical literature on the dominant themes in land tenure. By assuming a multidisciplinary approach, this study is placing emphasis on the research perspectives of flexibility and adaptability that currently dominate research in the field of land tenure. There is also the World Bank's approach of evolutionary theory which now allows notions of flexibility and negotiable social relations to inform its representatives' assessments of customary practices governing access to land. Of all the above positions, I take the arguments about flexibility and adaptability of land tenure Berry, (1993, 2001, 2002); Lund,(2006); Lentz,(2005); Toulmin & Quan,(2000); Ubink,(2008); and Peters, (2004) and I further their arguments by asking if adaptiveness of customary land tenure is cooptiveness? For, it is the case that those that accept the dominant values in policy frameworks, as in the case of the chiefs, are recognised and supported because they are more agents for commodifying land, while the earth priests for instance, who resist commodification have become marginalised. Thus, policy recognises the chiefs because they are agents for commodifying land. And so, instead of having a unitary customary system, we have a plural system. This is so because although the customary is a unit, there are different actors over control, management and sale of land and so there is a plurality of normative orders.

In this study, I am looking at the earth priests who have not adapted to the dominant values of commodification of land and have therefore become marginalised. And so, the focus of this study is on the normative values of the earth priests in relation to the management of land and

how this interacts with the process of commodification of land. The argument here is that what is adaptive is dominated by power and those who facilitate commodification, are considered and are therefore able to decide what the customary is.

Amanor (1999) in a very extensive and complex analysis of land tenure systems, in relation to the history of chieftaincy, argues that from colonial times African governments have acknowledged and fabricated the control of land by chiefs as a means of obtaining control over land, natural resources and agricultural production, to the detriment of the peasantry. And whereas the customary is in perpetual flux with reference to transformation in policy and the economy, the agreements over the customary rest with the rich and powerful, making the poor more excluded, dispossessing the marginalised by the customary. This is similar to the situation this study is confronted with, where that which is considered customary lies with the chiefs, while the pre-colonial customary custodians of the land, the earth priests are marginalised. This is not to suggest that here there are no other marginalised groups like the youth and women, but their situation has been from pre-colonial times and is unrelated to commodification. One can even say the situation is getting better for women now, as unlike in the past, a woman this time can negotiate on her own behalf for land.

Peters (2004), like Amanor, argues that there is a growing evidence of social differentiation within Africa and expropriation of land by the elite although, Peters (2002) earlier disagreed with Amanor and others criticising what she called the exaggerated emphasis of this new literature on negotiability and indeterminacy of land rights, and further arguing that ambiguity may well 'be a facade for privilege and class as much as a space for action of the powerless'. She urged a more

careful investigation of the intersection of access to landed resources and broader processes of socio-economic differentiation and class formation. It is her conviction that the inequality on the basis of differential access to land is on the increase throughout Africa and far from being resolved. I cannot but agree with Amanor,(1999) and Peters,(2004) that, an overemphasis on negotiability leads to an overestimation of people's agency and that the picture painted of relatively open, negotiable and adaptive customary regimes of landholding and land use obscures processes of exclusion, worsening social divisions and class formation.

Boni (2005, 2008), similarly tries to prove how consistently chiefs in the Sefwi area of western Ghana changed and revised the terms of giving out land to migrants and also how only recently redefined customary norms apply retrospectively to previous contractual agreements. What chiefs around Navrongo have done, is to tacitly hold on to government lands that were returned to them as representatives of their traditional areas per the demands of the 1979 constitution.⁴ The chiefs here have also managed to keep the earth priests out of the newly created Customary Land Secretariat of the area.

Berry (1993, 2001), asserts that African land tenure systems are adaptive, negotiable, fluid, open and ambiguous and are being negotiated by people who use their social networks to redefine and renegotiate customary relations. In a similar view, Lentz (2006) argues that customary land rights are purposely ambiguous to make it possible for further reinterpretation or renegotiation, thereby allowing for different perspectives and different interests. Juul and Lund (2002) also

⁴The chiefs have done this by exploiting the local conflict resolution mechanism, of allowing the chief to take charge of, "place his hand on", land that is in dispute until an amicable settlement is reached between contending parties. These days, however, it appears when a chief "places his hand on" such lands, he does so in perpetuity. In fact, a chief could surreptitiously fan the feud to serve his selfish ends. This local arrangement itself appears to have come about in the colonial era, when chiefs got involved in land administration.

believe that negotiability of rules and regulations is a basic characteristic of African societies. They argue that rather than being fixed in inscriptive social relations, customary relations are constantly changing and reaffirmed, resulting in stable and robust customary relations. They further argue that rather than being static the fluidity of the customary is a consequence of the nature and intention of the customary and other institutions. These arguments on the flexibility and adaptability of land tenure in my view, should be pushed further to unearth not only the beneficiaries but also the losers, such as the earth priests in the commodification process. The emphasis should move to the structures that determine who qualifies to impact the debate about what is customary. For, in practice, it only those who are recognised by policy frameworks who can engage in such debates and make the needed negotiations.

Hagberg, (2006) in a case study of an earth priestly family in Western Burkina Faso recounted intergenerational and intra-family disputes about land administration, where the younger generation invoked strong discourses on first comer status than their older counterparts who maintain that strangers should not be refused land. An interesting point in Hagberg's study is the example of a new association of autochthones whose aim is to have laid-down land transaction rules in dealing with strangers. This is similar to the association of earth priests in Bolgatanga (the Upper East Regional capital), which Lund (2006) encountered and to Lentz's (2006) study on indigenous theories of and debates about landownership in the Black Volta area all of which show that spiritual sanctions are strongly invoked against the process of the commodification of land. Earth priests in Navrongo are talking among themselves towards the formation of such an association as the one in Bolgatanga to defend their interests. It is, however, interesting that in Hagberg's study an 'outsider' in terms of lineage was allowed to be an earth priest. Currently,

there are subtle attempts by chiefs in Navrongo to promote themselves as custodians of land. Although these three works attempt to deal with the commodification of land, the picture is a bit blur.

In fact, researchers like Hagberg, Chauveau, Lund and others rightly maintain that the bundles of rights that exist when it comes to land, are not only complex and negotiable, but also contain numerous opportunities for competition and conflict. They have therefore incorporated a framework that examines issues of conflicts around land from a perspective founded on the invention of tradition and redefinition of the customary in relation to social change.

Crook (2008) and Ubink (2008) and Quan et al (2008) are concerned with local perceptions of customary and state institutions involved in land management, the ways in which the plurality of institutions are negotiated and utilised, issues of accountability and the role of the state in enforcing accountability and transparency in the customary setting. Crook examines the plurality of dispute settlement institutions (DSIs) in Ghana and the DSIs to which customary land holders turn if their land rights are threatened by the state, local government, the chief, or if they come into conflict with other parties. He examines the legitimacy, effectiveness, and inclusiveness of these customary and informal local level systems of land dispute settlement based on studies in the Ashanti, Brong Ahafo and Upper West Regions of Ghana. In examining their viability as alternative dispute resolution (ADR) institutions and their ability to reduce the backlog of land cases facing the courts, he further shows the influence of the colonial government on the courts of prominent chiefs. Beyond this, he argues that these chiefs' courts do not actually appear

suitable as ADR solutions since people with land disputes in some of the study areas resort to local state courts instead of chiefs' courts.

Ubink (2004) discusses practices of customary land administration in nine villages in peri-urban Kumasi, Ghana. The author begins with a description of the ideology, claims and actions of chiefs and examines the extent to which their actions and ideas are accepted or questioned loyally, and whether there is a functional traditional structure to chiefs' actions. The author also considers the degree to which the Ghanaian state efficiently monitors customary land administration through legislation, administration and jurisdiction – all of this is based on data obtained under participant observation, semi-structured interviews and a survey. Ubink (2008), however, is focused on an examination of claims and conflicts between chiefs and smallholders over the ownership of the land in peri-urban Kumasi, Ghana. This discussion of local contestations over land rights in this area depicts how chiefs abuse their positions as guardians of stool land and authorities in the area of customary law. Quan et al (2008) focus similarly on the policy response to land issues. They discuss the difficulties encountered in the implementation phase of Ghana's Land Administration Project (LAP), which resides both in the customary and in the state spheres. They maintain that the step taken in the early years of the project amounted to further empowerment of chiefs through the resourcing of customary land secretariats (CLS) without promoting appropriate checks and balances. Evidence on the ground strongly suggests they have a case and although they are considering power, my concern with power is in its relation to normativity rather than institutions as it is in the cases of Crook and Ubink.

Tonah (2008) presents a case study of Bui and its neighbouring communities in the Kasena Nankana District (Navrongo area) of Ghana. The author traces the transformation of land tenure arrangements in the area, in the context of colonial rule and then the development of a large-scale state-sponsored irrigation project from the 1970s. He shows how the involvement of post colonial governments in local power structures and land administration in this part of Ghana has created a different parallel land management regime, with self-seeking chiefs and state officials together against the earth priests, the religious and political leaders of these communities, before the chiefs were brought into land management by the colonial administration. By this, Tonah exposes the struggle between earth priests, chiefs and state agencies for control, allocation and management of irrigation lands. He rightly asserts that since 1979, when government divested the returned lands to ownership and control of the traditional owners, the competition between earth priests and chiefs over who has allodial title to land has intensified. Tonah's paper provides considerable insights into power struggles but there is also the need to consider youth involvement which is a recent and disturbing development in the Ghanaian society, given their agitations that result in communal violence, whether at the local level or at the national level. Also, this thesis is more interested in why the chiefs rather than the earth priests have policy blessing in the struggle. The study makes the case that the earth priests are so marginalised because they would not support commodification of land.

Berry (2008) analyses the history and struggle over property and power through a comparative study of socio-economic change in the former cocoa frontiers of Southern Ghana and Cote d'Ivoire. She underscores the connection between land, politics and citizenship and the directions in which they change under different policy and political institutions. Amanor (2008) for his part

deals with processes of transformation and the contestation of customary law. He argues that the characterisation of customary land relations is a product of dominant interests of political alliances rather than a historical fact. He shows how the depiction of customary relations based on communal forms of tenure is a political invention, created in the colonial period to hold back the development of land markets and also to empower chiefs on whom the system of rural administration by Native Authority depended. He further argues that the current policy initiatives that attempt to make land distribution more equitable and transparent by strengthening customary forms are misplaced, as they are reinvented traditions which express the interest of elite factions that decide what constitutes custom. He illustrates this by showing a multiplicity of customary forms, which are marginalised and do not get into policy frameworks. Amanor, (2008, 56) states: *Customary relations are freely constructed around an alliance between local power elites and the state, which comes to redefine what constitute custom in a situation of change. Thus the definition and redefinition of the customary frequently --- is associated with an adaptation to changing conditions rather than resistance to change.*

I support this strong stance of the author based on evidence of land commodification by chiefs, with the tacit support of policy and policy marginalisation of earth priests because they resist the commodification of land. I further the argument by adding that, it is the existing normative pluralism that provides the leeway for such exploitation.

Based on a field study of Sefwi Wiaso and the Juabeso-Bia District of the Western Region of Ghana, Broni (2008) considers issues of struggles around chiefly prerogatives. In describing disputes in four different realms, he shows in each that the customary tenure system is

ambiguous and constantly shifting, allowing for differentiation of norms according to peoples ethnicity, ancestry, gender and age. The customary elite controlling the administration of land, he maintains are the same people with the powers of interpretation, enabling them to preserve and exploit the unequal conditions, thereby profiting from new values in land. Fact is that the customary elite in other parts of the country are trying to copy their southern colleagues very fast. This, I believe is because they have the support of policy frameworks which encourage commodification of land.

Toulmin, Delville et al (2002) make similar assertions and like Peters, they do not provide concrete examples from West Africa to support their point that vulnerable groups are systematically denied access to land. Vulnerable groups for the case of this study would include women and the youth who customarily have no voice in land matters though they can use land.

Peters (2004) argues that reports of pervasive competition and conflict in Sub-Saharan Africa belie a current picture of negotiable and adaptive customary system of landholding and land use but, show processes of exclusion, deepening social divisions and class formation. She calls for analysts to focus more on beneficiaries and the disadvantaged from instances of 'negotiability' in access to land, situating this in political, economic and social change since the 1970s. The author supports the assessment that though comparatively, land is more abundant in Africa than in other continents, most Africans are becoming increasingly landless. This, Peters (2004) contends is a mismatch with a currently influential approach to the land question in Africa, which privileges flexibility, negotiability and indeterminacy in examinations of social relationships over land. She suggests a theoretical shift away from privileging contingency, flexibility and negotiability to an open field able to identify instances and processes that inhibit negotiation and flexibility for

certain social categories such as commodification, structural adjustment, market liberalisation, and globalization . In this direction, I support her call, because we are currently faced with other equally critical social processes around land such as commodification that obstruct negotiation and flexibility for some social groups such as the earth priests this study is concerned with and yet, this obsession with flexibility and adaptability is taking all the academic scholarship's attention to the detriment of these others.

Deininger and Feder (2003) examine the way in which property rights in land evolve in an ideal and uninterrupted environment. They view the emergence of land rights as an endogenous reaction to increased scarcity of land and the associated incentives for land-related investment. Additionally they observe that historically, there have been few cases where such an uninterrupted evolution has been followed. They also briefly sketch the conditions required as well as the deviations from this ideal path. They discuss factors affecting the costs and benefits from individualised land rights and examine empirical evidence for their magnitude, emphasizing the implications of tenure security for investment incentives. They also consider the main factors affecting participation in rented markets, noting that in general, rental markets would be less affected by problems, as renting out does not preclude the landlords from utilizing land as collateral to access credit which could then be passed on to the tenant in an interlinked contract. They then draw policy conclusions concerning the transition from communal to individualised land rights and the award of titles, and steps that might be used to improve the functioning of land sales and rental markets, and the scope for redistributive land reform. One is not sure if this World Bank-like approach is workable, as there is incongruity between poverty alleviation and market liberalisation, both of which their argument supports simultaneously.

Still in the area of rights, Hesselting et al (2005) in exploring the linkages between water rights and land tenure, analyses the linkages both in law and in the practice of development programmes and other interventions. In so doing, the study combines an analysis of legal texts with a study of the intended or unintended outcomes of legislative interventions on the ground, and of how different actors are using, not using or misusing those legal processes in practice. Given the importance of customary rules for the management of water and land rights in the Sahel, the research closely examines the way in which the water /land rights linkages are affected by the interplay between statutory and customary law. It also examines how development programmes in the water sector may have intended or unintended implications for land and water rights as they are perceived and applied at the local level.

In spite of the fact that none of the reviewed works gives a complete account on the question of the commodification of land and the attitude of policy frameworks towards those who facilitate commodification and those who resist it, they nevertheless provide the basis for further research. It is also possible that certain facts were not made known to previous researchers, and certain situations might have changed since their research or even perhaps the present research is interested in issues or an area that did not interest earlier researchers. It would appear that there is scant available material on the Kasena-Nankana and only Awedoba, Yaro and the local Catholic Priests have recorded their opinions on issues from the perspective of a Kasena- Nankana. Most of the current, critical literature on customary land tenure also seems to focus on “privileging contingency, flexibility and negotiability” (Peters, 2004). This has been to the detriment of issues of commodification of land. This study seeks to broaden the dominant perspective of flexibility and adaptability and changes with time, so as to capture issues of normative pluralism in

resource management, morality and legality, contestations and the feedback relations between custom and practice, especially in the areas of policy frameworks and social conduct which are key, with reference to land in Navrongo. The study will therefore focus on the key issue of normative pluralism, the normative values of the earth priests in relation to the management of land and how this interacts with the process of commodification of land. Also, for consideration will be other related recent developments in the study area that are not well documented in the literature.

CHAPTER THREE

3.0 THE STUDY AREA

3.1 ADMINISTRATIVE, PHYSICAL AND SOCIO-ECONOMIC DATA

Before the arrival of the colonialists, Kasena-Nankana had chiefs but their powers were limited. The chief was more of a ritual spiritualist who sacrificed to the *kwara* (Horn) shrine for the community's well-being. He was the sole official whose ritual jurisdiction stretched over several clan-settlements in a given parish that evolved into chieftdom. His position was not a consequent of conquest as the chieftaincy institution was brought into this area by small migrant groups. Kasena-Nankana traditions maintain that the acceptance of this institution was on the basis of consent and a realization that the community stood to gain by incorporating the chieftaincy institution into its politico-religious set-up. Unlike his Mole-Dagbani counterpart, the Kasena-Nankana chief had no army or bodyguards. He was as well forbidden to be violent, in spite of the fact that in times of war he had to lead his people. He was dependant on his people when it came to resources to meet ritual requirements. He was also offered help to work his farms as custom prohibited his engagement in active labour. If wealth accrued to him, it was from gifts from people who needed his services or those of the *kwara*. The chief also mediated in conflicts between lineages and individuals (Awedoba, 2000).

In District Commissioner O'Kinealy's report of 1st November, 1907, according to Chief Kwara of Navarro (Navrongo), if complaints were made to him or he heard of disputes taking place, he would send for the people concerned. He would hear the case and settle it and order the people to cease quarrelling. For doing this, each side would give him a present. If the matter was a very serious one, such as a fight with bows and arrows between sections, the present or fines exacted

by the chief would be ‘many cattle, so that they would not do so again’. The people have always obeyed the chief’s decision according to O’Kinealy, through fear of his fetish. To him the chief is a fetish man and if people refuse to obey him, he would talk to his fetish and it would kill the people who would not obey him. But the people obeyed the chief not because he was a fetish man as O’Kinealy thought but because he was a priest and possessed the *kwara*, a ritual object with spiritual powers. It is also the symbol of his judicial authority. Awedoba has subsequently also confirmed this. In cases of disputes between different towns, the chiefs would communicate with one another through messengers and try to settle the matter. No chief could visit another in his palace as they feared they would die if they did so. This was the pre-colonial picture.

With the colonial intrusion, things had to change. Following the passage in London of an Order-in-Council in 1901, Navrongo alongside the rest of the three northern regions (Northern, Upper East and Upper West) became an annexed British Protectorate on the 1st of January, 1902, and named the Northern Territories of the Gold Coast. Subsequently in 1960, the Northern Territories were split into the Northern Region with Tamale as capital and the Upper Region with Bolgatanga as capital. Much later in 1983, the Upper Region was further divided into the Upper East and Upper West regions, with Bolgatanga and Wa as regional capitals respectively.

The Upper East Region of which Navrongo is a part, covers an area of 8,842 square kilometres and is relatively overpopulated and has annual rainfall figures of between 740 millimetres and 1,030 millimetres (Yaro and Zakaria, 2008, p. 16). Navrongo lies approximately on latitude 10° 52’ N and longitude 1° 04’ W and is 30km North-West of Bolgatanga the Upper East Regional capital.

Like the rest of the Upper East Region the town lies on the margins of the Sahel and the ecosystem is fragile. Seasonal burning, felling of trees for farming, building and fuel and animal grazing have resulted in only remnants of forest remaining in small groves of trees. (Dickson and Benneh, 1970 p.38). It is these trees which are usually *tangwana* (sacredgroves). Owing to bush fires, the vegetation is stunted but it grows vigorously alongside the streams and in other places, when not interfered with. What remains is a wooded savannah with the main trees being acacias, Shea, baobab, ebony, and the less common dawadawa. Certain grass species like the elephant grass grows up to three metres in places in the wet season. During 1938 the government implemented rules against grass burning on a wide scale for the first time, which were then acclaimed as ‘an unquestionable success’ (Annual Report for Navrongo, 1938-39, p.44). This success, however, was short-lived and seasonal burning of grass occurs in spite of continued government efforts to ban it. This contributes to the continued decrease in soil fertility.

The rivers are flooded soon for after the beginning of the rainy season and empty and dry for some two or three months before it. The area itself is sodden and water-logged after the rains and parched and dry before them. Soils in the Navrongo area are mostly ground water laterite; they are shallow and become waterlogged in the rainy season. Life in this area is surrounded by uncertainty. The Navrongo Annual Report for 1945-46 indicates that there was little potential wealth in the land ‘and what it does possess it yields to the individual only with the most painstaking labour’, O’Kinealy’s report of 01-11-07 had earlier described the same soil as ‘rich and easily cultivated’. This shows the level and rate of degradation.

The people are predominantly small holders growing a wide range of rain-fed crops including maize, rice, sorghum, millet, groundnuts, beans, potatoes and vegetables especially tomatoes, cabbage, lettuce and the like in the dry season. The dry season cultivation has been made possible mainly through the construction of the Tono Irrigation Project in the 1970s. Hitherto, dry season farming in the area was limited to few villages like Pungu and Saboro who did mostly tomatoes, okra, and leafy vegetables. Some of the farmers in the area also engage in fish farming and livestock and poultry production.

The earliest inhabitants of Navrongo are believed to be the people of Pinda, Biu, Telania and Gian. The story is told of how Butu, the founder of Navrongo met Gullu Bu (the Telania ancestor) and his people living in holes underground. Butu is supposed to have introduced chieftaincy to this area, thereby himself becoming the first chief. The people of Navrongo are believed to be Nankana but now speak both Kasem and Nankani. In fact, some of them have completely lost their original language and speak only Kasem. This they explain resulted from marriages to Kasena women from neighbouring Paga and Pinda. They are said to have moved into their present location from Zeko, Kolo and Chibeli, all in present-day Burkina Faso. They did not come in large numbers nor with the intention of conquest, but in scattered families, due to disagreements at home. Fortunately, the autochthones were welcoming and so they settled amongst them. It would appear that the migrants were technologically more advanced and soon introduced the building of houses to their hosts, whom they found dwelling in holes underground. The latter soon recognised the former as their overlords. The strangers, however, did not keep together with one chief over a large area. They split up into small villages and the

foreign family became supreme only in its own particular village, having nothing to do with the others.

A good example of this state of affairs is shown by the occupation of Navrongo. Butu the founder with his two brothers, So and Sagatum came from Zeko and settled at Telania (in Pungu in the north-eastern part). After a short while, Butu moved to a place now called Nogsenia, central part of Navrongo, named after his first son, Nogsi, who remained there.

So, moved and settled at Wuru and Sagatum remained at Telania. So, had three sons Kwo, Boa and Gian, who all moved to other places now called Kworania, Boania and Gian. Incidentally, *Gian* is also the Nankani name for the ebony tree – *diospiros mespiliformis*. In fact, some local accounts have it that the village got its name from the abundance of this tree in the area. Sagatum's sons split up and settled in small villages called Wusiw (Wusungu?), Namolo and Saboro. All these places founded by Butu and his relations with the exception of Doba which is about four miles, are within a radius of three miles of Nogsenia, the centre, yet in spite of this closeness each village had its own ruler although traditionally, they came under the Chief of Navrongo.

The name Navoro (Navrongo) includes all these communities mentioned and was named by Butu when he first arrived. There are as many as three stories of the derivation of the word Navoro. The first is that Butu's particular section of Zeko was called Nambera or Nimborongo in some accounts and he gave this name to his new found home. This has gradually changed to Navoro. The second story is that upon arrival, Butu found the people and country very wild and

asked the people what their word was for 'wild'. They replied 'voro' and the name of the place was called Navoro from that point in time, *na* being a Kasem prefix with no meaning but placed before very many words. A third story is that as Butu journeyed from Telania to Navrongo, he got to a spot around the stadium area (Abelori). The area to this day is quite mashy in the rainy season. Butu's leg is said to have sunk and he exclaimed, *Naga voro*, meaning a sunken leg in Kasem. This seems to suggest that when Butu left Telania he was Kasem speaking, but Telania say their ancestors were originally Nankani speaking. Their apical ancestor was called Weytinga, a Nankani name. Of the three accounts, the second seems most probable. The present Chief of Navrongo is a direct descendant of Butu. Doba, close to the centre, Sirigu and Uwa in the north-east of Navrongo have Chiefs who are of the same family as Butu from Zeko. Naga to the south of Navrongo is in fact an offshoot of Sirigu.

Turning our attention now to Biu as autochthones, the story is that they share land boundaries with Pinda, Telania and Wiaga Komba in the Builsa District. They have their boundary stones at the Sandema Chief's Palace, Chiana Chief's Palace and Navrongo Chief's Palace areas. These major boundary stones they claim are also gods that they make sacrifices to. With regards to Chuchuliga, Kologo, Gaani, Naga and Kapaania, all of whom they settled, the parcels of land were given alongside stones (tankuga) which the settlers have made and continued to make sacrifices to as the land gods. Tradition has it that Chuchuliga came from Chibeli in Bukina Faso. Chiana, Katiu, Kayoro, Manyoro (part) and Nakon, all descendants of Wusiga came from Sia (near Po) also in Burkina Faso. There was nobody in the area when they arrived. The whole country was bush. There were, however, people at Pinda who, had a Chief, a powerful fetish priest feared by the people. Chiana went to him for some of his powers and he put them to the

test that any of them who presented him with the biggest gift would get a horn filled with the soil of his land, thereby becoming the most powerful. Lania won the contest and became the first Chief of Chiana. To date, every new Chief of Chiana goes to Pinda to get his horn filled with the soil. Sandema and Kologu came from Nalerigu in the Northern Region and Naga came from Zeko in Burkina Faso via Sirigu in the Kasena Nankana East District as already mentioned.

Pinda, the oldest settlement in the area is made up of Mora, Avugunia, Adungu, Kasula, Jelo, Apiobia and Yoro (the great). They claim to have lived in holes underground and were originally blacksmiths. The autochthonous Pindana (Yoronia – the *tigatu* family) were one day outside working their metals when they were spotted by a hunter, Avugu (his section, the Chief's in Pinda is called Avugunia). When they were discovered they ran back into their home underground. Avugu hung around and subsequently managed to convince them to join him in living on the surface of the earth. Thereupon, Yoronu became the *tigatu* as he having come from the bowels of the earth knew all that was within and without it. Subsequently, Avugu made Mora Chiefs.

Pinda claims to have settled Paga who originally came from Kampala in Burkina Faso. Pinda herself is believed to have come from Nawuri also in Burkina Faso. According to tradition, Naveh the founder of Paga came to live with the people of Pinda, as a young hunter and a bachelor. He was later given the chief's daughter in marriage. After a while he did not find his stay there comfortable as he had the avoidance for the meat of a crocodile and his hosts ate it. As a bachelor, he was sure he would not break this taboo, but later when he had children and especially when as a hunter he was for long periods outside the home, he began to suspect that

his children partook in meals made of crocodile meat when he was not around. In addition, the Pinda children began to call his children *tampira* (bastards or strangers) anytime there were disagreements. For these two reasons Naveh asked for virgin land from his hosts. The story is that he was given the chance to scout around and choose a portion. Unknown to his hosts, before asking he had already surveyed an area where for some time he had hunted bush cows. On an appointed day, he left with the *tigatu* (land master) and the chief (his father-in-law) to show them the area of his choice. Meanwhile, his father-in-law had advised him to add the words “*A lagavugri*” (I want everything altogether) when the rituals were being performed. He did and to this day, Pinda people refer to Paga people as *Alagvugribia* (children or descendants of Alagvugri). When they arrived at the spot of his choice, Naveh is reported to have said “*A yi paga yo mo*” meaning, (My eye rests here or this is the place I’m interested in), in Kasem. This was too cumbersome to say and so the settlement was simply called Paga. The section originally selected is called Nania, related to the abundance of the buffalo in the area at the time and besides Naveh had previously killed one there. *Nao/Naa* in Kasem means cow, whereas *nia* is a suffix that means people. It is also in this section of Paga that we have the crocodile pond. Later, three brothers and a sister came from Chibeli, in Burkina Faso, having fought with their family and left. They came and settled at Paga giving the part called Paga-bru to their sister. (Cardinal 1920 p.13). When the settlement became large, the founders and *tigatiina* of Paga, Nania, made a chief for the town from the Kakungu section. Much later, the people of Paga outnumbered those of Pinda and became rulers over Pinda. But with the advent of Colonial rule, the people of Pinda reasserted themselves. To this day, Pinda is under Navrongo rather than Paga. They would not agree to be under the latter, although they are geographically closer. And for once, the state

appeared to have listened to local history and wisdom and put Pinda under Navrongo to avert trouble.

Gian has two stories, perhaps related. The first, already told is that Gian moved from Telania and founded the community from its southern end. The second is that the *Tigatu* family migrated from Biu and first settled at Gyanania, then Bundunia (UDS area), then the Navropio's palace area, then Gowoko in Korania, then the old Tono area, where the Agricultural Quarters are along the Navrongo - Chuchuliga road, then Kwasongo (Bay 1 area), where they met Butu's nephew who was on his way to visit his relatives, *Wurunia* (people of Wuru) and then to their present settlement. The reason for this continuous movement, they say was in avoidance of overcrowding. They say as soon as a settlement was getting congested they had to find a new one. But interestingly, they also claim that their ancestor sprouted from the ground alongside Biu and that in fact, their ancestor asked Biu to remain where they sprouted and take care of that "hole", whereas Biu people say they now cannot go to that "hole". So one wonders how they can take care of it. Gian also claim that they have boundary stones at Nyasa in Chuchuliga, then at the Sandemnab's palace, then Pinda and then Pungu. My informant from the Zeko family section of Gian informed me that the real reason for the Biu group's initial migration was as a result of disagreements over the sharing of inherited land from their dead father, with their brother Biu. His account has it that the Gian group really cheated their brothers in a subtle manner and when the latter realised this, trouble started and they split up. This account sounds more convincing than that of the *Tigatu* family. The *Tigatu* family contend that it is a taboo for them visit Biu without saying why and yet were quick to tell me that inter-marriages between them and Biu were forbidden because of the blood relationship. The two groups, however, agree that the

Tigatu family preceded the Zeko group in the area, although it was the Zeko migrant, their protector who actually installed the first *Tigatu* in the area. This they say he did after he learnt that Sunga had “sprouted” from the ground and then the two shared the land. The Gian *Tigatu* office is therefore by agreement and they further explain that it is for this reason that whenever a new *Tigatu* in Gian comes into office, the Zeko group will have to physically put the official calabash in his hand before he can operate. They add that the name Gian has two explanations. One is that the Biu group’s ancestor, Sunga’s son Karigian, named the place after himself while the Zeko group maintain that their ancestor came from a section of Zeko called Giantinga and so called his new settlement Gian, perhaps out of nostalgia. The archival records, however, say the man himself was called Gian. In fact, the settlements of the two groups are at opposite and extreme ends of the community. They are referred to as *Bangania* (Uplanders) and *Kurinia* (Lowlanders).⁵ If these accounts are anything to go by, does it mean in their sojourn through the six or seven previous settlements they did not sacrifice to the earth-gods? And what did this mean to them? Incidentally, I discovered here to that the two groups have a joking relationship (bantam brotherhood) which is different from what pertains between autochthonous and migrant groups in the other parts of Navrongo.

All the autochthones of Navrongo claim to have sprouted from the ground and were given the land by God. This spot from which the apical ancestors sprouted, Biu calls Akumona, Telania calls Badayoro and Pinda calls it Yarapiiru. Telania adds that, after sprouting their ancestor Weyntinga, uprooted a tamarind tree which he used to “cover” the spot. According to them to this day, the tree lives. They say they know the place which is in Punyoro (a suburb of Pungu),

⁵Atigawuti, Retired Information Officer, former Assemblyman and member of the Zeko group; the Gian *Tigatu* family.25-6-12.

but it is a taboo for a *Telanu* (a person from Telania) to go there. They also say they have their boundary stones at Kampaleyoo in Chibeli in Burkina Faso, and another at the Paga Chief's palace (in the yard). Ofcourse nobody seriously believes these 'sprouting' stories as they make no sense. I believe they are each trying to make a point of being the first occupants of the area.

Interestingly, the land masters of Pinda, Bui and Gian all say the Telania *tigatu* comes to visit them occasionally. In fact, Pinda says he comes to make sacrifices, and that the (Pinda) gave Gian their present settlement though they (Gian) relate in blood to Bui. So could it be that all these took place before Butu's arrival? From all accounts except their own, Gian is not a full blooded *Bino* (a person from Bui) and came much later.

The common trend in these histories is that their ancestors (Pinda, Bui, Telania, and Gian) lived in holes underground. Pinda and Telania were discovered by Avugu and Butu respectively and were tutored on the technology of building houses. Again all three groups claim they know the spot they sprouted from but custom prevents them and their descendents from visiting these sites. And so, if custom prevents the owners of these sites from seeing them, how can they take other people there? When pressed further to show the researcher the spots, every one of them had been evasive and vague in their directions. But this was to be expected.

It would appear that the strangers in the area assumed the position of secular kings and political overlords of the people while the earliest inhabitants (*Tigatiina/Tengnama*) handled matters concerning land and religion.

3.2 POLITICAL AND LAND DATA

In the pre-colonial traditional set-up, religious beliefs and practices of the people of Navrongo consisted of the propitiation of spirits and ancestral worship. The system formed a patrilineal, patrilocal and patriarchal society. A number of elementary families constituted a lineage, a number of lineages constituted a clan, and a number of clans constituted a chiefdom. Headship in the family, lineage or clan was determined by seniority in age, but most especially, by generation within the group. Authority in the household rested with the presiding elder who was also a domestic priest. He offered sacrifices to the family ancestors and consulted diviners on behalf of the family. A group of related households made up a clan which had a clan elder. Several clans formed a section whose elder sat among the Chief's advisors. The sections made up the village which had a Chief as its authority. His duty was the management of disputes and the general management of the community. The form of chieftaincy which was practised by the people also recognised the *Kwara* or *Dongo*, the animal horn, as the symbol and authority of the office of the Chief. "The Horn" is either a cow's or a sheep's horn filled with the earth of the place from which the Chief's ancestors came or the source of the *kwara* which may not be the same for all chiefs. For instance "the Horn" of Navrongo is the same one brought from Zeko and filled with the soil of Zeko and this has been handed down from one Chief to the next through the generations, since the founding of Navrongo. But the *kwara* of Chiana is filled with soil from Pinda(its source) and that of Sia, near Po in Burkina Faso, from where their ancestors migrated to their present location. The Europeans found the Chieftaincy institution in existence when they arrived, extended and encouraged it.

The *tigatu* or *tengnona* or “owner” of the land is the land priest, who deals with matters concerning the land. The *tangom* or *tingan* is the sacred grove and home of the local earth god, who was sacrificed to by the land priest. The lineage of the *tigatu* sometimes occupies a special position in relation to chieftaincy. There are, however, instances where members of the *tigatu* lineage are barred from the political office of Chief – Telania and Pinda are examples. This is because the *tigatu* has always been there from the beginning and also because of the importance of the ritual or religious nature of his office. It is also the case that the Chiefs came about later, after the *tigatu*, when settlements became bigger, as in Pinda, Paga, Navrongo and Biu. There is also the curious case of Biu, where political inference from central government in the traditional set-up has resulted in three Chiefs with one of them being a member of the *tengnona* family.

The distinction between the *tigatu* or *tengnona* and the *pe* or *naab* is important and needs to be emphasized. As already mentioned, the *Tigatu* preceded the *pe*. And whereas a *tigatu* can install a *pe*, the reverse is not possible. As Cardinall rightly noted:

The distinction therefore is an important one between a *tindana* and a *naba*.

The former cares for a religious observance of the people, the latter was in the process of developing into a political head, when the advent of the white man interfered with and accelerated the slow process of revolution (Cardinall, 1920 p. 21)

He further stated:

The Earth-gods naturally demand propitiation---The *tindana* has therefore gradually become what is to all intents and purposes a high priest. He is between them and their local deity; he is on behalf of the latter the

caretaker of the land, for he alone can propitiate the earth when blood is wantonly shed or vile crime pollutes the purity of the life-giving soil.—It will be seen then that the chief is as regards the land no better than his subjects (Op. Cit. p.60).

He was, however, quick to notice the changing trend of events due to the colonial intervention in these words:

Today, as the authority of the Chief, that is, the political head of the people, increases, so does the power of the *tindana* wane. In this custom of land tenure we have the oft-heard saying, “Chiefs command people, not the land” – a saying frequently used when land questions are brought before the white man (Cardinall, 1920 p.61).

Today, the Chiefs and the people around them argue that “the Chief owns the *tigatu* together with his land”. This clearly shows how much the Chiefs have over the years attempted to usurp the authority of the *Tigatu*. Perhaps two things account for this.

It would appear that in many areas as in Pinda and Biu where the two officials exist side by side, a stranger who wishes to settle and, therefore who requires land, applies to a local Chief at the first instance. This probably gives the impression that it is the Chief who administers the land. The stranger has to apply to the Chief because, as a stranger, he does not know which group owns the land. In most cases he is led to the Chief who often directs him to the *Tigatu*. As it happened with the researcher in Pinda and Biu, the Assembly Person took her to the Chief at the first instance and especially in the case of Pinda, the Assembly Person added that whether Pinda had a *Tigatu* or not, was for the Chief and not him to tell. Usually, because the *Tigatu* cannot

grant land that is not virgin, he directs the stranger to a group or person holding the right to use a particular portion of land, and willing to transfer a part of it to the newcomer. This kind of procedure in which a developer contacted the Chief of Navrongo who subsequently led him to the Chief of Kologo (settled by Bui), who granted the land for a mango plantation without due reference to the *Tengnona* of Bui, has created a problem which is yet to be resolved and so the plantation has been put on hold. This is simply a repetition or continuation of what the Colonial government did in assuming the role of the *Tengnona* and giving Kulnaba land to the White Father's Mission of Navrongo in 1912. The other factor for the relegation of the *tigatu's* office to the background is the recognition of the Chief by the Colonial government as the true representative of the people.

Though allodial rights can generally be acquired through various means such as occupation of land since time immemorial; long occupation; conquest; or transfer, allodial title in Navrongo is solely through the first of these methods. The origin of this right in Navrongo is that the land was given to the groups (Pinda, Telania and Bui) by God. Each of the three claims that their ancestors came from under the earth (Pogucki, 1955, p.22) and later settlers came to them to ask for land. Telania say they gave land to Butu and his brothers. Pinda say they gave land to Naveh, the founder of Paga. Bui people say they gave land to Achula, the founder of Chuchuliga and also to the Kologo people. They also admit that they were not aware of Naga's existence next door, until Kologo people came to join them. In fact, in the case of Naga and Kologo, the former was the earlier settler. When Kologo came along later Naga was not comfortable with their presence and tried to fight them off whereupon Bui came to the aid of Kologo thereby enabling them to settle. The ancestors of the Kologo royal family, resident in the Nayire section, had been one of

the four princes of Nalerigu, exiled for treason against the Nayiri (the Mamprusi King), the other three being the ancestors of the Chiefs of Nangodi, Bongo and Passankwaire(Kpasinkpe?) (Cardinall, 1920, p.19).

There is also the exceptional claim of allodial title by the Navropio's family through conquest of the Biu people who they say they met around Nogsenia (the Navropio's village) and drove away and by that they claim a title to certain lands in Navrongo town. Pogucki records this in the following words of a Chief of Navrongo:

When the population increased my forefathers quarrelled with
went far away and not until very much later did any of them
return (Pogucki, 1955 p. 23).

This story is, however, rebuffed by the Biu people who say they only went to that area occasionally to offer sacrifices to some of their gods but did not themselves inhabit the place. At another interview session they claimed they had been there but left of their own accord. This incident has however remained as part of the oral literature of Navrongo. The expression is often heard that, "We are going to shoot at the Biu people". This has in fact become part of the celebration of the final funeral rites of the people (male) of Navrongo. And for that segment people really demonstrate with bows and arrows, shooting into the air, in the direction of Biu.

Land ownership in Ghana generally falls under public and customary. Individuals, families, communities, chiefs and *Tigatiina* hold these lands. Before colonial rule, customary authorities such as clan or family heads managed these customary lands exclusively. There were no serious

problems then because land was abundant and everybody could access it easily. Today, customary land tenure systems have drastically changed with current land administration practices resulting from interventions, the introduction of commercial and irrigation agriculture, population growth and pressure and in some places urbanisation and the like (Benneh 1975; Delville, Toulmin et al. 2002; Kasanga and Kotey, 2001; Deininger, Zegarra et al. 2003). Land relations as they exist today in Navrongo were established from pre-colonial and colonial times.

Herskovits (1962, p. 141) has pointed out that:

Some of the most widespread patterns of aboriginal culture in sub-Saharan Africa and thus among the oldest traditions of its present inhabitants are found in the complex of beliefs and behaviour involving the relationships between man and the land that nourishes him.

Pushing this point further, he observed that the relationship between the African and the land is so deep that it is at the core of his cosmology (Op. cit. p. 143). Throughout West Africa in pre-colonial times, land tenure was governed by customs which were deeply embedded in religious beliefs. Amankwah (1989) observed that:

There is no principle of land tenure more firmly established--- than that which states that land is an ancestral trust which the living share with the dead. Traditionally land is therefore inalienable. This being the case, it behoves the living to so utilise land that the interest of the future and unborn generation is not jeopardised.

The people of Navrongo believe that the ultimate owners of their lands are the gods who inhabit the sacred groves. Navrongo has for a long time been characterised by a dense population, for which reason there has been a practically fixed agriculture which has an important bearing on the local concepts of land (Pogucki, 1955, p. 15). The idea of property in land existed among the people of Navrongo and land could either be collective or individual property. The descendants of a special group have a certain level of ownership though the land is held on a kinship group basis. And Cardinall (1920) rightly pointed out :

--- in the open country of the north, one has private property much as we know it in our own country. The overcrowded state of the land demanded permanency in cultivation; the nature of crops permits almost continuous cultivation.

Allodial rights in a given area are vested in the *Tigatu/Tengnona*, a descendant of the first settler and in most cases the eldest member of the lineage that is the patriarchal head of the group. The position of the *Tigatu/Tengnona* is similar to that of a high priest. He is the representative of his group and of all the people living on the land, the allodial rights which belong to his group in their relationship with God. The *Tigatu/Tengnona* has a dual role of being a ritual officer who sacrifices and prays on behalf of the community to the ancestors (though Der 1980, states, otherwise) for the wellbeing of those, whom he represents, as well as being the administrator of the land owned by the kinship group to which he belongs.

In this area, there is another type of *Tigatu* who is not as big as the first type. Every other community or village except the first settlers has this type of *Tigatu*, otherwise called

Kasurutu/Kinkanyona (owner of stalks) by the big and original *Tigatiina/Tengnona*. These are land owners whom the ancestors of the first settlers gave land to. It appears because of settlement of the land by stranger groups, and because of the increasing numbers of groups of the first settlers, the big *Tigatu* was unable to exercise and to enforce his authority over the whole area belonging to his group. He therefore divided the area into smaller bits and set small *Tigatiina* who usually were heads of segmentary groups. These “small” *Tigatiina* either have both religious and lay functions, or act only as representatives of the “big” *Tigatiina*. Other people who have allodial rights are heads of families, *Kapruitiina* and *Kadugatiina*. These do not have religious functions relating to land. They only administer the land within their various families. *Kapruitiina*, for family lands outside settlements, which are usually larger than the areas under the *Kadugatiina*. *Kadugatiina* are responsible for lands around their family compounds. There are therefore a number of *Kadugatiina* under a *Kapurutu* and the *kapuru* is usually not in use by its owners. Sometimes this is purposely to allow for the soil to rejuvenate.

According to Meek (1946), “In the native conception land is God-given like air and water, and every single individual is entitled to a share”. Members of the corporate group and strangers who need land to settle or farm on approach the *Tigatu* concerned. When they perform the necessary ritual, which is the same for a local person as for a stranger, the person goes ahead to occupy the land. The ritual involves the provision of a hoe, tobacco and some fowls. In Pinda for instance, if the person requesting the land does not have the wherewithal to provide the ritual items immediately, he is allowed to build the house and live in it for a few years (up to about three) before the performance of the ritual of *koonim* or *kogsim* (literally scooping or scrapping). Where the land is needed for farming, the *charem* (wooing as of a bride) ritual items are different and

consist of salt and some fowls. These rituals are performed to grant usufruct rights only as one who asks for land for farming purposes does not keep the land given out, but should be ready to hand it back after several years when required to do so; however, in the case of the person who builds on the land, his occupancy is live -long and in many cases as long as the house remains and he does not relocate from the community. Even then, if he is not of good behaviour he could be sent packing. He certainly cannot alienate the land. These days some of these people are selling land and collecting monies. In none of these cases is the allodium implied.

During the colonial period there was a gradual shift from the traditional system of land use and planning from the early part of the twentieth century, as the function of Navrongo changed. As a political and administrative capital of the then Navarro(Navrongo) District, Navrongo started to experience an increasing demand for land by government for various developmental purposes, such as office and residential accommodation as well as roads, markets and other public works. The government then began to legislate for modern town planning, the more important principle being a shift from traditional norms, towards Western ideals and urban values. This consequently led to “a host of patterns of behaviour which profoundly transformed native social norms, institutions and legal practices concerning land” (Amankwah 1989 p. 61).

In the colonial era, a system of land tenure was established which retained some pre-colonial interests while creating new interests based on English law, with a major role for the state in land administration and adjudication of disputes. With reference to Navrongo and the Northern Territories in general the government found it possible to assume a general control. Here, there were large areas of fallow land which could be preserved for the benefit of the community. In

1927, a “Land and Native Rights Ordinance” was enacted, on the model of Northern Nigerian legislation. By this, all lands were declared to be ‘public’ lands with the qualification that the validity of existing titles would be recognised. Provision was made for the granting of Rights of Occupancy, and it was laid down that no native could alienate his land to a non-native without the consent of the Government”. In 1931 the Ordinance was revised (by No.8), the term ‘native’ was replaced with ‘public’ lands, and a declaration was added that these native lands were at the disposal of the Governor ‘for the use and common benefit of the native’. This 1931 Ordinance, as a consequent of Governor Guggisberg’s desire to extend a railway from Kumasi to the North, granted the colonial government rights to grant and charge rents for land occupancy in relation to both natives and non-natives (See Appendix C). Bening, (1996) observed that the act prevented the wealthy from the South from acquiring huge tracts of land at low fees thereby obviating the prospects of a landless peasantry in the future. With the struggle for political independence, northern elite began to agitate for the lands to be divested and returned to the traditional owners as was the case in the South. The government agreed to this but there were disagreements between northern chiefs and political leaders with reference to, to whom these lands should be divested and returned. These divergent views on divestiture of the land showed clearly the realities of the land tenure systems and structures of land ownership in Northern Ghana (Bening, 1996). Thus, the colonial policy was maintained after the attainment of political independence in March 1957. Upon Ghana’s republican status in July 1960, the Constitution vested northern lands, “in the President in trust for and on behalf of the people of Ghana for public services of the Republic of Ghana. Subsequently, the government passed the Administration of Lands Act 1962 (Act 123) with resultant Executive Instruments 87 and 109 of 11th July 1963 which vested all northern lands in the President, thereby making the lands of northern Ghana public lands.

These arrangements gave both colonial and post-colonial government's unimpaired access to land in northern Ghana. Then in the 1970s, a campaign by northern elite, chiefs and people resulted in the Ministry of Lands and Natural Resources setting up a committee to determine the land tenure systems and land owners in northern Ghana. However, no detailed studies were undertaken to determine the actual landowners in acephalous societies. But recognition of the need to establish a uniform system of land administration in Ghana resulted in the divestiture of land in the North. This confusion might have changed the landscape of customary land tenure and perhaps sowed the seeds of most post-independence land conflicts that characterize the area today. This is because it is not clear whether the lands were actually divested back to the original owners, as no clear indication was given by the law as to who the landowners were and who had the right to deal in land. This apart, nothing was said about lands that were acquired by the government before the divestiture and for which very little or no compensation had been paid.

Following from the above, there has emerged a complex land tenure system in the North characterised by the co-existence of different types of rights. Though the state remains the overall trustee of all lands within Ghana, there is a mixture of customary and statutory rights to land in northern Ghana and Navrongo for that matter.

CHAPTER FOUR

4.0 DEVELOPMENT AND ACTORS

This chapter explores institutional pluralism in land management and emerging conflicts between earth priests, chiefs, family heads, government and land purchases. It illustrates how changing power relations and fortunes in the study area has resulted in fluctuating land ownership between multiple owners and interests groups in contrast to an earlier system where there were just two main land owners – Controllers of land or Landmasters and individual owners. This change was caused by factors such as, colonialism, new usages of land, improved infrastructural resources and emergent economic opportunities that drew in increased population, contributing to the difficulty in accessing land, thereby aggravating the contestations by various stakeholders. The multiple methods employed by the British colonial government in leasing land to private, non local groups like the White Fathers and of confiscating land through the “Priority Method” are also discussed. Examples of lands used by the colonial government for some public constructions, and the various forms of access to land in Navrongo, are further provided. Of particular concern here, is how modern, legal institutional change was manipulated by chiefs to accrue and reproduce their traditional and customary powers, exemplified by the marginalisation of *Tigatiina* in land matters.

Customary Land Administrative Structure⁶

Tigatiina/Tikwiatiina (Autochthonous Landmasters)



Tigayigna (Deputy Landmasters)



Kaporro tiina /Goa tiina (Clan Heads)



Kaduga tiina/Kasoro tiina (farm owners)

The *Tikwia tiina* are descendants of the first settlers. They are designated by a soothsayer after the death of their predecessors in Telania, whereas in Pinda, Biu and Gian, the next of kin or family head automatically becomes the next Tigatu. In Navrongo, *Tikwiatiina* are the *Tigatiina* of Pinda, Telania, Biu and Gian. Next to them are the *Tigayigna*. The office of these was created by the *Tikwiatiinato* to assist them in land matters. They are (*Nakwa*) elders of their various settlements. They outnumber the *Tikwiatiina*. In Navrongo they include the *Tigatiina* of Doba, Saboro, Namolo, Bawiu, Nyangoa, Gian, and several others. They, like their bosses have both spiritual and administrative functions. In fact, the *Tikwiatiina* insist they instituted them to help or facilitate these functions of theirs. Additionally, they are supposed to help the *Tikwiatiina* families to identify their land boundaries, should all the older members of their families, who know the boundaries, die. The *Kaporro tiina* are people/families who have been given land by the *Tikwia tiina* or *Tigayigna* because they begged for it and depending on good behaviour such land is not recoverable. They can use it themselves and give some of it to others, just that when they do give it out they should inform those they got the land from. They have no spiritual functions.

⁶Pers.Com. Telania Tigatu Family, 2-12-2011.

The *Kasorotiina* or *Kadugatiina* are simply users of specific plots for farming. These also have no spiritual functions. To date, there has not been a case of *Tikwiatiina* or *Tigayigna* selling land. Where land sales are concerned, the sellers are either *Kaporrotiina* or *Kadugatiina*.

In Navrongo, there is the special case of Kabagnia and Abinini, whom the Navropio and the Dobapio have made their *Tigatiina* respectively. Being the chief's creation, they have no spiritual link to the earth-god and their functions are limited, in that they act only on the instructions of the chief. The chief himself is a kind of *Kaporutu*, having inherited land from his predecessors who obtained some of their land from Telania through negotiation and also from Biu by conquest.⁷

4.1 Changing Developments and Fortunes

Changing power relations in Navrongo are resulting in a swing of land ownership from the original allodial owners, (*tigatiina*) to families, individuals, government and interest groups like churches and migrants. Although the *Tigatiina* still wield some power over land, some families and lineages have also become land owners over time-(*tigayigna*) Assistant Landlords, and (*Kasorotiina* or *Kadugatiina*) farm owners. Findings show that in Navrongo there exist two main owners of land, thus the (*tigatiina*) controllers of land or landmasters and the individual land owners. The chief does not own land but enforces laws and can temporarily lay claim to a piece of land if the dispute over such land defies resolution. This temporary claim, known in Kasem as (*Pe dang o jinga da*) the Chief has placed his hand on it, is meant to give the contending parties time to reach a compromise. Therefore, individual and family ownership has taken over from the *Tigatiina*. It appears this laudable dispute resolution mechanism is gradually being manipulated and abused by chiefs in the area. In urban settlements, however, people are beginning to

⁷Pers. Com. Arthur B. Adda, Regent of Navrongo 24-9-10.

legitimize their right in land, consequently making communal land ownership meagre. It would appear that there is a weakening of the power of *Tigatiina* resulting from individualization of land in Navrongo. But just how did this situation arise?

In Ghana, as elsewhere in most parts of Africa, state- tradition relationship has featured prominently in customary or traditional land management. Prior to the colonial intrusion, local concepts of land ownership and rights had persisted among autochthonous groups in the midst of an evolving society. And as Amanor's (2008) historical examination of this relationship shows, the British colonial administration's indirect rule unwittingly placed land, previously managed customarily under chiefs. This liberal ideology was promoted under the Native Authority system and on the premise of the idea of communal land tenure, this position, through which chiefs obtained allodial rights over land, together with hegemony in land transactions. It is therefore evident that customary law in itself is not an immemorial local arrangement and the situation of the co-existence of chiefs and land is a product of history. By the very nature of the customary, it evolves as the people who live by its norms change their patterns of life and so, the conflict between tradition and modernity is not a static. This implies that colonial state formation and land management was linked to the reproduction of a new and separate traditional sphere that the chiefs had vested interests in extending. This made it possible for the customary to serve as a link between traditional and modern forms of land management. So land relations within indigenous communities are strictly not traditional, since they have evolved to reflect the commodification of land, as Amanor argues.

Navrongo had been a transit point in the West African caravan trade in pre-colonial times. A major route in this transit trade between Ouagadougou and Asante and the Coast, passed through

Navrongo. Although the local people did not take part in the trade itself, they provided water for the caravans that stopped over for a fee and robbed them when the opportunity presented itself. Following the European scramble for African territories and colonial rule subsequently, the British made Navrongo a District administrative headquarters, opening a station there in October 1905. This choice was based on a number of factors. Chief Commissioner Irvine proposed the post be established here so that revenue could be increased from taxes on caravans, as several of them stopped at Navrongo for water.⁸ Bening (1975, p.652) also noted that Navrongo was chosen for its central location and its powerful chief who had “common sense”. Besides, Navrongo lay on one of the important caravan routes from Ouagadougou through Po to Daboya. When Navrongo was made a District Post, another caravan route which passed through Nakong from Powas closed, forcing all caravans to pass through Navrongo.⁹ Consequently, Cardinal (1920 p. 115) reported that in 1917 alone 89,000 traders passed through Navrongo en route south.

The transformation of land ownership / tenure has a historical angle, and it goes back to the dawn of colonisation and the influx of people_ both local and foreign, to communities that were made colonial posts. In the colonial period towns that became headquarters stations grew in size and importance as people generally sought the security of these stations and according to Bening (1973, 7-20), this situation was most pronounced in towns like Bawku, Zuarungu and Navrongo which were located on important trade routes. This naturally put a strain on local food supplies in these towns and the colonial administration tried to address the situation by shutting down the markets of the surrounding settlements and ordering people to send their produce to the

⁸PRAAD -ADM 56/1/2.Ag.Chief Commissioner Irvine to Ag. Col. Sec, 4-3-1905.

⁹PRAAD -A.ADM 63/5/1. Navrongo District Record Book p.146 and NAG-A. ADM 63/5/8.

headquarters towns. Again the effects of this measure were striking in the Tumu and Navrongo Districts. In Navrongo this created a lot of tension between the District Commissioner, Capt. Fluery and the White Fathers, as the local people were not even allowed to sell to the White Fathers at their premises, the Mission.¹⁰ Then with the advent of unpaid and compulsory labour on the roads, government quarters, and rest houses, people moved from sparsely populated areas to more densely populated areas, as they figured out that here there would be less work per person. But this had its down sides as well. For, although such people could get government jobs, they could not farm. Additionally, they suffered most of the severe hardships of colonial rule, living close to the station. For instance, dogs were not allowed to bark and donkeys were not allowed to bray after dusk. If they did, they were killed next day and their owners fined heavily by the colonial authorities (Awiah, 2008 p. 92-93). Movements like these added to the already huge populations of headquarters towns like Navrongo.

Besides international trade and colonial rule which brought rapid change to Navrongo, there is the incidence of Christianity. In 1906, only about a year after the establishment of Navrongo as a District headquarters, the White Fathers of the Roman Catholic Church came spreading the gospel and opened a school on 16th December 1907, thus introducing western style education into the area. Navrongo therefore became the most important centre for Christian missionary and educational activities in the Northern Territories, attracting pupils from all over the present-day Upper East and Upper West Regions. These factors together encouraged a fast population growth in Navrongo. The perpetration of international trade, the imposition of colonial rule, the spread of the Christian gospel and subsequent introduction of formal education led to rapid urbanization

¹⁰WFDs. Entry for 12th April 1908.

and increasing population pressure which had far-reaching consequences for changes and developments in land tenure, land use and access to land in Navrongo. By the 1980s the commoditisation of land was already underway in the town. And land was shifting rapidly from traditional agricultural uses to urban housing to accommodate the emerging population, as well as to cater for other modern urban activities. The new settlers - administrators, missionaries, and traders were demanding land for administrative offices, residencies, churches, plantations and the like. Land was gradually becoming an instrument of wealth accumulation and power. This development unleashed enormous struggles among local people for control over land. Such struggles were also competition for power and authority, debates over interpretations of history and culture and efforts to define social identity (Berry 1992, 336-38). Like the Mgbelekeke family of Onitsha (Mbajekwe 2006, 413-439), chiefs in the Navrongo area used opportunities created by changes in urban land in the 20th century to acquire great wealth and transform themselves from an obscure position in the pre-colonial era to a position of influence and authority in the colonial period by exploiting their relationship with colonial officials to manipulate tradition and history in their favour. This was when chiefs in the area began to echo that “Although the *Tigatu* owns the land, the chief owns him as a person altogether with his land; they chose to set aside the adage that (“*Noona ye Pe, ye Pe o nu,*”), people know the chief but chief knows his mother. Though there is a literal value to this proverb, it can be extended to the *Tigatu/Pe* relationship of mutual respect and reciprocity.

As trade and population continued to expand in Navrongo, the value of land continued to rise as well. This resulted in people who had earlier obtained land beginning to sublease it to other people for handsome returns. Others erected buildings on the land and rented rooms to teeming

urban tenants. Real estate was booming. The changes associated with the newly emerging property market began in the Nogsenia, Saboro, Namolo, Gongonia Bornia and Gane sections of the town because of the establishment of trading firms, educational institutions, and more recently, the Tono Irrigation Project and its Townships. These areas were so affected because of their proximity to the town and also because there was demand for agricultural lands (See ICOUR maps in Appendix A). This resulted in the value of land in these sections rising faster than in other parts of Navrongo.

From independence up to 1979 when all northern land was vested in the government, not much changed in terms of development around land, especially as it concerned individuals.

4.2 Actors and Land Use Dynamics

Land use in pre-colonial days, before the introduction of legislative guidelines for Western style planning and development was governed by customary norms, which albeit by their nature, evolved as the people who lived by them changed their patterns of life. For instance, the choice of a site for settlement was influenced by important considerations such as a source of good drinking water, good defensive features, and availability of fertile land for farming . Plots were allocated and people of the same lineage were localized to form an identifiable quarter of the settlement. In the words of Amankwah (1989, p.68), “by and large, customs, social conventions and taboos were regulatory forces in the machinery of planning in the towns and villages”. There was a gradual shift from this traditional system of land use and planning from the early part of the 20th as the function and role of Navrongo changed. As the political, administrative, economic and commercial capital of the Navarro (Navrongo) District, Navrongo began to experience an

increasing demand for land by government, missionaries, commercial firms and individuals, for various developmental purposes (See Appendix D). The government then began to legislate for modern town planning, the overriding principle being a shift from cultural norms towards western ideals and urban values. As Amankwah (1989, p. 61) put it, this resulted in “a host of patterns of behaviour which profoundly transformed native social norms, institutions, and legal practices”.

In pre-colonial times, *Tigatiina* controlled land administration. These officials, the Landmasters, as P.F. Whittal called them, allocated vacant and bush lands to people who needed them. In most cases, once land was allocated it passed from the direct control or care of the *Tigatu*. With the inception of colonial rule chiefs were brought into the arena of land issues, although they only acted as intermediaries between the government and the *Tigatiina*. In other words, if the government needed land for the construction of roads, school blocks, hospitals, markets and others, they contacted the chief who in turn contacted the *Tigatu* under whose jurisdiction the land in question lay. Thus the saying that (“*Nona ye Pe, yi Pe ye o nu*”), people know the chief and chief in turn knows his mother. This saying aptly captures the intermediary role of the chief in situations where strangers require land. In other words traditionally, the stranger upon coming into the community invariably comes into contact with the chief sooner than he does with the earth-priest. This is because per the requirements of his office, the *Tigatu* leads a very exclusive life. Yet if the stranger needs land, the chief leads him somehow to the earth-priest (*Tigatu*). For instance, upon my first visit to Pinda for this research, I asked the Assembly Person if Pinda had a *Tigatu* and this was his response, “Only the Chief can answer that question because, everyone here knows the Chief and his house, but not the *Tigatu*. May be, the Chief can tell us when we

get there, so that my people and I don't have problems with each other". True to his word, when we got to the Chief he told us there was one and then instructed the same Assembly Person to take us to the *Tigatu*.

In the past, there was always a distinction between bushlands and the village commons. The bushlands comprised (*kari*) individual farms outside the settlement, (*kagui*) lands farther away than the *kari* and used mainly for hunting and gathering of firewood, and (*kaporro*) vast lands belonging to special individual families acquired very long ago and often left fallow to rejuvenate or parceled out to family and friends for use. Only privileged people like members of the landowning lineage or their very close associates could own *kaporro*. The (*kaporro tu*) *kaporro* owner could grant temporary use to an outsider but he did not necessarily alienate the *kaporro*. In any case, the giving and receiving of *kaporro* is a thing of years gone by, when land was in abundance. The village commons included (*kadui*) farms around the compound; (*napwali*) spaces left as a route for the cattle to and from their grazing grounds, the (*bwollu*) the valleys, some of which were used for cattle grazing and rice cultivation, and the (*kapwori*) where the shepherds gathered to play while their cattle were grazing.

Nowadays, as a result of population pressure, most of the bushlands have been distributed and there is very little vacant land left. Lands that were initially obtained from the *Tigatu* and have now become family lands now outnumber community lands, though these lands themselves are fragmented, as a result of increases in family sizes. By these developments the *Tigatu* has lost his position as a distributor of land, in urban settlements, as there is very little or no more vacant land for him to allocate. Family heads (*kaporro tiina* and *Kasoro tiina*) have now become administrators of land in lieu of the *Tigatiina*. With remarkable increases in population and

urbanisation, there is a keen demand now for housing, offices, churches, shops and farmland whereas in the past land was only used for housing and farming. This change in land use greatly impacts the customary practices of the people. Most people who want to acquire land nowadays for residential, farming or commercial purposes would also wish that they are able to own, use or transfer their land without challenges. Acquisition of land for farming does not usually imply alienation. Such land is not bought, but is usually given out. It is also possible that what may have been granted as farming right _usufruct might with time become ownership, especially after the death of the giver and the recipient.

Land use types were arranged such that residential land formed the settlement with plots for arable agriculture encircling it, whereas the outer ring of land was used for grazing. Bening (1975:65-77) observed that in 1898 Col. Northcott had acknowledged traditional land boundaries in northern Ghana, but because he and his government lacked knowledge of the traditional systems of land tenure, he declared in 1901 that “large tracts of the northern Territories appear to be uninhabited or sparsely populated by rude savages without recognized headchiefs or central forms of government, and it seems right that the main part of the rental for unoccupied lands should go to the paramount power which, by a very large expenditure on administration, has made it possible to utilize those lands”. But Northcott also directed that where rights to land could be proven the owners should benefit from any mineral exploitation. The Chief Commissioner, Maj. Morris who was charged with determining these rights maintained that there were no territorial rights to unoccupied land, suggesting that uninhabited and undeveloped land was ownerless.¹¹ The colonial government regarded land in the Protectorate as a means of raising revenue: “the main part of the rental that will be derived from these concessions should

¹¹PRAAD -A.ADM 56/1/34.

go to the paramount, and thus in some measure meet the large expenditure on administration, by which alone security to life and property is assured to the dwellers of the District.”

The Mineral Rights Ordinance of 1904 vested the right to grant concessions for mineral prospecting in the governor while prescribing minimal rents for landowners. In Asante and the colony the chiefs received these rents, on behalf of their various stools while in the Northern Territories, the government exercised that right. The Kulnaba area was for instance leased by government to the White Fathers without reference to the owners of the land, which was against traditional custom. However, the White Fathers on their own contacted the *Tengyono* and provided the necessary ritual items to him, though they did not reveal to him that the government had already given the land to them and was receiving rent on it.¹² This was because the legislation had rendered the customary custodians, the *tigatiina*, irrelevant to the equation of land acquisition in the Northern Territories. In short, all northern lands had been vested in the British Crown.

In 1923 the land policy was reviewed when Guggisberg in anticipation of the extension of the railway to the north and in order to cut down cost of that project, empowered the government to acquire any land required for public use. Section 5 of that Ordinance provided that no compensation should be paid for any land so taken, except in cases where it interfered with structures already in place.

In 1927 the lands of the Protectorate were declared public land. This move was supposed to prevent foreigners and traders from Asante and the colony from acquiring large plots of land at

¹²Pers.com.Tengyono of Biu, 26-9-10.

low rents in anticipation of the opening up of the area. But the measure had the unintended effect of dispossessing the people of their land, in that it the Government in practice did not exercise the powers conferred on it in the supreme interest of the locals. The Governor's control over land was used to regulate the building of schools by the White Fathers' Mission and to settle people against custom, without reference to the traditional custodians of the land.¹³ After this Ordinance had been criticized and labeled a confiscatory measure by Casely Hayford, an African member of the Gold Coast Legislative Council, the preamble of an amending ordinance declared that the land was placed "under the control, and subject to the disposition of the Governor, and shall be held and administered for the use and benefit, direct and indirectly of the natives".¹⁴ Although the declaration of northern land as public land did not immediately press too heavily on the people, especially during the colonial era, attempts to develop the area have brought untold hardship to many. In constructing the Tono Irrigation Dam, the people of Bornia for instance, were crammed in on each other, and some of them had to relocate and cross over to the other side of the river, the old Tono Quarters. This area was also their land taken over by the colonial government to build the Agriculture Station and Quarters. Families have been dispossessed of their lands. The case of Gian is another classic example of the kinds of hardships people had to endure. These words of the Gian *Tigatu* family aptly convey their difficulties:

Unlike Bornia, we were not resettled. For us, it was our farmlands and economic trees like shea and dawadawa that we had to sacrifice without any

¹³ WFD: 24-4-1906. The White Fathers were settled by the District Commander and not the land owners; ADM 1/205 Letters No. 50/11/70 of 13th April, 1946 and No. 179/1939/28 of 5th April, 1946. When the White Fathers Mission sought permission to expand the Middle School in Navrongo the Government insisted that they built smaller classrooms to save land. The reason advanced was that land allocated to the Fathers had been used by their converts for farming.

¹⁴ PRAAD -A.ADM 56/1/375.

compensation. They only killed a cow and a sheep to (*kogsi*) scrape. And we have complained and agitated since then, but there has been no response from them. Even when they allocated the irrigated lands they didn't give us any and later when we complained, they gave us those faraway in Biu. And we don't go to Biu, It is forbidden and a taboo for us.¹⁵

By the acquisition of land for government, settlements like Nogsenia, Namolo, Saboro, Pinda and Bawiu have lost fertile agricultural land without compensation. The free acquisition of land might have helped the government in undertaking projects such as the construction of dams, hospitals, offices and the establishment of state farms but the plight of effected communities was not considered. Since the government did not consult people before taking up land, and once such people could not retain what they really wanted to, it would appear not enough care was exercised in the appropriation of land. This did not affect only the local people but also government.

The practice then, in colonial times, was that if private people such as the White Fathers and the Union Trading Company needed land, the government leased it out to them either at domestic or commercial rates as the case may be (See Appendix D). These ground rents were forwarded to central government but 2/3 was returned to the Native Authority, while 1/6 was paid into the Benefits Trust Fund.¹⁶ The Native Authority comprised chiefs of the area, and their salaries and those of their supporting staff were paid, partly from these rents. In fact, these lands were officially referred to as Government Lands. Where it was government that needed the land, it

¹⁵ Pers. Com. Gian Tigatu Family, 26-6-12.

¹⁶ PRAAD- T. NRG 6/1/1. Lands Ordinance 1935 – 1947: Transfer Vouchers headed “Rents of Government Lands etc”.

was a matter of the District Commissioner upon the directions of the Chief Commissioner and in that behalf entering upon the piece of land and posting at a conspicuous part of the land in question, a notice of “**Taken For The Government**”. The “priority method” of acquiring land, introduced in the early days of the First World War was found unsuitable by 1949 by the Lands Department which called for its abolition. This was a method by which government compulsorily acquired any land required for public service and no compensation was allowed, except in certain cases for interference with already existing structures. In the words of the Commissioner of Lands, A. R. Baster, the method had proved to be “radically unsatisfactory” as the inaccurate plans it produced resulted in a lot of inconvenience to the public as they did not know how their land was acquired and if they qualified for compensation. Additionally, it was often the case after survey that lands acquired by priority means differed materially from the land entered upon by the Department. The Commissioner felt this situation portrayed the government in bad light. His letter stated that for such reasons it had been decided to discontinue the “priority method” and in future acquisition should be made only on the basis of the “rigid survey” in which case the department would immediately be informed whenever the government had intentions of acquiring land.¹⁷ It was after these concerns were raised that in the same year, the Assistant Commissioner of Lands, Pogucki, conducted his land surveys.¹⁸

After the District Commissioner had posted the notice of appropriation-**Taken For the Government**, a plan of the land was made and subsequently a Certificate of Appropriation was

¹⁷PRAAD-TNRG 6/1/1. Lands.Circular No.8604/6 of 11th Aug.1949.

¹⁸PRAAD-TNRG6/1/1.Land Ordinance 1935- 1947.Letters;No.507/47/48; No.525/47/48;No.93/37/1939/SF.7;No.178/37/1939 SF.7.Mr.Pogucki,an Assistant Commissioner of Lands in the Gold Coast stayed in Navrongo up till Jan.2nd1950, a period of 16days, carrying out research into the local system of Land Tenure. He also visited neighbouring Haute Volta (Burkina Faso).The Assistant District Commissioner arranged for an interpreter in the person of Mr. Achana Kaba, a Native Authority Teacher at the time. Mr. Kaba was paid an allowance of E3.4/- , at 4/- a day, as he used the School Holidays to render the service.

issued by the Lands Department. This was how plots of land for development such as those for the Government Garden, Rifle range, the Aerodrome, Government Plantation, Veterinary Assistants Quarters, the War Memorial Hospital, Military Quarters, Saboro Forest Reserve, the Caravanserai and kola stalls and many others were acquired (See Appendix D).

Some incidents in Navrongo bear witness to the Commissioner of Lands' concerns. For instance, in November 1951, Ayitiri Kassena, the landowner and Headman of Saboro petitioned the Assistant District Commissioner through the Navropio, then President of the Kasena- Nankana Native Authority. His complaints included that a dilapidated Forestry Office at Saboro had its adjoining land extended by the demarcation of pegs as Government Area and there were rumours of a new bungalow to be built there for the Forestry Officer. Mr. Classy had also caused some quarters to be built on another piece of land belonging to him without due reference. The Navropio advised that if any extensions of land were required in the future, the government should interview the landowner or him, the local chief. He also asked the District Commissioner to investigate Ayitiri's claims and let him know.¹⁹

Here, the Governor was the lessor and the acquirer, the lessee. Since the Chief Commissioner and the District Commissioner worked on behalf of the Governor, the lessee had to apply through them to be allowed to acquire the land in question, while stating the intended purpose to which such land would be employed and its location. The District Commissioner being the officer on the ground was then given the go-ahead by his superior officers to find out if the acquisition was plausible. He did this by finding out if the required land was already in use, and if it were, whether the *Tigatu* and *Kasorotu* or *Kaporotu* were ready to let it go for rent. With

¹⁹Complaints and Reports: *PRAAD-T*. NRG 6/3/2 Adda, President.KNNA's letter of 23rd Nov.1951.

these queries settled and compensation paid to the affected people, the District Commissioner went ahead to have the plot surveyed, got the Agricultural Officer to assess its value and then the government got the rental fixed. The lessee was then provided a Certificate of Appropriation or Occupancy and paid an annual rent. This is what the White Fathers and the Union Trading Company went through for their lands in Navrongo. The White Fathers paid £1 per plot per annum, while the Union Trading Company paid an annual rent of £5 for their only plot. The Certificates of Occupancy /Appropriation were issued by the Commissioner of Lands for and on behalf of the Governor (See Appendix D).

In relation to compensations, the White Fathers in 1946, on account of the plot for their Senior School paid the following amounts to the affected farmers through the Native Authority:

	£	s	d
1. Mama (Wedia)	4	10	-
2. Pwazaga (Lozala) -	-	10	-
3. Atiru (Wedia)	<u>1</u>	<u>2</u>	<u>6</u>
Total	<u>6</u>	<u>2</u>	<u>6</u>

Source: PRAAD- T. NRG 6/1/ 1. Land Ordinance 1935 – 1947. Correspondence for 1946.

The names in brackets are the landowners of the plots. For the Union Trading Company land, according to archival records, an original lease was signed between Asudim Kassena, headman of Nogsenia and landowner, (*Kasoro tu*), at 30/- per annum and stated to have expired on the 31st

March 1934 by “effluxion of time”. The indenture of this was made in 1931 and signed by the *Tigatu* and Chief Awe as witnesses leasing the plot at a £5 annual rental. After Asudim’s death, Alongyire his son continued to draw rent on this plot. This was an interesting case. Though the indenture was made in 1931, the Certificate of Occupancy was issued in 1936 with an annual rent of £5. Between 1932 and 1936, Asudim drew rent directly from the Native Administration after Messrs UTC had paid it in, in the absence of the Certificate. With the issuance of the Certificate in 1936 the lessee was required to pay the rent directly to Central Government in Accra. Two-thirds of this rent was to be repaid to the Native Authority, one-sixth of which was to be paid into the Benefits Trust Fund and the remainder used by the Native Authority. It seems these terms were not clear to the actors and so from 1936, each year that two-thirds of the £5 was repaid to the Native Administration, the administration added the remaining one-third which stood at £1.13.4 to Asudim, the *kasorotu*. This appeared to have happened on the blind side of the District Commissioner. For as he remarked when he later got to know of the situation, the Native Administration had no business paying the land owner “£1.13.4 per annum free gratis”. The issue came up for discussion or investigation when in November 1941, the Chief Commissioner’s office wanted details on the payment into chest of the ground rent by U.T.C Ltd. for the period 1st April, 1941 to 31st March, 1942. The ground rent in question was found to have been paid on the 29th April, 1941. On May, 1st, 1942 Asudim wrote to U.T.C. Ltd through the District Commissioner demanding rent for the years of 1941 and 1942 which then stood at £10. The District Commissioner then wrote to the chief commissioner, stating the facts of the matter. The Chief Commissioner’s response in the case is contained in a letter dated 14th May, 1942, portions of which read:

The position of Asudim Kassena, who is referred to throughout the correspondence in my office as the “owner” of this land is somewhat

complicated, but I contend that whatever rights he had to alienate a piece of land in the Protectorate before the passing of the Land and Native Rights Ordinance Cap.121, this right was forfeited under section 17 (a) of the Ordinance and conferred on the Governor acting for the benefit of the whole community. It is therefore now a matter between Asudim and the Native Authority.

On the 20th November 1944 Alongeyire Kassena, next- of Kin of Asudim Kassena wrote to the District Commissioner through the President of the Kassena Nankana Native Authority demanding rent on the U.T.C. plot. The District Commissioner arranged for him to be paid the two-third, £ 3.6.8 repaid by government to the Native Administration but restricted the Administration from making up the one-third of £ 1. 13. 4 to him. He also wanted to know from the Native Administration, what title Asudim had to the plot in question. Things had not been done rightly. Eventually, there was a change in Occupancy from Chedid of UTC to Moukerel in 1946, when due process was then followed and the farm owner consequently lost his right to rent.²⁰

Although the Lands and Native Rights Ordinance ignored the *Tigatu*, the District Commissioner in some measure did not. For instance, for the Kulnaba lands, though the government leased them to the White Fathers against custom²¹ the District Commissioner informed the *Tengyono* that government needed to use such lands for development. They, however, were not told that government was exacting rent from it nor did the Chief tell them that some compensation had

²⁰PRAAD- T. NRG 6/1/1. Land Ordinance 1935- 1947 (Correspondence on the U.T.C. Plot- Navrongo from 1942- 1946).

²¹Howell 1979; WFDs entry for 1912.

been paid to him for them. The White Fathers on their own however provided the *Charem* items to the *Tengyona*.²² For the construction of the aerodrome often referred to as the Paga Airstrip, the Navropio Awe in 1939, once more led the District Commissioner Mothersill to the Telania *Tigatu* in whose jurisdiction, that piece of land is. The Telania *Tigatiina* believe that this was the first time that money was given for land in Navrongo. The money was, however, not given to them as they would not take it. This is their story:

Land sales started with the construction for the airstrip. The white man came to this house in the company of the Navropio and called our grandfather, Tafuna. They said they wanted to buy the land and stated the intended use. Tafuna said we do not take money, but the white man insisted that in their country they don't take land for free. Tafuna said in that case chief Awe should take the money. Awe returned later with the *Charem* items to our grandfather, to show that they had *Cha* (wooded) the land and not bought it. Obviously, he had used only a little of the money he collected in Tafuna's presence to buy the items and then he spent the rest. That was unlike today that everybody is craving for money.²³

The White Fathers in their dairies had this to say about the construction of the aerodrome:

The War and its effects in Navrongo; they begin to talk of an aerodrome to be built in Navrongo. This is to defend the Northern border of the Gold Coast.

²²Pers com. *Tengyona* and elders 26-9-10.

²³Pers com. Telania *Tigatu* and elders, 02-12-11.

The D.C measures a space $\frac{1}{2}$ a mile long and $\frac{1}{2}$ a mile wide beside Saboro on the way to Pagha and it is there that the landing grounds would be. ²⁴

Mr. Sylvester Kogyapwa confirms that the construction was completed in 1942 when the first plane landed there. ²⁵

A dam building programme started in Navrongo in 1939, to ameliorate the acute water shortage for cattle. This also encouraged dry season gardening. The Yusi Dam, the Saboro Dam were some of these. On-going work on the latter project was inspected on the 30th December 1939 by the District Commissioner and Adda, who later became a Navropio. ²⁶ The White Fathers also had this to say about the dam-building programme:

Several dams were constructed by the administration. They are trying to keep a little water in the region. The government wants to multiply these water reserves as much as possible. ²⁷

Subsequently, however, most of these dams silted and chances for improving agricultural production remained slim. It became obvious that the forestry programmes instituted in the 1960s did not achieve much either. In the 1970s the Tono Irrigation scheme started with the aim of providing large scale irrigation to the people of Navrongo. Even at this time all northern lands were still government lands and so there was really no problem with acquisition. The land on which the Tono Dam was built once belonged to the people of Gian, and although their bushlands had been used they did not have to be resettled. However, people in communities

²⁴WFD entry of October, 1940.

²⁵Pers com. Kogyapwa, retired educationst. 16-3-2007.

²⁶PRAAD-AADM 63/5/8. Informal Diaries of Navarro District 1939.

²⁷WFD May, 1939 entry; Feb 1940 entry.

such as Bornia, Yogbania, and Korania had to be resettled to make way for the construction. Some families in Namolo also had to be resettled to allow for the construction of Townships for the staff of this Project although Namolo is far from the Tono Dam site. It appears the compensations were not handed over to the victims of the scheme and this generated disputes between the Navropio and some elements. A fuller discussion of these land disputes that arose as a result of the resettlements will be dealt with in the subsequent chapters.

4.3 Forms of Access to Land

Forms of access to land in Navrongo range from patrilineal inheritance to purchasing and borrowing. Customarily, locals very often accessed land through inheritance, gifts, begging and borrowing. Women, however, could access land through marriage or begging and borrowing from men, whether they are relatives or not. Migrants go through various tenancy arrangements and purchase to gain access, though the form of access to land varies depending on the use to which the land would be put.

In the past access to land was fairly easy. In Navrongo access to land involved one of two processes depending on the use to which the land is to be put. There is the route to use land for agricultural purposes and that of using land for residential purposes. Male members of the land owning family are entitled access by right of birth. But this right is not automatic or absolute. To qualify, a male member should live in the compound and be married. Even then, the (*kadwi*) farms around the compound are shared or owned according to some principle. The head of family has the best(*kaduga*) compound farm- the one that abuts on the (*tampuuri*) the front part of the compound, which also serves as a compost dump. The remaining portion immediately

surrounding the compound is shared among the rest. If there are other male members living elsewhere, as soon as they return to live and work with the family, adjustments are made in the plot sizes to enable them get *kadwi*.

Other people who need land for farming will have to (*Cha*)woo the land either from the(*Tikwiatu*) autochthonous Landmaster or the(*Tigayignu*)deputy Landmaster. In the first instance where he is obtaining it from the *Tikwiatu*, the plot in question must be virgin and vacant. Whereas in the second instance, he is obtaining it from the *Tigayignu* , who is an elder of his clan, having been given the religious and administrative right to land by the *Tikwiatu*. Farming land is further divided into two types-*kaporro* and *kara* or *kaduga*. The(*kara*) farm outside the settlement is different from the *kaporro* in that, the *kara* is always in use while the *kaporro* is often left fallow to rejuvenate. Then also the *kara* is meant for a single farmer while the *kaporro* can make several (*kare*) farms because of its large size, when in use. The *kaporro* is usually non-recoverable if the farmer behaves himself, but if he turns out to be of bad character, the land could be reclaimed peacefully. Should he prove to be difficult, he could be forcefully evicted through the (*Vweim*) clubbing process or ritual. Acquisition of the *kaporro* is something that happened about a century or so ago and it had to apply to land outside the settlement.

Once an acquirer became a *Kaporrotu*, he could use the land for himself and his family or give some of it to other people. He, however, has to inform the Landmaster or his deputy when he gives some of the land out. This is what happened in the dispute situation between Bawiu (*tigayigna*) and Wusungu (*Kaporro tina*). Bawiu acquired the land from Telania (*Tikwiatiina*) and subsequently gave some of it to Wusungu (*Kaporrotina*). With time, Wusungu started selling parts of the land without any reference to either Bawiu or Telania. The dispute ended up

in the law courts and travelled as far as the Lands Court in Kumasi but has still not been resolved.²⁸

The *kaporrois* (*Cha*) wooed in the manner as one would for land intended for a building, or a wife. This is why people of Navrongo compare land to a spinster that has to be *Cha* (wooed). The second type of farmland, (*Kara*), is recoverable and less expensive to *Cha* – a man only needs a fowl and tobacco to announce his request. He is told when the request is granted that whenever the owner of the land needs it, it would be reclaimed.

For building purposes, the person (male) seeking the land has to go through the three processes of (*Charem*) wooing, (*Koonim*) scooping and (*Yagem*) watering – before moving to site, laying the foundation and when the building is complete respectively. The acquirer of this kind of land is (*Kasorroto*) stalks owner or (*Kadugatu*) farm owner of the immediate surroundings of his building.

In backwater areas in Navrongo such as Pinda, Gian, Biu and Telania tradition or custom as much as possible is still maintained with reference to access to land. There have been slight changes in the (*Charem*) wooing items in Telania, where a number of sheep are taken in place of fowls as part of the items required. The *Tigatiina* explained that they had to do this to save people seeking land from the problem of the Newcastle disease which is prevalent in the area. They said hitherto, in trying to put together a number of fowls for *Charem*, people continued to lose them through Newcastle and were not able to come forward to ask for land. They said it was the acquirers who suggested to them to take the sheep instead, whereupon they consulted their

²⁸Pers. Com. Telania Tigatiina, 2 -12 – 11.

ancestors who allowed them to make that change.²⁹ In urban communities close to the town centre, however, like Nogsenia, Namolo, Saboro, Gongonia, Bornia, Nagalkinia(lower) and Wusungu because of the aerodrome, land is often sold, sometimes openly now. This indicates commoditization and commercialization of land in the urban centre as a result of urbanisation in the town. Land values in Navrongo can be said to have changed from the tobacco and hoe tradition to tobacco and hoe in addition to some fiscal cash as determined by market forces. This shows the eventual transformation of this method of access to land, from the customary to commercial methods. This transformation pattern has been observed in the central portions of Navrongo; stretching from Navasco area in the south to the Paga Airstrip area in the North, then from the Tono area in the West to Nayagenia in the East. In the Navasco area a plot of land measuring 100ft by 100ft goes for GH ¢ 2,000; in Namolo/Saboro through to the airstrip such a plot costs GH¢ 3,000; in Nogsenia it goes for GH¢ 3,000 while in the Tono area a plot of such measurement attracts GH¢ 2,000 as well.

Access to, control of and ownership of land is influenced by a variety of factors including gender, age and marital status. Female family members have no rights over land. They could however acquire temporary possession of land from their male friends or relations. Usually they farm cash crops like rice, groundnuts, beans and the like, profits from which they supplement the family budget by buying ingredients for family meals. Like women in the area, the youth have no rights over land. However, with the gradual transformation of the method of access to land there are possibly going to be other underlying factors to access to land in Navrongo. Access to land is most difficult and competitive in locations that are highly urbanized. In not-so-urbanized locations, the needs of the individual are the dominant factor, followed closely by the availability

²⁹ Pers com. Telania Tigatu Family, 02-12-12.

of land, the ability to pay and knowledge of customary arrangements. There is therefore heavy dependence on social networks for survival in rural locations whereas in urban communities; ability to pay determines easy access in the acquisition of land.

In the past, access to land was fairly easy and one only had to provide the customary items of *Charem*. However, nowadays, land is sold in the central part of Navrongo and customary charges have become expensive in rural locations as people interpret the customary items in monetary equivalents to be able to take care of their economic needs. Therefore, a direct relationship between individualization of land rights and commodification on the one hand and the invention of a land market for land to be traded as a commodity on the other appears to be in existence in Navrongo.

In some instances, as reported in Nogsenia, Vonania, Gane, Saboro, and Namolo, even though land is sold for cash, the acquirer is still required to provide the customary items (or cash for them) as custom demands and in a few instances, prospective land buyers are expected to provide building materials like roofing sheets, cement and wood, in addition to cash payment or even put up a room or two for the seller.³⁰ This latter kind of arrangement is more of reciprocity rather than a formal sale. Very often in such cases, the landowner is so poor that his dwelling place is a sorry sight. Urbanisation, land scarcity and economic demands form the driving forces underlying the commodification of land in Navrongo. Issues of paying school fees, paying for health delivery and the wish of people to own their individual homes have pushed the poor to find money to get access to these essential services and needs. This somehow, accounts for the high rate of land sales in urban and peri-urban locations of Navrongo.

³⁰Pers Com .Youth Groups: Hospital Gate, 27-10-10; Lawyer Base, 16-02-11; Nayagenia New Town and 5-3-11.

The effects of commoditisation of land are enormous. The conflict between commoditisation of land and the customary system of sharing land prepares fertile ground for people and marginalized groups like women and the youth, who hitherto could not own land in terms of property rights, without the needed cash. Purchase, an access route to land which is their only option, is ironically conflict-driven when it comes to land, as land has earned monetary value. This is coupled simultaneously with the communal ownership of land such that a clash of jurisdictions arises, resulting in disputes and conflicts between individuals, communities and families often leading to loss of lives and property and sometimes costly litigation. The increasing value of land as a consequent factor of high demand and the cash payments that come with it has led to the unchecked sale of land by landowners, (*kaporrotina* and *kasorotina*), which has in turn created landlessness even among some land-owning families.

The implications of these changes are numerous. One is that the customary system of accessing land by various groups of people is being replaced by a more reliable system which is proof that all groups of people can access land depending on their ability to pay rather than gender, age, or the social relations and networks established by individuals. Albeit, this could also worsen the situation of poor and marginalized groups who hitherto could access land in the property rights sense, to access user rights. With the changing access routes in favour of cash payment, such marginal groups may not be able to access land unless they can pay for it for their use.

The above routes to access to land in Navrongo only relate to private individuals. For the government, both colonial and post-independence the route has been different. When Navrongo

was made a district station in 1905, the construction of administrative structures began in October in the same year as this report noted:

During the month under review, a new post was established at Navarro (Fra-fra) with success. The natives openly distrustful on arrival but now realize value and all surrounding towns, with the exception for the eastern part which remains still unsettled have become friendly and are helping in building Quarters, Markets and Soldiers lines, which (sic) are reported arriving to settle. Full report will be forwarded under separate dispatch.³¹

From the time the British established the station at Navrongo up to the 1920s no special formalities were observed by government in taken up land for public purposes as Secretary of State ,the Duke of Devonshire 's note aptly captured:

--- in the past no special formalities had been observed by government when acquiring the land which it occupied for public purposes in the protectorate. It would seem that the government simply took such land as it required, and that, in view of the large surplus of unoccupied land available no objection was raised to this procedure.³²

³¹PRAAD- A. ADM 56/1/515. Progress Report on the Northern Territories for 1905.

³²PRAAD- A ADM 56/1/375. Land Tenure. Confidential letter dated 8-11-1922 from Devonshire, Downing Street to Governor Guggisberg.

People from Navrongo who lived during this era affirm the situation described by the above note.³³ Non- natives who needed land had to apply to the district commissioner, who applied the Mineral Rights Ordinance of 1904 in granting land throughout the Northern Territories for a lease period of 99years. This is the procedure under which the White Fathers got their Kulnaba land in 1912, and which action the Secretary of State described as “ultra vires”.³⁴

In 1923 Governor Guggisberg empowered the District Commissioners to acquire any land required for public service and not pay compensation for any land so taken where there was no interference with any already existing structures (Section 5). Then came the 1927 Land and Native Rights Ordinance, with a revision in 1931. This ordinance declared northern land as public land placing it under the control of the Governor, but for the “use and common benefit, direct or indirect of the natives”. Thus the government was completely in charge of land in Navrongo, taking for free for itself and leasing it out to foreigners and others for rent. When the 1979 constitution divested government of northern lands, it was not specific as to whom they were now vested in. The 1992 Constitution like its predecessor failed in making specifications of the owners of Northern lands though it added that the traditional authorities and the District Assemblies were to receive some revenue from land leases. But how people could claim back their land or get compensation for lands that were not properly acquired was not clear. Besides, official administration of land does not consider the *Tigatiina* while it makes provision for the Navropio, the Paramount Chief of Navrongo. These shortcomings have resulted in a lot of misunderstanding and sometimes conflict.

³³ Pers Com. Ajua Abake, Juatera, 16-2-10.

³⁴ PRAAD- A ADM 56/1/375. Land Tenure. Confidential Dispatch dated 8-11-22.

In conclusion, the sanctity of customary tenure, based on the false but convenient assumption that individual property rights were uncustomary, allowed chiefs to negotiate land relations with societal groups, and while absolute ownership was prohibited, control of land became incorporated into the domain of chiefs' political sovereignty (Lund 2004, p.2). The state assumed the role of an overall supervisor, holding land in trust for the common good, which was attempted through the introduction of a leasing system to avoid uncustomary practices (Metcalf 1964, p.633). This led to the marginalisation of the earth priests because their normative values would not allow them to align themselves to policy frameworks that advocate commodification of land. The ability of the state to acquire land so freely in the past, nursed opportunities for old grudges to be settled with the coming into force of the 1979 and 1992 Constitutional provisions, ambiguous as they were. In Navrongo, the withdrawal of state rights over land instigated contests over allodial titles and confusion over the definition of public space. Building on these, the next chapter raises the issue of claims and counter-claims through a study of land history in Navrongo.

CHAPTER FIVE

5.0 CLAIMS AND COUNTER-CLAIMS

This chapter concentrates on the history of land ownership as a story of competing claims, the value systems of the earth priests and their claims on land. It presents a description of the diverse claims of the autochthonous groups of Navrongo: Telania, Biu, Gian and Pinda. Then, it introduces the ways in which administrative boundaries conflict with traditional boundaries, further heightening the competing claims. Additionally, the chapter presents examples of land contestations between individuals, families, communities and governments and traditional authorities.

Conflicts resulting from disputes between individuals and communities were not common in the past, but have become so as people changed their way of life. In several instances these disputes can be traced to disagreements over competing versions of settlement history or to questions of the earliest lineage to have arrived. However, very often, the real causes are a lot more complicated. And so for instance, we realise that in times past some powers of the *Tigatu* (earth priest) office were ceded to other lineages, as in the case of those of Telania to Doba, Namolo, Saboro, Nambasinia and so on. Thus, as pointed out by earlier research, tradition and custom cannot be manipulated completely at will, even though they are pluralistic resources which actors could selectively apply to further their personal interests (cf. Appadurai 1981).

Traditions show that Navrongo had fundamentally heterogeneous beginnings. Its earliest settlers included (Telania, Biu, Pinda) Kasena and Nankana peoples. The heterogeneity of Navrongo's origins accounts for its multiple historical narratives and unique dialect of Kasem-Nankani. The

people of Navrongo generally agree that the town has always been a unity of several legendary clans. Navrongo's heterogeneous origins have led to complicated claims and counter-claims over land, settlements and identity in the town through most of its modern history. As Berry (2001,p.xxvii) rightly asserted, these land disputes not only draw on the history of the town, but also often produce histories of their own, underscoring the intimate connections between dispute over property and history in modern Africa. She also noted that struggles for resources and competition for power among Africans have engendered debates over rights and customs as well as debates over interpretations of history. In addition to the exchange of money or goods, or the exercise of influence in the present, the process of making and exercising claims on property also involves the production of history, (Berry, 1993: 101). In their attempts to establish long-term ownership of land people have often articulated long histories of settlement by their ancestors and sometimes those of their opponents. Struggles over land often presented Africans with opportunities to debate their history and traditions.

Whereas a lineage may insist on being the founders of a village, including its various satellite settlements that were subsequently established, the founders of the latter could in turn claim to be first-comers residing in their sections. Hierarchies between senior and junior earth shrines can be played off against each other, and the chronology of the foundation of settlements manipulated in several ways (Lentz 2006:35-56).

The history of land ownership in Navrongo as a story of competing claims to customary authority and disagreements between public and private interests in land, suggests that we are not only faced with competition between different customary authorities, but also between the

customary authorities and the land holders, including central Government. Such arguments show how claims of belonging are applied to justify property rights and to a greater extent, how various stakeholders try to exploit the flexibility of property rights and peg them in their own favour.

In the four case study areas of Pinda, Telania, Biu and Gian, respondents in three said they had experienced land disputes. The only exception was Pinda. To some extent, this can be attributed to the fact that Pinda is an area far removed from the administrative centre and not too close to the Tono Irrigation Project area. In addition, Pinda has no or a negligible migrant population. Most of the disputes are related to encroachment on or some form of indifference with a neighbouring farmer.

Gradually, land in peri-urban Ghana has become more and more commoditised because of the growing value of real estate and the expansion of urban residential areas (Ubink 2008: 154 – 181). These new developments and the changing values in land that they create, result in attempts to redefine land ownership and tenure and contestation of rights to land by individuals, traditional authorities and the state. At the centre of these contestations rest issues of control over land and the authority to convert farmland to residential land and also the entitlements to the proceeds from this conversion. This situation causes considerable acrimony in the peri-urban communities. Most families are losing their farmland and consequently their jobs and income base.

Origin: Contested Accounts

It is not possible to analyse here the complicated settlement histories of Pinda, Biu, Telania and Gian in detail. In the present context what remains important is that the various earth priests made their ownership claims to lands qua first-comer status except Gian. This is very unlike the claims of the Dagara of the Upper West Region which are based on inheritance (Lentz 2006). This is in spite of the fact that the two Regions – Upper East and Upper West are similar in several other respects, having gone through the same colonial experience or history. Most portions of the claims of the three or four autochthonous lineages of Navrongo happen to concur with colonial officials' record of information on African land issues.

5.1 The Telania Claim:

From the beginning for the whole of Navrongo, this was the first house (the Tigatu's). We are the earth and we are prohibited from chieftaincy. When we make sacrifices, Navrongo chief can partake in the meal, but when he sacrifices, we cannot partake in it, because it is the earth (us) that is used to stuff his kwara (the sacred Horn and symbol of political office). We have from time immemorial shared boundaries with Pinda at Paga chief's compound and Sandema chief's compound. Biu is part of our land, all the way through to Nalerigu, through Yeliwongo to Kampala Yor's palace, to Nawuri- Pio, through Paga-Chania. Pinda are the only people we recognise also as landowners. For instance, Joba's family of Doba (the tigatu family) is in fact from Nyangoa (in Pungu) and resident in their maternal uncle's house in Doba. So our father said once they were his children, they should be in charge of that portion of his land for him. He taught them the ritual and that is how they became tigatina of Doba. As for Bawiinia, they are also tigatiina in our land after Saboro that ends in Paga chief's compound. Even only yesterday, they came here for clarification on some issues. But Wusunia and Bavugnia (Butu's relatives) have no land, we are their tigatiina. They are strangers and chiefs and we tigatiina can't be chiefs. Our other tigayigna like Doba and Bawinia that I have already mentioned are Nyangoa, Saboro, Namolo Manchorinia, etc. Telania itself has three tigayigna from this house of ours, who is settled elsewhere, Lugube songo nakwi (elder of Lugube family) is head of all the tigayigna, when we all meet. The tigayigna are all elderly and must be nakwa (elders of family), whereas the tigatu has nothing to do with age. As you can

see, this ten year old, class three pupil, Weytinga, is your father, the tigatu. The tigayigna's duty is to help in times of necessity to identify our boundaries. For instance, should all elders in our family die, leaving only very young children, the tigayigna should support them protect our land. They also introduce people who need land in their areas of jurisdiction to us. There are land disputes in Pungu. You see, the land we gave to Bawinia, Wusunia have gone to claim part of it. We have gone to court while my brother Avevalah (the late tigatu) was alive and he took the land and gave it back to Bawinia. Then only last year, the Wusunia sent the case to the Appeals Court in Bolga and the land was given to them (Wusunia), but the issue is not yet settled. Yesterday the Bawinia were here to tell us that they are not sleeping on the matter and they have been going to court and will need our assistance to reclaim their land as they had been robbed. As the case is, we gave the land to them (Bawinia) and when the Wusunia begged for a part of it for farming, they gladly gave them some, only for them to turn round to claim it. Now that man is dead and his grandchildren claim it's their father's, forgetting that they are chiefs and cannot be tigatina. No one person can be chief and tigatu at the same time. Buttoday's world is spoilt and justice is for sale. The richest gets it. It is the money that is bringing about the land disputes. When there was no money, there were no disputes. Now people are selling the land, whereas in the past if you needed land, you had to *cha* (woo) it.

The disputes here are mainly between communities. For instance, the one we just told you about, between Wusugu and Bawiu and even between us as Tigatiina and some Punyara. They settled people even onto our land and when we pointed this out to them, they tried to argue and we don't argue over land. We asked them to meet us on the spot and we will drink the earth, in which case the guilty one would not live beyond three days, but they declined – that is the custom of our land. They are not even true Punyara, nor of the tigayignu family.

We settle land disputes. When a complaint is made, we go to see the area, then we call both parties and arbitrate. For example, between Bawinia and Wusunia, the case ended here after the court. We called them both here and told the Wusunia that, “the land was given to you by Bawinia and we don't know two tigatiina over a single piece of land”. Because our grandfather had only two sons and there were times where on a single day, more than two people from different communities would want to *koni* (scrape or scoop out). That is why he instituted the *tigatiina* (*tigayigna*, assistants). We advised the Wusunia to give up the land to its owners, so that they could still be the *kaprutiina* (owners of *kapru*) and if it is that some development comes and they think there's money in it, they could take the money or whatever and let the acquirers come to the Bawinia to perform the rituals, but they refused. And how it ended at the Police Station was the Wusunia came here with a sheep to

beg us and two sheep to beg the Bawinia too and to say they had heard our judgement and advice. But because it is a money world today, the Wusunia appreciate that the area under dispute, which lies along the Navrongo-Paga main road, is fast developing and the Bawinia stand to gain a lot from the place. The straw that broke the camel's back was Wusunia went and *koni* a Nyangona lady called Bea, who works with Customs. This was done without reference to the *tigatiina*, Bawinia. So the latter also insisted as a matter of right to *koni* the same house. When matters came to a head, we then had to step in and *koni* her. Later, the Vitamin 'A' Supplementation Trials (VAST) - the Navrongo Health Research Centre wanted to move there and bought 20 plots from the Wusunia. After taking the money, instead of letting the Health people go to see the *tigatiina*, Bawinia, for the rituals, they didn't and so trouble started again. Then a man from Bawiu went and built his house around the area they were selling, and they, Wusunia said they would not allow that because he had built on their *kapru* (farmland), forgetting that his ancestors gave the land to theirs. Then it escalated into an open fight between the two communities. People planted trees there and others went and uprooted them. The confusion resulted in some people getting injured and so the case ended at the Police Station and the Police processed it for court in Navrongo, and then to the High Court in Bolga where it dragged on for 3-4 years. Then to Accra, where the case was judged in favour of the Bawinia and people were sent here, to this house from Accra to find out who owned that land. And when they came, they didn't ask adults but the little children playing around their cattle. And whoever they asked, the answer was in favour of Bawinia. That I believe accounted for their winning the case, but this is a money world. Whatever happened? Because the *kapru* is theirs (Wusunia's) they sold many more plots, went to Accra and saw people and the case was reopened at the Appeals Court and they got back the land. We went to Accra and came back to Kumasi where they opened an Appeals Court for land issues – now they've divided Ghana into two. From Kumasi up north, our Appeals Court is in Kumasi and after Kumasi up to the coast, theirs is in Accra. When the Kumasi court was opened, we were the first to be there and the judgement went in favour of Wusunia – that is the whole problem. We will now have to go and meet and fight the Wusunia.

We, Telania, came from a hole in the ground. Weytinga (Yesitinga) 'sprouted'. We still have to sacrifice in Nankam, our original language, but because we don't speak it well, we only introduce the sacrificial prayer in it like, "*Ncho isige t'u ka*" (My father wake up and take), then we complete the prayer in Kasem and Weytinga will understand. When Weytinga had his children, it happened that he allowed other people to join him and build their compounds attached to his – Mossis, Fera, all sorts of people who came along. The Bawinia we just spoke of lived with our ancestors here. Balobabia's ancestors, Manchorinia's ancestors, Namolinia's ancestors, Savehnia from Nakolo – all strangers. When the people became many in this house, they couldn't keep

strictly to the taboos of our ancestor, which the land had given him. So death set in because of this violation, killing, and leaving only one son of the old man's – called Tara (hold it, in Nankam). It was him who married and had all of us Tarania, which has been corrupted to Telania. But the strangers then resettled and Tara made them tigatiina, in charge of the various portions of the land. All Telania came from this house and gradually spread out to build other compounds. Weytinga sprouted alone and met a wanderer (Biu) with his sister called Kachonga. Weytinga married Kachonga and started a family. Then Biu couldn't continue living in the same compound with his in-law. He built a separate compound and later moved away and eventually to Biu. Some people ignorantly say we came from Biu, but Biu rather moved from here. Because Biu is our uncle (maternal), we don't marry their daughters, not even today. One can't marry one's cousins. Even to this day, there are times when we go to Biu to make sacrifices. Anytime the need arises and we get to know this from our fathers, two people from here go and they must do so on foot, no matter how long it takes them to get there and back.

5.2 The Biu Claim:

We own the land because our ancestor, Avogba “sprouted” from the ground (Akomona). Builsa, Chuchuliga, Navrongo and Kologo- we settled them. While our ancestor was alive, he never attempted to talk about land with anyone except Pinda and Wiaga- Komba, because they were the only people he saw on this land. We have our boundary stones which are also gods at Sandema Chief's palace, Chiana Chief's palace, and Navrongo Chief's palace. For small family landholders in Chuchuliga and other places, the parcels of land were given alongside stones which they make sacrifices to. We gave land to Telania and Gian. Right now, Gian has a problem with Chuchuliga. If we don't speak, that problem will not be solved. The Gian (if anyone thinks I'm lying, the person can ask them) are people that our ancestor gave his daughter to and also gave some land, some of which Gian later gave to Bordima (Bornia). The shrine behind Navrongo Chief's palace used to be a house and from there they could spot us when we were making our sacrifices at night and thought we lived there because of the noise and the lights. Chuchuliga chief told us that he used his father's chieftaincy to get documents for his land. But his father came from Chibeli (in Burkina Faso) all by himself. Our father found him soliloquising and after hearing his story gave him his daughter for a wife. When Chuchuliga started the contestation with Bordema (Bornia), the latter advised them to do so with Biu (us) instead. Then Bordema (Bornia) informed us and didn't we go to show the boundary? When we went the Chuchuliga people absconded. Moolinsaden (in Chuchuliga) are our kinsmen because they had been marrying our daughters. Kologo is not part of us. Kologo and Naga fought and we helped Kologo and then Kologo said we

were one or friends. Now we own Kologo but they now say they own us and we are not the same and don't taboo the same things. You (Kologo, royal family) came from somewhere and we put you in-charge of Kologo. We have always been here. We were here when you came. How can you then come into our community and install chiefs? Now they have done that and planted a conflict in Biu, among Biiba's (Biu people). There's conflict which is getting worse. The one who came to install the chiefs (Kologo chief) has made everyone now sit in his house call himself a chief. I am a chief, he is a chief, he is chief, etc., is that not war? So that is the issue.

5.3 The Gian Claim:

We share land boundaries with Nyasa in Chuchuliga, then up to Sandema chief's palace, then to Pinda and to Pungu. Gian and Biu are family. Gian is the elder of the two, but both Gian and Biu came out of the ground. We (Gian) left Biu behind to keep watch over the hole. We wandered first to Gyanania, to Bundunia, to Navropio's palace area, then to Gonwoko in Korania, to the old Tono Quarters area, then to Kwasongo and finally to this place, our eighth settlement since we left Biu. Our ancestor didn't fancy congested areas, so as soon as his new settlement was getting crowded, he moved. Our father worried Navro-Pungu a lot. He 'sprouted' later and anytime he appeared above the surface of the earth, our father hit him back into the earth, until he 'sprouted' in the punnu (orchard) where our father didn't see him anymore. So he too is our brother. Our land is very broad – we and Pinda share a boundary in Burkina Faso (Po Tamona tigatu's house) and the whole of Kayoro is our land. Then we installed smaller *tigatiina* to take care of the communities for us. For instance, Bornia, Nyagania, Chiana, Pinda. Our father on his rounds checking his boundaries, chanced upon the Pindano. They embraced each other and said, '*De piridani*' (we have discovered each other). This is how the name Pinda came about. We are stronger than the assistant *tigatiina*. When things become serious, we could stir some soil in a calabash of water and dare anyone who challenges us on land to drink. Three years ago, Bornia led us to go and drink the soil with Chuchuliga. Now we don't even own our own area because we were nice to people and gave them land for their use for a better society.

5.4 The Pinda Claim:

According to the chief and his elders:

Pinda shared out land to everybody in the Navrongo area. And once you've given something to somebody, you can't control how he uses it. We gave land to Telania, Gian, and Paga. Gian are Biu's sister's sons. Biu migrated from Puolo, here, to their present settlement. Their former market and ruined houses are landmarks (researcher didn't see these). We have our boundary with Kayoro (the river). Our land stretches up to Wiaga in the Builsa District, then to Kamona (Tamoma) in Burkina Faso.

The Tigatu's Story:

We (the *tigatina*) are *Yoro* (smith). We 'sprouted' from the ground. Pinda is made up of Mora (the chiefly family), Avugunia (the kingmakers or *kwaranu*), Apiobia (assistant *tigatina*), Adungu, Kasula, and Jelo. We the smiths were spotted by Avugunu, who was a hunter and we run away back into the 'ground'. Later, we understood each other and came out of the hole to live on the surface together. We, Yoronia, don't dispute over land though we own it. Where there's a land dispute, we move away. Because we came from the earth, we know what is inside it. That's why we are earth priests. If somebody disputes us over land, the person won't live long. The land has given us this power. If we partake in land disputes, the other party will suffer it. We only make peace where there's misunderstanding over land. We settle it amicably by showing the boundaries. We gave Gian their land. Only Biu can contest us in land in the Kasena-Nankana area. Telania comes here to make sacrifices. May be he is our daughter's son and we gave him land. Naveh married Kagona, Avugunia's daughter here, and when we later settled him at Paga, he moved away with his family.

Besides the autochthones, there are also claims and counter-claims and contestations between traditional authorities, between traditional authorities and government and between individual families and government. In the colonial period the citing of administrative boundaries conflicted with those of traditional states. The main territorial or political boundaries in northern Ghana, mark lands belonging to the various communities and define the spheres of influence of the various Earth-gods, usually under the jurisdiction of the earliest known settlers.

Between Traditional Authorities

It is interesting that traditional leaders, the chiefs, in the Navrongo area, who traditionally have no jurisdiction in land matters, make claims and counter-claims over land. Besides the autochthones, there are also claims and counter-claims and contestations between traditional authorities, between individuals and government, and between individual families and government.

In the colonial period the siting of administrative boundaries conflicted with those of traditional boundaries. This should come as no surprise, for as Ladouceur (1979: 42) put it, “Little attempt was made to study the history and customs of the local people”. The major territorial or political boundaries in the Upper East Region demarcate lands of the various communities and define the spheres of influence of the various Earth-gods, often under the jurisdiction of the earliest settlers. It would seem that traditional boundaries were established as a result of fruit gathering and hunting expeditions which brought the earliest settlers of the land into contact. For social cohesion, such boundaries were then defined, though their divisive function was down-played by all in pre-colonial times. Boundaries to local people were seldom referred to. Even where reference was made, it was purposely for the education of posterity.

The Navrongo Traditional Authority, headed by the Navropio has had boundary problems with Chuchuliga over Tono and also with Paga over Dumpolo. As already mentioned in this chapter, the people of Chuchuliga, who migrated from Chibeli in present-day Burkina Faso, were settled by Biu. And so the *Tengnona (Tigatu)* of Biu controls all Chuchuliga lands. Also, *GianTigatinawho* are an offshoot of Biu migrated to their present settlement and automatically

were in charge of the Biu lands that make a boundary with Pinda. According to the Gian *Tigatina*, they settled Bornia along the Tono River, between Navrongo and Chuchuliga. In fact when the administrative boundaries were put in place by the colonial government, the people of Chuchuliga agitated against being put under the Builsa Native Authority and later the Sandema District. They preferred to go with the Kasena-Nankana Native Authority, under Navrongo. But the colonial government did not heed their plea. Their agitation, they argued was because they were traditionally more related to the Kasena-Nankana than the Builsa, though they are now both Kasem and Buli speaking.

According to the regent of Navrongo, Arthur Balinia Adda:

Recently we had a land case with Paga at Dumpolo. That land was given by us to our sister's son of Naveo in Paga. Then we later went to him for a bit of that land because of our large numbers. So the Paga Chief is telling the landowner, our sister's son to sack us from that land because it is Paga land but he said he could not do that because of the history behind it. This case was settled in the High Court, in Bolga, three days ago and we won and the Paga people were driven out of the place. So the truth should always stand. We could have taken that land back but for the sake of our sister's son. We fought and conquered that land back for our nephew. In fact, it is not only with Paga that we have contested land, but also with Chiana- Nyagagnia through Gian, Chuchuliga through Biu and Kandiga through Doba.

More will be discussed on these other contestations later. The case recounted above nearly put the Nabina Radio, a local FM Station, in trouble. Somebody from Navro-Pungu, the landowner, phoned-in to the station, expressing his gratitude to the Navropio (the regent) for helping him recover his land. Then the other side wrote a rejoinder to the station, blaming it for taking sides in the matter and stating that the Navrongo people did not win the case, as the matter was not closed. Clement Minyila, the Station Manager said as they had been accused, they had to clear

the air. He said in a broadcast, they emphasized their neutral role which aimed at promoting peace. They also explained that it was not possible for the host of a phone-in programme to be able to know in advance what a caller would say.

The disagreement between the Navrongo Traditional area and Chuchuliga is over their boundary. Whereas the former thinks the proper boundary is the Mile Seven (from Navrongo), the latter, like the colonialists, think the Tono River is the boundary between the Kasena-Nankana Native Authority, (now Kasena-Nankana East District) and the Builsa Native Authority (now Builsa North District). As mentioned earlier in this study, Bui in the Kasena-Nankana East District, settled Chuchuliga, yet Chuchuliga was put and has remained in Builsa District. As the colonial government did not pay attention to the issue and as the local people were afraid of the colonial administration to have violently or openly resisted it, it was assumed by the powers that be, that all was well. But beneath the surface, there were simmering tensions until matters came to a head in 2005, thereabouts, when the youth of Chuchuliga planted a “Welcome to Builsa District” sign-board on the northern bank of the Tono River towards Chuchuliga. Then the youth of Navrongo uprooted it almost immediately and threw it away. The Navropio (the regent) called in the *Tigatiina* of Telania, Bui, Gian and Pinda to try and settle the dispute. No agreement was reached between the *tigatiina* of Chuchuliga and Gian that day and the two agreed to meet the next day to drink the soil. The next day the Navropio and all his *tigatiina* met the Chief of Chuchuliga and his *tigatu*. The ordeal was administered and according to the Navropio and every one of his *tigatiina*, the Chuchuliga people paid the price. The Bui people however add that the ordeal was not properly administered and so the desired results were not attained. According to them, once both Chuchuliga and Bornia agreed to drink the soil, Gian should have then referred the matter to

Biu who would have administered the ordeal, but that did not happen. Gian administered it while Biu sat by and watched.

According to the Gian *Tigatiina*, at a later date after the above incident, the Navropio called them and handed them a “Welcome to Navrongo” sign-board to plant at the boundary as they knew it. Curiously, this time, the Navropio did not go with them. The Gian people planted the sign-board at a point now popularly referred to as Mile Seven (from Navrongo). Since that day, the sign-board has remained there and the Chuchuliga people have not complained anymore.

Besides administrative boundary disputes, there have been inter-community land disputes in the study area. Examples include those between Doba/Kandiga and Mirigu; Doba/Nambasinia; Bawiu/Wusugu and Wuru/Pungu. Fortunately that of Wuru/Pungu was resolved amicably a few years ago, when the chiefs of the area and government officials were brought together to witness the resolution. The URA Radio’s Tuumwae Kututira covered the event.

The Bawiu/Wusungu case already referred to, travelled as far as the Lands Court in Kumasi and still lives on. Another serious one is that between Doba and Kandiga-Mirigu. This began as early as 1918, with the colonial government’s Land Settlement Programme. This dispute has lived on to this day in alarming proportions, attracting national attention. The area under dispute is referred to in colonial records variously as Azase, Azesi Izesi, Izase, or Doba Bush, and known ordinarily as Akurugu Dabo (Kandiga Junction area). Only recently in 2012, during the national

Voter Registration exercise, it came up again. This time the people of Doba refused to get registered because the real name of the area-Akurugu Dabo had been changed to Atosali, a name that seems to suggest that, that piece of land belong to Kandiga, as they came up with the name. This case brought the then Upper East Regional Minister, Mark Woyongo to plead with the Doba people to try and get registered as voters while the government looked into their grievance. But they did not budge and when the DCE for the Kasena Nankana East District came in to assist in finding peace, as the government's local representative, matters got worse. The Doba people would not trust or even listen to him because, incidentally he comes from Kandiga. Therefore, their suspicion was that he could not be objective in the matter. At this meeting, perhaps because of the poisoned atmosphere the DCE collapsed and has since battled with ill-health. Local people have attributed his health condition to the gods/people of Doba. Incidentally, Akurugu Dabo is now boldly written on a new sign-board, planted along the Bolgatanga-Navrongo road, at Kandiga Junction, but has some blue paint run over it, making it illegible from afar. The point is that Akurugu was the first person to settle at the place now named after him. He was a Kandiga man who had problems with his family back at Kandiga and therefore sought refuge with his mother's people, the Doba people. They settled him at the place that is now in dispute and began to call the place his "dabo", meaning compound in the Nankani language. Much later, especially during colonial rule, many more people Kandiga and Mirigu people were settled in the area under the colonial government's Land Settlement Programme.

Several entries in the national archives give insights into the Azase land case, the first ever land dispute to arise between Doba on one hand and Kandiga and Mirigu on the other. In 1935 the DC had cause to record this note:

On the way back I met the Chief of Mirigu at AZESI, a piece of land in dispute between himself and Doba (In colonial times chiefs and headmen were sometimes referred to by the names of their towns and villages). I heard part of the palaver at AZESI and then called in the Sub-chief of Doba and the Chief of Navro's representative for an afternoon session on the matter. The result is that I have decided to refer the case to an impartial council of Federation Chiefs. This case goes back to 1918 when Cardinall wrote in the Record book that Kandiga people with regard to whose compounds in the bush the dispute is about, that for native affairs the people should consider themselves under Kandiga but for litigation and work under Doba. Not very lucid I must say.

This gives a very good instance of the situation which arises when an over-populated division either wishes or is forced to extend. Mirigu and Kandiga with many inhabitants and hardly any bush at all had to take up new land. Some 20 compounds moved to Doba bush – Doba having a large extent of unused bush and not sufficient people to populate it, it would've remained bush if others had not gone there. However, the result is that when these Mirigus and Kandigas settle on this land they are forced to give up their old allegiance and serve Doba. Naturally, they are not willing to do so and palaver starts. I must say that I sympathise with them in this particular instance and there ought to be exceptions made at times to the general rule that those who settle on a particular Chief's land should serve him, for it is undoubtedly a great handicap to land settlement which we try so hard to encourage where over-populated areas are concerned----and many people are hungry who never should be.

There's something to be said for the other side of the question and the problem is not easy of solution.

Two years later, the issue came up again and once more the DC took note in these words:

All Kandiga arrived for a tax check-up. With six exceptions, it was found that these people have all paid but for the many away in Ashanti. The confusion arose from the Izase – Doba land case. Izase has been adjudged under Doba and in this judgement the headman of Izase himself is satisfied.

Considerable numbers of people who were under him but who hate Doba have managed to have themselves entered under Kandiga or Mirigu.

As to who or what are Izase is vague until the Izase land boundary is demarcated. I left the matter having ascertained that payment had been made. (Margins – Mr. Rake will go into this matter).

Mr. Rake appears to have done his best and on the surface, the problem it seemed had been solved. But in 1938 the dispute came up again and the DC at the time appeared to be at his wits end as these words of his seem to suggest:

Azase people still cause trouble over their land dispute settled three years ago by Mr. Rake. My patience is becoming exhausted and the trouble makers will soon find themselves doing a spell in Navarro to learn sense.

As the Azase land dispute has survived to this day although it is latent. It does not look like the DC achieved much. Doing a spell in Navrongo surely did not teach the Azase people enough or any sense at all. Perhaps he did not get to the root cause of the problem, as the problem is now spreading to other surrounding areas like Akurugu Dabo. It would appear that Doba for whatever reason has had to contest land with not just over Azase but also over a piece of land in Nambasinia in Pungu.

In the Doba/Nambasinia case, in 1931, Joba, the Doba *Tigatu* was ordered by the DC to answer a case in the Navrongo Chief's court. This was a land case between Doba on one hand and Mirigu and Nambasinia on the other. Here, the Navropio, Awe, told Joba to keep to his own boundaries and leave the land in question to Nambasinia and Mirigu, whose *Tigatu* originally gave it to Nambasinia. Joba appealed against this ruling in the DC's court. His story was that the land where the Chief of Mirigu had his house was given to Mirigu people by his (Joba's) fathers who

kept the Nambasinia land for themselves. But the Mirigu *Tigatu* had now given this Nambasinia land to Adua (of Nambasinia) for fourcows. Later, a certain Seyiyara had come to him (Joba) to ask for land, and when he took him to Nambasinia, to give him some of that land, Adua objected and went ahead to summon him before the Chief of Navropungu (Wechulu). He appeared before that chief showing him his office calabash, saying that the whole of Navropungu land had been given to him by his forefathers. Then he went to the Chief of Mirigu and told him that his fathers had given Mirigu all the land they possessed and if they wanted to settle people in Nambasinia, it was only proper for them to inform him. He also told Mirigu Chief of his intention to summons the Nambasinia people (Adua and Nayoo) before the Chief of Navrongo, which he did.

After hearing Joba and his two witnesses, Toonje and Adzoiya of Mirigu, the DC called for the *Goatu* and the headman (Chief) of Navropungu, in one of whose sections the dispute land lay. Before the DC, Joba also said the land in contention was given by his fathers to Toonje's fathers but when the latter abused his fathers, the land was taken away. Toonje, however, disputed this claim, saying that Joba's fathers gave his father's land as dowry for a woman between Doba and Mirigu but that was not the land in dispute. According to Toonje the disputed land was given to Adua's family (Nambasinia) by Abirigu's family (Mirigu *Tigatu*'s) years and years ago. Wechulu, Headman of Navropungu said he knew the land under dispute, which was a big piece of land, on which many people including him had their bush farms. He said all those farm owners, including himself got the land from Joba. He further said he did not know anything about Adua's land. The first witness for the appellant, Adzoiya, uncle of the Chief of Mirigu said the land in question belonged originally to Abirigu's family (Mirigu *Tigatu*'s) who "lived in holes" until his forefathers took them out and told them to go towards Mirigu and build.

Abirigu's forefathers later gave Adua's forefathers (Nambasinia) the land in dispute. He (Adzoiya) also said the land his forefathers gave to Abirigu's was originally given to them by Joba's forefathers, at which event ten cows were killed and since then Joba's family had never claimed the land up till the point of this case.

When the DC had listened to the two men he had sent for, (Adzoiya and Wechulu), he was of the opinion that the question could best be decided by both Joba, *Tigatu* of Doba and Abirigu, *Tigatu* of Mirigu, repairing to the spot and 'drinking fetish' and swearing as to the dispute. He then accordingly ordered the two to go and 'drink fetish'. Interestingly, beneath this decision the DC wrote: "NB. This is tantamount to dismissing the appeal".

From the foregoing, it stands to reason that the disputed land belonged initially to Joba's people (though Telania claim to have given Joba's people all their land). For the *Tigatu* of Mirigu did not appear before the chief of Navrongo or the DC, neither did he present himself for the proposed trial by ordeal – "drinking fetish". Joba on the other hand made himself available everywhere. Besides, at a certain point Adzoiya, the Mirigu Chief's uncle and representative at the DC's court, agreed that the land his family (Mirigu royal family) gave to Abirigu's people, who later gave some of it to Adua's (Nambasinia people), was originally Joba's forefathers'. This 1931 incident raises a lot of issues. It looks very much like what is currently happening, where the original landowners like Telania, Biu, Pinda and Gian, are not contacted or consulted when deputy or smaller landowners settle people. So the usurpation of land rights (management, allocation, etc.), did not start today. It is also interesting that when Joba's people settled or gave land to Mirigu Chief's people without due recourse or reference to Telania, there was no

problem, at least to the best of our knowledge and yet when Mirigu *Tigatu* acted in a similar manner by giving land to Nambasinia without Doba *Tigatu's* consent, Joba was everywhere, trying to assert his position, even without seeking Telania's help. Stranger still is the fact that in spite of the harshness of colonial rule in these parts, the Mirigu *Tigatu* defied the DC's orders to meet at the disputed site to drink the soil. It is not clear if he was not interested in asserting his claim once and for all, over land that he claimed and settled other people on. According to Toonje, Joba's fathers gave his (Toonje's) land as dowry for a woman between Doba and Mirigu, but this is not customary practice for marriage in the area. So if his account is anything to go by, then this was a violation of established custom.

All along, Joba insisted that the boundary between the disputed land, which his people reserved for themselves and the one they gave to Mirigu was the Agunayere River. Bawutiga Apiripara, an elder of the Telania *Tigatu* family, (he didn't know I knew anything about Joba), he described Joba as a truthful person, who when his elder brother wanted to claim the land because he had learnt that the colonialists were giving money for the Paga Airstrip area, stood up against his brother, saying the real land owners were Telania. Bawutiga said the Telania *Tigatu* then got angry with Joba's brother and took back some of the lands his family had given to the Doba *Tigatu* family, which he shared out to other people.

Coming back to the handling of this dispute by the Chief of Navrongo, in asking Joba to give up his claims, was he pursuing justice as best he could, or was he exacting vengeance? For, four years earlier, he had accused Joba of refusing to come to his court to answer a case of debt. Anyway, Joba said he did answer that call and produced a witness to that effect.

Beyond these contestations between families or communities, there are also contestations between families and government establishments. These disagreements have arisen out of the mode of government land acquisition in the past (colonial era). In Navrongo such lands include the old Ghana Broadcasting Corporation (GBC) relay station, the Legion Village, the Police Land (in the Rural Housing area), the former Agricultural Mechanisation Workshop, the former Cocoa Marketing Board offices, the Meteorological Services Department and the Ghana Water and Sewerage Company (GWSC) offices area. In almost all of the above cases, the traditional authority has found a way of being party, ostensibly on the side of the families concerned. But in some cases the regent has ended up alienating himself from such families.

In the case of the former GBC relay station, opposite the War Memorial Hospital, the dispute was directly between Bawiabia (a section of Nogsenia) and the GBC. There are, however, several versions of this case. For instance, according to Webadua Adaboro Kwara, former Assemblyman of Nogsenia:

Sometime ago the Assembly acquired lands and these reverted back to private individuals. I was involved and strangely enough, the then DCE encouraged it. In Bawiabia, the former GBC station reverted to the landowners who then sold it out and the developer started working on it and later abandoned it.

Batamanga Zemtui, family head of Bawiabia, however said:

The GBC used the place until they moved to Bolgatanga, with the coming of URA Radio. When they no longer used it, some of my own family members applied to rent the place but were ignored. Later GBC rented it to the late Dan Logozuri. So when Dan came, we thought he was coming to use the existing

structures. But we saw him using machines, a grader to work even on the land immediately surrounding the structures. We didn't understand this and took the matter up. This is because the law states that any government land that is no longer in use should be returned to its original owners. So we contested this in court in Bolga, won the case and got our land back. Dan sent the case there thinking he would win.

The regent of Navrongo, Arthur Balinia Adda confirmed Batamanga's story, adding that the family won the case because government had not paid any compensation for the land. He further cautioned that for the same reason people should stop talking of "Government lands" in Navrongo. For as far as he was concerned, such lands did not exist. He added that what we have in Navrongo should be properly called "Government Proposed Lands".

According to the Head of Programmes of URA Radio, Raymond Tinagaah, however;

After URA Radio came into existence in Bolgatanga, GBC did not have any use for the place in question because relays became redundant. But the land (offices and staff quarters) was supposed to have still been GBC's. Later some people wanted the land and started building on it, but were stopped by us. They went to the District Assembly, who came to us and our argument was that we hadn't left the place as some of our equipment was still sitting there. This matter went to Accra and I don't know how it was concluded. But somebody purchased the place and later abandoned it. Currently there's an on-going construction there of a Library Complex by the MP, Kofi Adda. The quarters

are still GBC's property, which they have rented out. So GBC has still not moved from there. One of the tenants was defaulting in payment. When she was approached, she said she had been paying through another woman, who apparently was not forwarding the money. An agreement was reached for her to pay directly to us or vacate the place.

For the Legion Village and the Police Land, the regent of Navrongo insists that government should do the right thing by properly acquiring them from the concerned families. But as of the time of my encounter with him, government had not done anything positive in this direction. He added that especially for the Legion Village land, referred to in colonial records as Army Land, the Army (government) had no document on it and it existed only on the plan of the town. He also said that he had to help to write and serve notice that the traditional authority in consultation with the family, was going to sell the place. He said earlier in the day, he had gone to Bolgatanga over the Police Land and the Regional Commander of Police had advised him to write to the Police Headquarters. The Police Land might still be secure but the Legion Village and its surroundings have been taken over by temporary structures which include a carpenter's shop, a drinking bar and a washing bay. There is also a church building on the said land. How all this will work out remains to be seen.

The former Agricultural Mechanisation Workshop area, popularly referred to as Shop, is yet another of the Government Lands that is engulfed in dispute and contestation. According to a former Assemblyman for Nogsenia, Webadua Adaboro Kwara:

When the area was no longer used for the original purpose, the District Assembly took it and used it for what they called a World Technology Centre

and they have a problem with the landowners. In 2006, I was called to Bolga, after word circulated to the effect that I had ordered the developers to pay 200 million old cedis. After that they could demolish and use it to train people in ICT. They sought to know if as an Assemblyman, I had lived up to expectation by my act. The information of course was not true and I told them so. I also challenged them to come to Navrongo to find out the truth for themselves. I further informed them that whoever was behind this story wanted me to change my stance and tarnish my image with party politics, but I was not going to give him the pleasure. So that piece of land has been forcefully taken from the landowner, which is not good as it doesn't help society.

Of this same piece of land Raymond Tinagaah's account was that:

The MP wanted to use it for an ICT Centre. When he started, the regent of Navrongo said the MP should renegotiate with the landowners through the traditional authority. The latter refused, arguing that government had already acquired it and besides, what he wanted to use it for, would benefit the whole community. The landowner, however, told the MP to go ahead with his project and not pay attention to the regent. It was hell and because of that case, up to the present time, the MP and the regent are at logger heads.

On the issue of the "Shop" land, it is difficult to understand why the landowner is on the side of the MP.

On the CMB land, Webadua Adaboro Kwara said:

The landowners told CMB to pay them some compensation or let them know they don't have it and they would advise themselves. The CMB brought in people to evaluate the place. Thereafter, they told the landowners they were not interested in the land. But if you go there now, last year they bought sheanuts and stored them there. Even today, if you go there, you will see that they have fixed solar poles and other equipment. So how come they are not interested in a place, but continue to use it? So up north, if you are weak they just destroy you because nobody will listen to you.

The other two cases of the Meteorological Services Department and later Ghana Water and Sewerage Company appear to have been resolved. This was only after the courts gave their verdict for the landowners to be accordingly compensated. Now the boundaries of these two establishments have been securely marked with wire fencing.

The claims and counter-claims seen in this chapter do not come as surprising, for as Berry (2002:638-668) justifiably concludes, historical boundaries between chiefly jurisdictions or lands occupied by different groups of people in Africa were often vague and undefined and authority over land did not necessarily coincide with authority over people. Also, dogmatic assertions of the inalienability of “native” land had both cleverly avoided and intensified debate over which “natives” were inextricably linked to which parcels of land. These, coupled with the economic value of land today, are the reason why we have all the competing claims. There is a strong indication that we are bound to have many more such contestations in the near future, for land disputes are becoming a perennial feature in Ghana and other African countries because a pluralistic land tenure and management system has come to be maintained, owing to the power and influence of chiefs and traditional rulers (Gough and Yankson 2000; Kasanga and Kotey 2001). And as long as policy frameworks continue to marginalise earth priests and their value systems in the control and management of land, disputes around land will continue to rise.

CHAPTER SIX

6.0 ANALYSIS AND PERSPECTIVES

6.1 Land Rights and Irrigation

This portion focuses on the processes of commodification of land and the two key areas of interface between land rights and irrigation. Land rights are the backbone of a land tenure system – the rules, rights, institutions and processes on which land is held, managed, used and transacted. Land rights include ownership and a range of other land holdings and use rights. The chapter also explores some key matters related to the linkages between rights over water, land and other natural resources within the context of the Tono Irrigation Project, which although celebrated especially in its beginnings, also infuriated people. It explores the struggles over land rights in the face of irrigation farming and will discuss land transaction in the context of competing normative orders and argue for the need to find linkages between political, economic and cultural dimensions to such transactions. Basing its argument on Amanor (2008), the chapter clearly states how large statutory sector appropriation leaves the customary sector in a marginalised position, particularly with reference to the Tono Irrigation Dam. The disputes between the Biu Community and irrigation farmers on one hand and that of the resettled communities of Bornia, Yigwania, Gaani, Chuchuliga and ICOUR are also presented. How land rights are exercised in the interface of economics, custom, irrigation and politics in Navrongo is explored and the mismatch between local practices, development and legal frameworks, which is an emerging challenge, is analysed.

According to local custom, land cannot be sold but so also can land not be taken without the consent of the *Tigatu* under whose jurisdiction the land in question lies. Yet in daily practice,

these customary arrangements have been largely ignored. Although land everywhere is a unique resource of frozen location incapable of expansion in supply except in cases of reclamation, in Navrongo land is more than a productive resource. In Navrongo, it determines a person's socio-economic status and is greatly related to power issues. Land insecurity and landlessness are major causes of poverty, food insecurity and social injustice. Sorting out these issues calls for impacting on policies to favour more land rights. Land is a finite resource and local communities are not oblivious of its growing scarcity. The traditional custodians of the land, the local community or farmer organisations, as well as local users themselves, are all worried about the growing disagreements over land and regulating land acquisitions by investors. By themselves, they can avert conflict by promoting boundary demarcation, modifying and codifying traditional norms around inheritance and rights of security, but with the support of local authorities they could do a lot more. It, however, seems their worry is more self-serving than genuine. For each one of them is competing with the other to realise rents from the control of land.

Africa is in dire need of enhanced and more stable agricultural production. Yet efforts to develop the continent's irrigation sector have not been very successful in the past, most probably because the approaches have been unsuitable for the physical and socio-economic conditions. Although large scale systems, centrally controlled by commercial or government enterprises may be the fastest way to improve production, irrigation should also be developed on small-scale farms operated by individual farmers or farmer organisations.

Irrigation farming, an important intervention of improving the livelihood of people, is not an entirely new enterprise in Navrongo. The development of water in the form of building and

rehabilitation of dams, dugouts and shallow wells to harvest water during the dry season for irrigation farming in the dry season began in the 1930's with the building of dams like Yusi, Saboro, Doba, Nayagenia and several others. Irrigation farming at this time was, however, on a small scale. Large-scale irrigation farming in the area came in the 1970s, during Achepong's regime, when the Tono and Veia Irrigation Projects were put in the then Upper Region. Taylor Woodrow was first awarded a contract to construct the Tono Irrigation Project in 1975 and the Project started operation in 1981.

Piet Konings did a lot of research on irrigation projects in the rural areas of Ghana in the 1980s and the role of traditional authorities in colluding with the state in the appropriation of land. His focus in the Upper East Region was the Veia irrigation Project. His conclusions were that the project was not primarily planned in the interest of local peasants, but in the interest of the state in the continued control and exploitation of Northern labour for capital accumulation of food supplies in the South. Evidence from the Tono Irrigation Project does not seem to suggest anything different. According to Amanor (2008: 141 – 146) three types of agriculture modernisation ventures have been in operation in West Africa since independence. These are mechanised large state farms with hired labour; private sector mechanised farms; and contract farming schemes in which peasant producers are integrated into schemes directed by state organisations or the corporate sector.

Land rights are pivoted on a land tenure system. Land rights include ownership and a range of other land holding and use rights which may co-exist over the same plot of land. (Hodgson, 2004). These rights may be held by individuals or groups and may be based on customary law,

national legislation or combinations of both. In most parts of Africa as in Ghana, customary and statutory land tenure systems co-exist over the same territory – often resulting in overlapping rights, contradictory rules and competing authorities (‘legal pluralism’; ‘multiple layers’; ‘alternative orders’; ‘plurality of orders’).

Until recently, the name ‘Tono’ was often understood to be a small stream flowing from Burkina Faso through the town. Now the name stands for one of the largest man-made lakes in the country after the Akosombo Dam. The water is used to irrigate quite a large farming area during the dry season. It has the capacity of irrigating six thousand acres (See Appendix A). It is also a good place for fishing. The Tono Irrigation Dam was constructed in 1975. Situated in the Sudan Savannah belt of Northern Ghana, this area, as already mentioned elsewhere in this study, experiences harsh climatic conditions; an erratic rainfall pattern, a long dry season, and a degraded soil, among other challenges. The development of water sources into irrigation dams for dry season farming became an important intervention towards the amelioration of the economic situation of the people of Navrongo. Long-held perceptions of the local people, such as the land being theirs and water, especially, untreated water being free, began to influence management of the dam.

With these perceptions in mind, the local people began to react, sometimes in unorthodox ways towards the loss of control over the means of production, production process and terms of exchange. Like their counterparts in the Veia Irrigation Project area, in the same region, the local people were able to devise ways to protest their control and exploitation despite strong obstacles to their organisation and action. As Amanor (2008: 1 – 32) rightly observed, in many

instances in Africa a large-scale appropriation of communal and customary rights often leaves the customary sector in a highly marginalised position in which the situation of the land-hungry could only be seriously addressed by introducing redistribution reforms.

The Biu, Gian, Yogbania, Bornia, Korania, Gaani, Chuchuliga, and Wuru Communities constitute the major stakeholder groups in the management of the Dam. Access to the dam water and related goods like land is greatly influenced by the actions of such community groups as the Land Allocation Committee (LAC), the *Tigatina*, and the Assembly Persons of such communities. As Woodhouse, (2000) put it, a complex web of institutions – ‘customary’, induced community organisations, local state, national state and private sector are involved in determining who has access to an area’s resources, how they are utilised and how use is coordinated and regulated or not. In terms of common pool resources, it is the interaction between and/or among a network of institutions that defines access and also provides the framework for a resolution of conflicts. The Tono Irrigation dam is governed by a number of institutions including the Land Allocation Committee (LAC), the *Tigatina*, the Assembly Persons and many others.

The LAC is charged with the day to day management of the dam including the allocation.

The Company, Irrigation Company of Upper Region (ICOUR), was established to promote the production of food crops by small-scale farmers within organised and managed irrigation schemes. Funded by the government of Ghana, it operates projects at Tono in Navrongo and Veve in Bolgatanga. ICOUR was developing crop, fisheries and forestry resources of the project area:

providing a comprehensive range of technical advisory services appropriate for the needs of the farmers; providing tractor hiring services and irrigation water; providing Farming Service centres from which the Farmers Services Company (FASCOM) sold farm inputs for project farmers, carrying trials and testing of agricultural practices new to the region and training farmers in proven techniques; assisting in the organisation of credit and marketing for the small-scale farmer; and providing and maintaining the necessary infrastructure within the project. By doing all of the above, ICOUR Ltd was to improve food security within the region, assist farmers on the two projects to eliminate food shortages and increase their income, thereby contributing to the economic development of the Upper Region, now Upper East and Upper West (See Appendix A).

The projects were designed to assist small-scale farmers. Before the schemes were developed much of the area was cropped once a year, during the rains. The farmers in the areas were moved to enable the dam, canals and infrastructure to be constructed. With the coming into being of the irrigation projects, the farmers were able to grow two crops each year. The six thousand small-scale farmers eligible to farm in the projects came from the village communities around the project: eight each for Tono and Veia.

Tono Project Villages Veia Project Villages

- | | |
|-------------|------------------|
| 1. Bornia | 1. Veia |
| 2. Wuru | 2. Gowrie |
| 3. Yigwania | 3. Bongo Nyariga |
| 4. Yogbania | 4. Bolga Nyariga |
| 5. Korania | 5. Dindubisi |

- | | |
|---------------|--------------|
| 6. Gaani | 6. Zaare |
| 7. Biu | 7. Yikine |
| 8. Chuchuliga | 8. Sumbrungu |

Source: ICOUR Files

Individual farmers were allocated plots of land of varying sizes of between 0.2 and 0.6 hectares. Committees were formed in each village. The Village Committees (VCs) allocated land to the small-scale farmers and were also the administrative link between the farmers and ICOUR, so that all services provided such as tractor work and crop loans could be organised on a group basis. Crops cultivated, even now, include rice, tomatoes, onion, pepper, millet, groundnuts, sorghum, maize and soybean. In order to maximise the production potential of the project, areas of the lands that were not immediately needed by the small-scale farmers were made available temporarily to commercial farmers and other users by the Project manager. These included government organisations and private contract farmers.

The schemes like others elsewhere, have been expensive to run and farmers participating and benefitting from the projects were required to contribute to the cost of services and the maintenance of the structures by the payment of a Project Levy each rain cropping season and an Irrigation Levy each dry season. The levies were additional to any charges for tractor services or farm inputs in the form of fertilizer, knapsacks and chemicals supplied by the Company or FASCOM which is now defunct.

Irrigation Areas/Water for Irrigation

The project has been developed on both sides of the river valley and the cropping areas are divided equally between upland and lowland areas. Irrigation water to crop the areas is provided by gravity from the dam's reservoir through the system of main and lateral canals. To supply water at Tono for approximately two hundred and eighty hectares, - pumps could be used.

Upland: these are sloppy areas of light, coarse, textured, free-draining soils and the plots are designed for furrow irrigation. Crops grown in upland plots include tomatoes, pepper, onion, millet, groundnuts, sorghum, maize and soybean.

Lowland: these are the more level areas of heavier textured soils adjacent to the old river course. These areas have been developed for rice production and irrigation in these areas is basin - flooding.

The development of water resource in the form of dam construction to promote the harvesting of rain water for use in the long dry season has eventually become an essential livelihood strategy to the people of Navrongo. Of the many uses of the dam water, irrigation farming is paramount and the income that comes with it, especially as it relates to dry-season farming is considered the most important income generating activity of the people of Navrongo. The Tono Irrigation Dam is considered a very important economic asset in this town due to its enormous contribution to the livelihood scheme. This, the people of Navrongo especially, the women's groups that were into irrigation agriculture, expressed

some of these feelings of up-liftment and appreciation into songs. The lyrics of a very popular one are contained in these lines:

“ICOUR has come and what other worry do we have?

They have dropped moisture in our midst

The white man has come and what other worry do we have?

They have dropped moisture in our midst

If a human being agrees to farm

He will always have enough to eat

Farming in the dry season, farming in the rainy season”.

Another equally vital aspect of the irrigation dam relates to its management, influenced seriously by the perception of its ownership. The dam as well as the irrigable lands, the communities were told was government property. This information unfortunately, infuriated the local communities, especially the people of Bui, the traditional custodians of the dam area.

These people felt disrespected, defrauded, and mistreated as a result of how the lands were appropriated for the Project. Even now, several years after those incidents happened, they still feel bitter. In an interview, this is what the *Tengnona/Tigatu* had to say in relation to the Tono Irrigation Project:

Bui is the landowner and the next day they (government) brought the canals and deceived us they wanted us to benefit from irrigation farming. They took our land and today we don't even know who owns it. They say

it's governments' land, yet every one of us knows his family land. They didn't consult us in the construction of this dam. The compensation and how it was paid, we don't know. So we don't understand why people keep referring to Biu as the landowner. But those that are doing this in collaboration with the government know – Kologo, Navrongo, Bolga, Sandema, they understand. These people I mentioned, the chiefs, could have informed us about what was happening and shown courtesy by telling us they were working on our behalf, but that didn't happen (26-09-10).

Corroborating the *Tengnona's* story, one of the Biuchiefs, the one from the Tengnona's family had this to say in a separate interview:

We don't know anything about the acquisition of the Tono lands. We were sitting here when we saw them hitting the ground (harrowing) and uprooting millet and other crops that we had planted and when we complained, they said they were going to make it possible for us to farm throughout the year. Why they couldn't allow us even to harvest our crops on the land is strange. They did not give us anything for anything – the trees, the crops, the land itself. They took this land by force and in the beginning they said it was just to enable us farm throughout the year. They later started saying it's government's land and no-one could say it was their father's, otherwise such a person would be sent to court. They didn't acquire the land in any way, so we don't understand why they say it's government land (26-9-2010).

Experience generally, and especially from the Akosombo Dam Project (SPORE 57. June 1995, p.2) has shown that maintenance of machinery, dams and canals has proved too costly and too difficult to organise or there has not been the political will to do so. Again, few of the community people have felt ownership of, and responsibility for a system built by huge forces beyond their control; agencies that may seem more interested in earning engineering and supply contracts than in tailoring a system to suit the management capability of the area concerned should not bother them.

Production as it relates to the Tono Irrigation Project is hinged on the three areas of; irrigation areas, crop production, and tree planting. A few areas on the Project site were found to be unsuitable for conventional cropping and irrigation development. The United Nations Development Programme (UNDP) was assisted by overseas funding of an agro-forestry which includes: Community Forestry for tree production (fuel wood, fruits, timber, livestock fodder); erosion control; and protection of the lake shores.

The crop production figures for between 1991 and 1996 stood as follows:

<u>Crop</u>	<u>Production Mt.</u>	<u>Target (1990)</u>	<u>Monitored Yields</u>	<u>Target</u>	<u>Average Yield</u>	<u>Yield</u>
	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>
Rice	10,920	5.4	3.84	4.0	8	7
Tomatoes	8,400	7.0	12.10	14.7	21	25
Soybeans	1,044	0.6	1.2	1.5	1,750	2
Millet/Sorghum	325	0.4	0.8	0.7	0.80	10
Groundnuts (shelled)	613	0.9	0.7	0.7	0.86	150

Cowpea	25	0.6	0.4	0.5	0.75	10
Fish Lakes	205	0.05	0.08	0.0073	0.11	0.11
Ponds	40	00	00	00	5.00	5.00

Source: ICOUR Files.

Chimhowu and Woodhouse (2006) make the point that the value of land and its commodification may be altered by changing circumstances such as new infrastructure in the form of roads or irrigation, make it possible to produce and sell more agriculture output, and is likely to increase commodification. They are quick to acknowledge that the same effect can result from new technology, a relaxation of land use rules or relaxation of enforcement. In Navrongo, the introduction of irrigation farming witnessed competition for land. As the value of land began to soar, it became clear to all that the issue of customary tenancy was no longer the norm but a question of negotiating with social and economic changes going on in Navrongo and above all, navigating the interest of both landowners and tenants (development) in managing the lucrative real estate (Kasanga 2002).

The Tono Irrigation Project is one that came with contractual obligations in which farmers had access to land and other resources in return for complying with prescriptions laid down by the irrigation Company. These comprise obligations to farm crops according to laid-down prescription and practices and contracts that sell their crops to the project marketing authority at prices determined by the Company (Konings, 1986; Watts, 1994). After the dam and related project infrastructure was put in place, the land was redistributed back to the peasantry in the three project areas: the catchment area, the reservoir area, and the irrigable

area. However, these people were reintegrated with contractual obligations which almost eroded their independence. When peasants in the three areas were allocated the land, the people of Namolo and Saboro whose lands were used to construct living quarters for the Company's workers, were also allocated some lands in the irrigable area. Beyond these four groups of people who were given priority, other interested persons who wanted to farm in the irrigation area, had to apply to the Land Allocation Committee. And whoever farmed the irrigation area was obliged to go by the Company's regulations. Through the control over land and infrastructure, the Company could coerce the peasants to produce what it wanted, and sell to the Company at its price. Peasants who violated these agreements faced eminent ejection from the land. Unfortunately, and as with the Veia Irrigation Project, although the Project was to assist the poor people of the north to make a living, no sooner had the Project been established, than it became the property of politicians to top party-men (Owusu-Ansah, 1976).

Since the pattern of land ownership in the Project area cannot be divorced from irrigation farming, the Land Allocation Committee (LAC) of the Tono Irrigation Project was put in charge of distributing land at the irrigable area. The LAC was at two levels; the Village or Community level and the Project level. The former was responsible for allocation to their community members while the latter dealt with allocations to commercial farmers and others. The Project Manager was head of the Project Level LAC. The LAC comprised the *Tigatina*, Assemblymen of the Project Communities, and so on. They were guided by the terms and conditions of the Company. The Committee identified people whose lands were used for the scheme in the distribution of the plots at the irrigable area. Land owners at the irrigable area,

the reservoir area and the catchment area of the dam were the first to be identified and allocated plots. Land owners of Namolo, where the Company's Township Three- was built for its workers, came next in line in the allocation of the plots (Townships One and Two were euphemistically called Johannesburg and Soweto respectively and cited at Gian). After this, any other person who was interested in working the irrigable lands, applied to the Committee who subsequently allocated the lands to them. Here, there was no Water Users Association (WUA). But the Company's staff was charged with the task of opening and shutting the canals on a daily basis, at agreed times that suited best farming practices.

It would appear that by this arrangement of the Tono Land Allocation Committee, they were operationalizing the theory of 'Riparian Water Rights'. Riparian Water Rights grant owners of land bounded by a river, stream or natural body of water the right to reasonable use of the water include irrigation, as long as the user shows regard for the equal water rights of others comparably located – Knutson et al. 1983. But in spite of the recognition accorded the landowners, they continue to this day, to conduct themselves in a way that affects access and the use of the dam and the irrigable land by other people. Such behaviour includes the forcible take-over on an annual basis of a few irrigable lands and the continued use of the dam's catchment area for their farming activities, instead of relocating. This makes it difficult if not impossible for the Land Allocation Committee to efficiently do their work and to effectively guarantee access to other potential users who do not now have land in the irrigable area. But as has been rightly observed by Dunkerley 1983, institutions for defining the rights of ownership and the use of land (tenure) have been a concern of every organised human society and have often been interwoven with fundamental social structure and

religious beliefs. Additionally, he observed that in all socio-economic classes in all countries, land tenure evokes deep emotions. The acknowledgement of dry season irrigation rice and tomato farming as the most productive and rewarding economic activity has resulted in high demands for water and land at the irrigable area of the dam for dry season farming. This, irrigation farmers claim is a lot more lucrative than the rainy season farming.

As our knowledge of the natural resource base (land and water) and its interaction with human populations and institution increases, we should aim at better managing resource and effectively use land. This would consequently lead to sustainable peace and agriculture. A study into how large dams in West Africa have affected local people has identified ways to share benefits of future dams more fairly and create development opportunities for communities. The report analyses with impacts of large dams in Burkina Faso, Mali and Senegal.

Although the creation of a prosperous and enlightened class of farmers was to the disadvantage of the local peasants, the scheme has not been a failure altogether. Massive dam construction projects have not proved to be the panacea once hoped for. Research has intimated that in Africa, investment costs for dam building and water distribution systems may reach escalating heights of land irrigated. Many large scale projects have proved a lot more expensive than anticipated because reservoirs have silted up more rapidly than forecasted as in the case of the Tono Irrigation Project, thereby shortening the operating life of the dam. Currently, almost all the laterals are broken and so water cannot go to the uplands for the seed growers. The Company has no equipment and so private people have taken over

with ploughing of plots, making things unbearable for the farmers. ICOUR has rice mills but no money to buy the rice. Even the ICOUR Library, which was quite standard, is no more. And this year, only one out of the twenty-four Zones was able to crop. Environmental and social costs have also been high and economic gains disappointing. The Akosombo Dam for instance, which flooded five per cent of Ghana when completed in 1966, failed to transform Ghana's economy, but behind the dam, Lake Volta has trapped so much of River Volta's silt that coastal erosion in neighbouring Togo had washed away ten thousand homes in less than four decades. Although the dam provides cheap electricity, the smelters are owned by foreign companies and there has never been money, enough for investment in irrigation to compensate for the drowned farmland (SPORE 57, June 1995 p.5).

S.K.B. Asante in discussing the Volta River Resettlement Scheme in his treatise leaves no doubt in anybody's mind that it was a massive disappointment. When the 3,275sq. Mile, man-made lake was completed in 1965, about 100 towns and villages were submerged under water. This works out to the displacement of some 80,000 people (Asante op.cit. 1975, p. 252). According to Amankwah, 1989, the Volta River Authority, a statutory body set up by the Government and charged with the responsibility of seeing to the completion of the Volta River Project, acquired land amounting to some 180,000 acres for the purpose of resettling the people affected. It established Settlements although these houses were anything but habitable. Some settlements had no source of water supply. Finally, some of the settlements were sited without the assurance of adequate supply of farm land.

In the case of Tono, as already mentioned elsewhere in this study, the agreement was to pay compensations for the affected people to resettle themselves although this did not exactly happen. And some of the lands in the project area, mostly meant for agroforestry were sublet by the government of Ghana to mostly politicians and other local elite for residential purposes. Here, people like the late Rev. Fr. Apuri, former parish priest of the Catholic Church; the late Atawuggei Pwatirah, former DCE of the area; Batido Felli and Kofi Addah, former Member of Parliament for Navrongo, all acquired plots. In fact, except the priest, the rest have completed their buildings in the area and they are being occupied. Interestingly, the Navropio himself and two of his daughters (minors at the time of the acquisition) were beneficiaries.

6.2 The Mismatch between Local Practice, Development and Legal Frameworks

Land is an economic asset with numerous economic values. Access to land is largely dependent on the laws and regulations on the land ownership and land use in any given country. However, legislation is mostly inadequate to lead to equitable distribution of property.

In pre-colonial times, before the emergence of regulatory restrictions on town and country development, the control and use of lands in towns and villages was governed by customs and social conventions. In the village as a whole would comprise family units or clan dwellings, each with a defined and unique social character (Cardinall 1920, 99-100). Although zoning methods were not known at the time, open spaces were reserved to serve as

meeting and play grounds. The grove had a sacred location. The land use pattern was therefore very plain – residential, agriculture and open spaces.

With population increases and through social and traditional networks, planning came into being although it was still informal and simple. The *Tigatu* was guided by custom and social conventions in releasing land for development. And to a large extent, custom, social conventions and taboos were the regulatory agents in terms of planning in towns and villages.

Most African cultures and value systems are built on the premise that what is good for the collective is good for the individual and this is constituted in customary systems. Customary land tenure consists of rules that check behaviour and relations towards land, including trees, which have been constructed upon local and very often, traditional social norms and networks. As described by Elinor Ostrom, the 2009 Nobel laureate for economics, these are rather embedded in the desire for a sharing of resources for the good of the community rather than for the individual. This is in contrast to the system of ownership and capital accumulation that is associated with the current wave of land acquisitions. The people of Navrongo like other indigenous people believe that natural resources belong to all, or to some spiritual entity, and should not be tampered with. This runs counter to the anthropocentric approach which runs through Western cultures, where people are at the core and nature is there to serve us.

The control of land use is therefore not a new phenomenon although with time, it has assumed greater dimensions than before. Besides planning, it deals with issues such as zoning, housing, urban development, preservation of scenic and historical places, land taxation, natural resource exploitation, environmental quality, energy use and pollution, et cetera. Land use control techniques are not altogether new or European contraptions. Our local farmers knew how to leave land fallow (the *kapru* system), to rejuvenate its productive capacity. And although zoning was unknown, the local people made reservations for grazing grounds, the sacred grove and so on. These practices are an indication that land use control mechanisms albeit elementary, had a place in the conception of locals and shaped the social norms which governed land management. This made the depletion of land resource impossible (to the prejudices of owners of residual or reversionary interest). The customary law was constructed by the ancestors to make it a near impossibility for people to deplete land as a resource. The mystic attributes of land, the trusteeship concept, the consent requirement in dealings affecting family and other corporate interests, the stamping of corporate identity on land use to promote land preservation are all principles that have unquestioned legal validity in Ghana.

The evolution of legislative control of land use in Navrongo began with the political control of the area by the British. Some scholars maintain that the British respected the land rights of the local people until after sometime when they attempted to appropriate land to the British Crown. This led to the formation of the Aborigines Rights Protection Society (AAPS) in the South but because the North at the time lacked educated elite who would mobilise their chiefs and people to resist the moves of the British, they had their way.

Amankwah (1989) observed that this contact between European and African cultures was interesting, for “although the European officials were never integrated into the African community life, they were the foundations of a new way of life – a novel economic system, political prohibitions, religious attitudes and a host of patterns of behaviour which profoundly transformed native social norms, institutions and legal practices concerning land”.

As is the case in many countries, the law in Ghana has been applied as a tool for the management and direction of the relationship between access to land, security of tenure, and public participation, on the one hand and sustainable development on the other. The specific way in which the law has been used, is best appreciated by briefly outlining the three major phases of the land question – the colonial, the post-colonial period, and the period since then. From the time the Northern Territories (Navrongo being a part) was proclaimed a British Protectorate, to the time of independence in 1957, the power to make state policies and laws resided in the colonial masters. Colonial land laws did not only diminish access to land for most people, but also differently affected their security of tenure. The initial significant land reform initiatives in the immediate post-colonial period were aimed at encouraging agriculture development through the promotion of individual property rights. These post-colonial land policies have been described by some scholars as being characterised by continuity with colonial land policies rather than change.

From independence onwards, the fortunes of local communities were to be decided to a large extent in Accra, the national capital, through public bureaucracy, backed by Acts of

Parliament and or military decrees. Customary land law has not been abolished, however, the state land machinery effectively monopolises all important land management functions in the customary sector.

Under the 1992 Constitution, no formal transfer or development of “stool” land is permitted unless the Regional Lands Commission certifies that it is consistent with the development plan (Kotey, 2002, 203 – 214; Kasanga 2002; 25 – 36). All revenue, income, royalties and the like, emanating from the land is to be paid into the Stool Lands Account. Ten per cent is paid in tax to cover administrative expenses. The revenue is treated as hundred per cent and disbursed as follows:³⁵

- 25% to Stool through the Traditional Authority for the maintenance of the Stool in keeping with its status;
- 20% to the Traditional Authority and
- 55% to the District Assembly within the area of authority of which the stool lands are situated.

The above arrangement appears to be taking power from the customary traditional authorities, no matter how one looks at it. Even in practice, especially as far as Navrongo is concerned, the Traditional Council, the Traditional Authority and the District Assembly (KNEDA) have never received any such monies. (Interview with the regent of Navrongo, 24-09-2010; the DCE, Emmanuel Andema, 31-03-2011). However, customary land-holders

³⁵Office of the Administrator of Stool Lands (OASL); interview with Abandoh- Sam, then Upper East Lands Commissioner, 22-09-2010.

continue to dispose of their lands as they see fit, in spite of high levels of opportunity cost to the environment and local communities.

With regards to the ownership and administration of land, the government's professed aims of: promoting the public or national interest; fast-tracking the pace of development by facilitating the acquisition of land; the eradication of anomalies and problems in the customary sector; and the introduction of written documents through land title registration to ensure security and encourage investment in landed property, are praiseworthy. But their execution has resulted in ugly and unintended consequences. For instance, it has made vulnerable, the traditional and customary authorities and institutions and restricted their functions, effect and the basis for economic and financial assistance. Local authorities like the traditional council and the District Assembly have been impoverished by loss of control over sources of local revenue.

The State Lands Act of 1962(Act 125), that governs all compulsory acquisition and compensation process, affords a free hand to the government to acquire any land in the "public" interest. This law has been used extensively by successive governments but the provisions it makes on the payment of compensation have been ignored to a great extent (Kotey, 2001: 203-214). Evidence also from the field confirms that large tracts of land acquired in the area by government, were hardly compensated for. These include areas acquired in the colonial era for the Saboro Afforestation, the Police Land, the Army Land and the current District Assembly. And in post-independence times the Water and Sewerage Office area, the Meteorological Station area, the former Ghana Broadcasting Corporation

relay station area, the Cocoa Marketing Board Offices area and in very recent times, with the introduction of large scale irrigation farming, the Tono Irrigation Project Site, including its staff residential areas. It is as a result of this non-payment of compensation that the regent of Navrongo, Arthur Balinia Adda, in an interview emphasised that as far as he and his people were concerned, government only had proposed lands in Navrongo and it was wrong for government to claim to have lands in Navrongo. The same situation accounted for the legal battles between the Meteorological Services Department and subsequently, the Water and Sewerage Corporation (now Ghana Water Company) and the local people. As issues stand, it does not appear that the state has done much in the area of equitable administration of public land. The urban poor and vulnerable appear to have been priced out of the public land market. The Customary Land Secretariat has its office inside the chief's palace, with three members of the royal family as its staff. One wonders if seriously, this office can operate, for how many ordinary aggrieved persons can muster the courage to go to the palace to lodge a complaint? And just out of curiosity, how come all staff members here are of the same family and none is of the autochthonous families of the area? Larbi, (1996: 212) aptly concludes:

Urban planning and the urban land development process in Accra and in Ghana in general, are beset with numerous problems – socio-economic, political, environmental and legislative. The legislative basis of planning in the country is weak. The Town and Country Planning Ordinance of 1945 is outmoded and its provisions now not refer to the relations between land use planning and policies for social and economic development. The Ordinance has not been able to cope with the rapid socio-economic changes that have taken place since Independence. ----.

The result is that urban development does not proceed on a sustained basis. The economic and environmental costs of such adhoc planning and development are high and the generally weak economy cannot support them. The weakness of the planning system also emanates from the dichotomy between land use planning and landownership.

The Compulsory Land Title Registration Law of 1986 according to Kasanga (2002: 25 -36) is government's boldest intervention in the land market since 1983, although it has not achieved much especially as it relates to its dual purpose of giving and facilitating proof of title, and rendering dealings in land safe, simple and to prevent frauds relating to purchases and mortgages. Since its introduction it has been operational only in the Greater Accra and Ashanti Regions and so the needs of people in the Upper East and the other Regions are not served. Previously before this law, private and customary land transactions had been governed by the Deeds Registry system on a nation-wide basis.

Customary law is usually based on a set of procedures rather than formal codification (Chauveau 1998), with its main strategies of negotiations, challenges, manoeuvring and manipulation applied by stakeholders to achieve a set of rights. These strategies mark the flexibility of tenure rules and their dynamics (Toulmin et al. 2002).

As Berry (1993) points out, tenure has been embedded in social networks in spite of the intervention of colonial and post-colonial governments. Albeit, the state's desire to take control over land and resources in the people's interest, has not resulted in the establishment

of the stakes at play in the struggle for land. At play then is a network of players forming around the state administration, seeking preferential access and treatment.

These attitudes and strategies are promoted by intricacy and non-uniformity of legislation and administrative arrangements governing land. Consequently, in this country, more than eight different bodies have been formally charged with handling issues of land use management and allocation of land clearance permits (Kasanga 2002: 25-36). Abudulai (2002: 72-85) attributes the existence of wide spread legal uncertainty to the fact of most local rights being technically “illegal” before the law.

The first legislation affecting the rights of the people of Navrongo was the Land and Native Rights No. 1 of 1927. The Ordinance made provision for the payment of compensation. The law was used extensively to acquire land for public use. Subsequently there were other land laws like the Land and Native Rights Ordinance, of 21st November 1931, (Cap 147) 1951; and The Minerals Ordinance 1936 (Cap 155) revised in 1951. Under all of these laws, native lands were put under the control of the Governor. These were in operation up till 1957 when Nkrumah’s government attempted to enhance them. In 1962 a number of land laws were passed that made a dual attainment – building on the legal frame instituted by the colonial government and also bringing on board innovations in the country’s land tenure relations. All these laws are still in operation although some of them have been substantially amended.

With these laws in place, no occupation or use of land was lawful without the Governor’s consent. In practice, however, the laws were limited and besides some acquisitions for public

buildings and infrastructure, no major land acquisitions were made neither were the local communities displaced. As a result of the high rate of illiteracy, the local people were unaware of the existence of these laws and therefore continued to hold on to their own customary laws.

The system of indirect rule and the colonial appropriation of all northern lands appeared to have laid the fertile grounds for future land disputes in this area. As Crook (2008) points out, “A legacy of trouble was stored up, however, through colonial indirect rule institutions which created chiefs who began to claim Akan-like rights over land”. Kasanga (2002: 25-36) also maintains, “The colonial appropriations of all lands in the north laid a foundation for the disastrous post-independence public land administration”. The 1979 Constitution (Article 188) tried to erase colonial history by simply stating that all lands in the North vested in the government were ‘de-vested’ and deemed to be returned to their original customary landholders, prior to the 1927 legislation. This provision was consolidated in the 1992 Constitution, Article 257(3). The term “original customary land owners” was a bit ambiguous and open to varied interpretations, with chiefs trying to exercise the new and foreign powers conferred on them by the colonial government through indirect rule.

With the introduction of a recognised central system of government, planning by legislation directive has become a crucial aspect of the strategy for the achievement of national goals (Amankwah, 1989: 76). In colonial West Africa, typical township legislation provided for the constitution and administration of towns and municipalities. Navrongo and others like her were mainly government stations with mixed native populations. The period between 1924

and 1928 was characterised by vigorous planning legislations to among other things, ensure the orderly planning of towns and for the control and erection of buildings and layouts of streets within some areas with the aim of securing the proper development of such areas in the interest and general welfare of whole community. – The Gold Coast Town Planning Ordinance No. 20 of 1925. Subsequently, the Gold Coast Town and Planning Ordinance, 1945 (Cap 84) in context and purpose went beyond those before it, (the Municipal Corporations Ordinance, 1924; and the Gold Coast Town and Country Planning Ordinance, 1925).

Current planning practices of the country are based on the provisions of this ordinance, albeit its amendment by the Town and Country (Amendment) Act, 1960 (Act 33) that have updated it to suit political and social developments. The 1958 Act abolished the Planning Board, and Act 33 also repealed portions of 3 – 8 that is the whole of Part II of Cap. 84, which deals with the powers and functions of the Board and its procedures when conducting its business. The Administration of Lands Act, 1962 (Act 123) was to advance the idea of state control of lands in the country. Its aim was “to consolidate with amendment, the enactments relating to administration of stool and other lands”. Being applicable countrywide, it puts all lands anywhere in the country, under whatever right of ownership into a single compartment to ensure uniformity in the system of land tenure throughout the nation. This Act which Amankwah (1989: 109) terms “the most revolutionary legislation in connection with land in Ghana”. In all, this Act introduced into Ghana the right of Parliament, as part of its legislative power to authorise the compulsory acquisition of land by a government department, public authority or public utility company. The company obviously is alien to

the common law and was borrowed from continental European civil law jurisprudence by the US which popularised it. By this law, all unoccupied stool lands or lands which are not being put to any immediate use in areas where the idea of stool land does not exist, would come under the State's power for redistribution in a manner which the State might consider conducive to the nation's economic progress. According to Abudulai (2002:72-85), the legal concepts of British feudal law was transferred to customary holding systems in Ghana despite their inappropriate nature.

In Ghana, a dual land rights system is operational but that correlation between administration of interests in land instituted through customary practice and formal titles to landed property is near-absent. This situation is aptly captured in the words, "*Ghana operates a dual land rights regime, but the link between administration of interests in land created through customary practice and formal titles to landed property is tenuous to non-existent*" (Quan et al. 2008, 187). As a result of this problem, the government put the Land Administration Project (LAP) in place, to ensure an accountable, harmonious and transparent customary land administration system from the local level up. This will ultimately form an improved formal land administration in Ghana.

LAP is supposed to be a long-term project of up to a maximum twenty-five years of which the World Bank has worked out a fifteen-year funding framework. The medium to long-term plan under LAP is the management of stool lands proceeding progressively, taking certain criteria into consideration. It concludes the putting in place of Customary Land Secretariats (CLS) with the necessary government structures to guarantee institutionalised community –

level participation and accountability in the use of stool lands and the revenue that accrues from it (Quan et al, 2008).

The current institutional framework in Ghana is made up of six key institutions and authorities – the judiciary, the legislature, the executive, the bodies responsible for decentralisation and planning, the traditional authorities and the policies, programmes and projects supported by donors (Kasanga 2002).

In daily practice the modern law is being implemented in a token manner perhaps to maintain public peace. It would therefore be a misconception to describe the current arrangements in the Upper East Region and Navrongo as a single land tenure regime. Rather, it would be more appropriate to talk of regime straddling a variety of pre-colonial, colonial and national codes (Simo2002). As customary tenure is often inefficiently regulated by planning authorities, such transactions rather happen through a vernacular market (Abudulai 1996; Antwi 2002; Benjaminsen and Sjaastad 2002; Chimhowu and Woodhouse 2003). Therefore, although the legitimacy of land commoditization may be insecure under customary tenure, norms and patterns of investment behaviour that is in line with customary tenure, tends to be enhanced than weakened by the commodity nature of land. Additionally, where state land policy is ambiguous, as it relates to traditional land owners under customary tenure, as in the case of the divestiture under Ghana's 1979 Constitutional provision, processes of state registration of individual claims to land present opportunities for rent seeking by the state officials concerned.

Comparing the institutional link in formal and informal land systems, the customary comes largely as being inclusive and equitable as against the state sector that is the reverse. Although the state sector puts rules and regulations in places relating to land, most land users hold their land on customary tenure, in forms that lie outside the realm of the state and outside the realm of the state and outside formal legal frameworks. Therefore there is the burning need for harmonising formal and informal systems by offering a better recognition of community institutions for land management and by the decentralisation of land administration to community organisations, to enable local people to negotiate and manage their own solutions for gaining access to land (Lavigne Delville 2000; Toulmin and Quan 2002). This increasing devolution of land administration to local and customary-based institutions will bring about a more equitable management of land that makes it possible for local people to be part of the negotiation of rights to lands. A better recognition of the customary system would lead to improved accountability and the transparency of land markets at the local level which must conform to criteria negotiated between local institutions and the state (Ubink and Amanor, 2008).

Hence, land use is not subject to just any single cohesive body of legal concepts and rules, but to plural normative systems (Hesseling 1996: 102). State law and traditional law may apply to land use and land tenure. Hesseling (1996: 102) and Von Benda Beckmann (1991: 78) add another form of regulation which is relevant to this study – ‘project law’. At times, various normative systems result in competing claims to land whereas in others they are combined into hybrid forms of local regulation, made up of elements of different systems.

Common law has in many ways regulated land use. Legislation had to be employed at various stages to accommodate changes in the circumstances of people. There is no gainsaying that common law only cannot adequately serve development problems. Additionally, aspects of it have been found to have outlived their usefulness. For reasons such as these, legislation became a dominant tool for land use control.

In land tenure management, customary authorities continue to play a crucial role in managing, regulating and supervising users. The manner in which these customary authorities take decisions may have their peculiar faults and could be criticised for marginalising certain interest groups like young people and women. They could also be criticised for not dealing effectively with conflict. These shortcomings, it must be pointed out are not unique to customary land tenure management bodies and no system is perfect.

Customary law is a body of rules legitimated in its claim of having been used for time immemorial. The content of customary law is very diverse, most probably changing from rather rare systematised codes to, mostly, “loosely ordered --- repertoire(s) of norms” (Comaroff and Roberts, 1981). This diversity, some scholars believe results from a number of cultural, ecological, social, economic, and political factors. For example, customary rules governing land tenure rights tend to differ greatly. In addition, customary rules are not static but continually changing as a result of different factors like cultural interaction, population pressures, socio-economic change and political processes. In Navrongo, customary land tenure rights systems have been influenced by British law.

In practice, the distinction between customary and statutory land tenure systems is not clear. Customary systems have greatly changed by contact and interference by successive governments from colonial times. Similarly, statutory systems for land management usually work with considerable avenues for negotiation. Resource users gain access to natural resources through a blend of customary and statutory stipulations.

The on-going land grabs in Navrongo are an indication that the Capitalist individualistic model is gaining grounds and the way out is to minimise the resulting damage. The numerous crises the world over, especially in Europe and Northern America call for corporate social responsibility. Academics have gathered enough evidence to show that the system of individual ownership and capital accumulation is not necessarily the best system or the best attainable and that other systems could serve us better. In totality, although there is a claim of respect for traditional norms, especially, as they relate to land, they are largely ignored in practice. The only people who practice what they preach in terms of land norms here are the Tigatina – Pinda, Telania, Biu and Gian. As rightly observed by Crook (2008) of the Upper West Region, which is not too different from the Upper East or even Navrongo specifically, traditional norms rapidly collapse in the face of increasing commoditisation of land and factions would ignore both traditional and state authority where there are prospects of making money from a claimed right of ownership.

6.3 The Challenges Ahead

In this chapter, we have discussed; land rights and irrigation, the mismatch between local practice, development and legal frameworks. The challenge is the absence of solutions for

individuals and communities that are aggrieved by people higher up. Addressing this challenge calls for a more strategic approach by the state and the unflinching cooperation of the different development partners.

The Land Administration Project (LAP) has not performed satisfactorily so far. And so a more effective policy, legal and institutional framework within which decentralised land management systems can develop is necessary. In spite of LAP's moderate achievements, there is the need to disambiguate land rights and the powers of family heads to alienate land. There is also the need for an equitable settlement between traditional authorities and the state with regards to the control of land revenues. This should include the formal recognition of *tigatiina*'s and land owning families' land management responsibilities in relation to those of the state.

We are living in very trying times and competition over land can be expected to intensify. Navrongo is no longer land-based conflict free. The challenges are many and daunting. Ghana as a country lacks a holistic national land policy, which is important in guiding implementation of the land law. The practical and temporal difficulties of policy formulation also require a broad understanding of the historical processes which have resulted in current paradigms. The inequitable nature of decentralisation has brought about a very competitive process where formal policies and informal practices become intertwined. A good example of this is in the area of land management and usage in Navrongo through the Customary Land Secretariat. The establishment of the Customary Land Secretariats in the country began in 2004, aiming at greater decentralisation; as such institutions in some parts of Africa like

Namibia and Botswana have played a pivotal role in similar regard. However, the effectiveness of such institutions is dependent on a number of factors. Where these factors are not conducive enough, their impact is greatly reduced. This is not to suggest that the Navrongo Customary Secretariat has not had any positive impact on the area. Although it is facing a number of challenges, mainly stemming from the lack of funds, which its Coordinator terms “the fiscal decentralisation”, decentralisation has made some positive impact.

This is especially in the area of Alternative Dispute Resolution (ADR), where it has successfully resolved land disputes between Manyoro and Natugna communities; St. John Bosco’s College of Education, Our Lady of Lourdes Senior High School and their neighbouring communities; Ghana Grid Company Limited (GRIDCO) and two other local communities; and several others. The intervention of the CLS in all of these cases averted costly and needless litigation. In the GRIDCO case, it managed to get the local people better compensation and resettlement packages from the Company.

Beyond this, the decentralisation has also impacted positively on the area in that, since the creation of the CLS in 2012, the signing fee for a land document has remained 200 Ghana cedis, in spite of agitation from the Navropio for an increase. The CLS has managed to stop him and make him understand that with its presence, such monies needed to be accounted for, for the area’s development. Before then, the Navropio fixed this fee arbitrarily, and did not need to consult anybody in such matters. In this instance, he had to find another way to make up for this loss in his finances. And so he demanded and has been taking rent for the two

rooms in the palace that the Secretariat is using as its offices. But for the lack of sufficient funds, the Secretariat would have moved out of the palace by now and this exploitation too would have come to an end.³⁶ These new developments are to the advantage of individuals who want to legalise their land acquisitions and also to the traditional area as a whole. However, a lot more needs to be done especially, in the areas of gender and inclusion. For instance, the only female member of the Secretariat is a cleaner, and although the Coordinator claims they (the Secretariat) are sensitive to women's issues, one wonders what contribution this only woman here can make in terms of decision-making, with reference especially, to the position she holds. And unlike with the case of Bolgatanga next door, the *Tigatiina* of Navrongo are not a part of the Secretariat. The challenge for all who want to see the resolution of the land problem in Navrongo is to reduce to the barest minimum, the number of disagreements over land. Improved land rights which in a way recognise history and usage would help in this direction.

There is the obvious need for in-depth research into traditional customary land tenure management systems and their incorporation into the mechanisms for the public administration of land. As Berkes (1995: 106) argues, "it makes sense to incorporate into development planning, a process for understanding and using local knowledge systems and conducting participatory research to strengthen those systems". The traditional or customary sector therefore has an indispensable role to play in the process of modernisation. There is a clear divergence between the 1992 Constitution provisions on land administration and the dynamic customary land management practices evident on the ground. And until these

³⁶Interview with Joseph Weguri Pwawovi, Coordinator of the Navrongo Customary Land Secretariat and a member of the royal family. 07/03/2014.

constitutional provisions are amended accordingly, they have no chance to being effectively implemented.

Given the weakness of the agencies managing land, (the District Assembly, the Regional Lands Department, etc.) in terms of lack of finance, personnel, office equipment and several others, it would be inappropriate to leave all land management functions to them. Recognition of the need for active involvement by local communities, especially autochthonous families, in the management of land would go a long way to relieving the public land agencies of most of their burden in land administration. The principal tenets of customary law are progressive and ought to be taken on board by all those interested in promoting sustainable development for all.

Since the constitution rightly acknowledges the holding of land by chiefs, *tigatiina* families and individuals, it stands to reason that these, especially the *tigatiina* should be allowed to play their legitimate roles in the management of land. The current system, in the preparation of planning schemes which is monopolised by government agencies, is out of step with the tenets of natural justice. Traditional landholders should be able to employ their own professionals to prepare planning schemes and investment appraisals which could then be forwarded to the District Assembly for scrutiny in relation to the relevant statutory provisions and regulations. If the standard regulations have been met and recommended revisions complied with, the Community Land Secretariats (CLSs) should be empowered to lease such lands for investment. Any income stemming from land dealings after taxation in accordance

with the law on income tax should go to the community. The disbursement of such income should be left to the discretion of the landholders and the CLSs.

Land purchases which ignore the interests of local communities and the local landscapes are not only morally inept, they are also commercially myopic and potentially conflict laden. And action must be taken both locally and nationally to stop them. The issue of commercial land transactions will need to be discussed by whole communities and agreements reached on what plots should be leased and what the revenue should be used for. Thankfully, the Saboro community is already doing this (Interview with Sabastian Doragia, 05- 03- 2011), and other communities should follow their example.

Disputes over land alienation have been a major cause of the crisis in Navrongo. As a fast growing town, several development activities are on-going. The demand for land and the high prices it attracts, fuel contest over ownership and land title and the right to alienate land. There is disagreement on boundaries, allodial rights and usufruct rights between neighbouring chiefdoms (Chuchuliga-Navrongo; Navrongo-Paga; Doba-Kandiga) and between chiefs and *tigatiina* (Kologo-Biu). Interestingly, the autochthonous *tigatiina* do not have these disagreements amongst themselves, although the relationship between them is loose. This is completely different from that between earth priests in Bolgatanga next door , who have formed an association to protect their interests, or even in the Upper West Region, as the writings of Lentz and Kuba suggest.

Evidence from the field suggests that part of the problem has to do with ignorance on the part of most local people, of statutory land laws. For instance, it is legally binding that a developer shows signs of developing the land within three years of acquisition. Some smart and unscrupulous landowners take advantage of this ignorance and resell or reallocate the same plot after the three year grace period. They let the Lands Department write to the initial developer, reminding him of what he ought to do if he is still interested in his plot. Where there is no response after sixty days, the land legally reverts to the allodia owner with the support of the Lands Department.

In the course of this study, a number of other cases have come to attention, as having the potential of future conflict over land. They include the uneasy calm that exists between Doba and Kandiga. These are neighbouring chiefdoms (Interview with the people of Doba, 15-12-2012; Awedoba 2009: 118). The people of Bui, another section of Navrongo have openly stated their displeasure at the way the managers of the Tono Irrigation Project had ‘stolen’ their lands and have vowed to recover those lands. In fact, for some time now, every year, they have forcibly reclaimed a few irrigated lands. Again, there is the case of a mango plantation at Kologo, the land for which was not properly acquired. This is because according to Bui people, the true owners of the piece of land in question, the developer through the efforts of the regent of Navrongo acquired it from the Kologo chief. Bui people say they have gone to look at the plantation and are eagerly waiting for the trees to start bearing fruit and then, in their words, they “would know what to do”. They added that subsequent to their visit to the plantation, the developer had come to see them and was asked to go and come with whoever gave him the land. The people of Yobania and Wuru, who were forced to relocate

for the construction of the irrigation project, have been agitating against the Irrigation Company for some time now. They have lodged a complaint with the Regional Lands Department. Their case is that the Company took from them lands outside of the area mapped out on the site plan. Most of these lands, according to them have not been used and it would only be proper for the Company to return them as was the case of the Zaare people in relation to the Veia Irrigation Project. Then, there is the case of the land case between Wusungu and Bawiu (section of Pungu) in relation to the Paga Airstrip area. This case has been dealt with in previous sections of this study. The case travelled as far as the Lands Court in Kumasi, but has still not been amicably resolved. Although the District Magistrate Court has handled some land cases, these do not go beyond 6% of all their cases (Interview Esther Dambayi, Court Registrar, 02- 03-2011), which is lower than the national average of 50%. It does not make sense to rest content with the current state of apparent peace, especially when we are aware of the simmering tensions.

For now, all concerned must work towards improving the current situation of land disputes in the area. Throughout the study area, and especially at Doba, the youth were more ready to resort to violent confrontation. Since violence is not always a panacea and in spite of the fact that the youth of today do not always easily heed advice, the older generation must continue to impress upon them, the need to exercise control and to use laid down structures in seeking redress whenever they are aggrieved.

Public institutions like the Electoral Commission and the Ministry of Local Government must not allow themselves to be dragged by local politicians into land disputes, as they need to

maintain public trust in them, especially in the run-up to national and local level elections. This point is important because the two bodies were accused of taking sides with Kandiga in the most recent Doba – Kandiga dispute that caused the Doba people their right to vote. They said they knew this because a ‘big’ Kandiga man was a member of the ruling National Democratic Congress (NDC). To them, only such links to government could give the Kandiga people such audacity to do what they did to bring about the problem. The Kandiga people, however, denied having any land problems with Doba. But whatever the truth is, it is necessary for government to stay off land matters and allow the structures to work in the disbursement of revenue accruing for land. The Customary Boundary Demarcation Commission which visited the area in 2012, going round with the chiefs and *tigatiina* has since not been heard of. As it came up at the Kasena Nankana East District Assembly, the Assembly had not been receiving any funds from the Lands Department although they are supposed to have been doing so.

It would seem that the increase in value and demand for landed resources, occasioned by the process of urbanisation, the chiefs are asserting ownership and control of land and the *tigatiina*, having compromised in the past, now want to reassert their rights as landowners (Awedoba 2009: 97-98; Interviews with Biu, Gian, Pinda and Telania *tigatiina*, 2010). But unlike *tindanbas* in Bolgatanga who have an association and are selling land (Awedoba, 2009; 8), *tigatiina* in Navrongo for now, are not into land sales, although other people with usufruct rights are doing so.

As rightly identified by Awedoba (2009: 98), concerns about land sales complicating urban planning cannot be dismissed, when unscrupulous business people buy land in the urban areas

and so some regulations would be necessary. The Lands Department (the agency that needs to enforce regulation) should be properly resourced by government. For instance, the Survey Division of this department in Navrongo has a single motor-bike for an office vehicle, which strictly constraints them in their work (Interview with Musah Ahmed Fuseini, District Surveyor, 25-03-2011).

The main causes of land disputes in Navrongo are scarcity of land, natural population increase and the interplay of market forces and politics. These forces are putting pressure on traditional arrangements for land tenure and also lead to an increasing tendency towards private property ownership in the area.

The importance of land reform cannot be overemphasised as it affects the intensity with which land is appropriated. Land reform can lead to the maximisation of land use even in the face of urbanisation and custom. It is essential to strengthen local traditional institutions and networks so as to integrate land-use planning and enforcement, registration and surveying, into customary tenure systems. This can be done, taking account of the interest of all social categories and to empower them in designing, implementing, monitoring and evaluating projects and options geared towards sustainable development. The government should undertake a comprehensive reform of modern land law, notably by developing a system of partnership of responsibility for this vital means of development. All social classes, especially the earth priests should be given the right and the chance within whatever existing policy frameworks, to live according to their traditions and to participate in the conservation of their land and its resources for the benefit of present and future generations.

CHAPTER SEVEN

7.0 CONCLUSION

The position of security of land tenure in Navrongo and Ghana as a whole cannot be overemphasised as it impacts sustainable development. The study has demonstrated the contradictory ways in which land relations are interpreted by different actors in Navrongo. The argument here is that where there is a change, there is a struggle and those who align themselves to policy frameworks benefit. Although the customary is a unit, there are different actors over control, management, and the sale of land and so there is a plurality of normative orders, which has implications for natural resource management. For, it has been a challenge to operate in a pluralistic legal and normative environment when it comes to land administration.

Although there may not be a single solution to prevent land grabs, it is important to improve land rights. This is because it appears that if the land rights regime is weak, it is easy for opportunists to make illegal acquisitions. Improved land rights would lead to the recognition of history and usage would help people to maintain their lands, while preventing or reducing conflicts.

The study has examined the evolution in customary land tenure systems in Navrongo. As a result of the varied nature of the local context, it has tried to identify major trends by highlighting specific aspects of customary tenure, having drawn a few examples from fieldwork and complementing it with published literature and archival evidence. The result, albeit a partial picture of very complex and varied challenges, provides some lessons.

In the period covered by the study, customary land law has rapidly evolved from local notions to those of Western European legal principles. This was driven by the requirements of western modernism, due to the high rate of urbanisation of Navrongo. The rapid and uncontrolled rate of land alienation resulted out of its persistent increasing economic value, worsening with the establishment of spiritual churches in the town.

7.1 Overview

Contrary to the often-held view that land relations are generally accepted without question in local communities, evidence shows that they are sometimes contested, negotiated or even violated. In fact, they are sometimes freely constructed in a context of change.

Drawing from the data discussion in the study, some findings are identified. The issues under examination include commodification, local norms, urbanisation, land scarcity, fragmentation, legal frameworks and irrigation. Equally there is the struggle for power among *tigatiina*, chiefs and government, which is a central aspect in understanding conflicts over control over land in Navrongo. There are also problems of opportunistic behaviour and land disputes, stemming from multiple sales, encroachment, illegal sales and compensation issues. These have together resulted in social unrest and tenure insecurity. Pressures such as urbanisation and corruption are associated with most of the land-related problems and the manifestation of social change. The study has also shown that changes in social behaviour have been generated by various new factors of economic, technical, political or religious conduct, often leading to unpredictable challenges for normative orders. The land tenure system established over the years by the local communities has undergone a process of amalgamation with statutory law. In lieu of creating a

dual system on the basis of the customary and the statutory, state intervention has produced a hybrid of the two (Benjaminsen and Lund, 2003). These situations have further fuelled tensions not only between the two regimes, but also between some traditional authorities and government agencies who should have been working in collaboration. As some scholars have pointed out, land disputes a constant occurrence in Ghana and Africa in general, because a pluralistic land tenure and management regime is in place as a result of the power and influence of chiefs and traditional rulers (Gough & Yankson, 2000; Kasanga & Kotei, 2001). This power and influence is further strengthened by normative pluralism.

7.2 Custom and Practice

Considering the rapid changes in landholding practices and the reassessment of policies, and the fact that land disputes are most likely to increase with time, there is the need for further in-depth research on both local tenure dynamics and the impact of statutory regulations. The findings of these should be incorporated into the public administration of land. For as Berkes (1995: 106) asserts, “it makes sense to incorporate into development planning, a process for understanding and using local knowledge systems”. This therefore makes the customary sector indispensable in the modernisation process. As Kasanga (2005: 25 – 36) argues, “there’s a clear divergence between the 1992 Constitutional provisions on land administration and the dynamic customary land management practices evident on the ground. Until the constitutional provisions are amended accordingly, they have no chance of being effectively implemented”.

Also, the existing weaknesses of the land sector agencies in areas of the lack of finance, staff, collaboration and equipment; it would help to allow the local community to be involved in the

management of land. This would promote internal cooperation, ease the burden of these agencies and also foster the local involvement, the Land Administration Project (LAP) is advocating. This will eventually lead to sustainable development. How this is achieved would depend largely on the cooperation and collaboration of researchers, politicians and policy makers.

7.3 Addressing Tensions between National Legal Frameworks and Local Practice

In addressing the obvious tensions between national legal frameworks and local practice, it is important to take certain bold steps. It would be in the general interest, to strengthen local traditional institutions, which the government is currently trying to do through the establishment of the Customary Land Secretariats (CLSs). But this ought to be done with circumspection in order not to exclude the *tigatiiga*, who in Navrongo are the real land masters and especially as they feel aggrieved and excluded by successive governments. A system of partnership that runs vis-à-vis responsibility, involving all social classes of people will enable them to live by their traditions and also be part of the conservation of their land and its resources for the common good. As the situation stands now, is characterised by normative pluralism and in the process of commodification, those who facilitate it such as the chiefs are recognised, while those who oppose it, such as the earth priests are disregarded.

All land tenure regimes in the country operate on three fundamentals of: lack of individual ownership of the soil; the inherent right in every member of the community to gain from its land; and the recognition of certain members of the community, as having the authority of control of land rights. These three common factors could be applied in the harmonisation of the two tenure regimes within the framework of a national land policy. Such a land policy can be enhanced to

strengthen customary land ownership due to its unique principality based on equitable, communal title, which is considered as dynamic (Toulmin and Quan, 2000). This can be done through dialogue with key stakeholders like the *tigatiina*. The chiefs can be involved in order not to set them against the *tigatiina*.

Then also, government ought to take a second look at its compulsory land acquisitions. And there is hope in this direction as Kotey (2002: 203 – 214) asserts that the “government is dealing with issues of its unreasonable land acquisitions”. This can be improved to make it more timely, transparent and equitable, in order to prevent local elites from making opportunistic gains from such acquisitions. This will eradicate or minimize the conflicts associated with such acquisitions. Among the factors that led to disputes over land in the study area was the key issue of land boundaries. Disputes of this category involved individuals, families, chiefdoms and even at times the state. The lack of documentation and proper mapping and demarcation of customary land has made the adjudication of such disputes difficult. This need for maps was identified as far back as 1928, when the Provincial Commissioner (PC) of the then Northern Province of the Northern Territories, requested all District Commissioners (DCs) under him to have prepared, a *Tindana (Tigatiina, Tengnama)* map.³⁷ Additionally, he provided good and clear guidelines, but to date, no such map exists, not even with the Customary Boundary Demarcation Commission’s visit and recognisance survey of the area in 2012.³⁸

Finally, I will suggest, like Ubink, (2008) that, people should be equally positioned in their ability to negotiate how land rights and property are to be defined. For, it is important to realise,

³⁷PRAAD- T. NRG6/7/3.Circular No. 561/17/1928, on Tribal, Village and Section Boundaries.

³⁸Interview with Chief and Tigatiina of Doba, 10 -11 -13; Joseph Pwawovi Weguri, 03 -07 -14.

as Amanor, (1994:44) maintains, “majority of people are merely forced to abide by what is determined to be customary by the powerful, or to operate outside legality.” This realisation is crucial, if we must end the marginalisation of the earth priests in policy frameworks and ultimately minimise the conflicts around land.

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APPENDIX B:

LIST OF KEY INFORMANTS

Land Sector Agency Officials

Mr. Joseph Abandoh-Sam	Reg. Lands Commission
Mr. Felix Offei	Municipal Town Planning Officer
Mr. Awal Adamu	T & C Planning, Navrongo
Mr. Musah Ahmed Fuseini	Survey Dept, Navrongo.

Chiefs and People

Pe Arthur B. Adda	Navropio
Pe Agurakwae Atingyoa	Dobapio
Pe Ajwayipe Nabarese	Pindapio
Pe Arfah Akankuba	Biupio

Tigatiina and Families

Mr. Weytinga Kwotiga	Telania
Mr. Akawara Adala	Biu
Mr. Apuri Aswetuni	Pinda
Mr. Atumuwo Ayireje	Gian
Mr. Edward Akangu Deyine Ajoba	Doba
Mr. Apungu Abokoto Akasuma	Doba
Mr. Alaru Akalinza (rep) Atawa Ayawine	Doba
Mr. Ayeligange Kanwille	Doba
Mr. Akansi Awinigura	Doba

Assembly and Former Assembly Persons

Mr. John Abache	Biu
Mr. Webadua Adaboro Kwara	Nogsenia
Mr. Joseph Weguri Pwawovi	Nogsenia
Mr. Sebastian Doragia	Saboro
Mr. Atigawuti Awopaali	Gian
Mr. kofi Adua	Pinda
Mr. Raymond Ayendem	Doba

Media Persons

Mr. Raymond Tinaagaah	URA Radio
Mr. Clement Minyila	Nabina Radio
Emmanuel Andema	DCE (Former)

Youth Groups

Hospital Gate Base
Navasco Gate Base
Nayagenia New Town Base
Doba Youth

APPENDIX E 1

LAND, URBANISATION AND CUSTOM IN THE UPPER EAST REGION OF GHANA:
THE CASE OF NAVRONGO, 1927 – THE PRESENT

PATRICIA C. AWIAH.

Interview Guide for Land Sector Agencies

Community.....

Date.....

Name of Respondent.....Title.....Sex.....Age.....

1. When and how was Navrongo established?
2. Who are the landholding groups in Navrongo and how did they acquire this position?
3. How long have you lived in this community?
4. How is land acquired by male, female, government?
-For farming -for settlement -for government infrastructure.
5. What are the challenges associated with land and its acquisition in the community?
6. How different is land use today from 10 or 20 years ago?
7. In your opinion what is the main use of land today?
8. Do you know about any land that has been acquired by government in this community,

or any other community within Navrongo township?

9. What were the government's intentions for acquiring lands here? Has this intention been fulfilled? Why?
10. What do people in this community do for a living?
11. What is the role of the youth in land matters?

Targeted Respondents

1. Land Sector Agencies
2. Attorney General's Department
3. Chiefs, Land Owners, Assemblymen, Youth Groups in various communities

APPENDIX E 2

LAND, URBANISATION AND CUSTOM IN THE UPPER EAST REGION OF GHANA:
THE CASE OF NAVRONGO, 1927 – THE PRESENT

PATRICIA C. AWIAH.

Interview Guide for Communities

Institution..... Location..... Date.....

1. What relations do you have with the: Lands Commission Secretariat (Bolga), Land Title Registry (Bolga), AESC (Bolga), Town and Country Planning Department (Navrongo), District Assembly (Navrongo), Survey Department (Navrongo)? _ All institutions
2. What benefits has the community derived from your institution? _All institutions
3. What challenges have you experienced? _ All institutions
4. How can the public sector be made more responsive to the needs of your community? _ District Assembly
5. Do you have a lay-out plan for the township? _ Survey and Town and Country Departments
6. Have there been court rulings demarcating land in Navrongo? _ Attorney General's Department.

Targeted Communities

1. Nogsenia/Doba
2. Nangalkinia/Gognia/Korania/Bonia
3. Biu/Bondonia
4. Saboro/Namolo
5. Gia/Kajelo