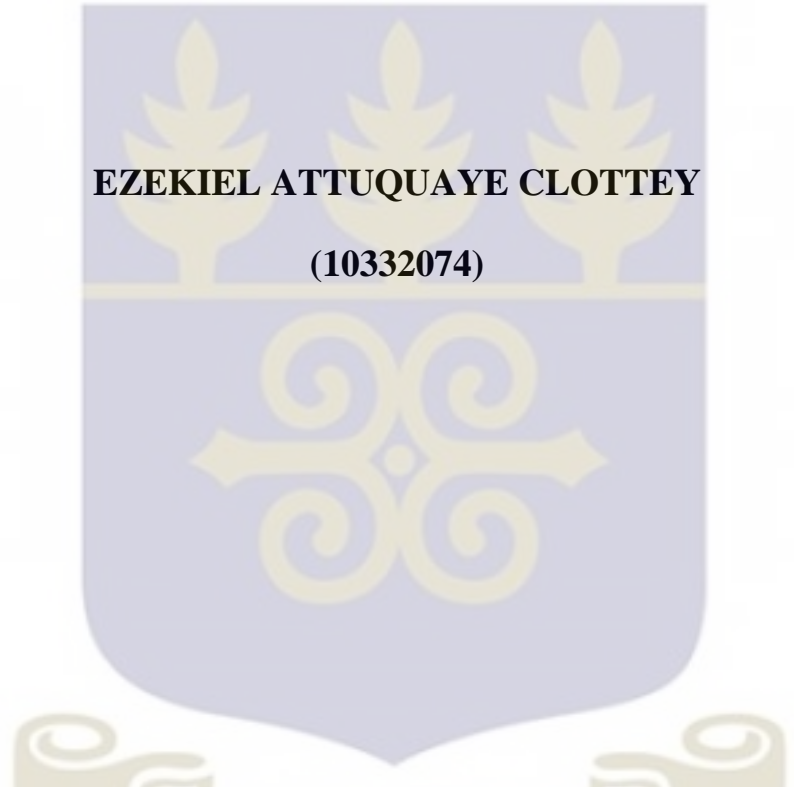


**INSTITUTIONS, POLITICS AND LAND ADMINISTRATION IN THE
GA STATE IN GHANA**

BY



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**THIS THESIS IS SUBMITTED TO THE UNIVERSITY OF GHANA,
LEGON IN PARTIAL FULFILLMENT OF THE REQUIREMENT FOR
THE AWARD OF PHD DEVELOPMENT STUDIES DEGREE**

JULY, 2015

DECLARATION

I hereby certify that this thesis is my own and that neither part nor the whole has ever been presented in the university or any other institution for an award of any academic degree. All references of others made to the work have duly been acknowledged.

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EZEKIEL ATTUQUAYE CLOTTEY

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(CANDIDATE)

We, the undersigned supervisors, certify that this thesis is an original work we supervised the candidate to produce. We are also convinced that it (the thesis) meets all required standards set by the University of Ghana for an award of a doctor of philosophy degree.

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ABSTRACT

Decades of rapidly growing urban population, the growth of a business and middle class with money to invest, and an expanding private sector with large investment capital and the ability and willingness to pay high prices for property have resulted in rapid commoditisation of land in the Ga State. Concomitant with these are highly insecure land ownership, land litigation and conflict, poor land use planning and enforcement of land laws. Investigating the processes by which communal and statutory lands become difficult to access and tenure insecurity are necessary to determine the potential outcomes of contemporary and future land administration reforms. Specifically, the study investigates the politics of property rights institutions creation and change from 1876 to 2010 in the Ga State in Ghana.

The study's methodology was philosophically grounded within the pragmatism paradigm which used a convergent parallel mixed methods research approach. Qualitative and quantitative data collection was concurrently done. Selection criteria for in-depth interviews (30) and FGDs (8) of chiefs, family heads and bureaucrats (30 in all) were based on purposive sampling and 'snowballing' technique. Quantitative data collection involved a household survey of 323 households in 52 localities in 4 purposively selected traditional areas namely Nungua, Tema, Kpone and Gbawe in the Ga State. Archival data from PRAAD, Ghana Law Finder Database and Government of Ghana reports complemented primary data.

The Institutional Analysis and Development (IAD) a multi-tier conceptual framework was used to do a systematic analysis of evolving power relations in decision making concerning land administration between the Ghanaian State and the Ga State actors from 1870s to 2010.

Generally, results indicate that in a path-dependent manner, all governments (colonial and post-colonial) used state hegemony to impose land rules on Ga land owners and society. A

general lack of cooperation and inadequate information characterized the relationships between governments' actors and the Ga chiefs and people. Such interactions and high levels of distrust among Ga chiefs, family land owners and individuals resulted in declining trusteeship ideals of Ga land tenure. Speculation in land, wanton land sales, land conflicts and chieftaincy disputes, landlessness, demolition of property and loss of life due to land litigation therefore remain still prevalent in the Ga State.

Hence, despite comprehensive interventions such as LAP I, access to land and tenure security remains an acute challenge within the Ga State as some communities and social classes face dire situations of land tenure insecurity. LAP I was poorly conceived and implemented. Set targets for LAP I were hardly achieved- high transaction cost in resource allocation, customary boundary demarcation fiasco and only 8000 out of 50,000 land title certificates were issued in Accra and Kumasi. Self-interested politicians and bureaucrats maximized LAP I budgets and protected their parochial interests for top positions in the new Lands Commission.

With regards to customary land administration, empirical evidence suggest that with the exception of Gbawe which has invested in establishing a functional, accountable and self-sustaining customary land secretariat, chiefs and family landowners in Tema, Nungua and Kpone lacked the capacity to manage land well.

One key implication of these findings suggests the need for property rights institutions in Ghana to be more inclusive rather than extractive. Inclusive institutions allow different people with different objectives to collectively decide and enforce sanctions on land administration.

The study recommends among others more research on Ga land tenure for adaptation into national land policies and the active involvement of Ga chiefs, wulomei, family heads and people in both statutory and customary land administration.

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TABLE OF CONTENTS

Content	Page
DECLARATION	I
ABSTRACT	II
ACKNOWLEDGEMENT	IV
TABLE OF CONTENTS	V
LIST OF TABLES	XIV
LIST OF FIGURES	XV
LIST OF ACRONYMS	XVI
CHAPTER ONE	1
THE LAND QUESTION IN THE GA STATE.....	1
1.0 INTRODUCTION.....	1
1.1 STATEMENT OF THE PROBLEM.....	3
1.2 OBJECTIVES OF THE STUDY	6
1.3 THEORETICAL AND CONCEPTUAL FRAMEWORK.....	7
1.4 RESEARCH METHODOLOGY	14
1.4.1 Research Approach-Pragmatic Worldview.....	14
1.4.2 Narrative Analysis.....	15
1.4.2.1 Case Selection and Overview of Land Question in the Ga State.....	16
1.4.3 Data Collection Methods.....	18
1.4.3.1 Primary Data	18
1.4.3.1.1 In-depth Interviews	18
1.4.3.1.2 Focus Group Discussions.....	20
1.4.3.1.3 Individual Household Survey.....	21

1.4.3.2 Secondary Data	23
1.4.4 Data Analysis	23
1.4.5 Methodological Limitations and Ethical Issues	25
1.5 JUSTIFICATION OF THE WORK.....	25
1.6 ORGANIZATION OF THE STUDY.....	28
CHAPTER TWO	29
ORIGINS AND DYNAMICS OF AFRICAN AND GA LAND TENURE- A	
LITERATURE REVIEW.....	29
2.0 INTRODUCTION.....	29
2.1 PRE-COLONIAL GA STATE AND LAND TENURE.....	30
2.1.1 African States or Societies?	30
2.1.2 Formation and Development of Pre-Colonial Ga State	32
2.1.2.1 Physical and Ecological Features of Pre-Colonial Ga State	34
2.1.2.2 Economic Attributes.....	35
2.1.2.3 Socio-cultural	36
2.1.3 Attributes of the Community	36
2.1.3.1 The Ga People	36
2.1.3.2 Ga Culture	37
2.1.3.3 Ga Society and Governance Structures.....	37
2.1.3.4 Ga Governance.....	38
2.1.4 Land Tenure and Rights in Sub-Saharan Africa	41
2.1.4.1 Ga Land Tenure.....	45
2.2 LAND ADMINISTRATION IN AFRICA DURING THE COLONIAL ERA	47
2.2.1 Colonial Land Policies	48
2.3 POST-COLONIAL AFRICAN STATES AND ACCESS TO LAND	51

2.3.1 Modern State-Society Relations.....	53
2.4 LAND ADMINISTRATION REFORMS-NEW WAVE	54
2.4.1 Debate on Private and Common Property Rights Systems.....	55
2.5 CONCLUSION	56
CHAPTER THREE.....	58
THEORETICAL AND CONCEPTUAL FRAMEWORK.....	58
3.0 INTRODUCTION.....	58
3.1 PROPERTY RIGHTS THEORIES	58
3.1.1 Neo-classical Approach	59
3.1.1.1 Critique of Neo-classical Approach.....	60
3.1.2 New Institutional Economic History Approach.....	62
3.1.2.1 Critique of NIEH Approach.....	64
3.1.3 Historical Institutional Analysis Approach.....	67
3.1.3.1 General Critiques of Theories of Property Rights.....	70
3.2 INSTITUTIONAL ANALYSIS AND DEVELOPMENT (IAD) CONCEPTUAL FRAMEWORK..	72
3.2.1 Explaining Action Arena and Situations.....	74
3.2.2 Predicting Outcomes within an Action Arena	76
3.2.3 The Concept of Rules.....	76
3.2.4 Biophysical and Material Conditions.....	78
3.2.5 Attributes of the Community	79
3.2.6 Linking the Action Arenas to Institutional Change	80
3.2.7 Evaluating Institutional Outcomes- LAP I.....	81
3.3 CONCLUSION.....	82

CHAPTER FOUR.....	83
LAND ADMINISTRATION PRACTICES IN GHANA AND THEIR EFFECT ON SECURITY IN THE GA STATE	83
4.0 INTRODUCTION.....	83
4.1 ACTION ARENA: COLONIAL LAND POLICIES AND ADMINISTRATION IN THE GA STATE	85
4.1.1 Colonial Era Participants/Actors.....	85
4.1.2 Establishing Colonial Rule in the Gold Coast and Ga State	86
4.1.3 Colonial Land Tenure Policies (1877-1914).....	87
4.1.3.1 Failure of NJO.....	90
4.1.3.2 Shifts in Colonial Land Policies -1885-1898.....	90
4.1.3.3 Collective-Choice Level- Opposition to Lands Bills 1894-97.....	96
4.1.3.4 Strategies	97
4.1.3.5 Further Interventions by Colonial Government in Ga Chieftaincy and Lands Affairs	98
4.1.3.6 Land Disputes among Ga People 1900-14.....	100
4.1.3.7 Changes in Property Rights- 1877-1914.....	102
4.1.4 The Inter-War Years	104
4.1.4.1 Constitutional Level-1914- 1945	104
4.1.4.1.1 Land Legislation in the 1920s.....	105
4.1.4.1.2 Divergent Positions on Land Registration and Titling in Gold Coast.....	106
4.1.4.1.3 Later Proposals for Land Reforms	107
4.1.4.1.4 Constitutional Reforms-Introduction of Indirect Rule.....	108
4.1.4.1.5 Municipal Corporations Ordinance 1924.....	110

4.1.4.1.6 Native Administration Ordinance and Native Authority/ Courts (Colony) Ordinances	110
4.1.4.1.7 Establishment of Lands Department and Lands Courts	112
4.1.4.2 Inter-War Years Collective-Choice Level	113
4.1.4.2.1 Mortgage of Stool Property and Destoolment of Ga Mantse 1918....	114
4.1.4.2.2 Municipal Council Ordinance 1924 and Tackie Yarboi Destoolment Case	115
4.1.4.2.3 Resistance to NAO and Land Reforms	117
4.1.4.2.4 NAO and Ga Custom	119
4.1.4.2.5 Inter-War Land Conflicts	120
4.1.4 The Transition Period.....	122
4.1.5.1 Constitutional Level	123
4.1.5.1.1 Gold Coast (Constitution) Order in Council, 1950	123
4.1.5.1.2 Public Lands (Leasehold) Ordinance, 1951	124
4.1.5.1.3 Local Government- Municipal Councils Ordinance, 1953	124
4.1.5.1.4 Tema Town and Port (Acquisition of Land) and Tema Development Corporation Ordinances, 1952	125
4.1.5.2 Collective- Choice level – Ga Resistance during the Transition Period...	125
4.1.5.2.1 Petition by the Tema People	127
4.1.5.2.2 Government Response to Petition.....	128
4.2 POST INDEPENDENCE CIVILIAN REGIMES	128
4.2.1 Ideological Underpinnings of (CPP) Post- independence Land Policies.....	128
4.2.1.1 Constitutional Level	130
4.2.1.2 Compulsory Land Acquisition under CPP	133
4.2.1.2 Collective-Choice Level.....	135

4.2.1.2.1 State Control of Ga Lands.....	135
4.2.1.2.2 State- Society Relationship	136
4.2.1.2.3 Effects of State Land Policies on Ga Society and Land Customs.....	137
4.2.1.2.4 Strategies by Chiefs and Land Owners to Protect Ga Lands- Statutory Declarations, Litigation, Chieftaincy disputes	139
4.2.2 Progress Party (1969-1972)	140
4.2.3 Limann Government (1979-82)	141
4.2.4 NDC Government (1992-2000)	141
4.3 MILITARY REGIMES	143
4.3.1 The National Liberation Council Era (1966-1969).....	143
4.3.2 The National Redemption Council/ SMC Era (1972-1979)	144
4.3.3 The PNDC Era (1982-1992)	145
4.4 CONCLUSION.....	146
4.4.1 Information Asymmetry and Land Politics.....	146
4.4.2 Cultural Imperialism	148
4.4.3 Post- Independence Governments.....	149
CHAPTER FIVE.....	150
THE REFORM EFFORT: A REVIEW OF LAP I.....	150
5.0 INTRODUCTION.....	150
5.1 CONSTITUTIONAL LEVEL 1992-2012	151
5.1.1 The 1992 Constitution and Land Administration	152
5.1.2 Land Administration Reforms- From National Land Policy to LAP I	154
5.1.3 National Land Policy 1999 and LAP I.....	156
5.1.4 Land Administration Project Phase I	156
5.1.4.1 Implementation of LAP I.....	157

5.2 ACTORS INCENTIVES	158
5.2.1 Incentives of Politicians	158
5.2.2 Incentives for Bureaucrats.....	161
5.2.3 Incentives for Chiefs	162
5.3 THE LAND QUESTION IN THE GA STATE BY 2005.....	163
5.4 EFFECTS OF LAP I ON LAND ACCESS AND TENURE SECURITY IN GA AREAS.....	165
5.4.1 Effect of LAP I on Land Ownership	167
5.4.2 Land Users Perspective on Land Access after LAP 1.....	170
5.4.2.1 Respondents Characteristics and Access to Land	172
5.4.2.2 Duration for Acquiring Land	174
5.4.2.3 Mode of Land Acquisition	177
5.4.3 LAP I and Land Tenure Insecurity	180
5.4.4 Problems of Statutory and Customary Land Institutions	184
5.4.5 Perceptions of Respondents when Dealing with Statutory Land Institutions	187
5.5 GENERAL ASSESSMENT OF LAP I.....	188
5.5.1 Economic Efficiency	188
5.5.1.1 Institutional and New Legal Reforms	189
5.5.1.2 Strengthening Land Service Delivery	190
5.5.1.3 Strengthening Customary Land Secretariats.....	191
5.5.1.4 Customary Boundary Demarcation.....	192
5.5.1.5 Land Survey, Planning and Information System	193
5.5.2 Equity	193
5.5.3 Accountability	197
5.5.4 Adaptability.....	199

5.6 CONCLUSION.....	200
CHAPTER SIX	202
TOWARDS A MORE EFFECTIVE LAND ADMINISTRATION REFORM	
ARRANGEMENT FOR THE GA STATE	202
6.0 INTRODUCTION.....	202
6.1 STATUTORY AND CUSTOMARY LAND ADMINISTRATION-ACTORS AND STRUCTURES	
.....	204
6.1.1 Actors	204
6.1.2 Structure of Customary Land Administration.....	205
6.1.3 Rules of Allocation, Adjudication and Enforcement	208
6.1.3.1 Nungua	208
6.1.3.2 Kpone	209
6.1.3.3 Tema.....	210
6.2 INTERACTION AMONG ACTORS IN GA AREAS ACTION ARENA	211
6.2.1 Relationship between Actors-Chiefs Perspectives.....	212
6.2.2 Relations between Actors-LSA Staff Perception on Land Matters in	
Ga State	216
6.2.3 Improving Land administration in Ga Areas- Perception of land Users.....	217
6.3 WHY IS GBAWE BETTER?.....	219
6.3.1 One Big Family and Customary Land Secretariat	219
6.3.2 Good Relationships with LSAs	220
6.3.3 Accountability and Transparency in Land Administration.....	222
6.4 PRINCIPLES AND ATTRIBUTES FOR EFFECTIVE LAND ADMINISTRATION REFORM	
ARRANGEMENTS IN GA AREAS	222
6.4.1 Principles.....	223

6.4.2	Attributes of Effective Land Administration	225
6.4.2.1	Statutory Land Administration.....	225
6.4.2.2	Customary Land Administration- Stool and Family Lands	226
6.5	CONCLUSION.....	227
CHAPTER SEVEN.....		228
SUMMARY CONCLUSION AND RECOMMENDATIONS		228
7.0	INTRODUCTION.....	228
7.1	SUMMARY OF RESEARCH PROCESS	229
7.2	SUMMARY OF FINDINGS	229
7.2.1	Colonial Era	230
7.2.2	Post- Colonial Era	231
7.2.3	From 1992 to LAP I.....	232
7.2.3.1	Constitutional Level.....	232
7.2.3.2	Collective-Choice Level.....	232
7.2.3.3	Operational Level.....	234
7.2.4	Assessment of LAP I.....	234
7.3	LIMITATION OF RESEARCH FINDINGS/ OUTCOMES	235
7.4	IMPLICATION OF RESEARCH FINDINGS/ OUTCOMES	236
7.5	CONCLUSION.....	238
7.6	RECOMMENDATIONS	240
BIBLIOGRAPHY		242
APPENDICES		257
APPENDIX I: IN-DEPTH INTERVIEW FOR CHIEFS AND LAND OWNERS.....		257
APPENDIX II: HOUSEHOLD SURVEY QUESTIONNAIRE		258
APPENDIX III: IN-DEPTH INTERVIEW GUIDE FOR POLITICIANS AND BUREAUCRATS		285

LIST OF TABLES

Table 1.1: Number of LSA Interviewed	19
Table 1.2: Number of Chiefs Interviewed.....	20
Table 5.1: Time respondents spent dealing with land institutions	164
Table 5.2: Problems of Statutory Land Institutions	165
Table 5.3: Comparisons of Land Acquisition Success Rates.....	171
Table 5.4: Duration of land acquisition by traditional area	174
Table 5.5: Duration of land acquisition by land type.....	175
Table 5.6: Duration of land acquisition by Age	175
Table 5.7: Duration of land acquisition by ethnic background.....	176
Table 5.8: Mode of acquisition by ethnic background.....	177
Table 5.9: Mode of acquisition by traditional area	178
Table 5.10: Mode of acquisition by type of land	179
Table 5.11: Mode of acquisition by level of education.....	180
Table 5.12: Land Loss by land type and traditional areas.....	181
Table 5.13: Circumstances for land loss by respondents	182
Table 5.14: Groups respondents lost land	182
Table 5.15: Action taken by respondents to protect land interest.....	183
Table 5.16: Counter action taken by respondents' opponents to safeguard their land interest.....	183
Table 5.17: State of land Dealings in Percentage %	184
Table 5.18: Respondents' Rating of Experience (%).....	186
Table 5.19: Problems with customary administration.....	186
Table 5.20: Respondents Perceptions on LAP 1 and Accountability (%)	198
Table 6.1: Changes in Exogenous Variables in Traditional Areas.....	207

LIST OF FIGURES

Figure 1.1: Political Map of the Ga State.....	21
Figure 2.1: Proposed Political Map of Ga-Danbge Region	34
Figure 3.1: Conceptual Framework (Source: Adapted from Ostrom IAD and Mahoney and Thelen’s TGIC).....	74
Figure 5.1: Tema Acquisition Area bound.....	168
Figure 5.2: Duration of land acquisition by status	176
Figure 5.3: Mode of acquisition by gender	178
Figure 5.4: Mode of acquisition by status.....	179
Figure 5.5: Graph of showing all EIs since 1960.....	194
Figure 5.6: Compulsory Land Acquisition 1957-2000	195
Figure 6.1: Topographic Map of Gbawe Kwartei Family land.....	221



LIST OF ACRONYMS

AFRC	-	Armed Forces Revolutionary Council (AFRC)
ARPS	-	Aborigines Rights Protection Society
CLS	-	Customary Land Secretariat
COE	-	Council of Elders
CPP	-	Convention People's Party
DfID	-	Department for International Development
EC	-	Executive Council
EI	-	Executive Instrument
FGDs	-	Focus Group Discussions
GKFCLS	-	Gbawe Kwatei Family Customary Land Secretariat
GREDA	-	Ghana Real Estate Developers Association
GYA	-	Ga Youth Association
HIA	-	Historical Institutional Analysts
IAD	-	Institutional Analysis and Development Framework
ISSER	-	Institute of Statistical, Social and Economic Research
KTC	-	Kpone Traditional Council
LA	-	Legislative Assembly
LAC	-	Land Allocation Committee
LAP	-	Land Administration Project
LKMC	-	Ledzekuku Krowor Municipal Council
LMC	-	Land Management Committee
LPRG	-	Land Policy Reform in Ghana Research Project
LSA	-	Land Sector Agencies
MCI	-	Maxwell Commission of Inquiry
MCO	-	Municipal Corporations Ordinance

MMDAs	-	Metropolitan, Municipal and District Assemblies
MP	-	Members of Parliament
NAO	-	Native Administration Ordinance
NC	-	Neo-classicalists
NCBWA	-	National Congress for British West Africa
NDC	-	National Democratic Congress
NDC I	-	National Democratic Congress I
NIEH	-	New Institutional Economic Historians
NJO	-	Native Jurisdiction Ordinance
NLC	-	National Liberation Council
NLP	-	National Land Policy
NPP	-	New Patriotic Party
NRC	-	National Redemption Council
NRC D	-	National Redemption Council Decree
NTC	-	Nungua Traditional Council
OASL	-	Office of the Administrator for Stool Lands
PNDC	-	Provisional National Defence Council
PNP	-	Peoples' National Party
PP	-	Progress Party
PRAAD	-	Ghana Public Records and Archives Administration Department
SAP	-	Structural Adjustment Programme
SSNIT	-	Social Security and National Insurance Trust
TCPD	-	Town and Country Planning Department
TDC	-	Tema Development Corporation
TGIC	-	Theory of Gradual Institutional Change
TMA	-	Tema Metropolitan Assembly

TMC	-	Tema Municipal Council
TTC	-	Tema Traditional Council
UGCC	-	United Gold Coast Convention
UN-ECE	-	United Nations Economic Commission for Europe
USAID	-	United States Agency for International Development
UTC	-	United Trading Corporation
WACA	-	West Africa Court of Appeal
WALC	-	West Africa Lands Committee



CHAPTER ONE

THE LAND QUESTION IN THE GA STATE

1.0 Introduction

Research interests in land administration and management in Sub-Saharan Africa have seen much resurgence among social science scholars in the past four decades. A fundamental basis is the argument that an effective and efficient land administration system is *sine qua non* to establish good governance and sound investment climate for political, social and economic growth and development. Yet, securing land tenure and improving access to land for individuals and other prospective users in most developing countries, such as Ghana, constitutes a major socio-economic and governance challenge for states and societies. In Sub-Saharan Africa, this phenomenon often referred to as ‘the land question’ has its origins in the region’s geo-political, economic, social and demographic factors which more recently has also been accelerated by emerging global and strategic imperatives.

Moyo (2007, p. 4-5) observes that the prevailing land question in post-independent Africa serves as a decisive factor of social transformation and development which has resulted in persistent food insecurity, rural and urban poverty, distorted accumulation and an escalation of conflicts over land rights (Moyo, 2007). In former settler colonies such as Kenya, Zimbabwe and South Africa, failure to address the issue of colonial expropriation of land has led to many land related conflicts. In countries endowed with natural resources such as Angola, Southern Sudan, Liberia among many others, global commercial interests have fuelled intense civil conflicts with devastating effects. Boone (2009) argues that most land tenure regimes in Africa designed during the colonial rule have become dysfunctional due to many factors including “rising land values, demographic increase, environmental stress, rising input prices and the shifting winds of markets for agricultural commodities,

all of which are working to fuel social and political tensions that are difficult to contain within old regimes” (Boone, 2009, p. 7).

To address the land question, many African states have over the past four decades initiated and implemented various land policies. The purpose of these land policies have shifted from ensuring security of tenure for improving investment and productivity of land, to renewed interests in reducing poverty (Peters, 2007, p. 2). The contentions in these land policies have centred on drawing distinctions about statutory and customary laws, formal and informal tenure systems and state or community led reforms.

In Ghana, recent land administration reforms have been influenced by the dominant neo-liberal land policies championed by the state and its development partners which target rolling back the state, economic liberalization, and the promotion of free markets and private investments. Hence, the creation of a comprehensive land documentation system which merges customary land tenure systems with formal statutory land laws for a more transparent and efficient system of land administration remains the overall objective (Amanor, 2009).

This study deals with customary and statutory practices regarding land administration in the Ga State. It discusses the relational processes of rule-making and enforcement of both customary and statutory laws, norms, regulations and customs among politicians, bureaucrats, chiefs, traditional authorities, land owners, real estate developers, youth and community based organizations, indigenes and migrants. These processes have evolved over time from pre-colonial, colonial and the post- independence era. This study investigates the various social, political, economic and cultural means by which key actors strategize to influence and effect changes in rules governing land administration in the study areas. This also entails an assessment of how the gradual erosion of traditional trusteeship idea of land belonging to the dead, living and unborn that existed within the Ga State, is influencing the creation of a transparent framework for land administration

particularly the Land Administration Project I (LAP I) which started in 2003 and ended in 2010.

1.1 Statement of the Problem

The central focus of this thesis is to analyze the land question in the Ga State in Ghana from an institutional perspective. How did the pluralist legal land administration system evolve in the Ga State and what role did the actors play? What are the processes through which land becomes commoditized? What are the outcomes of land commoditisation on the pre-existing land users in the Ga State? How transparent is the system of land transaction, registration and certification? And finally, what insights can the analysis of actors and institutional changes provide for present and future land administration reforms in the Ga State? These questions are the main concerns of this thesis.

The central questions are addressed by analysing the land question in the Ga State in Ghana. Historically, three phases of the land question are identifiable (Amanor, 2009). The first phase began around the early colonial period when there was minimal intervention from the state in economic production and ended in the 1940s when state interventions the economy among others led to a gradual shift from subsistence farming to cash crop and export farming. For the Ga State which relied heavily on trade with the Europeans and the neighbouring states, the land question at the period was triggered by the passage of the 1876 Public Land Ordinance and the subsequent relocation of the Gold Coast Colony capital city from Cape Coast to Accra in 1877. Increased demand for Ga lands and rising values significantly changed land tenure.

The second phase commenced in the late colonial era (early 1950s) and ends in the post-independence years around 1983. This period was characterised by large-scale state intervention in economic activities. The Tema Acquisition in 1952 for the construction of a port city and industrial hub as well as the use of the 1962 State Land Act for compulsory

land acquisition of Ga State lands and others parts of the country by the state for public use best exemplify state interventions in Ga land tenure.

The last phase, which runs through Ghana's Fourth Republican era began in the mid-1980s when Ghana embarked on Structural Adjustment Programmes (SAP). Reducing the size of government, divestiture of state-owned enterprises and the introduction of land title registry in 1986 constitute neo-liberal policies. Significant aspects of the period were the development of the National Land Policy (NLP) in 1999 and the implementation of LAP I from 2003 to 2010.

Colonial rule, urbanization, modernization and changes in beliefs and customs among other factors have contributed towards massive changes in land tenure in the Ga State. British colonial policy through 'indirect rule' favoured the preservation of customary values including land tenure but what was often retained were reinterpreted traditions so manipulated by Ga chiefs, clan and family heads and the State itself to suit their respective interests (Amanor, 2009; Ranger & Vauthan, 1993; Rathbone, 1996). Legitimised by the (re)creation of both statutory and customary land laws, traditional land authorities shirked their trusteeship functions and assumed power to sell and negotiate land concessions to other parties with rising values of land in the Ga State.

The colonial state enacted and adjudicated land laws based on English Common laws and re-interpreted indigenous customary law in Accra and the Gold Coast. Based on the principle of 'eminent domain' evoked in the marginal note in Section 2 of the Public Lands Ordinance, 1876 which states "Lands required for public service may be purchased or taken; shall vest in the Colonial Secretary in trust for Her Majesty", Ga lands were compulsorily acquired for public purposes which are essential for the state's development (Josiah-Aryeh, 2008-2010).

The State Lands Act, 1962 and Administration of Lands Act, 1962 give the Ghanaian State legal powers to compulsorily acquire any land in Ghana including Ga lands required

for public use and vest such land in the President on behalf of the public (Josiah-Aryeh, 2008-2010). Nearly 20 percent of lands in Ghana have been compulsorily acquired by the State while the remainder are held under customary land tenure. Ga lands acquired by the State have been problematic for many reasons (Agbosu, Awumbila, Dowuona-Hammond, & Tsikata, 2007). The State has acquired more lands than it requires and payment of adequate compensation has not been settled between the interested parties in many instances.

This has resulted in landlessness among Ga indigenes and other urban dwellers are deprived of their means of livelihood. In the Greater Accra region, nearly 31 percent of 300 household respondents considered themselves as poor indigenes, youth, women and migrants who experienced difficulties accessing and enjoying land tenure security (ISSER/LPRG Survey, 2005). For the ordinary Ga natives, land access discrimination for housing and farming constituted 44.5 percent of their difficulties. Also, migrants, women, youth and the poor have difficulties raising money to lease and secure land (41.9%).

Between 1973 and 1990 in Accra alone, 55 compulsory acquisitions were made by the state covering nearly 15,000 hectares with no compensation paid by the state in most instances. In Ofankor, a peri-urban community near Accra, 696 hectares representing 85 percent of its land was taken through Executive Instrument 82 (EI 82) in 1978 (Kasanga, Cochrane, King, and Roth, 1996). The impact of compulsory acquisition on Ofankor includes shortage of land for agriculture, residential and commercial use; landlessness among indigenes; massive out-migration to central Accra; illegal sand and stone winning; and unemployment. In a nutshell, the State's hegemony in land acquisition, allocation, management and utilization processes leaves indigenes, migrants and marginalised groups such as youth, women and the poor in communities worse off.

In the last two decades, rapidly growing urban population, the growth of a business and middle class with money to invest, and an expanding private sector with large investment

capital and the ability and willingness to pay high prices for property have resulted in rapid commoditisation of land in the Ga State (Amanor, 2009). These developments bring to the fore the need to examine how these changes occurred and what effects they have on statutory and customary actors and organizations charged with land administration and management in the Ga State. Investigating the processes by which communal lands become commoditized is necessary to determine the potential outcomes of contemporary land administration reforms. Secondly, it is also important to examine the role and reactions of politicians, bureaucrats, judges and lawyers, chiefs, clans and family heads, real estate developers, indigenes, migrants and other commercial land users as land managers and users. Thirdly, the study investigates the extent to which the State can perform its dual role as the regulator in administering, managing, planning land use and enforcing statutory land laws and court decisions while it also assumes a player's role acquiring land or drawn into land litigation over parcels of land in the Ga State. Finally, the study investigates how LAP I was implemented and examine the perceptions of all stakeholders about the changes and outcomes of LAP I in the Ga State. In sum, this study focuses on the political, economic and socio-cultural factors of property rights institution creation in the Ga State.

1.2 Objectives of the Study

The general objective of the study is to examine how the evolving relationships that exist between the Ghanaian State represented by politicians and middle and top level bureaucrats of land sector agencies and the Ga society represented by Ga chiefs, traditional leaders, clan and family heads have contributed to the creation of the land question in the Ga State. The following hypotheses inform this study:

1. The gradual erosion of trusteeship ideals governing communal tenure in the Ga State results in rapid land commoditization and tenure insecurity for private land holders

2. The Ghanaian State's hegemony in land acquisition, allocation, management and utilization processes results in landlessness, chieftaincy disputes and poor outcomes of land administration and management reforms in the Ga State.

These statutory and customary actors constitute agents who administer Ga lands on behalf of citizens, electorate and subjects of the Ga State who together constitute principals. The study examines the nature of political accountability that exists between principals and agents. In what ways have traditional structures of political accountability been affected by legal pluralism of land administration and how effective are sanctions and checks in enforcing transparency in the allocation of land?

The specific objectives of the study are as follows:

1. To examine the nature of relationship between, and roles played by key actors including the Ghanaian State and the Ga people in land administration in the Ga State.
2. To analyse the incentives that motivate politicians, bureaucrats and Ga chiefs to effect change in land administration.
3. To use LAP I as a case study in assessing the efficiency, equity, accountability and adaptability of current land administration in the Ga State.

1.3 Theoretical and Conceptual Framework

This thesis seeks to explain factors that influence the creation and change of property rights institutions. In recent times, the underlying motivation for many studies in anthropology and economics on property rights in Africa has been the viewpoint that clearly, well-defined and enforced property rights is key to development (Joireman, 2006). Dissatisfied with explanations posited by early market efficiency theorists' assertion that as land values increase rational actors will form political institutions to secure property rights, institutional revisionists such as Herbst, Grindle and North and Joireman posit that corruption and a lack of institutional capacity of ruling elites to create and maintain

property rights have been the main causes (Onoma, 2009). Institutional revisionists also think institutions become path-dependent and hinder the development of new ones that operate differently from previously established institutions. On the other hand, political revisionists like Knight, Riker and Sened, Firmin-Sellers, Moe, Olsen and Feeney focus on what Onoma (2009) calls “causal salience of collective action problems and distributive conflicts and the unwillingness of rulers to anger powerful constituents who benefit from old definitions of rights to explain the supply or lack thereof of stronger institutions” (Onoma, 2009, p. 22). This study differs slightly from the stance taken by the two groups and attempts to look beyond economic rationale for property rights institution creation and change. That is, an analysis of the political, social and cultural factors which complement economic reasons for property rights institutions creation and change in Africa.

Generally, theorists of property rights may be grouped into three main categories namely the Neo-classicalists (NC), New Institutional Economic Historians (NIEH) and Historical Institutional Analysts (HIA) (Greif, 1998). Neo-classicalists see property rights institutions as non-market contractual relations that respond to market signals by transforming from communal land ownership to private or individual land ownership for the attainment of maximum returns on investments.

Neo-classicalists assume that new property rights institutions evolve whenever changes in factor endowments, technology and preferences become cause and effect of price variations for which disequilibria induce the formation of new institutions (Kikuchi, 1980; North, 1981; North & Barry, 1989; North & Thomas, 1973; Ruttan & Hayami, 1984). New property rights institutions are expected to be based on individual land rights rather than communal land rights. But, this has in the strict sense not happened in much of Africa. Bruce (1988) observes that changes that have taken place do not necessarily warrant a complete replacement of old communal tenure systems.

New Institutional Economic Historians (NIEH) reject claims by Neo-classicalist theory that property rights institutions are created solely in response to market signals. They advance arguments that property rights institutions are created by the state; largely driven by technological changes, population growth and market integration among others; and the institutions created are inefficient due to the political processes that formed them (Greif, 1996). For NIEH, institutions require constant adjustments to be efficient but the political processes led by the state in evolving property rights institutions are fraught with problems.

Perhaps, the inability of the state to enforce property rights institutions particularly in Africa led HIA to look at institutions as “non-technologically determined constraints on human behaviour which are self-enforcing” (Greif, 1996 p.5). By extension, the courts, guilds, civil society, business associations, banks, political parties, traditional authorities and the state are all stakeholders whose collective actions ensure creation and enforcement of property rights institutions. Hence, HIA are able to empirically examine the relationship between cultural and social factors in the selection of property rights institutions. But, HIA like its predecessor NC and NIEH theories suffer from two major limitations which affect its applicability. The first has to do with the narrowness of the definition of property rights. The second limitation relate to how institutions are analysed.

Anthropologists, sociologists and political economists use different approaches to conceptualise studies on property rights institutions across the African continent. Many of such studies focus on the nature of land tenure, how land tenure changes and how to enforce land laws and traditions. Among the fairly recent studies on property rights in Ghana, (Firmin-Sellers,1995) uses a rational choice approach to analyse the transformation of property rights in Akyem Abuakwa State of Ghana. She traces the land question in Akyem Abuakwa and concludes that the structure of property rights in whatever forms it exists, be it communal or private, will not induce investment unless

political institutions established for protecting interests have coercive power to enforce property rights. Firmin-Sellers (1986) had earlier undertaken a comparative study of the transformation of property rights in Akyem Abuakwa and the Ga State, and reached similar conclusions. This study is not contesting the conclusions reached by Firmin-Sellers on the Ga State. Rather, it is the intention to investigate further the Ga State land question since independence using a political economy approach. The post-independence period was not covered by Firmin-Sellers.

Onoma (2010) studied institutions that govern land rights in Ghana, Kenya and Zimbabwe and discusses how these institutions change over time. He stated the views of neo-classical economists that land rights institution that secure property rights help reduce cost and promote investments. Rational actors therefore create institutions as land value rise so profits can be maximized. Onoma also agrees with critiques of neo-classical property rights theorists that:

“Demanded institutions are not always supplied as the cause for persisting insecurity in the face of rising land values in many places, which is contrary to the predictions of efficiency theory” (Onoma, 2010 p.21).

Onoma contends that in any given polity, depending on the mode of extracting benefits from land and the extent of their capacity or ability to enforce property rights, key actors like chiefs, politicians and bureaucrats take actions to secure or weaken property rights institutions. Beyond ownership or control of land, chiefs, politicians and bureaucrats derive direct benefit from land when they are able to enjoy proceeds from the sale of land. When these actors reap indirect benefit through the use of land for productive activities such as farming, mining, tourism etc., they support the development of strong property rights institutions to secure their investments. This thesis builds on Onoma’s work by seeking to compare the reactions of actors (including chiefs, politicians and bureaucrats) within the Ga State. It examines how the structure of politics in Nungua, Tema, Kpone and Gbawe traditional areas of the Ga State affects property rights institutions and change.

In sum, this thesis exposes the weaknesses inherent in analysing property rights institutions and change from a single standpoint of rational beings seeking to create secure property rights institutions for maximizing profits and investments. Onoma's conclusion in his study showed how misleading such a view can be. Strong property rights institutions are not in the interest of all landowners and land users in a given polity (Onoma, 2010). It is only when the interests of landowners and users coincide that strong property rights institutions are desired by all. Many studies on Africa have addressed property rights institutions and change based on the economic rationale of land users and investors. This study lays more emphasis on analysing the political, social, cultural and economic factors driving property rights institution creation and change.

Moe (2006) critiques property rights theories and queries the insignificant role assigned power in explaining the emergence and change of political institutions of property rights.

To Moe the problem is:

“...Theory tended to view political institutions as structures of voluntary cooperation that resolve collective action problems and benefit all concerned, when in fact the political process often gives rise to institutions that are good for some people and bad for others depending on who has power to impose their will. Institutions may be structures of cooperation, I argued, but they may also be structures of power” (Moe, 2006, p32).

Political power therefore plays a key role in institutions creation and getting everyone in the political system to conform to the rules. Ostrom (2005) also identifies some general difficulties associated with studying institutions. While the term institutions remains ambiguous in meaning given the multiple languages used across disciplines, what is often referred to as ‘institution’ is invisible and exists at multiple levels of analysis based on “combinations of prescriptions, attributes of the world, and communities of individuals working together in a configural rather than an additive manner” (Ostrom, 2005a, p.824). On the basis of the criticisms levelled generally against property rights theories and the difficulties involved in studying institutions above, we proceed to explain the Institutional

Analysis and Development (IAD) framework used in analysing the politics of transforming property rights in the Ga State. The IAD framework is a systematic analysis of the “structure of the situations that individuals faced and how rules, the nature of events involved, and community affected (and were affected by) these situations over time” (Ostrom, 2005a, p.822). It is also a multi-tier conceptual map that targets solving problems at three levels- operational (day-to-day), collective choice (creation of rules to impact on operational) and constitutional (how collective choice participants are selected and relationship among them). Applied as a political economy approach, IAD puts a focus on evolving power relations in decision making concerning the ‘land question’ between the Ghanaian State and the Ga traditional polities actors over time.

According to the IAD framework, human decision-making (such as on land administration and management) results from each land actor’s activation of many layers of internal cognitive processing interacting with the biophysical structure components. Furthermore, individuals uniquely possess and pursue intrinsic values which may not be represented by external material objects that aid each person in making decisions. Within any society, individuals come together to form structures such as families, firms, industries, and nations. Each structure is composed of many parts which are put together to form a whole system, but a whole system at a given level may also become part of a larger system at another level. Individuals constitute nuclear and extended families, families make up clans and nations. Nations put together form nation-states which are also part of the international comity of nation-states system.

Individuals and groups of actors’ actions and inactions are assumed to be affected by four exogenous variables: (1) attributes of the physical world, (2) attributes of the community within which actors are embedded, (3) rules that create incentives and constraints for certain actions, and (4) interactions with other individuals. An action arena comprises of participants and action situations. Participants in positions choose actions at particular

stages of a decision process based on their control over a choice node. The information at their disposal, the likely outcomes and the benefits and costs they perceive for these outcomes informs their choice and actions within the action situation. An action situation is the “social space where individuals interact, exchange goods and services, solve problems, dominate one another, or fight” (Ostrom, 2011 p.7). Actors’ behaviour in an action situation is the first step in analyzing a collective action problem within an institutional arrangement. An institutional arrangement is simply a rule-ordered relationship or the way human beings relate with one another in the production, exchange and consumption of diverse goods and services for social order.

The first step in using the IAD for analysing, predicting and explaining the land question in the Ga State for instance, is to identify the contextual settings of an action arena. Ga State action arena includes the physical settings and the nature of resources such as property, the attributes of the community and the existing institutional settings or customs, norms, traditions and rules governing property rights among the Ga people. The structure of power relations, topography of land, demography of people, availability of land, land use patterns, the system of inheritance (patrilineal or matrilineal), and the nature of the property-family, stool or individual land among others all together constitute independent variables which influence interactions of actors in action situations.

Central to the IAD framework in explaining institutional change are the concepts of strategies, norms and rules. Strategies are “plans of actions that individuals adopt primarily for prudential reasons to achieve preferred outcomes in light of expectations of the likely strategies of others” (Ostrom, 2007, p.12). Norms are primarily acquired in the context of the community in which actors interact and are basically “preferences related to prescriptions about actions or outcomes that are not focused primarily on short-term materials payoffs to self” (Ostrom, 2007, p.12). Rules have several origins as any effort to bring about social order. According to the IAD framework, actors who possess specific

rights to resource also face some basic rules that govern how they share resources in an action situation. An action situation necessarily generates rules-in-use. Actors' behaviour in an action situation are required, permitted or prohibited by rules. These rules are the result of explicit or implicit efforts to achieve order and predictability (Ostrom, 2005a).

In a nutshell, the IAD framework is relevant and most appropriate for Ga State land institutional arrangements because the framework does not specify which institutional arrangement is better. Rather, the IAD framework comprehensively examines the contextual factors, costs implications and uses a variety of criteria to assess institutional performance. Using the IAD schema helps in analyzing and predicting outcomes.

The IAD framework has been used to evaluate several studies especially on resource appropriation systems such as fisheries, rangelands and forests. The criteria for evaluating institutional performance and policy outcomes include efficiency, equity, accountability and adaptability. Wynne's (1989) study on land boards in Botswana; Walker's (1998) study on the evolution of coffee cooperatives in Cameroon; the effects of decentralization laws on local-level outcomes (Anderson, 2002); and the study on change from group ranch to private ranch among the Maasai in Kenya (Mwangi, 2003) are among several application of the IAD since 1982.

1.4 Research Methodology

1.4.1 Research Approach-Pragmatic Worldview

Creswell (2014) identifies four "general philosophical orientation about the world and nature of research that a researcher brings to a study" (Creswell, 2014, p.6). These are post positivism, constructivism, transformative and pragmatism. Post positivists challenge the notion of the absolute truth of knowledge and try to identify and assess the cause of outcomes using empirical science. On the basis that land administration in the Ga State cannot be well examined using only numeric measures or quantitative research approach, we find post positivism as unsuitable. Transformative and constructivism both reject

positivist assumptions of imposed laws (which do not favour marginalised persons) but are also unsuitable as philosophical underpinnings of this study as neither action research nor sole reliance on actors' subjective meanings of events determined the focus of this study.

Pragmatic worldview was chosen as the research approach because the study focuses more on seeking solutions to the research problem of arbitrariness, confusion and chaotic land tenure in the Ga State. It is therefore more beneficial for the study to adopt a pragmatic approach that emphasises the research problem and adopts both qualitative and quantitative or mixed methods in understanding the origins and manifestation of the land question in the Ga State. Integrating several data collection methods including direct observation, participant observation, analytic narratives analysis of interviews and a household survey in purposively selected traditional areas in the Ga State constitute the study's research approach.

1.4.2 Narrative Analysis

Narrative analysis merges historical and comparative research with rational choice models to explain and understand institutional formation and change (Levi, 2003). The approach basically uses tools of new economic institutionalism and comparative historical analysis to investigate political economy problems and puzzles such as property rights, political order and governance and interstate relations including land administration in a systematic manner. Most proponents focus on processes and develop qualitative case studies to identify causal mechanisms for actors' interaction (individuals or collectivities) given structural constraints that are generalized or generalizable to other cases. Narrative techniques refer to research grounded in traditional historical methods which involves "the detailed and textured account of context and process, with concern for both sequence and temporality" (Levi, 2003, p. 11).

Narrative analysis starts with synthesizing from the narratives of the key actors, their goals and their preferences and the effective rules that influence actors' behaviour. Secondly,

strategic interactions that create equilibrium that either facilitate or constrain the key actors are highlighted to identify the reasons for shifts in institutional equilibrium at different points, times and places. With clear assumption and reasons the data from the narratives is then subjected to competitive interpretations that bring new insights.

Narrative help establish actual and principal players, their goals and preferences as well as making clear the effective rules of the game, constraints and incentives of land administration in the study areas. Narrative is “...a useful tool for assessing causality in situations where temporal sequencing, particular events, and path dependence must be taken into account” (Mahoney, 1999, p.1154). The narrative is therefore necessary to provide information for causal assessments of land administration as “it offers a means to arbitrate among possible explanations for instances of observational equivalence, when either of two distinct processes could be producing the outcome under investigation” (Levi, 2003, p. 12).

The analytic narrative approach has the following features and processes: case selection (strategic choice situations, contingency and uncertainty); building models (deduction, induction and iteration, path dependence and critical junctures); and evaluation (logic, confirmation, generalizability). Though some consideration is given to properties of causal inference embodied in statistical analysis, the choice of cases for analytic narrative approach is based on the attraction of a research issue to a researcher.

1.4.2.1 Case Selection and Overview of Land Question in the Ga State

The choice of the Ga State was influenced by my involvement in an earlier study of land problems in the country by ISSER. The selection of the Ga State is based on purposive sampling informed by the following reasons. The region is unique for its experience in land administration compared to the rest of the country as virtually all land policies during the colonial era and in post-independent Ghana have been experimented in the environs of Accra before or after being implemented in the entire country. Secondly, the region has

experienced the most advanced form of urbanization in the country thereby putting immense pressure on statutory and customary land institutions located in the region. Lastly, the Ga State has been a centre of pronounced land tenure insecurities in Ghana. In a nutshell, the Ga State serves as a microcosm of what transpires with regards to land administration in Ghana hence my choice of study area.

Geographically, the Ga State covers the whole of the Accra-Tema metropolis and has a cosmopolitan population of nearly four million people (Ghana Statistical Service, 2010 Population Census). The region's population density of 1,235.8 per square kilometre is the highest in the country.

The Ga State comprises of Ga Mashie, Osu, La, Teshie, Nungua, Tema and Kpone traditional areas which have paramount chiefs. To understand the relationship between the various divisions or paramountcies in the Ga State in Ghana, we selected Nungua, Tema and Kpone which have lost substantial stool lands to the state through the policy of compulsory land acquisition for the development of the Tema industrial township which still has land managed and controlled by the Tema Development Corporation (TDC).

Secondly, the Ga people have family and stool lands. Therefore, researching about only stool land is inadequate in analysing state-society relations among the Ga people. Also, to establish attribution, we purposively chose to add the Gbawe Kwartei Quartey family which owns large tracts of family land in the Ga Mashie area. The choice of Gbawe family land is also significant in that land access and tenure security appears relatively better when compared to the three stool lands already selected. These areas chosen for the field research represents four out of seven major chiefdoms in the Ga State.

Narrative analysis is useful to find out the probable choices of key actors involved in land administration in the selected areas as it reveals their range of characterizations and conceptualizations of each key actor's position on the land situation. Analysing the narratives of key actors is therefore crucial for understanding as "singular happening(s)

that take place in a particular time and place and sequentially... develop through time” (Levi, 2003). Causality, process, and explanations of human interactions are situated in the timing and sequential ordering of actions and events.

In sum, narrativists argue that “when things (events) happen... affects how things happen” (Levi, 2003). This is because initial actions alter the cost and benefits of future action in ways that systematically render some choices more available and attractive than others. Increasing returns sets in as actors’ actions become path-dependent (Pierson, 2006).

1.4.3 Data Collection Methods

The study made use of both primary and secondary data.

1.4.3.1 Primary Data

For primary data, a triangulation methodology involving both qualitative (in-depth interviews and focus group discussions) and quantitative (survey) was used. Direct observation and participant observation were also used to augment the primary data collection.

1.4.3.1.1 In-depth Interviews

Semi-structured interviews were conducted with selected top and middle level bureaucrats of all land sector agencies (LSA) at the national, regional and district levels within the Greater Accra region which is the base region of the Ga State. Interview guide focussed each LSAs mandate, operational capabilities, relationships among these LSAs and Parliament of Ghana, Judicial Service, ministries, departments and agencies, general relationship with Ga land tenure institutions and particularly during LAP I implementation and outcomes. Table 1.1 below is a list of interviews for LSA bureaucrats:

Table 1.1: Number of LSA Interviewed

Land Sector Agency	Number of Interviews
Lands Commission	5
Land Valuation Board	2
Survey Department	1
Land Title Registry	1
Land Administration Project	2
Office of the Administrator of Stool Lands	3
Department of Town and Country Planning	3
Tema Development Corporation	2
Total	18

Chiefs and other traditional office holders, family/clan heads as well as staff of the customary land secretariat were also interviewed using semi-structured interview guides. The selection criteria were based on purposive sampling and ‘snowballing’ technique. These sampling techniques were preferred because respondents possessed specialized knowledge on land administration and occupied positions of decision making. In each traditional area, the paramount chief was first contacted and interviewed. Contacts of other chiefs and land owners were obtained from the paramount chiefs. Also, respondents in the household surveys indicated chiefs and land owners in each area who leased land. These helped in the selection of chiefs and land owners interviewed. Hence, the chiefs and land owners could not have been selected based on a simple random sampling.

The interview guides which were informed by literature and theory were used to allow respondents give a wide variation of answers to explain land tenure and changes over the years. Besides taking fairly comprehensive field notes, audio recordings were taken where

respondents consented and transcribed and analysed. Table 1.2 below is a table of in-depth interviews and focus group discussion conducted:

Table 1.2: Number of Chiefs Interviewed

Traditional Area	Number of Interview(s)
Kpone	3
Tema	2
Nungua	6
Gbawe	2
Total	13

The interviews provided a great source of information in understanding how contemporary property rights develop and change in the Ga State among the various stakeholders. From the perspective of each actor, power dynamics, community attributes as well as the prevailing biophysical conditions of action arena, interactions and outcomes of property rights institutions and change in the Ga State were clarified.

1.4.3.1.2 Focus Group Discussions

Focus group discussions (FGDs) were conducted in each traditional area involving the following groups; traditional land authorities, women, youth and community based organizations, migrants and indigenes. Each FGD had respondents ranging between 4 and 10. All the FGDs had a fair representation of women, youth, migrants and indigenes. The only exceptions were the FGDs for chiefs in the traditional areas. At least one research assistant provided support during the conduct of each FGD. Analysis of each FGD was based on what was transcribed. The main objective of FGDs conducted at the end of the study was to validate and confirm the key findings of the study with the respondents in the selected localities. In all, a total of 12 FGDs were conducted.

1.4.3.1.3 Individual Household Survey

Individual household questionnaires (see Appendix II) were designed and pretested before they were administered by 4 trained research assistants. Pretesting took place at Agyirigano, near East Legon in Accra. The final questionnaire incorporated all the corrections and observations made during the pre-testing. From mid- April 2010 till the end of May 2010, four trained research assistants administered 323 individual household questionnaires in 52 localities (towns and villages) the Kpone, Tema, Nungua and Gbawe traditional areas. Figure 1.1 below is a political map of the Ga State with the study areas highlighted;

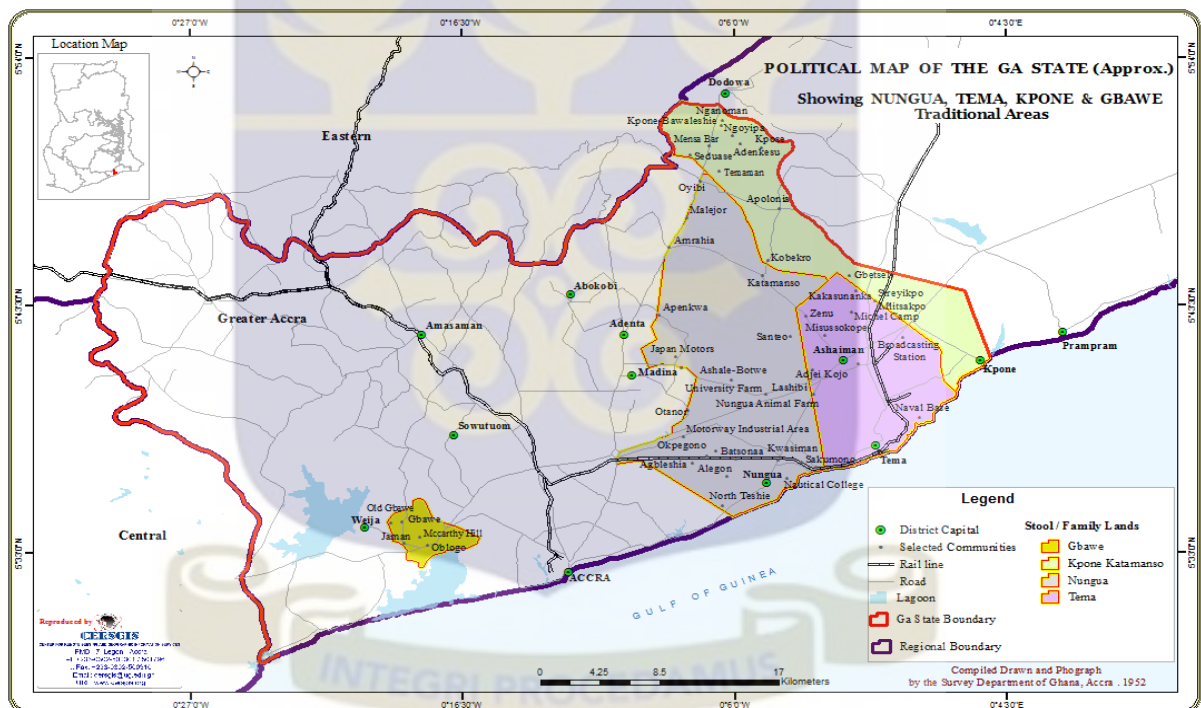


Figure 1.1: Political Map of the Ga State

Source CERGIS and Survey Department, Ghana

Household Data Collection and Sampling Procedure

The sample size was determined based on the Ghana Statistical Service 2000 Population Census. Nungua and Tema being the largest traditional areas had more respondents,

followed by Kpone and Gbawe in that order. Selection of study areas were based on purposive sampling.

In the absence of accurate maps for each traditional area, selection of towns and localities was based on prior discussions with the chiefs and land owners about the communities which make up their traditional areas. On the field, I used my discretion to determine the number of questionnaires to be administered in each locality. I made sure the selections were representative enough as I sought the opinion of key informants who reside in these localities to determine the nature and characteristics of each locality. In the big towns, I demarcated the areas for each research assistant. From the selected start point which is invariably a central house located at the town or village centre, each respondent selects the fourth house and interviews a head of household who has had some dealing land in ranging from acquisition, use and disposal. The fourth household which does not have any dealings concerning land was skipped over for the next in line.

From April to June 2010, a survey of 323 households in Nungua, Tema, Kpone and Gbawe traditional areas was conducted. Data was collated on 1,477 household members located in 52 localities in the 4 traditional areas. Male members constitute about 46.58% of respondents. Majority of household respondents (53.42%) were females. The average household size of the respondent ranged between 4 and 6 persons. Respondents in Nungua and Tema traditional areas compared to Gbawe and Kpone appear to be far more educated as nearly 30.03 and 21.59 percent respectively had some form of tertiary education and training.

Of the 323 households, 105 (32.51%) households were interviewed in Tema traditional area. Kpone and Nungua traditional areas had 80 (24.77%) and 78 (24.15%) household heads interviewed respectively. In Gbawe, 60 (18.58%) household heads were randomly selected and interviewed.

By land type, 51 (15.79%) of households interviewed may be classified as state land located mainly in the Tema traditional area. Stool land constituted the largest part of the study areas. In all, 205 (63.47%) households located in Nungua, Kpone and Tema were interviewed. Households living on family land mainly in the Gbawe area constitute the remaining 67 (20.74%).

1.4.3.2 Secondary Data

Official reports, statutes, constitutions of the Republic of Ghana, published sources and secondary literature were accessed at the Ghana Public Records and Archives Administration Department (PRAAD), the Balme Library and the Law Faculty Library at the University of Ghana for a systematic document analysis. Also, maps and other official information were accessed from the various land sector agency for analysis. From the Parliament of Ghana, the Hansards and committee reports on lands and natural resources were also accessed. The last source of secondary data came from the records of the Gbawe Customary Land Secretariat which has kept good records of their operations for many years. Technical publications by ISSER on Land Policy Reform in Ghana Research Project (LPRG) and development were also being reviewed for the study. Other literature may include content analysis of newspapers and reports on land administration at the National Archives and libraries.

1.4.4 Data Analysis

Data for this thesis may be broken into two broad categories- primary and secondary data sources. With primary data, analysis is also in two parts. The first used descriptive statistics to analyze the individual household survey quantitative data which borders on the perceptions of individuals and households about customary and statutory land tenure developments and changes- land acquisition, use and management. A CS-PRO template

was designed for entering the questionnaires data. The completed data entry was transported into SPSS and STATA statistical analytic tools for analysis.

For the qualitative data which came from the in-depth individual and institutional interviews, narrative analysis techniques were used for the analysis. Narratives are articulated language whether written or oral which can be expressed in many forms including myth, legend, history, gestures, local news and conversation. Narratives are present at all times in all places and societies. Narratives are storied ways of knowing and communicating using diverse kinds of texts which are ordered as sequence and consequence. One's understanding of narrative influenced the method of analysis. But, all narrative analyses are based on the construction of text for further analysis. Field notes, interviews were transcribed for close scrutiny and interpretation based on standard coding procedures.

Interpreting a narrative can be in the form of a thematic analysis where the investigator lays more emphasis on the content of the text and not how it was said. For instance, one engages in thematic analysis of the narratives told by chiefs on how they administer land when the focus is on what the chiefs say they do. Analysis of how the chiefs said they administer land to their subjects shifts to a structural analysis of the narrative. Interpretation of a narrative also takes the form of an interactional approach when the emphasis of analysis focuses on the dialogic process between the teller and listener.

Information from individuals at the micro level together with information from institutions and organizations at the macro level formed the basis of analysis. Coding of transcribed interviews for themes was done manually and very useful in the narrative analysis.

Finally, documentary analysis of secondary and archival data constitutes the last method used for the analysis of dated texts, reports and official documents.

1.4.5 Methodological Limitations and Ethical Issues

The methodological and conceptual framework used in this thesis has some limitations. The first of three important limitations is the issues of generalisability. Ideally, the case study approach gives researchers the opportunity to obtain an in-depth knowledge of cases. It is however difficult to make extrapolations on other cases as each may be distinct. Also, to an extent even though care was taken to ensure that respondents in each traditional area were representative of respondents, the sampling techniques of the survey targeted respondents as it was not entirely random.

Secondly, the study was limited to the extent that it is not possible to establish firm causality between the independent and dependent variables when one considers the numerous variables involved in accounting for changing property rights in the Ga State. That is to say the methods did not control for the effects of other variables.

The last major limitation of the study has to do with the issue of perception of bias inherent in the study design itself. In generating themes for coding the qualitative data, literature and findings of previous studies are influential and may introduce bias as one has to use discretion. Even though one can confidently state that conscious effort to deal with the issue of bias, it is difficult to confirm that the bias liability was completely dealt with.

With regards to other ethical considerations, consent was sought from all authorities in charge of data sources and the purpose for data was clearly stated. Respondents were made aware data was solely for academic purpose. Steps were also taken to ensure that confidentiality of respondents was not breached. Lastly, this thesis has generally followed the requirements of academic thesis by strictly adhering to acknowledging sources and avoiding plagiarism.

1.5 Justification of the Work

The study makes significant contribution to knowledge in three main ways. The first is the empirical contributions about role and relationship among key land administration actors

in the Ga State. Also, the analysis of these roles and relationship brings to the fore the incentives motivating actors' strategies and payoffs. The second category relates to new insights the analysis brings to property rights and principal agent theories. The third simply states the significance of the findings to policy makers involved in land administration. A caveat to these assertions is the limitation of generalisability associated with conclusions drawn from analytical narratives.

The combination of the pragmatic research approach which blends well with the IAD framework, were significant getting both micro and macro perspectives of land administration. The Institutional Analysis and Development (IAD) was used to do a systematic analysis of evolving power relations in decision making concerning the land administration between the Ghanaian State and the Ga State actors from 1870s to 2010.

The empirical evidence derived from the analysis amply shows that the evolution of land institution and organizations in Ghana is inextricably linked to politics of both Ghanaian State and Ga State formation in the colonial and post-colonial era. Hence, hegemonic colonial power and western culture clashed with that of relatively weak Ga State. With the latter subdued through the imposition of indirect rule and NAO which reduced the powers of Ga chiefs to adjudicate on Ga lands, colonial authorities established rules-in-form for interactions in land administration. But, some Ga land tenure rules-in-use persisted to form the legal pluralism in land administration.

After independence, though some modifications took place in the relationship between the Ghanaian State and Ga chiefs and people, the structure of the relationship remained virtually the same. Dr. Nkrumah's socialist ruling CPP party totally dominated land law making at the constitutional level. Most of the laws established in that period have not been revoked to present times.

Assessment of LAP I based on IAD evaluative criteria confirms the lack of consultation, accountability, equity, efficiency and adaptability of national land policy to suit Ga land

tenure. Rigorous analysis of all data assembled brings new insight for some HIA property rights theorists. Knight's proposition that rational actors come together to create property rights institutions was challenged. Evidence of mutual relationship is very scanty. The mutuality that existed between the colonial authorities and Nana Sir Ofori Atta, who was credited to be the main architect of NAO in the 1920s, was not extended to Ga divisional chiefs and people who opposed it. Power and influence dictated the pace and outcomes of land tenure institutions from 1870s to 2010. The *de jure* power of the Ghanaian State through the President to appropriate any land for public use and several others debunks the notion of mutual cooperation for creating property rights in traditional polities like the Ga State.

Another finding from interviews brings new insight on the principal agent theory which assumes agents are better informed than their principals. Colonial authorities who proposed land reforms in the 1920s lacked adequate information on Ga land tenure. Likewise, the theme of information asymmetry emerged in the analysis of the interviews. Bureaucrats and judges as agents of the principal (Ga chiefs and people) lacked the right information or a bird's eye view of Ga land tenure as an official at Lands Commission put it. Judges were also deemed to have made rulings with inadequate information.

Implications of agents not being well informed about Ga land tenure are numerous. These include planning and implementing dysfunctional national and local land policies which lack ownership and enforcement.

A major public policy recommendation based on the study's findings calls for a change in the mindset of policy makers that key aspects of land administration are technical. There is the need for a rethink in the light of the evidence from Gbawe where local participation and good working relationship between technocrats in LSAs and Gbawe CLS shows positive impact of LAP I.

1.6 Organization of the Study

The study is organised into seven chapters. **Chapter One** is the introduction, statement of the problem, overview of theoretical and analytical framework, research issues, questions and objectives. Besides stating the relevance of the study, the chapter also discusses ethical issues involved in mixed method research design that combines analytic narratives with other conventional qualitative and quantitative data collection tools and analysis. **Chapter Two** is a thematic review of literature on African and Ga land tenure concepts such as beliefs and meaning of land, community governance, rule-making and inheritance systems. The chapter ends with some discussion of studies on colonial and post-colonial land administration and property rights in Africa. **Chapter Three** includes the theoretical and conceptual framework of the study. An overview and critiques of theories of property rights precedes the choice and appropriateness of IAD as conceptual framework. Chapters Four, Five and Six are analytical chapters of the institutional development of land administration and outcomes for the Nungua, Tema, Kpone and Gbawe traditional areas. **Chapter Four** focuses on land administration practices in Ghana and their effects on security in Ga areas under colonial, post-colonial and military regimes. **Chapter Five** tackles the land administration reform effort from 1992 to 2010. It also entails a review of LAP I based on IAD criteria of efficiency, equity, accountability and adaptability. **Chapter Six** further explains outcomes of land administration within the traditional polities. It explains why Gbawe's outcome is relatively distinct from Nungua, Kpone and Tema traditional areas and discusses the premise for effective state, stool, family and private land administration arrangement within the Ga State. **Chapters Seven** is summary, conclusions and recommendations.

CHAPTER TWO

ORIGINS AND DYNAMICS OF AFRICAN AND GA LAND TENURE- A LITERATURE REVIEW

2.0 Introduction

This chapter is a thematic literature review of the origins and dynamics of African and Ga land tenure. The main themes include the meaning of land to Ga and African people, the various land tenure systems prior to the colonial experience, major developments and changes to land administration in Africa, problems, challenges and effects of politics and economic development on land administration in contemporary Africa. The review shows that customary land tenure in most of Africa have undergone many changes. The advent of Christianity radically transformed beliefs of many Africans concerning land while capitalist developments have increased the economic value of land and therefore forced the creation new institutions and actors that complement, compete, conflict, and reinforce older land actors and institutions.

The review underscores the predominance of politics in negotiations, cooperation and conflicts among key actors involved in land administration across the continent. Much of what is happening with regards to land tenure in Africa particularly the resurgence of rural and autochoc movements are shaped by the historical antecedents of these politico-economic and socio-cultural processes which prevailed during the colonial era and the period before colonialism.

The objective of the chapter is to contextualize the institutional settings and concepts within which land administration in Africa is developing. This facilitates an understanding of analysis in subsequent chapters of the thesis. From the review of literature, we argue that literature provides scanty details on how property rights changes are negotiated between ruling elites and landowners and the ruled in fast urbanizing traditional polities. Also, though adequate literature exist on the definition and problems of the land question,

few scholars have taken pains to discuss the role of the various actors involved in land in urban traditional polities.

The chapter is structured into four sections. Section 2.2 examines the nature and development of pre-colonial African states especially the Ga State. It also includes a review of literature on norms, traditions and rules of Ga land tenure prior to colonialism. Section 2.3 discusses the effects of colonial state interventions and policies on land across Africa. Section 2.4 entails a further prognosis of post colonial state interventions on land with a focus on strategies employed by various African states to solve the land question. Before concluding on the chapter, Section 2.5 reviews the literature on contemporary attempts at reforming land administration in the light of democratization and a predominant neo-liberal development agenda in Africa and the world at large.

2.1 Pre-Colonial Ga State and Land Tenure

2.1.1 African States or Societies?

Scholars debate whether pre-colonial African societies were states or merely remained ‘stateless’ societies. A significant aspect of the nature of the political system in pre-colonial Africa has do with the structure of power which determines social relationships and production which shows how members of a community related or used natural resources such as land. Fortes and Evans-Pritchard distinguish between two main political systems in Africa namely centralised and segmentary or decentralized (Fortes, 1940). Such classification has been considered vague as it offers little explanations. Brown (1951) in a review of patterns of authority in pre-colonial Africa suggested at least four general types of states. Bates (1983) also identifies three types of society in Africa. These include “societies governed by a decentralized system of kinship, those in which there is a central monarch, and those in which there are chiefs but no central monarch” (Bates, 1983, p. 25). Bates gives other indicators of centralised states such as the existence of central

bureaucracy, the presence of any form of army and lastly the existence of a national army recruited and commanded by a central military personality.

Based on his classification of African societies in pre-colonial era, Bates tests the applicability of Adam Smith's thesis that states originate to provide order and peace for citizens to engage in production and exchange. Bates observes that compared to decentralized states which abet trade, centralized pre-colonial African states provided more security for its members who engage in production and exchange of goods and services (Bates, 1983; Dickson, 1969). Bates restates Smith's argument that "state power facilitates the attainment of economic gains and that it does so by securing property rights over returns from productive investments or from transactions in the market place" (Bates, 1983, p.33).

Engels gives another explanation for the rise of the 'primitive state' in Africa. His basic argument is that as land or any resource becomes scarce and more people claim some interests, there is the likelihood that one's use of a particular resource precludes others from benefitting. This gives incentives to persons with authority or coercive force to define property rights. Hence, rising population density and changing land-use patterns driven by changing technology promotes property rights and state formation in the interests of ruling elites (Engels, 1972). Colson offers another explanation for the formation of centralized states in pre-colonial Africa by linking the whole process to soil fertility and availability of water in places such as the Zambezi valley (Colson, 1969).

Land was plentiful allowing subsistence farmers to shift to newer areas when they experience any form of scarcity. Also, broadcasting power often conceived of being concentrated at the centre of these polities was quite problematic. Herbst (2000) compares pre-colonial Africa state formation to that of Europe and the 'hydraulic states' of Asia with the following:

"Pre-colonial African states therefore had precisely the opposite physiology of many in Europe: the power assets were concentrated in the centre with gradations of authority extending into the

hinterland. The European model of placing significant assets in the hinterland to protect against outsiders, and to make the boundaries real was neither viable nor relevant” (Herbst, 2000, p. 57). Essentially, it was less costly for African leaders to formally control only a political core representing a small part of a large territory (with no roads and other infrastructure) as such leaders have limited technologies of coercion as well as the ease with which subjects can exit from the control of leaders. The boundaries of these states were imaginary.

Bates concludes the argumentation on the nature of the pre-colonial African states that favourable resource endowments attract large populations and that population density promotes the formation of political systems by generating a demand for the vesting of property rights over scarce resources (Bates, 1983).

Bates also states, government and property rights so created are not always mechanisms for securing collective interests as inequality in such societies are often created in the process. The ethnographical evidence Bates used suggest:

“That while there was inequality in the states of pre-colonial Africa, those who held the positions of privilege had to insure that the benefits created by the states were widely shared. For the bargaining power of the masses, relative to the elites, were strong, and to retain power the elites had to serve the interests of their followers, if only because they would otherwise lose their followers, physically or politically, or other elites would displace them” (Bates, 1983, p.42).

These conclusions by Bates on how states and societies were formed in pre-colonial times is a useful starting point in finding out about the key drivers of state (re)creation and adaptation of contemporary urban polities such as the Ga society and state.

2.1.2 Formation and Development of Pre-Colonial Ga State

The Ga State prior to British colonial rule may best be described as a “loose federation of independent republics, all united in military alliance” (Firmin-Sellers, 1996, p. 37). Oral traditions claim the Ga-Dangme people migrated in batches from the east at different times to their present location in the Accra plains and settled among aboriginal Guan-speaking populations known to the Ga-Dangmes as Kpeshi (Henderson-Quartey, 2002; Parker,

2000). There are contending views about how the Ga came to inhabit their present location. Whereas one group holds the view that Ga were among the earliest immigrant groups to settle on the Accra plains under the leadership of Ayi Kushi in the second half of the fifteenth century, another group led by Ozanne, Odotei and Quarcoopome relied on archaeological findings to argue that Ga have lived on the plains since the middle of the iron-ages (Henderson-Quartey, 2002; Odotei, 1977; Osei-Tutu, 2000). Going by the explanation of the first group, the Ga met an aboriginal group comprising of settlers of Kpeshi, Guan or Kyerepong extractions who were absorbed by the more dominant Ga or were forced to migrate from the Accra plains (Osei-Tutu, 2000). Considering the latter group, the Ga may therefore be referred to as first time settlers who by the seventeenth century ‘thrived on the production and marketing of salt and fish as well as long-distance maritime trade’, and had established large urban settlements like Ayawaso, Accra, Osu, Labadi, Teshie, Nungua and Tema (Osei-Tutu, 2000, p.17). These urban trading centres along the littoral attracted more foreign and local commercial and political enterprises. The Ga traded with foreign and local partners at separate locations such that they served as middlemen and thus became very rich and influential among their neighbours. To maintain their wealth and influence, all Ga settlements which operated as a loose federation of independent republics united in a military alliance to form the modern Ga State that reached its peak under King Okaikoi in the mid sixteenth century. Figure 2.1 below is a political map showing Ga-Adangbe areas:

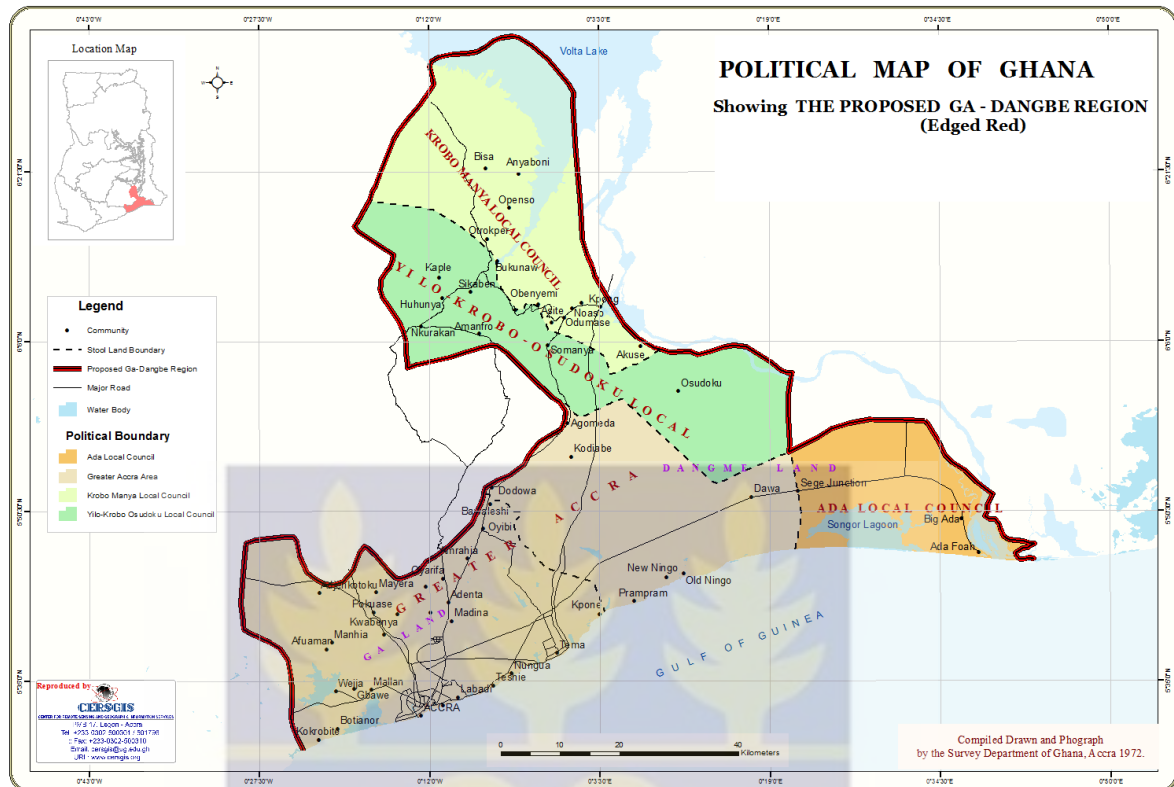


Figure 2.1: Proposed Political Map of Ga-Dangbe Region

Sources: CERGIS and Survey Department, Ghana

Bordered on the north and south by the Akwapim hills and the Gulf of Guinea sea respectively, present-day eastern boundaries stretches northwards from along the Prampram/ Kpone boundary which divides the Laloi lagoon at the coast to Kpone Bawaleshie where the Ga countryside merges with Dangme-speaking people’s land. From the Laloi Lagoon, Ga State coastlines cover a thirty mile coastline to the Sakumofio lagoon and Sakumo and Densu rivers which are generally considered the traditional western limit of Ga settlement. Hence, the boundaries of Weija and Bortianor with Odukpung Kpehe roughly constitute the western borders of the Ga State.

2.1.2.1 Physical and Ecological Features of Pre-Colonial Ga State

The physical features of the Ga State include the Gulf of Guinea Sea and numerous rivers, streams and lagoons which hold economic and socio-cultural significance to the Ga

people. The lagoons have high salinity which gives the inhabitants abundant salt and also serves as the deities of traditional worship which leads them in times of wars (Henderson-Quartey, 2002, pp.64-67). The ecology of the Ga State is characterized by coastal savannah comprising grasslands with thickets of bush and shrubs. With the exception of the Shai, Okaikwei, Legon and Weija hills which break the monotony of Ga State topography, these low lying areas are considered arid when compared to the surrounding Akwapim highlands and forest belts which get much rainfall annually. The grasslands of the Accra plains receive less than 700 mm of rainfall annually even though the region enjoys two raining seasons from April to June and September. Drought is a common occurrence among the Ga people as rainfall is variable. The physical and ecological attributes of the Ga State affect the Ga in a number of ways as these determine actions and outcomes that are physically possible.

2.1.2.2 Economic Attributes

The coastal savannah ecology does not support agriculture very well as tree crops such as cocoa and oil palm thrive less. Farming of food crops is also affected by poor rains and lateritic soil. Only fan palm, Shea butter, dry zone mahogany and tamarind grow well (Herderson-Quartey, 2002).

The Accra plains are also not known for any significant mineral such as gold or ivory which together with cash crops dominated trade among African states and their European counterparts. The Ga people were therefore forced to partake in the booming international trade as middle men traders who bought and sold to both African and European traders. Fishing and salt making were what the Ga people became noted as the main producers. Until the Ga mastered the skills of fishing in the sea, the lagoons were the main sources of fish and also salt making. Hunting was also a major livelihood activity of Ga people. Present-day Gbawe was established through the hunting activities of its founder.

2.1.2.3 Socio-cultural

As noted, hills, lagoons and other water bodies hold much significance to the Ga people. Each major Ga settlement has a lagoon which contains some of its most powerful deities. These lagoons play a major role in Ga customs and beliefs. The settlements of Kpone, Tema, Nungua, La, Osu, Ga Mashie and Bortianor developed around the Ga, Sakumo Onukpa, Sango, Kpeshi, Klote, Korle, and Sakumo Fio lagoons respectively. Unlike agriculture which hardly produced surplus, many merchants from the hinterland arrived daily in these towns to sell their products and buy fish and salt (Parker, 2000). So important was fishing that the head fishermen were accorded some respect in Ga socio-cultural hierarchy as they control large number of men and women engage in the industry. Ga men mostly fish while their women are largely responsible for fish preservation, marketing and trading (Parker, 2000).

Also, evidence shows that topography influenced locations of ancient Ga settlements which were located on hills of Legon, Okaikwei, Adzangote, Lanma and the rest. The Ga believed they the hills protected them from their enemies.

2.1.3 Attributes of the Community

2.1.3.1 The Ga People

The Ga people were originally not tribally homogeneous. Pogucki states:

“the people called Ga, after the name of the group of inhabitants whose language was generally adopted, consisted originally of four tribal groups: first, the original inhabitants of the coast, the Le, who are still represented by a small number of kinship groups; secondly, the immigrant original Ga; thirdly, various groups of Adangme origin who settled the leeward part of the area; and fourthly, certain groups of Akan origin or tradition and adopted by the original Ga” (Pogucki, 1955, p. 2).

The Ga are generally a “patriarchal, patrilocal and patrilineal society” (Pogucki, 1955, p. 3).

2.1.3.2 Ga Culture

Despite centuries of cultural mix resulting from movement of Ga-Adangme speaking people who intensely interact with peoples of other cultures, Ga-Adangme proto religion and culture are considered distinct from their neighbouring Fanti, Twi, Ewe and Guan states. The Ga refers to themselves as *Ga Kron* (pure Ga) who migrated from central Africa and Sudan where they practiced Hebraism as religion (Henderson-Quartey, 2002).

Distinct from other cultural systems known in Ghana, the Ga believe:

“their ancestors were of Persian origin, from the district of Cuthea on the river Cuthea in Persia, and their own particular god or idol which they took with them to Samaria was Gua (a god of thunder worshipped in the form of a thunderbolt) which has always been worshipped by their own people” (Quartey-Papafio, 1911, p. 325).

Reindorf also makes a distinction between Ga people and Akan people when he states

“from the beginning, when not corrupted by the Tshi (Twi) people, they (Ga) were strict observers of their religious rites, which appear to resemble to Jewish, but are now corrupted by fetishism; and in addition, they were also forbidden to have anything to do with human blood” (Reindorf, 1950, p. 35).

He cites baptism ceremony among Ga people; circumcision of male child; how the Ga mourn and bury the dead; peaceful settlements of disputes and painting of door posts during Homowo; and the patriarchal nature government as clear examples Jewish customs and Judaism adapted to suit Ga people.

2.1.3.3 Ga Society and Governance Structures

By the 16th century, the Ga State had emerged as a powerful country in the Gold Coast located within the Accra plains with Ayawaso situated 11 miles from the coast as its capital (Osei-Tutu, 2000). The Ga State controlled Accra, Bereku, La, Nungua, Tema, Ningo and other Adangme towns involved in the vibrant gold, fish and salt trade that attracted many inland states and European traders who built forts to facilitate trading. Though gold was not mined within the Ga State, its citizens became the enviable middlemen who facilitated trade between their inland native traders and European

merchants. The economic prosperity of the Ga State came to end between 1677 and 1681 when its vassal state Akwamu defeated the Ga people who rebelled against their King Okaikoi (Akyeampong, 1996,p.40). After, the defeat, the Ga State fragmented with some royals fleeing to Little Popo and other migrating to the coast to rejoin their kinsmen who remained along the coast or establish a “series of contiguous settlements” each called *man* (plural, *manjii*) in the Ga language meaning town (Osei-Tutu, 2000,p.25).

Hence, the decline of the Ga Kingdom in 1681 led to the collapse of centralized institutions and weakened the Ga polity into smaller territorial, political and military entities which competed among themselves over space and political legitimacy (Osei-Tutu, 2000). Ga Mashie, Osu, La, Nungua, Tema and Kpone emerged as the major towns of the Ga State. Ga Mashie comprises of seven quarters known among Ga as *akutsei* (sing. *akutso*) namely Asere, Abola, Otublohum, Gbese, Alata, Sempe and Akanmaji. These quarters developed from conflict and accommodation that ensued during the institutional reconstruction of Ga social formation after its demise in 1681(Parker, 2000, pp.10-12).

The basis of social organization among the Ga is a web of agnatic kinship groups comprising of clans, extended families and nuclear families which are linked together through intermarriages to form political units of the leeward towns of Osu, La, Teshie, Nungua, Tema and Kpone. The Ga Mashie differs slightly as kinship groups are politically linked into quarters or divisions (Pogucki, 1955, p.3). These kinship groups evolve with the changing economic and socio-cultural developments of the Ga society which has both rural and urban social settings.

2.1.3.4 Ga Governance

Governance structures within these Ga polities are a contested issue. Reindorf states;

“The Ga or Akra form of government was once an absolute fetishcracy. The supreme power was formerly directly , and is now indirectly lodged in the hands of a set of imposters known as foretelling priests, who are rightly named by the Akras ‘*wontsemei*’, that is fathers of the fetish. Women are also admitted to be members of this class. Originally the headman among the

foretelling priests, called 'lumo', a title now given to kings, rulers and governors, seem to have been the ruling power over the people" (Reindorf, 1950, p. 105).

The source of the supreme power of the priest is based on them being "right owners of the lands in and about the towns as was the case with the Egyptians in ancient times, because the lagoons which are held as fetishes, and whose priests they are, were in the land prior to the immigration of the inhabitants" (Reindorf, 1950, p. 107).

He further infers that before the decline of the Ga State in 1677, King Okaikoi's government was that of fetish monarchy. To "avoid the violation of the sacredness of the priest" the two powers of the kings and priests were separated (Reindorf, 1950, p.107).

Reindorf also opines that the Ga constitution has run out of its three stages; the prophet stage in which the prophet priests held the reins of power; the priest stage whereby the high priest of the national fetish held power; and lastly the king stage. With education and Christianity growing among the Ga people, "the power of the priest over lands and revenues is gradually falling into the hands of kings; but the chiefs of every quarter in a town claim a right over every piece of land belonging to the district, as the defenders and protectors of the sites" (Reindorf, 1950, p. 109).

Hence, "every chief was at liberty to make by-laws and settle disputes in his own town; but difficult affairs were submitted to and decided upon by in Dutch Town, before the place had become an English Colony" (Reindorf, 1950, p.110). Political ties between these towns therefore were based more on voluntary federation for war or common well-being rather than a centralized political system.

Field (1937) also states that the Ga are not one people either in origin or organization as each Ga town is an independent republic with its own territory and unique set of customs. Originally, the chief priest or *wulomɔ* was the only ruler of each town. The *wulomɔ* with time ceded his secular duties to two lesser priests the *mantse* (town-father) and the *manɔkrabɔ* (town-guardian) for purposes of warfare alliances, and negotiations with foreigners and outsiders (Field, 1937, p.3).

Parker (2000) gives a comprehensive overview of hereditary governance structures just before colonial rule. The *mantsemei* of each town, quarter emerged as the leading public office-holders and occupy the apex position. The symbolic representation of their office was a stool (*sei*). Each patrilineage (*we*) or quarter had a stool belonging to the founder and the stool is “retained after his death as sacred objects embodying the collective spirit of the institution” (Parker, 2000, p. 18). Succession is hereditary and the process of choosing rest on a blend of ascribed and acquired status criteria for eligible candidates. The *mantse* is chosen by elders of the town or quarter and requires the approval of the citizens (*manbii*). Each Ga town has royal families which produces chiefs on a rotational basis. Apart from Ga Mashie which provides the Ga Mantse and has chiefs for each division and quarter, Osu, La, Nungua, Tema and Kpone have a *mankralo* a-piece who supports each town’s mantse.

The second political hierarchy in the Ga State is assigned to occupants of military positions or *Asafo* groups who serve as organized bands of youthful males and females who defend the Ga State in times of war and function as civil society for development by expressing commoners’ interests during peacetime as well as actively participating in festivals, funerals, ritual ceremonies among others. Adapted from Fanti and Akan neighbours, every Ga male get initiated into an *asafo* company which are organized along both lineage and “age grades” lines (Parker, 2000, p.19). Each sub-quarter or Shia/Wε (patrilineage) has an *asafo* company which is led by an *Asafoatse* (father of *asafo*). A number of *Asafoatsemei* take their command from a *Shipi* who is elected at the *akutso* level. The military leader of each *akutso* or quarter is the *Akwashon Onukpa*. Throughout the Ga State, the powerful *Kpakpatsewe* of *Asere* division of Ga Mashie provides the *Akwashontse* or *Akwashon Mantse* of the Ga people.

Significantly, the Akwashon Mantse like his fellow mantsemei do not have direct control over the asafo except during wartime when he is regarded as the master of arms. Osei-Tutu (2000) states:

“Accra asafo system had the framework of an independent institution. Their independence was manifested through the manner of recruitment and their internal structure. Above all, the investiture process of the Asafoatsemei, as well as the symbols of their authority and office paralleled that of the chieftaincy institution. This organizational freedom enhanced the influence of the asafo leadership relative to the mantsemei” (Osei-Tutu, 2000, p. 65).

The relative autonomy of the asafo in this regard has very significant implications for the role of the asafo in the transformation of property rights in the Ga State as they held the mantsemei and the Europeans in check with regards to land administration on countless occasions.

The *Wulomei* or priestly group forms the third formal structure of authority in the Ga State. Authority of *Wulomei* was “founded on esoteric knowledge of this ritual topography and its manipulation in the cause of ecological management” (Parker, 2000, p. 27). Each Ga deity or god has a priest. Both males and females (*wɔyei*) serve the gods. The priests live at the expense of worshippers of the gods and priests are not allowed to have personal property. Priests are expected to carry themselves with little pomp but with much dignity and observe certain taboos that come with the office such as not going near the dead (Field, 1937). The high priest duties “are not only to officiate at public worship and give the god its daily or weekly libations, but to interpret to the people the wishes of the god, and his is the final voice in any controversy about right or wrong” (Field, 1937, p. 7).

2.1.4 Land Tenure and Rights in Sub-Saharan Africa

Sub-Saharan Africa’s diverse but similar ecological conditions, cultural systems and political structures render it very difficult to make general assertions about indigenous land tenure and rights systems. Many have viewed indigenous land tenure as static in contrast to western property rights systems and not amenable to changes. But a few

scholars hold contrary views and assert that African land rights systems are negotiable based on prevailing power configurations in a given polity (Berry, 1993). Another strong assertion that has influenced land rights in Africa has been the popular viewpoint that:

“Indigenous tenure systems assign land rights to community and that community control discourages long-term investment in land improvements. ... to the extent that investments are required for conservation purposes, indigenous tenure arrangements will also potentially promote land degradation” (Migot-Adholla, Hazell, Blarel, & Place, 1991, p. 156).

Further assertions include the view that property rights in pre-colonial Africa were not established on the basis of contractual law and economic efficiency. Land was considered an integral part of the social system which determines legitimate use by birth, affinity, common residence, and social status or some combination of these. Hence, transactions in land are limited to members who meet the criteria above. Anybody who does not meet any of these social criteria is excluded in market transactions on land as supply and demand factors and entrepreneurial skills do not guarantee access to land for use.

Many studies on pre-colonial land tenure discuss the nature of property rights in many African societies and polities, how these adapt to changes of land use and ownership. Colson (1971, p.194) sees property rights among most African societies as dynamic as each has built-in mechanisms to adapt to changing patterns of production and settlements. Pre-colonial Africans were pre-occupied with changing rights in relation to land use rather than holding land due to the sacred nature of land. Colson identifies two main land rights for property mainly land during the pre-colonial period across much of Africa. These are the right of every citizen to use land for his sustenance and the right of every citizen to claim ownership of what is created by that person. In much of Sub-Saharan Africa, land ownership before colonialism was generally considered to communal in nature and every man had the right to cultivate land for his subsistence and that of his family (Colson, 1971, p.194). Colson (1971) identifies a second principle which gives every individual the right of ownership for any creation “whether this be an office, a pot, a homestead or a field”

(Colson, 1971, p. 194). Such rights can be transferred based on the system of inheritance. With land being plentiful in pre-colonial Africa, these two principles did not conflict and there was rarely any need to differentiate between the political (sovereignty) and economic (use of land as resource) implications of occupying a piece of land.

Mair (1948) sees land tenure as simply the relationship between a person or a group of persons and an area of land. He considers aspects of culture which leads to changes in land tenure in many African societies. He sees pre-colonial African land tenure as appropriate for subsistence economy where no commodity was “more valuable than land, no circumstance in which it would be more profitable to dispose of land. Land, in short had no exchange value” (Mair, 1948 p. 184). The amount of land utilized by any member of the community was limited by the low technology and level of exchange among African societies. As the economy became monetized and people occupied positions of authority such as allocating land, property rights changed in many parts of Africa. Mair concludes that insecurity in land tenure in pre-colonial Africa was a creation of modern conditions of colonialism, commercial agriculture and new technologies.

Land or property rights in pre-colonial Africa derive its essence from ownership. Absolute and unqualified land ownership is vested in the community (Ollenu, 1971). Land is acquired by conquest, settlements, accretion, purchase or gift and the community has “absolute ownership in and jurisdictional authority over all adjoining or contiguous lands subsequently occupied by members...” (Ollenu, 1971, p. 135).

White (1963) defines land tenure as "the rights of individuals or groups over arable, grazing and residential land, how such rights are acquired, what they consist of, how they operate in the holding, transfer and inheritance of land and how they may be extinguished” (White, 1963, p. 172). Bentsi-Enchill (1965) also sees each African land tenure system as distinct reflecting “unique historical development of each political grouping and the consequent variation of legal and institutional structures in different polities” (Bentsi-

Enchill, 1965, p. 115). To him land tenure systems “represent relations of men in society with respect to that essential and often scarce commodity land” (Bentsi-Enchill, 1965, p. 115).

He essentially uses certain uniformities of type in the relations between men in society and land in analysing different land tenure systems. What type of interests prevails among rulers and ruled in a society with regards to land? Who administers or oversees land belonging to an individual, family, clan, tribe or nation? And the manner in which information on land are stored are key criteria in classifying land tenure systems in sub-Saharan Africa.

African societies like human societies everywhere have ‘territorial structuring’ and every society makes “claims regarding the land they occupy that it is ‘theirs’ and distinguish their relationship thereto from that of ‘strangers’ or ‘guests’”(Bentsi-Enchill, 1965, p. 117). In pre-colonial West Africa which contained both centralized and decentralized states and empires a general belief among societies was that all land belongs to lineage groups who asserted their claims land by migration and cultivation or by conquest (Phillips, 1989, p.23). No vacant land exists and anyone seeking access to land had to ask permission from the owners or those in whose care the land had been left. With land in abundance in many parts of sub-Saharan Africa, land seekers were normally granted permission to use the land. But, most land users had usufruct rights over the land as communal ownership nature of land barred people from selling or disposing off any land (Ollenu, 1963).

White (1959) also identifies a number of African land tenure systems based on five criteria namely societies in which an individual obtains land rights by residence, without allocation through a hierarchy of estates; land holding under the control of lineages; societies in which chiefs exercised direct control over allocation of land with a descending hierarchy of estates; feudal systems with landlords and tenants; and individualised land

tenure under commercial production. Individualized land tenure under commercial production now prevalent in much of Africa may be considered a fairly recent development compared to the first four tenure systems mentioned above. The Bunyoro and the Buganda people in Uganda practised the feudal systems with landlords and tenants land tenure. The works of Skinner (1964) and Gluckman (1969) among the Mossi and Lozi (Barotseland) in west and southern Africa respectively depicts land tenures where chiefs exercised control over land directly in a hierarchy of estates. The use of land guaranteed by one's membership of a group or lineage is the most prevalent form of land tenure in Africa.

2.1.4.1 Ga Land Tenure

Customary land tenure in pre-colonial times thrived on customs and norms deeply embedded in religious beliefs of most traditional West African polities (Amankwaah, 1989). Land is believed to be associated with 'life' which implies it has supernatural properties. Just as plants and animals are living creatures, so Ga people believe land must be "sustained and treated as a sacred gift from God. Hence, land used to be, and in some places still is, an object of worship" (Ollennu, 1967, p 251). But, it is however not worshipped as God the Almighty Himself as it is the repository of the remains of man, animals and plants when they die. Hence, land priests and other priests who took charge of shrines and fetishes for land, sea, rivers, lakes, lagoons in pre-colonial Ghana ranked among the highest office holders of most traditional polities. Thus, as a sacred object which sustains life, no individuals or groups were capable of owning land. Individuals and groups of persons (family, clans and community) who occupy any land can use it and defend the land against intruders. Consistent usage of land gives a family, clan, stool/skin of a community or traditional state a sense of ownership and identity. Amankwaah (1989) states:

“There is no principle of land tenure more firmly established... than that which states that land is the ancestral trust which the living shares with the dead. Traditionally land is therefore inalienable. This being the case, it behoves the living to so utilize land that the interests of future and unborn generation are not jeopardized” (Amankwaah, 1989, p.1).

Among the Ga people, land is believed to be ultimately owned by the gods of the Korle and Sakumo lagoons and the sea god, Nai. The allodial rights to land are therefore vested in families and clans whose membership includes the living, dead and yet unborn. Therefore, Quarcoopome (1992, p. 43) notes that the usual means of alienating land to individuals or a group within the allodial rights holders was by gift in pre-colonial times.

With regards to succession under customary land tenure, in contrast with the Akan states which were generally politically centralised and had matrilineal inheritance systems, the Ga State appears more decentralised in terms of governance structures and has both patrilineal and matrilineal (less practised) systems of inheritance (Pogucki, 1955). Moreover, the Ga stool serves more as a symbol of military power which implies lesser use of real political power. Hence, ‘all Ga lands were vested in the lineages who first occupied the land, rather than in stools’ (Firmin-Sellers, 1996, p. 37). Ga customary land law dictates that each member of a lineage can claim rights of usufruct over some portion of lineage land. When that person dies or loses the ability to use the land, it reverts to the lineage. In some conditions, the family may be allowed to claim the family land as personal property that can be sold or deed to others.

The management and allocation of lineage land are the responsibility of the leadership of each lineage who are elected by all family members and the head of the family (also elected by family members). The family or lineage head oversees the use of family land, allocates to family members, distributes proceed from land, and decides when land can become the private property of a member of family (Firmin-Sellers, 1996, p.37).

2.2 Land Administration in Africa during the Colonial Era

Debates on land administration during the colonial era have centred on what constitute African customary and statutory land tenure and what has been the nature role and impact of colonial land policies on agrarian change in rural Africa. Relatively few studies have examined the impact of colonial land policies and that of emergent post-colonial state land policies on current land administration in urban traditional polities which have transformed into large cities like the Ga State. With notable exception like the works of Amanor, Berry, Boone, Peters, Chabal, Firmin-Sellers, Wily, Mwangi, Bates (1981, 1989), Ensminger and Rutten (1991), much of the scholarships on post-independence Africa land tenure and administration have tended to be more focused on the outcomes rather than the political processes involved. This section reviews the literature and shows the dominant role of political and economic interests of colonial governments in the change process of land administration in Africa.

The rationale, role and impact of colonialism in Africa on land administration has been described and analysed in several ways. Mandani (1996) sees economic considerations as the overriding motivation for the whole colonial project in Africa as the “end of slavery in the Western hemisphere underlined the practical need for organizing a new regime of compulsions, except this time within newly acquired African possessions” (Mandani, 1996, p. 37). Colonialism which was highly legalistic and rule-based completely changed social order in many African societies and states (Jackson, 1993). Berman (1998) notes:

“The state in colonial Africa, within the broader context of the intrusion of capitalist modernity, was the central institutional force in the organization, production and distribution of social resources. It also shaped the accompanying changes in the social criteria of access to those resources; and the resulting social structural differentiation between individuals and communities. By authoritatively defining rules of behaviour that specified for Africans what was required, prohibited and permitted, the colonial state structured the choices of individuals by constructing social, economic and political situations; assigning individual roles and identities; and defining the choice of goals, strategies and behaviour” (Berman, 1998, p. 313).

But, the colonial state's capacity to broadcast power and control all resources met with much opposition from indigenes throughout Africa.

2.2.1 Colonial Land Policies

As a means of asserting authority, control over land and labour were major points of contention between and among actors during the colonial era (Phillips, 1989). Throughout sub-Saharan Africa, European colonizers tried to appropriate all 'unoccupied land' for their benefit while "the commercialization of agricultural, pastoral and forest products reshaped relations of production and exchange among Africans, leading to demand for access to and control of land" (Berry, 2002, p. 642). Berry (1993) states further:

"Colonial efforts to exercise hegemony on a shoestring did not block the commercialisation of agricultural production and resource mobilisation in Africa, but did shape the way in which rights of access to land and labour were defined and transacted, and the way people used resources to establish and defend rights of access. Under indirect rule, colonial regimes incorporated ongoing struggles over power and social identity into the structure of colonial administration, and elicited confusing testimonies from their African subjects concerning the meaning of "native law and custom" (Berry, 1993, pp. 39-40)

As a result property rights and labour relations were neither transformed according to the English model nor frozen in anachronistic 'communal' forms, but instead became subjects of perpetual contest. Under indirect rule, British officials sought to make rights of access contingent on people's social identity. At the same time, Africans sought to negotiate new social identities in order to take advantage of commercial or political opportunities. The combined result was a series of ongoing debates about how rules of access were linked to social identities and vice versa (Berry, 1993, pp. 39-40).

Hence colonial land and labour policies that aim to give the colonizers power "to appropriate land, mobilize labour, control disease, protect the environment, or consolidate their own political and administrative control" involved massive displacement of indigenes from their original locations and settling them at new locations with different skills which suited the needs and interests of colonizers (Berry, 2002, p.641). Thus, by

physically displacing Africans, demarcating territories and social boundaries and the creation or reinterpretation of rules of land access, use and transfer, land tenure in most of Africa changed.

Berry also sees the process of changing land tenure in Africa as a negotiated contest between sets of actors, each seeking to define, redefine and interpret land laws and rights to suit one's interests. She argues:

“Colonial period in Africa was less a time of transition-from isolation to global incorporation, from social equilibrium to turbulence, from collective solidarity to fragmented alienation, than an era of intensified contestation over custom, power, and property. ... In the process, people often asserted claims to land and cocoa farms on the basis of their membership or status in descent groups or communities, or secured them in the process of negotiating new social relationships” (Berry, 1993, pp. 8-9).

In Akan, Kikuyu and Yoruba societies, marriage gave men various claims over their wives' labour. Interpretation of rules on property rights depended on who was involved (Berry, 1993). Amanor critiques Berry's emphasis on the process of change and suggest that the structure of power within society is critical in determining who takes part in the negotiation process (Amanor, 1999, 2009; Mandani, 1996). Chiefs and land owners through whom the British ruled Africa “often exploited the construct stable homogenous traditions and customs to further their own interests and build their power base” (Amanor, 2009, p. 102).

Berman (2010) also links the changing land tenure process to the issues of ethnicity and social inequality by describing the political economy during the colonial era:

“Colonial rule rested on complex systems of collaboration with indigenous local elites linked directly to the colonial state through patron-client ties with the European field agents of the state. Colonial power incorporated and built on the power of ‘big men’ who presided over intricate networks of clientele involving reciprocal but unequal relations with ‘small boys,’ as well as power over women and children, and those held in diverse forms of dependence. Colonial power created the hierarchies of ‘decentralized despotism’ (Mamdani 1996) of headmen, chiefs and even kings, ruling through ‘native authorities’ in various forms of indirect rule involving cadres of African collaborators, whether directly appointed by the regime or holding indigenous offices incorporated into the state apparatus. European officials rewarded their loyalty through access to resources

controlled by the state, including preferential access to trade and commodity production, which became key to the accumulation of wealth and was controlled by local African officials in the interests of their kinsmen and extensive clientele. Linked to them were the members of the growing literate intelligentsia occupying other positions in the state and small groups of wealthy farmers, cattle owners and traders who also played patron-client politics, using their wealth to invest in social networks to build their own clientele and position themselves for access to the wider patronage networks of the state (Berry 1993). These new sources of wealth and power, however, were distributed increasingly unevenly both within and between developing communities, providing the material basis for the internal and external politics of ethnic formation” (Berman, 2010 p.8).

Essentially, the land question in Africa during the colonial era needs to be assessed historically looking at both the process and structure of society. For instance, the process of codifying land laws in several African societies and states is useful in depicting the massive influence of power structures on changing African land tenure. Ranger (1983) notes that traditions change in adapting to accommodate new circumstances but once “the traditions relating to community identity and land rights were written down in court records and exposed to the criteria of the invented customary model, a new and unchanging body of tradition had been created” (Ranger, 1983, pp. 211-65).

Colonial policies were often contradictory. On the one hand it sought to promote capitalism while at the same time centralize economic and political power within the colonial state. Similarly, the colonial state in Africa sought to help Africans develop based on the customs and traditions regarding land tenure by recognising aspects of Africa’s land tenure but in many instances what was considered African land tenure was actually a modification that suited the interests of European administrators and African elites. Peters (2007) observes that:

“In the creation of customary law, colonial rulers confused territoriality with sovereignty, and confused African ritual authorities over rain-making or fertility with political leaders exercising authority at different scales (lineage, clan, chiefdom) over their people. Similarly, the multiple types of authority and sets of claims over land and its products were glossed as communal tenure, which became incorporated into the developing body of customary law.”

Commenting on African land tenure, Bohannan (1963) also states:

“It is probable that no single topic has exercised so many students and men of affairs concerned with Africa as have that of land. It is equally probable that no single topic concerning Africa has produced so large a poor literature. We are still abysmally ignorant of African land practices. That ignorance derive less from want of 'facts' than that we do not know what to do with 'facts' or how to interpret them” (Bohannan, 1963, p. 101).

Hence, ethnocentrism and the tendency to over-generalize what constitute African land tenure systems and change have been problematic. Gocking (1997) looks at how the judicial and legislative arm of colonial governments worked to introduce or supersede land laws which were not in their favour. Characterizing African land tenure as static is misleading. Platteau (1995) states:

“Growing population pressure and increasing commercialization of agriculture, particularly since colonial times (when commercial crops such as oil palm, cocoa, coffee, cotton and groundnuts were introduced), have given rise to gradual but meaningful changes in land tenure practices in the direction of enhanced individualization of tenure, larger incidence of land sale transactions (first disguised, then increasingly overt) increased use of money in connection with land loans, and a shift from matrilineal to patrilineal inheritance patterns” (Platteau, 1995, p. 13).

It is very difficult to prove that African land tenure was not changing in response to changes in agriculture. African land tenure is not static at all as it moves along a continuum towards individualization (Migot-Adholla, Hazell, Blarel, & Place, 1995).

2.3 Post-Colonial African States and Access to Land

Land tenure in much of Africa may be characterized as customary or statutory with former being the most dominant. Customary or traditional land tenure is based on unwritten norms, traditions and practices largely administered by chiefs, traditional leaders and clan or family heads on flexible, negotiable and location specific terms (Cotula, Toulmin, & Hesse, 2004). Statutory land tenure systems are based on written laws and regulations subject to formal bureaucratic administration as well as judicial interpretations. These laws

and regulations derive from constitutional rights and the issuance of titles of registering land ownership.

Two major arguments dominate how to access land in most African land tenure systems. One group of scholars argue that property rights have a strong influence on resource allocation and economic development while other scholars hold the view that the transformative effects of political and economic change affects property rights (Berry, 1993).

Property rights refer to the “power to limit the ability of other persons to enjoy the benefits to be secured from the use and enjoyment of a material benefit” (Bates, 1989, p.28). For Bates and others altering property rights means changing social relationships. Ownership means exclusive control over a piece of land. Communal ownership implies the removal of exclusive control over and gives individuals little incentive to invest in land. Communal ownership connotes undefined and inconsistent enforcement of property rights. Feder and Noronha (1987) concluded that agriculture underdevelopment in Africa results from the absence of the legal and political conditions in which property rights determines resource allocation.

Many other scholars like Colson (1971) and Bassett (1992) think that conventional customary land tenures are not sui generis but rather a creation of colonial rule. Amanor (2008) remark that British colonial policy actively supported the retention of customary land laws even though African societies were undergoing modernisation. However, what emerged after such truncations were often an “inventions of tradition that suited the objectives of colonial rule” (Amanor, 2009, p.102). Many scholars conclude that members of the ruling elites in many parts of Africa have often sought to extend their rights to land by manipulating informal tenurial arrangements and customary court procedures (Amanor, 2009). Significantly, Berry (1993) sees peoples access to land as conditioned on their ability to participate in the processes of interpreting and adjudicating on land.

Though the arguments advanced by scholars who think property rights have been determined by political and economic changes appear more plausible, not much explanation was offered in finding means to hold the authorities who abuse their trusteeship of land administration accountable to their subjects. Thus few scholars commented about political accountability with regards to land tenure reforms.

2.3.1 Modern State-Society Relations

Research on state-society relations continues to attract scholarship as the world becomes more globalised with increased concerns for governance of resources. Sellers (2010) argues that though the phenomenon dates as far back as medieval Europe era during the formation of the modern state, recent research focuses on the ‘interactions and interdependency between the state and society’ with many scholars concluding that “society provides crucial elements of support for a state to be effective, and that a state is crucial to collective action in society” (Sellers, 2010, p. 3). He argues that societal influences on the state has grown, diversified and assumed new forms which may gradually be changing as well. In an extensive review of diverse approaches to state-society relations, he critiques the dominant state-centred approach that emphasises state-society dichotomy at the macro level and makes a claim for “promising alternative approaches that have begun to shed new light on the shifting state-society divide” (Sellers, 2010, p. 4).

Though much of the works reviewed by Sellers focused on state-society relations in the western world and did not address the issue of land and development in developing countries like Ghana, his conclusions bear much relevance as it states that “more fine-grained units of analysis than the national state, and approaches to macro analysis based on closer attention to micro-level dynamics, will be necessary to capture these shifts” (Sellers, 2010, p.31).

2.4 Land Administration Reforms-New Wave

Managing land and other resources has been a major governance challenge in Africa for centuries (Phillips, 1989). Many states in post-independence Africa have initiated and implemented policies to address land tenure problems to facilitate agricultural investment and productivity across the continent. But many of these reforms failed to achieve results. Cotula, Toulmin and Hesse (2004) suggests a number of issues to be addressed. To adopt land policies and laws for effective, equitable and sustainable land use in Africa, they argue for a wide range of activities “such as facilitation of national and regional policy debates, support to civil society groups and alliances, capacity building in relevant governmental and non-governmental entities, technical assistance for policy formulation and legal drafting, and so on” (Cotula, et al., 2004, p.30). Other concerns include mainstreaming land as part of a comprehensive development strategy; increase research into understanding the political dynamics of policy processes; and strengthening civil society organizations.

Wily (2003) comments on the growing number of African state engaged in land reforms in the late 1990s and observe a variety of governance implications hitherto less prominent such as new administration systems, deconcentration or devolution of political, administrative and technical powers with mainly rural effects (Wily, 2003). She concludes that decentralization in the land sector does not occur in a vacuum as “shifts in the balance of State-people authority are especially pronounced” (Wily, 2003, p. 69). Changes in constitutional norms, governance mechanisms and natural resource management systems are very much linked to land administration and management. Hence, insofar as decentralization of the land sector remains top-down, with state administrations being benign, the determinants and outcomes of many land reforms remain uncertain (Wily, 2003).

Boone (2003) assesses the effects of institutions linking the state and countryside in Africa and states that the “effectiveness of reform is determined largely by broad features of the political-economic context in which reform is carried out” (Boone, 2003, p. 356). Hence, rural societies shape the institutions building strategies adopted by West African states. While her conclusions confirm the effects of rural societies on state institutional reforms such as decentralization and land reforms, it shall be interesting to find out how urban settings affect land administration reforms in the Ga state.

Williams (1996) sees the apparent shifts in patterns of authority over land as very helpful in providing insights on the encounter between the state and society in Africa. He concludes that “the formal apparatus of the patrimonial state exists today primarily as an elitist instrument. An assemblage of individuals in bureaucratic agencies carries on the charade of authority, while substantial rule-bearing authority often lies outside of official channels” (Williams, 1996, p. 221). Drawing his conclusions from national examples, this study seeks to examine how resilient local community institutions in the Ga state have been despite massive state intrusion on land matters and the urbanization phenomenon.

2.4.1 Debate on Private and Common Property Rights Systems

The right to alienation helps distinguish between private and common property rights systems. In a private property right system, the holders can lease, transfer, sell or alienate property for more returns. Common property rights systems such as those found in Africa are deemed to be inefficient as the property holders “cannot trade their interest in an improved resource system for other resources, nor can someone who has a more efficient use of a resource system purchase that system in whole or in part” (Ostrom, 2000, p.339). With empirical examples Asia, Africa and Latin America, (Larson and Bromley, 1990; Migot-Adholla et al, 1991; Place and Hazell, 1993; Bruce and Migot-Adholla, 1994; Alston, Libecap and Schneider, 1996; and Ostrom, 2000) have all found evidence that counter this neo-classical view of private property rights being more efficient than

common property rights systems. Invariably, communal property rights systems the world over do not exist in isolation without aspects of individualized property rights systems. Hence, the right to alienation exists in all property rights systems even though they are more dominant in one than the other. Recent studies have shown that common property rights systems have low transaction cost in solving problems (Ostrom, 2005b).

2.5 Conclusion

Land relations develop through political, economic and social processes which vary in every polity and evolve gradually and sometimes very fast depending on each society or state's embedded autonomy and institutional endowments. Ghana's embedded autonomy and institutional endowment include the heterogeneous conglomeration of traditional states of varying levels social integration and political development inherited from its pre-colonial and colonial past under British rule (Asante, 1975).

Peters (2009) sees the debate about land reforms in the last three decades oscillating in circles from ensuring tenure security, improving productivity and reducing poverty. Nonetheless, worsening situations of landlessness, land grabbing, intense competitions and conflicts over land resources intensifies throughout the continent (Peters, 2009). Many scholarly works have been written about past land reforms. Other works of earlier scholars have explained how African land tenure developed especially during the colonial era and post-colonial era. On African land rights, scholars like Gluckman conclude that land rights are incidental to one's political and economic status (Peters, 2009, p. 2).

Current wave of land reforms across the continent appear contentious. De Soto for instance argues capitalism and land titling can benefit the poor (Nyamu-Musembi, 2006). There has been shift in policy directions for shifting state regulations to communal land ownership is also contentious as what is communal has been created based on political and social status of privileged groups and persons. Peasants' resistances throughout sub-

Saharan Africa are well documented (Boone, 2009; Moyo & Yeros, 2005; Peters, 2004; Ubink, 2008; Wily, 2011) and others have shown responses of peasants in rural areas.

Land administration reforms taking place in Africa are really not benefitting women, youth and other marginalized groups (Peters, 2009; Boone, 2003; Wily, 2011). Opening up land markets through titling or transferring regulatory powers from the state to traditional communal authorities are not necessarily measures that the poor, vulnerable and marginalised benefit from as groups and individuals with strong political and social status within target communities consolidate their dominance and access to land resources (Amanor, 2012, pp. 56-58). Customary land tenure is not inherently equitable and may deny women, youth, migrants and pastoralists their livelihoods (Whitehead & Tsikata, 2003). Literature suggests that successful land administration reforms depend on understanding:

“The dynamics of customary land management, their implications, and the need to create innovatory institutions that facilitate dialogue among multiple interest groups within the construct of community and across civil society” (Amanor, 2012, p. 58).

Literature on recent land administration reforms appears to overlook these thorny issues of trusteeship, community participation and political accountability by the state elites and the ruling elites of the reinvented traditional and civil society. To understand these dynamics well requires a conceptual framework which allows an elaborate analysis of historical land relations. Ostrom’s IAD is useful in clarifying power dynamics of past and present land administrative reforms as well as afford one the opportunity to assess the efficiency, equitability, accountability and adaptability of contemporary land administration reforms often referred to as pro-poor.

CHAPTER THREE

THEORETICAL AND CONCEPTUAL FRAMEWORK

3.0 Introduction

This chapter consist of two main parts. The first part discusses three variants of property rights theories and the IAD framework and concepts. The analytical and methodological framework used to gather and analyse data that explains the evolution of the land question in the Ga State is derived from these three variants. I argue that the use of a modified conceptual framework based on Mahoney and Thelen's Theory of Gradual Institutional Change (TGIC) and Ostrom's Institutional Analysis and Development (IAD) is appropriate because both concepts concentrates on institution formation and change types. Also, both are historical and action-centred as each traces context and development over time. These are important for understanding how rules, norms, customs and traditions governing property rights evolve and change within political context of contestations, negotiations and cooperation between state elites and agencies on the one hand, and traditional land authorities and those they govern, lawyers, real estate developers among others on the other hand. This analytical framework is useful in explaining gradual changes of the land question in the Ga State by focusing on the distribution of power by individual and groups of actors.

The chapter is arranged in sections. Section 3.2 gives an overview of property rights theories and a critique of the three variants of new institutionalism in explaining property rights institutional change. The appropriateness of key methodological premises of IAD and concepts for this thesis constitute Section 3.3. Section 3.4 discusses how the key analytical concepts were operationalized and applied.

3.1 Property Rights Theories

Property rights are social institutions that define or delimit the range of activities and privileges granted to groups and individuals in the usage and management of specific

resources such as land and water bodies (Mahoney, 2004). Property rights institutions range from formal arrangements such as constitutional provisions, statutes and judicial rulings, to informal norms, traditions, conventions and customs. Libecap (1999) notes that property rights refer to the “sanctioned behavioural relations among economic agents in the use of valuable resources. ... Property rights must be clearly specified and enforced to be effective” (Libecap, 1999, p. 5).

3.1.1 Neo-classical Approach

Modern theories on property rights were influenced by the seminal work of Ronald Coase in 1960. Since that time research on property rights has seen many changes with emphasis shifting from the neo-classical economic traditions to anthropological and new institutionalism perspectives. The theory of Induced Institutional Innovation is the central idea underlying this approach. Originally formulated by Hayami and Ruttan in 1981 to endogenise technical change into agriculture among Asian countries, the theory was also used to explain institutional change. According to the theory:

“New institutions tend to evolve whenever changes of factor endowments, technical change, or preferences that get reflected in price variations create discernible disequilibria between the marginal returns and the marginal costs of factor inputs, thereby giving rise to new benefit-cost possibilities to which old institutions are no longer attuned”(quoted in Platteau, 1996, p. 34).

Neo-classical economics theorists therefore hold the view that property rights will evolve from open access communal land ownership towards the attainment of long-term economic efficiency under privatized or individualized land ownership system. According to these theorists, as land values increases, the potential benefits of land increases and this requires a secure property rights environment for land to yield the highest dividends. Invariably, institutions that secure property rights reduce costs and rational actors will *ceteris paribus* invest in creating such institutions. Hence, in the long-run, property rights assumes universality in that all scarce resources such as land is owned by someone; with

exclusivity of rights for the owner; and transferability of resource by allocation from low to high yield use (Demsetz, 1967).

Ruttan and Hayami (1984) argue that the conversion of communal land into private property in England during the eighteenth century was precipitated by disequilibrium between fixed institutional rents and higher economic rents accruable from adoption of new technology (Ruttan & Hayami, 1984). In the 1970s, changes in the Philippines property rights and labour relations were induced by the introduction of irrigation system and high-yielding varieties that resulted in improvements in the country's resource endowment and technical advancement (Ruttan & Hayami, 1984).

In sub-Saharan Africa, neo-classical theorists argue that commoditisation of land is necessary for efficient allocation of land to the most efficient user through market which facilitates investment and use of land as credit. Individualization, titling and registration of land increases tenure security of landholders as private property is clearly defined, giving the landholder the incentive to invest and expect returns, and generally lead towards the development of land market. Underlying the need for the individualization of land was the conception that African land tenure was fixed or static. Therefore, the state needed to take steps to change traditional land tenure to accommodate agriculture growth and development (Ruttan & Hayami, 1984). Falloux for instance remarks "African countries are at the turning point in terms of land management between traditional extensive systems and new intensive ones.... and require a 'total drafting' of their land laws which have become inconsistent and ultimately ill-adapted to the actual situation in the fields" (Falloux, 1987, p. 199).

3.1.1.1 Critique of Neo-classical Approach

Empirical evidence of property rights for many developing countries gathered by researchers working within social anthropology and new institutionalism traditions have

challenged the widespread applicability that communal land ownership will transform into individual land ownership.

Early critiques like North (1977) point out that not much insight is derived from neo-classical theorists on property rights and other non-market institutions as the tradition offers little explanation to why some societies develop market economies and privatized or individualized property rights when other societies do not. Ostrom (1990) also observes:

“Well specified property rights are not the same as laissez-faire. The former were by far more important because the reduced transaction costs and thereby allowed more integrated markets, higher levels of specialization and the realization of economics of scale” (quoted in Getzler, 1996, p.661).

Getzler (1996) observes that simple neoclassical bargain-driven welfare enhancing property rights theories are subject to a number of challenges. Strongly grounded in positive economics tradition, neoclassical property rights theorists pay no attention to fairness and equity issues regarding initial distributions and economic power. Market efficiency and not social efficiency remains the core focus of neoclassical theorists (Getzler, 1996). Getzler also argues that “Coasean analysis ignores endowment effects based on the psychological asymmetry of losses and gains, indicating a general preference for owners to maintain settled distributions and resist the efficient trade of rights even when such trade is possible” (Getzler, 1996, pp. 662-663). Again, the assumption that optimizing bargains will be struck in the absence of transaction costs has proved fragile and contingent on successful economic interactions. Lastly, neoclassical theorists do not see the possibility of private gains imposing social and public costs on other property rights holders as they fail to distinguish between private transacting and interacting individuals and the general public who are affected by private actors.

Most sub-Saharan African countries avoided the ‘capitalist route’ in developing their property rights (Platteau, 1996). Studies by several scholars raise issues about the efficiency and land tenure in Ghana, Kenya, Rwanda, Uganda and Senegal to mention a

few. Working within the main agricultural zones in Ghana, Roth and Barrow (1994) found that land tenure insecurity is not the cause of agricultural inefficiency among farmers in the country.

The application of neoclassical property rights theories such as land titling and registration have resulted in discriminations among different social groups. While some obtain secure land rights others become less secure with regards to their rights to land (Atwood, 1990; Goheen, 1988; Platteau, 1996). The notion that state will help efficiently allocate resources has rather generated corrupt practices with a few well-connected bureaucrats and traditional leaders accumulating land at the expense of the poor.

Platteau critiques the neoclassical theorists who hold the viewpoint that African land tenure system was not dynamic partly because they

“failed to see that individual tenures can exist under a general system of corporate ownership: that communal arrangements are genuine multi-tenure systems with different land uses calling for different tenures; and that land use rights most often to a specific plot of land, are held by individuals or households” (Platteau, 1996, p. 33).

3.1.2 New Institutional Economic History Approach

Theorists within the New Institutional Economic History (NIEH) approach attempt to explain why institutions that produce poor economic and political performance emerge and persist. North identifies institutions as “constraints on behaviour in the form of rules and regulations” (North, 1990, p.18). The underlying assumption of NIEH theorists is that everyone desires secure property rights that reduce their transaction costs. Hence, theorists within this tradition are mainly guided by three deductive assertions namely institutions being defined and enforced by the state; economic implications of a given institution change over time due to technological change, population growth and market integration among others; and lastly institutions are usually inefficient as they are determined through

political processes and are influenced by the transaction costs of bargaining, measurement and enforcement (Greif, 1996).

The issue of dealing with inefficient institutions further subdivides the NIEH group into two. Institutional revisionists such as Grindle, Herbst, Joireman and North focus on corruption, path dependence and institutional capacity issues of ruling elites to create and maintain property rights institutions. Political revisionists such as Libecap, Knight, Riker and Sened, Firmin-Sellers, Moe and Feeney focus on the causal collective action problems, distributive conflicts and willingness or capability of rulers to broker strong property rights institutions (Onoma, 2009).

Libecap (1989) for instance, explored the political process through which institutions are determined when he examined property rights formation in various mineral, range, timberland, fisheries and crude oil areas in the United States of America. Libecap finds that distributional conflicts present political risks to politicians that given the incentives at the disposal of politicians make them propose regulations which are not markedly different from the status quo of inefficient property rights. Distributional issues, asymmetric information, bargaining failure, and the political interests of politicians and bureaucrats so severely impacts on the emerging property rights (Libecap, 1989).

Within the same tradition, Barzel (1989) also analyze exchange, the formation of property rights and organization and concludes that due to the costliness of measuring accurately all attributes of an asset, rights are never fully delineated. Property therefore is always in danger of appropriation by others due to adverse selection, free-riding behaviour and shirking to mention a few (Mahoney, 2004).

Alston et al (1994) also examines the formation of property rights in the frontiers of Para region in Brazil from both the demand and supply view and reached the conclusion that political importance of the region compared to its economic needs or attributes determined

the extent to which government secured property rights (Alston, Libecap, & Mueller, 1997).

Within Africa, many proponents of this approach distanced themselves from some neoclassical theorists who argued that indigenous African land tenure systems were not amenable to change. Many scholars have dismissed the notion of static indigenous land tenure system in Africa as land tenure adapts to changing conditions such as increasing population pressure, introduction of cash crop production, land use change and commercialization of agriculture. Bruce for example notes:

“The changes that have taken place, has often not required radical revision of older tenure arrangements, nor have they often involved a conscious decision by the community: Instead change has come in an unfolding of the internal logic of indigenous tenure systems in response for new circumstances” (Bruce, 1988, p. 33).

Hence, for land rights to be secure and beneficial to land users of all categories, the formalization of private property rights must be established and recorded by using titles based on accurate cadastral maps. Theorists hold the opinion that the state is best suited to supply this public good. Deductively, all stakeholders require secure land that provides incentives for investment. Farmers with secure rights in their farmland have the incentive to invest in soil conservation methods, land improvements, efficient cropping choices and the right application of technology. On the supply side, land titling is considered desirable to give farmers access to finance or facilitate the transfer of land to others for more efficient use. A thriving land market eventually emerges that has less tenure insecurities and conflicts.

3.1.2.1 Critique of NIEH Approach

Critiques of NIEH tradition have proved that African land tenure is not static but rather evolving from communal land ownership towards comprehensive formalization of individualized land rights. However, the theory fails to fully hold when one considers its

effects on land tenure security, on the operation of the land market and on credits and investments in agricultural productivity.

Platteau (1996) argues that land registration can create rather than reduce insecurity and conflicts on land rights in Africa for three main reasons. According to him, due to high costs of information and other transaction costs, governments in poor African countries are mostly unable to record accurately all existing land rights which creates new uncertainties for vulnerable sections of affected local communities; and thereby reduce the efficiency and effectiveness of traditional land institutions or mitigating factors that previously provided economic security to all members of the area as economic differentiation is held in check.

The second major reason has to do with the huge differences in educational levels with its attendant differential access to state political and bureaucratic elites. Land allocation is dominated by bureaucrats, surveyors, lawyers, judges, politicians and other well-educated individuals (Platteau, 1996). The last major reason land registration and titling leads to insecure land tenure is basically the existence of incomplete cadastral surveys with detailed and accurate records of land ownership.

Migot-Adholla et al (1991) use historical evidence on Ghana, Kenya and Rwanda to illustrate how indigenous African tenure systems have moved along “that continuum in the direction of greater individualization of land rights” in response to population pressure, agricultural commercialization and technological change (Migot-Adholla, et al., 1991, p. 171). They conclude that interventions for change in land tenure such as land registration which facilitates the acceptance of impersonal forms of land transfer must be demand driven and based on legitimacy. The provision of rural infrastructure, promotion of market efficiency, and dissemination of information about production technology by state agencies rather than the prevailing land tenure system constitute the real constraint to agricultural productivity.

Ensminger and Ruttan (1991) observe how economic growth led to a breakdown of systems of common grazing in many African pastoral societies. They also conclude that property rights are not restructured in response to purely economic considerations but:

“The long-run viability of and desirability of certain property rights also reflect ideology and politics. ... Which property rights are actually chosen depends on how rights are chosen as well as on which rights are desired. ... The extent, to which different groups can affect the choice of property rights depends on the political institutions used to make choices” (Ensminger & Ruttan, 1991, p. 695).

Firmin-Sellers’ study on Akyem Abuakwa in Ghana generally summarises much of earlier and contemporary works done within the NIEH tradition within Africa as she concludes that the productive potential of private property rights and customary land tenure depends upon the political institutions through which property rights are defined and enforced (Firmin-Sellers, 1995). This insight is significant because NIEH theorists see institution creation as a contractarian process. Firmin-Sellers is emphatic that institution creation is both coercive and contractarian in nature:

“It is coercive because actors rely on a coercive authority to halt the most egregious conflict over the institution's design. It is cooperative because, when the new institution is in place and disadvantaged actors accept their losses, people contract with one another to achieve mutually beneficial gains from specialization and trade. To be sure, individuals will continue to battle one another to secure a favourable share of those gains, but their competition is less likely to challenge or undermine the existing institutional arrangement” (Firmin-Sellers, 1995, pp. 878-879).

Theorists within the NIEH tradition assume that as population increases, it puts pressure on land as more people demand land to earn a living. But the land market is yet to develop properly in most African countries. Platteau concludes “titling does not seem to activate the land market and, to the extent that market transfers occur, they do not often result in reallocation of land from less to more dynamic agents, or in consolidation of holdings” (Platteau, 1996, p. 54). In many African communities the alienation of land to outsiders is considered a violation of deep-rooted social norm. Acts of sabotage, looting, burning and

theft are embarked upon by original landowners when strangers are given their land. In many of such instances, those giving out the land do not have the full consent of members who still have some rights to the land. The uncertainties associated with land sales or transfers create transaction costs for the new landowner who has to take measures to protect his land. The efficiency gains often cited by the NIEH theorists do not therefore materialize. Clearly, the assumption that private land ownership promotes efficiency must be looked at based on the social context of each area as “incentive problems resulting from lack of legitimacy of the new land arrangements may create serious imperfections in the labour and land rental markets with the effect of impeding the transfer of (relatively) cheap labour to large farms” (Platteau, 1996, p. 59).

Finally, the impact of land registration and titling on credits and investments is not significant. Recent figures in many African countries show low investment in agriculture.

3.1.3 Historical Institutional Analysis Approach

Historical institutional analysis (HIA) theorists agree with the NIEH theorists on the importance of property rights, the political process and the transaction costs thereof. But, HIA theorists disagree with NIEH theorists on the fundamental issue that property rights institutions are defined and enforced by the state. Also, other essential property rights institutions not defined and enforced by the state were excluded in analysis by NIEH theorists (Greif, 1996). To HIA, the state as the sole institution that enforces contracts and property rights pose a big dilemma as “a state with sufficient coercive power to do these things also has the power to withhold protection or confiscate private wealth, undermining the foundations of the market economy” (Greif, Milgrom, & Weingast, 1995, p. 27). HIA theorists utilize equilibrium analysis to identify and study institutions. Self-enforcing institutions emerge in various ways; spontaneously, intentionally created, and or a combination of the two as intentionally created institution may spontaneously evolve to

fulfil another function. To HIA theorists, whatever the manner through which they emerge, economic, political, social and cultural context influence institutions.

Historical institutional analysts' studies aim at identifying institutions and their emergence, shed light on the process of institution selection and the factors contributing to institutions traits to follow similar patterns- path dependence. Unlike NIEH theorists who rely on deductive assumption such as property rights institutions existing to maximize efficiency, HIA theorists use an inductive approach based on direct historical evidence, such as explicit statements and empirical regularities to identify exogenous and endogenous institutional features, to form a hypothesis concerning the relevance or otherwise of particular property rights institutions. Key to this approach is the conscious efforts not to impose the researcher's perception on historical actors involved in the institution creation by indicating the exact role of an organization; identifying the conditions that have prevailed for the argument to hold; and generate predictions with several observable(s) and not just an observable.

Based on the inductive approach, HIA explain that changes in property rights institutions are influenced by technological change, political change and observed change in organizations. Critical to the tradition is the idea that past expectations and organizations influence present and future property rights institutions development. Property rights institutions are path dependent due to acquired knowledge and information; economies of scale and scope associated with existing organizations; coordination failures; and distributional issues (Greif, 1996). Path dependence of institutions is reinforced by the nature of responses to exogenous changes in the rules of the game.

Greif, Milgrom and Weingast are among the key proponents of HIA. They combine game-theoretical models and historical evidence to investigate institutional emergence and change. Greif et al use interpretation of historical evidence combined with a repeated-game model to explain the emergence of merchant guilds in medieval Europe to allow

rulers of trade centres to commit to the security of alien merchants. In sum, their work raises important theoretical issues about how social institutions develop and stabilize over time to allow social actors to coordinate behaviour and to enhance credible commitments for future actions.

Sened (1995) work on the emergence of individual rights is another good example of works done within the HIA tradition. Like Demsetz, Sened argues that property rights institutions are “not constructed to satisfy abstract moral requirements, but rather to improve ex ante expectations of agents from anticipated events” (Sened, 1995, p. 167). Sened also relies on historical evidence to show that private property rights often emerge when governments impose them within their jurisdiction to enhance support and raise tax revenues. Unlike most game-theoretic approaches that treat institutions as equilibria in games among equal agents, Sened models institutions as equilibria in games among players who control old institutions and agents who challenge these institutions with new demands and demonstrates the emergence of institutions at two different levels.

Sened concludes that governments enforce individual property rights not on the basis of their commitment to moral or economic principles. Rather, through the process of enforcing individual rights, governments obtain from their constituents, crucial information that help governments structure property rights which promotes affluence in society which further translates into more tax revenues for governments.

In Africa, several studies have been done which reflects HIA traditions on property rights. These studies by scholars who do not necessarily see themselves as HIA theorists have emphasized the importance of culture, law, history, power distributions, and social relations on the development of property rights institutions. Peters (1992) studies the developments of land rights in Botswana and observes that “invention of tradition and the redefinition of custom have been shown to be central to social transformations such as the realignment of political authority, the emergence of new types of property, the extinction

of some rights to resources and the emergence of others” (Peters, 1992, p. 413). Berry (2002) makes a similar point as she argues that the impact of colonial rule has made property rights and labour relations in most African states subjects of perpetual conflict.

3.1.3.1 General Critiques of Theories of Property Rights

Historical Institutional Analysts like some of their counterparts within the neoclassical and NIEH traditions all view institutions as relatively enduring features of economic, social and political life that structure human behaviour such that changes are not easily made. HIA in particular invoke the path dependent nature of institutions which explain the “persistence of particular institutional patterns or outcomes, often over long stretches of time” (Mahoney & Thelen, 2010, p. 6). Many HIA hold a power-political view of institutions which emphasizes the distributional effects of increasing returns to power.

Many who work within the HIA tradition view institutions as coordinating mechanisms that sustain particular equilibria (Shepsle, 1989). Greif and Laitin (2004) state that “a self-enforcing institution is one in which each player’s behaviour is a best response. The inescapable conclusion is that changes in self-enforcing institutions must have an exogenous origin” (Greif & Laitin, 2004, p.633). According to them, indirect institutional effects or feedback effects increase or reduce the options of situations in which an institution is self-enforcing. But, they redefine exogenous parameters to explain endogenous change.

Pierson critiques HIA theorists and other previous functionalist institutional theorists and argues that most theories discuss the effects of institutions. Fewer theories investigate the origins and change of institutions which are mostly based on either implicit or explicit functional accounts. In many of such accounts, institutions exist because of its function(s) to rational actors who create them to reduce their transaction cost. Rational actors are assumed to be instrumental, far-sighted, and often capable of dealing with the unintended effects of institutions (Pierson, 2000). On the contrary, Pierson agrees with Hall and

Taylor (1996) who observe that in designing institutions, actors are motivated by the conceptions that are appropriate rather than efficient. To Hall and Taylor:

“Many of the institutional forms and procedures used by modern organizations were not adopted simply because they were most efficient for the tasks at hand, in line with some transcendent ‘rationality.’ Instead, they ... should be seen as culturally-specific practices, akin to the myths and ceremonies devised by many societies, and assimilated into organizations, not necessarily to enhance their formal means-end efficiency, but as a result of the kind of processes associated with the transmission of cultural practices more generally” (Hall & Taylor, 1996,p.14).

Knight (1992) agrees partially with Pierson, Hall and Taylor about institutions being established for appropriate social behaviour in a given polity but has reservations when it comes to using the norm-driven approach to “understanding the conflict over different institutional forms” (Knight, 1992, p.16). He therefore counters Pierson’s criticisms of HIA and holds the view that functional effects of institutions appear better suited in understanding the basic emergence of informal conventions and rules.

According to Merrill and Smith (2001) modern economic theorists from the neoclassical to historical institutional analysts tend to regard the institution of property “through the lens of in personam rather than in rem rights” (Merrill & Smith, 2001, p. 385). Hence, modern economists take for granted order in society and concentrate their efforts in solving welfare problems associated with property rights such as “managing long-term contractual relationships, controlling the behaviour of agents in complex organizations and fine-tuning incentives for the efficient management of spillovers” (Merrill & Smith, 2001, p. 398). Overlooking the problem of order which is at the base of all the security problems associated with property rights makes the majority of recent theories of property rights much less credible, distorted, incomplete and generally not applicable in many developing countries in sub-Saharan Africa where the problem of order still persist.

Moe (2006) advances on Merrill and Smith's critique on property rights theories as he queries the insignificant role assigned power in explaining the emergence and change of political institutions of property rights. For Moe the problem is:

“Theory tended to view political institutions as structures of voluntary cooperation that resolve collective action problems and benefit all concerned, when in fact the political process often gives rise to institutions that are good for some people and bad for others depending on who has power to impose their will. Institutions may be structures of cooperation, I argued, but they may also be structures of power” (Moe, 2006, p. 32).

Essentially, people are born into a distinct political system without their consent and cannot leave it if they find the social contract defining that political system disadvantageous in terms of political institutions created. Political institutions are not like private firm which is “nexus of contracts among owners, managers, and workers, who enter into voluntary agreements about the organization and its structures that apply to them and govern their own behaviour” (Moe, 2006, p. 43). Rather political institutions are created “through a process of collective choice in which the victorious insiders get to impose their institutional creations on society as a whole” (Moe, 2006, p. 44). Political power therefore plays a key role in institutions creation and getting everyone in the political system to conform to the rules.

Finally, Ostrom (2005) identifies some general difficulties associated with studying institutions. While the term institutions remains ambiguous in meaning given the multiple languages used across disciplines, what is often referred to as ‘institutions’ is invisible and exists at multiple levels of analysis based on “combinations of prescriptions, attributes of the world, and communities of individuals working together in a configural rather than an additive manner” (Ostrom, 2005a, p.823).

3.2 Institutional Analysis and Development (IAD) Conceptual Framework

On the basis of the criticisms levelled generally against property rights theories and the difficulties involved in studying institutions above, we proceed to explain the Institutional

Analysis and Development (IAD) framework used in analysing the politics of transforming property rights in the Ga State. The IAD framework is a systematic analysis of the “structure of the situations that individuals faced and how rules, the nature of events involved, and community affected (and were affected by) these situations over time” (Ostrom, 2005a, p. 822). It is also a multi-tier conceptual map that targets solving problems at three levels- operational (day-to-day), collective choice (creation of rules to impact on operational) and constitutional (how collective choice participants are selected and relationship among them). Applied as a political economy approach, IAD puts a focus on evolving power relations in decision making concerning the ‘land question’ between the Ghanaian State and the Ga traditional polities actors over time.

According to the IAD framework, human decision-making process (such as on land administration and management) results from each land actor’s activation of many layers of internal processing with the biophysical structure interacting with layers upon layers of cognitive structure on top of the biophysical components. Furthermore, individuals or groups uniquely possess and pursue intrinsic values (Ga beliefs or English common land law ideas) which may not be represented by external material objects that aid each person in making decisions. Within any society, individuals come together to form structures such as families, firms, industries, and nations. Each structure is composed of many parts which are put together to form a whole system, but a whole system at a given level may also become part of a larger system at another level. Individuals constitute nuclear and extended families, families make up a clans and nations. Nations put together form nation-states which are also part of the international comity of nation-states system.

Individuals and groups of actors’ actions and inactions are assumed to be affected by four exogenous variables: (1) attributes of the physical world, (2) attributes of the community in within which actors are embedded, (3) rules that create incentives and constraints for certain actions, and (4) interactions with other individuals. Within an action arena which

comprises of participants and action situations as indicated in Fig 3.1 below, participants in positions choose actions at particular stages of a decision process based on their control over a choice node. The information at their disposal, the likely outcomes and the benefits and costs they perceive for these outcomes informs their choice and actions within the action situation. An action situation is the “social space where individuals interact, exchange goods and services, solve problems, dominate one another, or fight” (Ostrom, 2011, p.11). An action situation is the first step in analyzing a problem as actors’ behaviour within an institutional arrangement can be described, analyzed, predicted and explained.

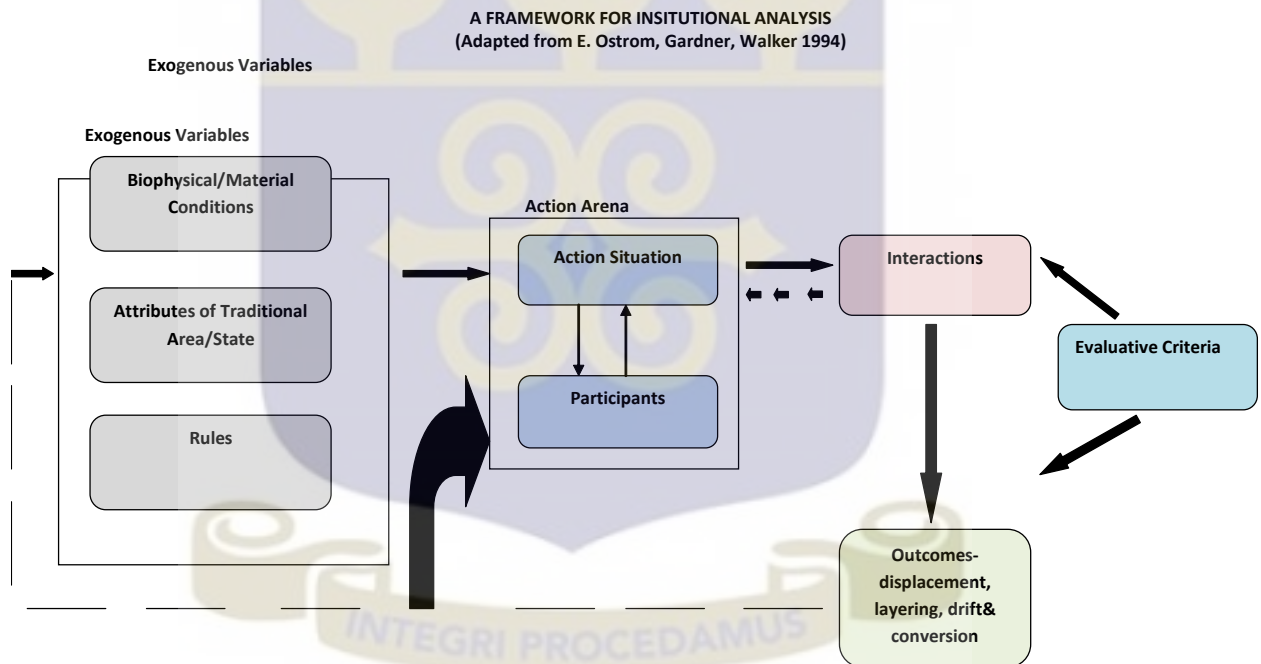


Figure 3.1: Conceptual Framework (Source: Adapted from Ostrom IAD and Mahoney and Thelen’s TGIC)

3.2.1 Explaining Action Arena and Situations

Actors within an action situation may be an individual, firm, traditional authorities, a family or clan, the State represented by the executive, legislature, judiciary, land sector agencies, the police and other law enforcement agencies. Also, development partners comprising of international governmental and non-governmental agencies which have

stakes in land use and land administration reforms in Ghana are part of the actors. Each category of actors partake in an action situation based on the resources they possess; values each assigns; the manner through which knowledge and information is acquired, processed, retained and used; and the processes through which actors select and pursue particular courses of action.

About seven distinct clusters of variables define an action situation. These include (a) the set of actors, (b) the specific positions to be filled by each actor, (c) the set of permissible actions and their linkage to outcomes, (iv) the potential outcomes that are linked to individual sequences of actions, (v) level of control each actor has over choice, (vi) availability of information to actors about the structure of an action situation, and lastly (vii) costs and benefits actors assign to actions and outcomes which serves as incentives and deterrents (Ostrom, 2011). The number of times a situation occurs also affects the strategies actors deploy in an action situation.

Working within the IAD framework, the underlying classical political economy assumption that actors possess complete and well-ordered preferences and complete information which allows them to maximize the net value of expected returns is challenged. Here, one assumes that “individuals who calculate benefits and costs are fallible learners who vary in terms of the number of other persons whose perceived benefits and costs are important to them and in terms of their personal commitment to keeping promises and honouring forms of reciprocity extended to them” (Ostrom, 2011, p.13). Settings differ for individuals as various institutional arrangements offer different incentives and opportunities to learn. Some individuals also learn fast while others are slow and repeat same mistakes as coming by information may be a costly exercise and the information processing capabilities of human beings are also limited.

3.2.2 Predicting Outcomes within an Action Arena

Making inferences about the outcome of an action arena depends on both exogenous and dependent variables. Hypothetically, strong inferences can be made about one-shot action situations which have conditions of complete information, where actors are inclined to pursue particular strategies or sets of actions which lead to fairly predictable outcomes. But individuals or actors do not live in hypothetical worlds. In reality, it is hard to distinguish or draw a line between two action situations, where one starts and another stop. Using the IAD schema helps in analyzing and predicting outcomes. The concept of rules, attributes of community and the biophysical and material conditions constitute the exogenous variables that help make predictions on outcomes of action situations. We discuss each variable in details below.

3.2.3 The Concept of Rules

Black (1962) identifies four different applications for the concept of ‘rules’. The term rule denotes a regulation when it refers to “laid down by an authority (a legislature, judge, magistrate, board of directors, university president, parent as required of certain persons) or alternatively, forbidden or permitted” (Black, 1962, p. 115). Rule is used to denote instruction in meaning when it refers to an effective strategy for how to solve a problem. As a precept, the term rule means a maxim for prudential or moral behaviour. The last meaning of the term rule refers to a law or principle. Ostrom states:

“Rules in the instruction-sense can best be thought of as the strategies adopted by participants within ongoing situations. It is better to use the term “strategy” rather than “rule” for these plans of action. Rules in the precept-sense are part of the generally accepted moral fabric of a community. I refer to these cultural prescriptions as norms. Rules in the principle-sense are physical laws and are considered as part of the events in the biophysical world” (Ostrom, 2005a, pp. 830-831).

In a nutshell, all rules are implicit or explicit attempts to achieve order and predictability among human beings through the creation of classes of persons and positions required, permitted or forbidden to engage in categories of actions required, permitted or forbidden

among societies. Hence, “rules are important only to the extent that they allow the outcomes resulting from choices of participants to be unambiguously specified” (Rapoport, 1966, p. 16). Rules are therefore defined to be “shared understandings by participants about enforced prescriptions concerning what actions (or outcomes) are required, prohibited, or permitted” (Ostrom, 2005b, p. 18). Hence, rules originate as problem solving individuals interact to find solutions to present and future problems. These rules are written or unwritten, formal or informal. The IAD further classifies rules according to their impact on the elements of an action situation. These are boundaries rules, position rules, authority rules, aggregation rules, information rules, and payoff rules. Boundary rules stipulate the number of participants in an action situation, their attributes and resources they bring on board and the conditions for their free entry and exit. Position rules states a set of positions and how many actors hold each position in the situation. The set of actions that are assigned participants in positions at particular nodes for which they must, may or may not take are the authority rules. Scope rules specify the potential outcomes that could be affected in a situation. Aggregation rules specify the level of control that a participant in a position exercises in the selection of an action node. Information rules affect the knowledge-contingent information sets of participants. And lastly, payoff rules specify how benefits and costs are to be distributed to actors in positions (Ostrom, 2010). Participants in positions are obliged to decide and act on diverse actionable options based on the information they possess to achieve outcomes. Prior to obtaining these outcomes, participants evaluate the costs and benefits assigned to actions and outcomes.

The set of working rules collectively impact on actions chosen by participants in an action situation and the resulting outcomes. For instance, by specifying or merely changing the number of participants, the information they possess and the benefits and costs associated

with an action situation, it is possible to predict the probable interactions and outcomes of a given situation.

3.2.4 Biophysical and Material Conditions

The attributes of the biophysical and material world also affect an action situation as the application of same set of rules may invariably result in entirely different types of action situations depending on the types of events being acted upon by participants in a social environment. Hence, the potential outcome, action sets, action-outcome linkages, and the information sets in a given situation are influenced by the biophysical and material conditions. Events refer to good and services “being produced, consumed, and allocated in a situation as well as the technology available for these processes” (Ostrom, 2005a, p. 837). In this thesis, the property rights institutions being considered are non-market institutions. In this regard, the concept of polycentricity dominates and determines what takes place in an action situation. Polycentricity connotes the idea that many centres of decision making ranging from statutory, customary and at the individual levels operate independently of each other in spite of the overarching interdependent system of relations that collectively define land administration.

Given the polycentric nature of the biophysical and material world, four broad types of goods that “differentially affect the problems individuals face in devising institutions to enable them to provide, produce, and consume diverse goods” are discernible (Ostrom, 2010, p. 10). Thus, the nature and attributes of public goods, private goods, common-pool resources and toll goods as they exist in a polity at a given time influence how participants in action situation behave. For instance, public goods benefit everyone even though many of the beneficiaries do not contribute towards its production. The collective-action problem created in the production of public goods affect an action situation as participants who invest their time and resource benefit just as those who do not participate. Thus, the biophysical and material world affects the incentives structure of an action situation.

3.2.5 Attributes of the Community

Ostrom (2005) states five attributes of a community which affects an action situation. These are: the values of behaviour generally accepted in the community; the level of common understanding that potential participants share (or do not share) about the structure of particular types of action arenas; the extent of homogeneity in the preferences of those living in a community; and the extent of inequality of basic assets among those affected. An additional attribute that affect Ga land action situations is the value of land resources (Amanor, 2010).

Values of behaviour generally accepted in a community are primarily influenced by culture. Culture “as a ‘tool kit’ of symbols, stories, rituals, and world-views, which people may use in varying configurations to solve different kinds of problems, ... focuses on ‘strategies of action’, persistent ways of ordering action through time” (Swidler, 1986, p.273). This implies that human action are driven and governed by interests and ideas (Weber, 1947). The level of shared interests and ideas among participants affects action situations. Homogeneity of participants’ preferences’ all things being equal promotes greater impact of rules-in-use which conforms to rules-in-form in action situations.

The incidence of high inequality of basic assets in a community creates a situation where some participants are more able to have their preferences dominate outcomes of interactions. One’s capability to negotiate for favourable property rights institutions depends on the power relationship (Berry, 1993).

Related to the above, inequality of basic assets and power distribution in many communities in Sub-Saharan Africa has led to a phenomenon whereby trustees of land resources assert themselves as land owners who can exclusively transfer property without the consent of their subjects. Once land becomes commoditized in a community, the behaviour of participants’ changes and this affects the action situations associated with land administration and management.

3.2.6 Linking the Action Arenas to Institutional Change

A single action arena may contain several participants and a complex chain of action situations. For land administration and reforms processes, multiple action arenas are linked sequentially and or simultaneously. The linkage between the actions arenas are rules. Rules stabilize expectations of participants through the provision of information on the probable behaviour of other participants at any level of analysis. But, rules are not self-enforcing. Rules are interpreted and implemented based on the cognitive capabilities of participants involved in action situations and arenas. In reality, rules lack precision in explaining and ordering all the complexity of real-world situations. Participants therefore desire to change rules to suit their ever changing real-world situations. Individuals or participants who wish to change other participants' behaviour at the operational, collective-choice, constitutional and meta-constitutional levels attempt to change rules that order interactions and thereby alter the incentives structure.

According to the IAD framework, participants who desire to effect and change rules have to deal with three types of transaction costs namely information costs, coordination costs and strategic costs (Ostrom, Schroeder, & Wynne, 1993). Information costs accrue when participants engage in the error prone process of searching and organizing information. Information is acquired by individual participants through education and or experience gained on how key variables relate towards one another at specific times and places. Each variable gives little information to participants unless it relates to other variables.

Coordination costs involve rules negotiations, monitoring and enforcements. Strategic costs emanates from asymmetries in information, power, or the sheer struggle for limited resources which some participants obtain at the expense of others (Imperial & Yandle, 2005). Free-riding , rent-seeking, corruption, collusion and turf guarding are common forms of strategic costs participants have to take care of to effect rules that shape land administration in the Ga State.

Rules change at any level of analysis implies a change in the institution or rules of the game. For explaining institutional change land administration in the Ga State, I adopt Mahoney and Thelen's (2010) four modal types of institutional change. These include: the removal of existing rules and the introduction of new ones (displacement); introduction of new rules on top of or alongside existing ones (layering); changed impact of existing rules due to shifts in the environment (drift); and the changed enactment of existing rules due to their strategic redeployment (conversion)(Mahoney and Thelen, 2010, pp.15-6).

3.2.7 Evaluating Institutional Outcomes- LAP I

Doing institutional analysis involves evaluating outcomes that are achieved as well as the likely set of outcomes achievable under alternative institutional arrangements. Efficiency, equity, accountability and adaptability are four interrelated criteria that help in understanding and assessing institutional outcomes. These are applicable to both the outcomes and the processes involved.

The efficiency criteria looks at the magnitude of net benefits associated with allocating resources. Hence, the feasibility and desirability of outcomes and processes are measured to assess the rate of returns investments. Efficiency requires allocation of scarce resources to produce the greatest net benefits. Equity concerns looks at outcomes and processes which ensure that scarce resources are redistributed fairly across board to cater for the needs of all segments of a community especially the poor and marginalised.

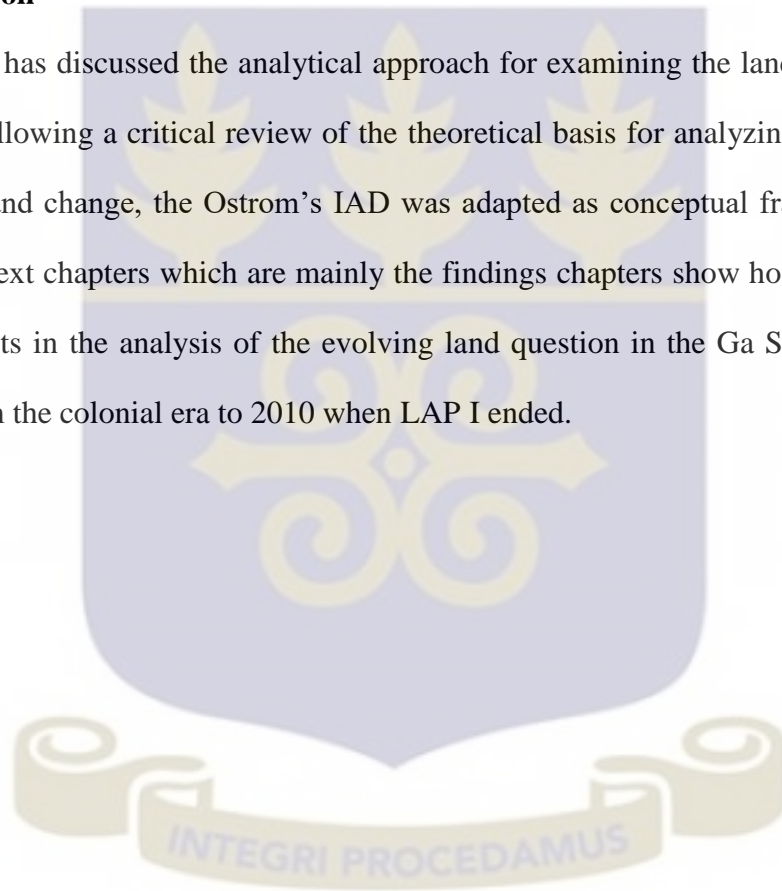
Political accountability refers to “institutional, traditional and symbolic mechanisms by which, on the one hand, the governed call their governors to account for their deeds and, on the other, the governors discharge the responsibilities of political obligation” (Chabal, 1994, p. 54). Accountability as a criterion in evaluating processes and outcomes thrives on the availability of information to the principal (the governed) about how the agent (family/clan heads, traditional leaders, state officials) are managing resources. The agent also needs information on the preferences of principals to make decisions. Arrangements

that effectively help in aggregating information enhance equitable and efficient allocation of resources.

Lastly, adaptability as an evaluation criterion examines how institutional arrangements are amenable to changes in the values of all stakeholders over the long term. Though several trades-offs results from the evaluation criteria, feedback flows back to outcomes and processes that take place in the action arena.

3.3 Conclusion

This chapter has discussed the analytical approach for examining the land question in the Ga State. Following a critical review of the theoretical basis for analyzing property rights institutions and change, the Ostrom's IAD was adapted as conceptual framework for the study. The next chapters which are mainly the findings chapters show how I have applied these concepts in the analysis of the evolving land question in the Ga State over several decades from the colonial era to 2010 when LAP I ended.



CHAPTER FOUR

LAND ADMINISTRATION PRACTICES IN GHANA AND THEIR EFFECT ON SECURITY IN THE GA STATE

4.0 Introduction

In this chapter, we analyse the politics of land administration in the Ga State in Ghana by first tracing the historical organization of traditional Ga State in the 1870s prior to colonial intervention. This is particularly important in applying the IAD. Essentially, the exogenous variables help clarify the land question at the time and the relationship between actors. My analysis focus on the institutional and organizational developments of both imperial Great Britain and the Ghanaian States' land policies, laws and the role of key actors involved in addressing land issues and interests within the country in general and the Ga State in particular. A purpose of this chapter is to show how the context (by which we mean the biophysical conditions, rules-in-use and attributes of Ga community) and scope of colonial rule substantially influenced the development of property rights and Ga State land administration. We argue to the contrary that political institutions such as land administration institutions that developed over decades are structures of voluntary cooperation that resolve collective action problems and benefit all concerned (Knight and Sened, 1995). Land administration institutions fundamentally reflect structures of power relations in colonial, post-independence civilian and military regimes. Land administration, as it emerged, is an outcome of hegemonic cultural contestations between the colonizing elites and the colonized elites for legitimacy and justification of their rule during and after colonialism. Hence, changes to land tenure may be understood as an attempt to replace the cultural of pre-modern traditional Ga State polity with that of the modern Western state's culture of land ownership, access and use. With variable intensity,

these relationships have persisted with both civilian and military regimes in post-colonial Ghana and have had serious effect on land tenure security in Accra and its environs.

The British colonial powers insisted on two prepositions: (1) every tribe in the Gold Coast has an original and pure tradition (religious, ethnic); and (2) that colonial power must be used to retain or maintain every colonized group in its original state even though changing circumstances necessitated changes in culture and land tenure. The colonial powers reserved the prerogative of determining how these changes took place in Ga society. Hence, the level of consultations in creating institutions, the dominant interests of the colonial government to be in firm control of land administration by introducing aspects of English common law as well as create and recreate customary land tenure were prosecuted on the basis of structure of power and cultural superiority rather than on structures of voluntary cooperation. Whereas English Common Laws changes with interests and circumstances, Ga traditions and customary land laws were assumed to be static.

We also argue that land administration was not unilaterally imposed by the colonial government as key actors in the Ga State also contributed to the re-invention of Ga customs and land tenure to accommodate the changing political economic and social context (Spear, 2003, pp. 4-5). Rule defining authorities in the Ga State were multiple so far as land tenure was concerned. But colonial authorities changed the status quo by elevating some chiefs above other chiefs and social groups like youth (asafo), women's groups (queen mothers etc.), and religious groups (wulomei), clan heads among others. In many instances, the paramount chief assumed a patriarchal persona who ceased to consult the other rule-defining authorities.

The chapter is subdivided based on regime type. Section 4.1 entails a detailed discussion of land administration and relationship between the colonial government and the Ga chiefs and people. Early post-independence civilian governments land policies and practices within Ga areas constitute Section 4.2. Section 4.3 also discusses military regimes land

policies and practices' effect on land tenure security within the Accra-Tema metropolitan area. Section 4.4 concludes the chapter.

4.1 Action Arena: Colonial Land Policies and Administration in the Ga State

The Ga State traditionally not noted for agriculture was critical for the British who by 1877 had chosen Accra as the capital of the Gold Coast. Nonetheless, it was both essential and requisite to construct a relationship between the colonial state and the Ga people for administrative and infrastructural development. Generally, in the Gold Coast and the Ga State in particular, the relationship that developed particularly with regards to land policies and administration may be divided into three phases. The first phase was initially *laissez-faire* as no attempt was made by the colonial government to appropriate land for the Crown. From 1894 to 1914 when phase one ended, policy shift led to failed attempts by the colonial state to appropriate all unoccupied lands as crown lands. The second phase includes the inter-war years from 1914 to 1945, when the two world wars took place. The last phase termed the transition period was characterised by drastic constitutional reforms introduced to address civic unrest in Accra from 1948 until independence in 1957.

4.1.1 Colonial Era Participants/Actors

Each category of actors namely the colonial authorities, the expatriate merchants and prospectors, the Ga chiefs, members of the Aborigines Rights Protection Society (ARPS), Ga Asafo and the Ga manbii participated in the action arena with some resources. Some of the press houses were instrumental in leading public opinion on changes in land administration in the Ga State. The category labelled colonial authorities need further breakdown. The Privy Council and the Colonial Secretary based in the United Kingdom were considered the final authorities to consult when there is a stalemate or give approval when novel land policies are under consideration. Within the Gold Coast and Ga State, the Governor, the Chief Justice, the Eastern Provincial Commissioner, the District Commissioner, the Secretary to Native Affairs, the Surveyor-General, etc are among the

principal officers in the colonial administrative set-up. Corporate actors include the Gold Coast Legislative Council, Joint Provincial Council of Chiefs, Eastern Provincial Council of Chiefs, Survey Department and Lands Department among others.

4.1.2 Establishing Colonial Rule in the Gold Coast and Ga State

During the colonial era, the development of land policy evolved as a learning process. Philips (Phillips, 1989, p.59) makes a distinction between the first twenty years of colonialism which was an attempt by the colonial authority to favour private ownership of land as opposed to communal land ownership. The limitations of the colonial state to enforce this policy led to a policy reversal in the inter-war years in which African rights to land were recognised while private ownership of land was discouraged. Generally, the major priority of the colonial authority was to control land in the Gold Coast as rapid expansion of land sales and concession grants boomed due to the activities of export crop farmers and gold speculators (Amanor, 2005). The process of land expropriation and appropriation involved the rush of export crop farmers who bought land from chiefs; the need for the colonial state to create forest reserves; and the creation of agriculture resettlement schemes. To achieve its aim, the colonial authorities enacted and tried to enforce several pieces of legislation some of which are discussed below in relation to the Ga State.

For the Ga State, the impetus to control land in Accra was quite different. Accra, a big urban centre had been designated as the colonial capital of the Gold Coast in 1877 prompting the value of land in Accra to increase astronomically. Ga lands originally perceived as an area for commercial trade and some farming immediately acquired additional value as “the site for government buildings, residential construction, and increased levels of commercial (and later industrial) enterprise” (Firmin-Sellers, 1996, p. 38). A Public Lands Ordinance enacted in 1876 to acquire lands in Accra and establish titles to lands set in motion the massive changes to land tenure that have persisted to recent

times. Thus, the colonial authorities and indigenous land owners keenly contested among themselves to influence and control lands within the Ga state.

In 1878, the Native Jurisdiction Ordinance (NJO) was passed which mandated modifications in political systems of governance in all 63 native states to facilitate and regulate the exercise of authority (Firmin-Sellers, 1996). In practice, this meant the reinvention of the political system of governance of all states based on that of the dominant Akan states. Ga chiefs who were originally war leaders gained more political powers to create tribunals and adjudicate local civil and criminal disputes including land tenure cases.

In 1883, a Bill was enacted into law which required registration of “any instrument in writing affecting land in the Gold Coast Colony” (Agbosu, et al., 2007, p. 18). However, the ineffective nature of the bill prompted its replacement much later with the Registration Ordinance of 1895 which sought to make better provision for land registration.

4.1.3 Colonial Land Tenure Policies (1877-1914)

Land and labour relations were one of the earliest and most enduring preoccupations of the colonial state. Land administration reforms in the Ga state targeted addressing relational problems of land tenure and legislation at three levels namely the relations between the colonial government and natives; relations between Europeans and natives; and lastly relations between natives and natives. The problem or the land question at the time was how to guarantee land rights for public use by the colonial state and also secure land in Accra for foreigners and non-indigenes. The earliest relationship between the British and the Ga State dates back to 1673 when the James Fort was built. Britain’s control of Ga lands was restricted to the James Fort and its immediate environs. In 1850 and 1868, Great Britain acquired the properties of Denmark and the Netherlands respectively. This sparked renewed interest to move the capital from Cape Coast to Accra considered more central, neater in terms of sanitation (Parker, 2000). Desirous to subdue the Ga people, Governor

Hill obtained permission from Lord Grey to make Accra the seat of government. After failed attempts to impose direct taxation on the Ga people in 1852 and 1854, another attempt at establishing a municipal government also failed in 1858 (Osei-Tutu, 2000, p. 109). Prior to this, an Order in Council of 1856 had “laid the foundations for the systematic reshaping of local norms, customary laws and practices... among the subjects that came within the competence of the English courts... dealing with land and its products” (Bennion, 1962, p. 14). Some Ga chiefs were briefly detained at the James Fort for opposing the municipal government. In 1861, the Municipal Government Ordinance was repealed as it was judged to have brought serious quarrels and ill-will between different classes of people. Inhabitants of Accra preferred to patronise indigenous native courts which were popular compared to that of the English.

Not satisfied with Ga land norms and rules-in-use, in 1876, the Supreme Court Ordinance and the Public Lands Ordinance were passed to set up new courts for interpreting native law and customs and regulate the acquisition of public lands for public use. Whereas the former ordinance replaced the position of Judicial Assessor with new courts run by new designated staff, the Public Lands Ordinance among others became the basis of numerous contestations among Ga land owners as land became an expensive commodity that was exchanged for money using certificates, titles, receipts for payments rather than the use of oral traditions (Sackeyfio, 2012). The Public Lands Ordinance brought about different legal systems that disrupted Ga land customs. Clause 3 of the 13 clauses made it legal for land to be sold on a commercial basis. Not only did the Ordinance elaborate how public land shall be acquired by the state, survey procedures were also introduced for Ga lands and surveyors were permitted by law to use their discretion in valuing land. The notion of Ga lands being in abundance changed drastically as land values shot up with high demand. Ga norms and rules-in-use that land is not sold lost their relevance. Certificates, titles, conveyances, receipts for payments and land survey rendered oral transactions in land

obsolete as written transactions required by the Ordinance became a rule-in-form and use. The attraction of written over oral transactions was the legal superiority accorded the former by colonial authorities who held more power by virtue of the Supreme Court over Natives Courts.

The attributes of Ga community changed in response to the high demand for Ga land which had in turn created a situation whereby Ga norms about not selling land had ceased to be generally accepted. New participants or actors entered the booming Ga land market as sellers or buyers. At this point, land sellers include more heads of families who emerged as large families split into smaller families. New land sellers included the Ga elite and lawyers, who saw the potential personal benefits of partaking in the sale of Ga lands. New buyers included the colonial government itself which required Ga land for public use, expatriates who needed land for residential and commercial use, and many Ga people who required land for speculative and other uses. Of all the buyers and sellers of Ga lands, the most dominant was the colonial government itself which needed to assert sovereignty by playing lead role in Ga land administration.

The Native Jurisdiction Ordinance (NJO) of 1878 was never brought into force due to Governor Usshers' "doubt about traditional rulers' capacity to administer justice" (Addo-Fening, 2012, p. 689). Growing land problems in Accra among other factors necessitated the passage of the Native Jurisdiction Ordinance (NJO) of 1883 as a law that fundamentally regulated native authority and land matters in the Gold Coast through its influence on the rights and responsibilities of chiefs and their councils "in the matter of royalties which were to be charged on certain farming enterprises and mining operations" (Ninsin, n.d, p.137; Ninsin, 2012). The NJO sought to impose the registration of land transactions in Accra, Cape Coast and Lagos within 30 days, to remain valid (Agbosu, 1990, p. 114).

4.1.3.1 Failure of NJO

The NJO was so inefficient that it was abandoned nine years later by the authorities (Bennion, 1962). What remains unclear about the failure of the NJO include the nature of interactions and consultations before and during its implementation. Participants involved in Ga land market have ceased to be homogenous let alone have similar values. The NJO of 1883 was also a rule-in-form as many participants were not involved in its passage. Not much information went round about the NJO and the quantity and quality of information available to the originators of NJO was low, considering how little knowledge the colonial authorities had about the indigenes. An indication of lack of information on the part of the originators of NJO was the manner in which it was drafted to make non-Akan states like the Ga State “embrace the political system of one of these groups, the Akan” (Firmin-Sellers, 1996, p. 27). Hence in the absence of a strong enforcement regime, non-compliance was likely to be high given the involuntary nature of the involvement of non-Akan groups like Ga chiefs, educated elite, asafo and people.

After the failure of the NJO, the need to tackle the land question throughout Gold Coast became more pressing. Chiefs, foreigners, and educated indigenes all engaged in wanton land sales with the colonial government not in control of the situation. Moreover, the 1889 Commission of Economic Agriculture in the Gold Coast observed that the communal nature of land tenure hindered the expansion of commodity agriculture (Aryeetey, Ayee, Ninsin, & Tsikata, 2007, p. 12).

4.1.3.2 Shifts in Colonial Land Policies -1885-1898

After the Berlin Conference of 1885 where explicit commitment were made exclusively by imperial European powers on how to manage resources and property in Africa, Great Britain revised its spontaneously developing *laissez-faire* land policies in the Gold Coast and the Ga State to adopt and adapt its colonial land policies in conformity to the Berlin and Brussels Declarations of the 1890s. Article 5 of the Berlin Treaty protected the basic

individual rights as it stipulates ‘foreigners, without distinction, shall enjoy protection of their persons and property, as well as the right of acquiring and transferring movable and immovable possessions; and national rights and treatments in the exercise of their possessions’. In Article 6 ‘natives’, ‘subjects’ and ‘foreigners’ are expressly defined (Humphreys, 2012). Private investors bought Ga land from local chiefs even though the market was dysfunctional. Local land tenure posed a problem for development even though as late as 1893, the crown laid no claim to land as it regarded as vested in chiefs and tribes.

For the British, prosecuting their real interests in Ga and Gold Coast lands centred mainly on pretensions of protecting natives through the abolition of the slave trade and through promoting free trade. At the minimal, this required a judicial system, and a police force. Article 1 of the General Act of Brussels directed that the “most effective means for counteracting the Slave Trade in the interior of Africa” include:

1. Progressive organization of the administrative, judicial, religious, and military services in the African territories, placed under the sovereignty or protectorate of civilized nations.
2. The gradual establishment in the interior, by the responsible power in each territory, of strongly occupied stations in such a way as to make their protective or repressive action effectively felt in the territories....(Humphreys, 2012, pp. 482-483)

Colonial authorities were charged to provide transportation and telecommunication infrastructures such as build roads, railways and telegraph lines to “diminish intestine wars between tribes by means of arbitration; to initiate them in agricultural labour and industrial arts so as to increase their welfare; to raise them to civilization and bring about the extinction of barbarous customs” (ibid.). Article 2(2) also directs imperial authorities to “*give aid and protection to commercial enterprises; to watch over their legality by especially controlling contracts for service with natives and to prepare the way for the foundation of permanent centres of cultivation and of commercial settlement*” (ibid.). Hence, the economic incentive overrides the social incentive to abolish slave trading.

Protection of natives more often referred to expatriate from Europe interested in establishing permanent centres of cultivation and commercial settlements.

To effectively achieve these objectives of protecting natives, supervising trade, ending slavery and developing infrastructure meant a radical overhaul of native institutions of governance and property rights. A tax regime was for instance needed to fund development. Asserting jurisdiction required an elaborate physical presence and public land was required for administrative, infrastructural and agricultural development.

Therefore, colonial officials and foreign commercial interests believed that large scale production of cash crops, timber and mineral ores, which were central to the colonial economic enterprise, required changes in land relations. Collective land ownership and its accompanying system of shifting cultivation were considered less productive. At its first meeting in 1889, a Commission of Economic Agriculture in the Gold Coast noted that the nature of property in land and the pattern of land use were among the factors hindering the extension of commodity agriculture to the Gold Coast. They singled out for particular criticism the existing juridical forms of land relations, especially the apparent inability of individuals to acquire indefeasible property in land, and shifting cultivation, which they condemned “as backward and practised only by the most backward tribes” (The Commission of Economic Agriculture in the Gold Coast, 1889). There were similar concerns – for example, the need to facilitate the penetration of British capital into the mining industry. It soon became clear, however, that chiefs were quite willing to alienate vast tracts of land for mining, to the extent that chiefs selling too much land became a cause of concern due to the excess of speculation and dubious land transactions implicating all the parties – the chiefs, the speculators and the mining companies (Kimble, 1963, pp. 333-334).

Thus, to assert general control of resources in the Gold Coast Protectorate, the Town Council Ordinance 1894 was enacted for Accra, Cape Coast and Sekondi. It among others

sought to impose direct taxation on urban dwellers in these towns who owned houses and property. Also, Civil Police Ordinance of 1894 came into force to maintain law and order and the colonial state. Also the Crown Land Ordinance of 1894 was to bring the colonists land tenure systems in line with British land law. The Crown Lands Bill of 1894 proposed the appropriation of all waste lands, forest lands and minerals in the Gold Coast in the name of the Queen. Any future grants of such lands or minerals were to be made by the Governor at his discretion and would confer absolute title on the grantee. The Bill stated clearly that it would not affect indigenous people's rights acquired under native law.

In 1895, the Land Registry Ordinance was also passed. Like its predecessor, the Registration Ordinance of 1883, it proposed to have registries set up in Accra and other towns. The conditions for registration were stated in Sections 14, 15 and 16. Section 20 of the Ordinance determined the extent to which one could rely on the ordinance to protect any piece of land. It states "Registration shall not cure defect in any instrument registered, or confer upon it any effect or validity which it would not otherwise have had" (Agbosu, 1990, p. 115). This effectively commutes its powers to that of a deeds rather than a title registration. Minor modifications were made to the Land Registry Bill the following year that allowed the governor to have any land he so wished registered and surveyed.

The Public Lands Bill of 1897 was even more comprehensive in its efforts to transform property rights in land. It declared all unoccupied lands public and vested the power of administration of all public lands in the colonial state. The Bill also empowered the Supreme Court to "impose partition of family property at the request of some members of a family" (Phillips, 1989, p. 62). In the words of Governor Maxwell the Bill will resolve the land problem in the Gold Coast as:

"The native Chief, who will receive through the Government a reasonable share of the land revenue, will not be unduly prejudiced, the native peasant who is offered legal proprietorship will be a gainer, and the holders of concessions who intend to turn them to account will have an

opportunity of obtaining a safe and marketable title on fair conditions” (quoted in Phillips, 1989, p. 64).

The major innovations in the 1897 Public Lands Bill which was purported to be an improvement on the Crown Lands Ordinance included the redefinition of stool lands as “public lands” to be administered for the benefit of the people; the concurrent rights of Government and chiefs to administer such public lands as trustees; the removal of the authority of chiefs to create any private right in public land, without the consent of the Governor; and the reversion of abandoned lands to public lands after a period of three consecutive years. C. J. Bannerman, the counsel for the chiefs, however argued in the Legislative Council that the intent and form of the redrafted Bill was the same as that of 1894 (Metcalf, 1964).

The Crown Lands Ordinance of 1894 was enacted to appropriate all waste lands, forest lands and minerals in the Gold Coast under the British Crown to enable the colonial government gain control over the granting of concessions. But, this ordinance was opposed by the Aborigines’ Rights Protection Society (ARPS), the British mercantile interests dominated by the Liverpool, Manchester and London Chambers of Commerce (Kimble, 1963). The ARPS argued that the British Crown had no right to appropriate land in the colony because the British did not conquer the people. Besides, the customs and the native people, no lands exist without an owner. The expatriates also opposed the enactment as they felt the colonial state was infringing on the rights to acquire property. The Bill was withdrawn in view of the stiff opposition. Philips (1989) proffers a different opinion about the withdrawal of the Bill citing the weakness of the colonial state to enforce the Bill and likelihood that chiefs would be hostile towards the colonial state which merely ruled through the policy of indirect rule.

In 1895, in response to the economic and political reality of protecting British interests, the British colonial government transformed the Gold Coast and Ashanti from a protectorate into a colony as a step towards guaranteeing rights for private capital of

British firms which had difficulties securing land for their mining and agricultural activities (Amanor, 2008). Pre-colonial Gold Coast communal land tenure system was not well-suited for the emerging capitalist economy as groups or communities collectively held proprietary rights to land. Hence, Philips (1989, p.62) notes “the new ‘owners’ faced a potentially endless succession of claimants to their land, and anxious firms turned to the Colonial Office for protection.” The Governor of the Gold Coast therefore suggested all lands in the colony should be vested in the Queen as Crown Lands with any existing rights recognized only for the lifetime of the holders.

A second piece of legislation, the Lands Bill of 1897 was introduced to bring a far more comprehensive transformation of property rights in the Gold Coast. The main objective is to modify customary laws relating to land in order to ensure a “permanent hereditary, transferable right in proprietorship which the Supreme Court will enforce.” Lord Lugard explains the dual role of imperial Great Britain:

“It is expedient to provide for the proper exercise of their powers by those entrusted with the disposal of public land and to prevent the improvident creation of interest therein and rights thereover, and to facilitate the acquisition of public land by private persons on proper conditions and to decide upon the validity and scope of claims founded upon grants of lands, minerals or other concessions alleged to have been already acquired from native chiefs or other persons...” (Lugard, 1965, p. 305)

But the Lands Bill of 1897 attracted much more opposition. Commenting on the reason for opposing the Bill, Mensah Sarbah observed:

“I am specially instructed to say that this Lands Bill is an elaborate and expanded form of the Crown Lands Bill of 1894. That Bill refers only to what is termed waste and forest land whereas this Bill refers to the whole land of this Country, depriving the aborigines of their right in the soil of their native land” (Kimble, 1963, p. 345).

The ARPS sent a deputation to the United Kingdom to protest against the Bill.

4.1.3.3 Collective-Choice Level- Opposition to Lands Bills 1894-97

The imposition of laws by the colonial government was not without difficulties. Natives constituting themselves as members of Aborigines Rights Protection Society, chiefs, asafo and Ga intellectuals and people fiercely contested the Lands Bills. Private newspapers publications helped garner much support from natives. Notable among these were The Gold Coast Chronicle, The Gold Coast Methodist Times and The Gold Coast News. The main issue was the usurpation of Ga land tenure customs by colonial authorities (Kimble, 1963). Although pre-colonial property rights were recognised and preserved, they were not protected by the state which hardly recognised land acquired under native customs for shifting cultivation. State lands could be given to a third party under a certificate issued by the state, and the native rights holder compensated for crops on the land but not for the land itself. It further sought to shift control over permanently settled or cultivated land from pre-colonial rulers to the colonial state.

Until the 1890s, most land disputes were generally disputes between families contesting rights to dispose land. A probable exception was in May 1887 when King Tackie's wall under construction was brought down by colonial authorities. King Tackie remarked "since the English Government took possession Sir, they have not asked us for land. But we only see them building" (Kimble, 1963, p. 331). With the Colonial State interested in regulating and owning more Ga land, opposition came from all sources- families, chiefs, asafo members, Ga intellectuals and ARPS members. Majority of the colonial authorities viewed the Ga communal land tenure as a 'wretched system of land tenure' (Phillips, 1989). Governor Maxwell in 1896 stated:

"It will very likely be advisable to make native tenure more secure by declaring that any Native who obtains a Government certificate shall have personal proprietorship, and shall hold his land free from the operations of native laws or customs which often makes lands practically inalienable by the recognition of the right of every member of a family to an individual share in the property" (Phillips, 1989, p. 61).

Implicitly, the government aimed at replacing customary land tenure with individualized or private land ownership in Accra and others parts of the Gold Coast.

4.1.3.4 Strategies

With such great threat to indigenous culture, the chiefs and people mounted stronger opposition to the Bill (Kimble, 1963). The main strategies adopted by the natives include interviews, letters, newspaper publications, petitions and delegations. In 1898, a protest movement called the Aborigines Rights Protection Society (ARPS) was formed by the chiefs and educated elites to lead the fight against the Bill. The newspaper commentary posted by native private newspapers helped in mobilizing natives' against the Bills which sought to take control of their lands. They queried the British authorities disregard for Ga and native culture:

“...The general belief that the object of the government in introducing the Ordinance is to take away from the people all their lands. We shall continue to agitate in a legitimate and constitutional way for an amendment of the Ordinance [and] [i]f we fail, we shall simply consider our failure as the result of a desire on the part of the Home Government to get rid of us...in fact an expression of **contempt for our race...**” (Sackeyfio, 2012, p. 307).

Aside the contemptuous manner in which the colonial authorities looked down on Ga culture, the Gold Coast Chronicle also decried the low amounts government was prepared to pay for land compulsorily acquired in Accra:

“The authorities wish to have as much as they can in Accra for nothing, otherwise how are we to explain their action in offering say three or four pounds for land which on serious enquiry would be found to be worth probably five or six times that amount” (Sackeyfio, 2012, p. 307).

In the face of such developments, the newspapers called on all natives to oppose the lands Bill of 1897. The ARPS formed to oppose the Bill was an amalgam of educated elites and chiefs including Ga people. After a series of protests in many parts of the Gold Coast, the ARPS sent a delegation to England to fight their opposition to the Bill. Government's control over the Legislative Council and articulation of a better argument were not enough

to secure victory over the chiefs and the protest movements. In London, the petition stood on three main arguments. The first was that the Land Bill was crafted on an assumption unacceptable to natives that some lands 'waste land' in the colony had no owners. The second disputed the administrative rather than judicial procedure. The last objection was about replacing native law with English law (Kimble, 1963).

Between 1897 and 1899, the British Colonial Government found itself in fierce competition with France and Germany for the control of territories in the northern part of the Gold Coast (Phillips, 1989). Government required the support of the Chiefs in the Colony to protect its loosely defined territorial boundaries. The Lands Bill was once again withdrawn by the Government.

4.1.3.5 Further Interventions by Colonial Government in Ga Chieftaincy and Lands Affairs

Having failed in bringing all unoccupied lands in the colony under the trusteeship of the Crown, the colonial government sought innovative ways to control Ga lands. This was mainly achieved indirectly through the passage of a series of legislation that controlled and reinvented Ga customs. Direct involvement of colonial government and court rulings based on English common laws on rising land litigations were some more direct means of exercising control over Ga people and lands. The process included subtle recognition of Ga chiefs as trustees of Ga lands while at the same time colonial government embarked on a policy to gradually weaken the powers of Ga chiefs and native courts.

One of the first steps to control Ga chiefs was the passage of the Native Prisons Ordinance, 1888 which regulated and shut down native prisons considered to be in unsatisfactory conditions. King Tackie Tawiah, Ga Mantse' prison (*kpabu*) as well as those of other Ga chiefs were closed which meant natives became compelled to patronize English courts. This drastically reduced revenues that Ga chiefs earned. To compensate the chiefs, some of them were eligible for stipends and were receiving stipends since 1893.

But in 1897, Governor Maxwell suspended the stipend of chiefs and used other coercive measures such as deploying Hausa police to intimidate the Ga people and banned the sale of gunpowder an essential commodity used to fire musketry during celebrations.

Further actions taken to weaken the power of Ga chiefs and people included the Peace Preservation Ordinance 1897 for restricting the use of firearm and ammunition during festivals.

Also, the Native Customs Ordinance 1892 and Tribal Emblems Ordinance 1898 “permitted colonial administrators and officials to invade and regulate the sacred and ritual spheres of the people of Accra” (quoted in Osei-Tutu, 2000, p. 120). The three ordinances confirmed the hegemonic cultural contestation between the colonial government and the Ga chiefs and people. For as far back as 1877, Governor Freeling banned the celebration of Ga Homowo. His successor Governor Ussher in 1880 banned all native courts and tribunals in Accra despite the disapproval of the Colonial Office. Based on the divisive nature of these ordinances, it was expected that some internal dissension would develop among the Ga to weaken their opposition to colonial rule.

By the turn of the century and following the death of Ga Mantse Taki Tawiah in 1902, the colonial government did not only actively involved itself in the process of installing a new Ga Mantse five years later but it also set up an inquiry into the Ga State Constitution led by John Maxwell, the Eastern Provincial Commissioner in October, 1907. The Secretary for native Affairs, Francis Crowther assisted the former to officially authenticate and document Ga custom and constitutional procedure following the succession dispute for installing a new Ga Mantse.

The unilateral installation of Tackie Obili by Okai Mensah, the caretaker of the Ga stool and leader of the *dsasefoi* was initially opposed by other mantsemei, people and the colonial government. On the part of the government, permits were required for nearly all the stages of the installation based on recommendations of the Maxwell Commission of

Inquiry (MCI). By the time the MCI completed its work, it became apparent that what was authentic Ga custom had been completely altered by colonial legislations including the Chiefs Ordinance and Stool Property Detention Law 1904 which made illegal a faction's detention of stool property. Governor Nathan himself broke Ga tradition by insisting on being present at the installation of the new chief (PRAAD, ADM. 11/1/1087&1086).

4.1.3.6 Land Disputes among Ga People 1900-14

By 1900s, rising land value had generated fierce competition among the various Ga divisions and quarters in Accra. Significantly, the policy of the colonial government to indulge itself deeply in Ga State affairs through the passage of several pieces of legislation deepened these land conflicts as chiefs became elevated above other competing social groups in the Ga State. But this elevation was not en masse as divisions soon emerged among the prominent chiefs who clamoured for juridical control of land, esteem and wealth. For the remainder of the subsection, we focus on the interactions among the chiefs and how they strategized their relations with the colonial government. We use the power and land fracas between the Asere and Jamestown (Alata) divisions of Ga Mashie as an illustration.

Parker holds the view that the fundamental issue between the James Town (Alata) and Ussher Town (Kinka) was that of predominance. Since 1884 when the *Agbuntsota* took place between the two factions, Alata Mantse has sought to assert its autonomy from the Ga Mantse (Parker, 2000). Parker states:

“The contrast between these two poles of Ga political power is striking. On the one hand, the identity of the Alata quarter had been forged by a range of historical processes suggesting innovation and acquisition of civic virtue: the incorporation of strangers, the accumulation of mercantile wealth, and the allegiance with European power-**The United Kingdom** (*Emphasis Mine*). The Asere quarter, on the other hand, embodied ascribed status derived from original settlement, ritual authority and *Gamei Kron* (“True Ga”) identity. The tension between these distinct sources of power had been at the heart of Ga politics since the formation of the coastal city-

state. With the coming of colonial rule, the need to establish 'constitutional' legitimacy in order to control economic resources- at first people but increasingly land- heightened this historic tension. As a self-styled bastion of Ga custom, the Asere *Akutso* was inevitably drawn to the centre of alliance activated to challenge what was perceived as the illegitimate authority of Alata *mantse* Kojo Ababio. A succession of bitter legal actions beginning in 1910 also indicates how the reassertion of Asere influence began to reshape the balance of power within Kinka itself" (Parker, 2000, p. 207).

The facts of the legal suit *Tetteh Kwaku v. Kpakpo Brown* of 1910 began in 1908 when a plague epidemic in Accra necessitated relocation of Tetteh Kwaku and his fellow Kinka fisher folks to inland Accra (Parker, 2000). But their desire to remain along the littoral where they eked out their livelihood compelled the Kinka chiefs to grant them permission to settle at Chorkor, then a village on the western banks of the Korle lagoon. Alata Mantse Kojo Ababio asked Tetteh Kwaku to move out as the land belonged to James Town. After a while when the chief's decision was not acted upon, Kpakpo Brown an elderly councillor led Alata men and women to evict Tetteh Kwaku and his kinsmen (Parker, 2000).

Two prominent Gold Coast lawyers led the two factions in court. The lead counsel for Tetteh Kwaku, A.B Quartey-Papafio argued that the "purchase of *oblempon* status by Wetse Kojo in the eighteenth century did not include control over town land" (Parker, 2000, p.207) And the right of first settlement of the Ga Mashie migrants who possess sacral authority of the Korle and Sakumo shrine priests who also take care of the sacred grooves (*jemawojii*) gives the Kinka chiefs allodial rights of Chorkor lands. Presenting his counter arguments, the lead counsel for Kpakpo Brown, Thomas Hutton-Mills claimed the Alata people had acquired the place and enjoyed uninterrupted access to the land.

Ruling on the case of *Tetteh Kwaku versus Kpakpo Brown*, Sir W. Brandford Griffith decided that "all the court could and what they ought to do was to accept accomplished facts and whatever may have been the state of things 200 years ago. He was satisfied that

it had been for many years recognized” (PRAAD, Adm. 11/1/1756 Ga State Report, p 41).

The case was ruled in favour of the Alata people.

In 1912, both Asere and Alata chiefs went to court again over Laterbiorkorshie land. The Alata chief Kojo Ababio IV had given a portion for the settlement of Hausas from Nigeria. The Asere mantse claimed all lands belonging to the Ga people as historically attached to the Asere stool as he stated “the Asere came first, the whole of the lands of Accra belong to the Asere Mantse, and that the Nikoi Lai or Asere stool takes care of the whole of the land of Accra, the older stool Okaikwei, which the Mantse now claims to occupy, having been removed” (PRAAD, Adm. 11/1/1756 Ga State Report, pg 41). Moreover, the land in question had been occupied by the Quarthey-Papafio Kpakpatsewe family of Asere and “had long been farmed by slaves owned by ... ‘Old Papafio’ and through prolonged occupation had effectively passed from being ‘stool land’ to private property” (Parker, 2000, p. 209). The Alata chief argued that “the English, Dutch, and Danes used to interfere with the ownership of land... [and] with our native affairs” (ibid.).

The Judge Smyley in his 1912 ruling stated “as tradition is so inconsistent and affords so little help, the only option left to me is come to the existing facts and see.” When one compares this ruling with the *Tetteh Kwaku v. Kpakpo Brown* case, there appears to be some contradictions. Judge Brandford Griffith ruled using accomplished fact of Alata occupancy of Chorkor land as more credible fact compared to the state of affairs 200 years before. But Judge Smyley did not rely on the evidence of occupancy by the Quarthey-Papafio family on Laterbiorkorshie land. Rather, he agrees there has been some English, Dutch and Danes influence on Ga land tenure and the facts produced by the Alata chief are more verifiable.

4.1.3.7 Changes in Property Rights- 1877-1914

Thus, by the time the First World War began in 1914, Ga land tenure had changed in a number of ways. Actors interested in Ga land had been expanded to include the colonial

government and expatriate merchants and non-Ga natives. With new actors, Ga land tenure changed in socio-cultural, economic, and politico-legal terms. These actors together with Ga chiefs and heads of Ga land holding families had been compelled by legislations (passed mainly in the interest of the colonial authorities) and newly introduced court system which proscribed native courts to alienate Ga lands. Ga chieftaincy, weakened by the more powerful colonial administration, got involved in land litigation and sought legal solutions often interpreted from English Common law perspectives.

Two divergent views emerged from court rulings during the period. The former which reinforces the notion that western culture and individualization of land ownership is superior to communal land ownership. The main proponent of this viewpoint Brandford Griffith in *Lokko v. Konklofi* stated:

“In the present case there has been continuous occupation for about 40 years, and the occupier has been permitted to build a village on the land and to make permanent farm. ... Suppose the Berekusu stool fell into debt? I can quite understand that Konklofi would be expected to share the debt, for he is subject to the stool, but if stool land were to be seized in execution, can there be a doubt that Konklofi could successfully interplead? As soon as the Court ascertained that he and his family had had continuous occupation for 40 years or over, and that he had permanent cultivation upon the land, it would decide that he had appropriated that portion of stool land to himself with tacit consent of the stool and that it was no longer stool property but his own property. ... I am of the opinion that the occupation has been of such continuance and of such a character that the land must now be deemed to be the property of Konklofi and sizeable in execution” (Asante, 1975, p. 42).

The West Africa Lands Committee (WALC) held a contrary viewpoint. They together with Sir Belfield insisted that Brandford Griffith was using foreign concepts to interpret native customary land laws. The motive of Brandford Griffith was to hasten the conversion of communal lands to private or individualized land ownership. The WALC recommended that the court should interpret land cases based on the native customary land laws. Nonetheless, these recommendations were not heeded to as subsequent events during the inter-war and post-war years show how the colonial government with some

collaboration with prominent natives in the Ga State and Gold Coast reinvented Ga traditions.

4.1.4 The Inter-War Years

In this section we discuss how legislations and policies affecting land administration in the Ga State took place at the constitutional and collective-choice levels. In chronological manner we list and describe major pieces of legislation and policies targeted at dealing with the unfolding land question. The proposed land reform of 1920s best illustrates the relationship and motivation of key actors involved in land administration.

In 1916, government began to co-opt chiefs and non-chief intelligentsia into the Legislative Council to facilitate political cooperation. But the Ghanaian political elites made it clear to British government officials that they would cooperate in all matters except any attempt to reform the land tenure system. In reaction to these sentiments, Governor Guggisberg remarked:

“Our Land Policy is to recognise that the land belongs to the natives of the country; to devise such legislation as would lead to a satisfactory and economical settlement of land disputes; to provide facilities for owners to obtain a clear title to their lands; and finally, to acquire equitably such lands as may be required for public works necessary to the development of the country in the interests of its inhabitants.” (*Governor Gordon Guggisberg to Legislative Council, 1926*).

4.1.4.1 Constitutional Level-1914- 1945

By 1914, colonial control of land in the Gold Coast was not significant as the Concession Ordinance 1900 recognized land belongs to the natives. In the Ga State, lands under strict control of the colonial authorities were those appropriated through the Public Lands Ordinance, 1876. The West Africa Lands Committee Report recommended in 1916 that “lands held under a system of communal, family, or stool tenure should remain regulated by native custom” was not favourable to colonial authorities as titles to both crown and native lands proved to be uncertain (PRAAD, ADM. 11/1/1000). Law making for the

period was characterized by reports of committees and commissions, memoranda and despatches. Apart from the Municipal Council Ordinance, 1924, no significant land legislation was passed. The Burns constitution was more about governance than land. Land administration relied heavily on decrees rather than land laws (Phillips, 1989). The remainder of the section reviews the sequence of events at the constitutional level.

4.1.4.1.1 Land Legislation in the 1920s

The major problem confronting colonial authorities in the 1920s was that of uncertainty of land in the Gold Coast in general and the Ga State in particular. In a despatch to the Colonial Secretary in 1922, Governor Guggisberg wrote:

“A petition was recently presented claiming compensation for a small area of land which Government had acquired for public purpose in Accra. Acquisition notice were posted in 1908, but for some obscure reason a certificate of title was not applied for till 1917, and the compensation to be paid has not been settled yet. In 1908, the then claimants were prepared to accept £66 compensation for the whole area of over twenty-two acres; the present petitioner is now claiming £2000 for about three to four acres of this land, and the matter is now before the court for settlement” (PRAAD, ADM. 11/1/1000).

The unsatisfactory nature of land dealings prompted some reactions from Government officials. The Surveyor-General, Lieutenant-Colonel R.H. Rowe in a memorandum to the Governor dated 15th September 1922 submitted proposals for a cadastral survey of the Gold Coast and introduction of a system of registration of titles to land. Preparing cadastral maps for the entire Gold Coast involves a big financial outlay which at the time was beyond revenues the colony was making. Governor Guggisberg therefore gave assent to the second and more feasible option of setting up a committee (hereafter referred to as the Wilkinson Committee) comprising the Attorney-General, R.W.H Wilkinson, R.H. Rowe, the Surveyor-General and Mr. H.S. Newlands the Deputy Commissioner, Eastern Province to “enquire into and report on the true factors bearing on the proposal to adopt a system of land registration that will enable indefeasible titles to land to be issued”

(PRAAD, ADM. 11/1/1000). Considering the “very important legal and political issues”, the Wilkinson Committee’s work would form the “basis of discussion for submission to a larger and more representative committee later on” (PRAAD, ADM.11/1/1000, pp.4-5).

4.1.4.1.2 Divergent Positions on Land Registration and Titling in Gold Coast

The Wilkinson Committee failed to produce a unanimous report. Colonel Rowe and Mr. Newlands who formed the majority took a radical position by recommending the establishment of land registration and titling based on the Torrens system for the Gold Coast (PRAAD, ADM. 11/1/1000). With no changes to be made in system of trying land cases, a voluntary rather than compulsory system of land title registration was suggested. Native and non-native land holders could register. The position being advanced by Rowe and Newlands simply shows how one group of colonial authorities regard African culture. To them, African culture holds no values and needs to be replaced with the more superior western culture.

Presenting a relatively less radical view that takes into consideration Ga and African land tenure practices such as land reverting to communal ownership on the death of a land holder, Mr. Wilkinson questioned the compatibility of Torrens system of land registration with native communal land tenure system as well as the timing for introducing such measures. He therefore proposed “the creation of a new and specially constituted Itinerating Land Court or Board... empowered to make declarations of ownership *in rem*” (ADM. 11/1/1000, p.6).

In his despatch to the Colonial-Secretary, Sir James Maxwell, the Acting Governor disagreed with the majority view as their proposals “would meet with very strong local opposition and as the benefits are remote and contingent on favourable acceptance of the scheme by natives it would be difficult to support the proposals” (PRAAD, ADM. 11/1/1000). Acting on the committee’s work was deferred as the substantive Governor Guggisberg remarked he needed more time to form an opinion.

4.1.4.1.3 Later Proposals for Land Reforms

A pending visit to the Gold Coast by Mr. Ormsby-Gore, the Colonial Secretary in 1926 generated a series of memoranda by Sir James Maxwell and Colonel Rowe on land reforms in Accra and the rest of the colony (PRAAD, ADM. 11/1/1000). On 13th March 1926, Sir Maxwell's recommended among others the passage of ordinance based on English Statutes of limitations; granting leases only to non-natives; modifications in procedure by which native lands may be sold by Order of the Court; formation of Lands Boards; and improving the Registry. But, the whole memo was never fully sent to the Colonial Secretary of State. Only part of the report was sent to him and action was hardly taken as a result.

About six months later on 28th September 1926, Colonel Rowe also presented another memorandum recommending the establishment of a Central Lands Department to co-ordinate and record judicial decision as to rights; demarcation, location and description of land; registration and recording of rights; and registration and record of all subsequent transactions in respect of registered land. Colonel Rowe identified clear defects of the prevailing system such as the finality of judicial decisions only in *personam* terms; unsystematic demarcation; poor records etc. Colonel Rowe also stated his conviction that land held under native custom could be registered. In another memo reacting to Colonel Rowe's, Sir Maxwell agreed with most of the points raised by Rowe but objected to the feasibility of introducing land titling in Accra and other towns (PRAAD, ADM. 11/1/1000).

Mr. Ormsby-Gore on his return to England wrote a comprehensive report which also touched on the subject matter of land registration in the Gold Coast. He captures the dominant mood of colonial authorities in the Gold Coast who really want to introduce radical changes to African land tenure. The report adopted *in toto* Colonel Rowe's five steps towards land registration and titling in Accra and other Gold Coast towns. But, the

Colonial Secretary was hesitant to take a decision and Governor Guggisberg was replaced by Governor Slater.

Governor Slater communicated his views in a memo dated 1st October 1927 stating “I feel compelled to agree with Sir James Maxwell that the scheme cannot be recommended for adoption (PRAAD, ADM. 11/1/1000, p. 12).” Referring to the land courts, he remarks:

“The remedy seems worse than the disease, though presumably when the litigation was finished we should have ‘indefeasible titles’ whereas under Sir James Maxwell’s proposal (as I understand them) such indefeasible titles will not be secured in respect of any land” (ADM. 11/1/1000, p. 13).

Governor Slater deferred action by asking for advice from 11 principal functionaries of the colonial government who incidentally are all non-natives. The decision to rely on non-natives really cast doubts on earlier intentions mooted by the West Africa Land Committee to preserve African communal land tenure.

4.1.4.1.4 Constitutional Reforms-Introduction of Indirect Rule

As earlier attempts to vest all Gold Coast lands in the Crown failed in the late 1890s, colonial authorities devised new approaches for asserting their jurisdictional hegemony over the Gold Coast lands. One such approach which began in the 1920s as a revision of the previous decade’s constitution was the policy of indirect rule which was essentially an alliance of colonial authorities and traditional rulers for governing the colony (Amanor, 2005, p. 103). Indirect rule among others entails vesting trusteeship over land status on paramount chiefs who through their membership in Joint and Provincial Councils could establish bye-laws and alienate land as allodial right holders. Certainly, the alliance was not meant to share power equally between the parties. The paramount chiefs though privileged above their subjects were in turn controlled by colonial authorities who tactically created the provisional councils which are alien to African and Ga ethos.

Mandani links the formation of the modern African state to the policy of indirect rule which was a purely legal project initiated by the colonial elites to repack “native passions and cultures selectively ... to pit these very passions and cultures against one another”

(Mandani, 2012, p. 187). In a speech to the Legislative Council on 27th April 1921, Governor Guggisberg lays the basis for the introduction of an indirect rule in the Gold Coast when he remarked:

“ ... Every African in the Gold Coast belongs, or should belong, to one of the Stools. ... the fact remains that in this country there are such things as Chiefs, elected by the, and it is not in my opinion a far thing for the people of the stool to be approached by a political party on any big question in any other way than through the chief and his councillors. Any attempts to reach the people behind the back of the Chiefs and their councillors will be bound to in this country to create unrest and enormous opposition from those who support the maintenance of national institutions” (Metcalf, 1964, p. 586).

The Governor also criticised the members of the National Congress for British West Africa (NCBWA) who had been making damning publications in local newspapers about chieftaincy in reaction to Nana Ofori-Atta’s statement that the Congress does not represent the Chiefs of West

Africa. He also gives an indication of the white man’s intention to allow the natives more involvement in governance:

“There is no white man who has thought seriously of this question, who has ever denied to the black the prospects of taking over Government at some time or other in the history of their country. There is no white man who ... is not willing to give greatly increasing powers to the black man. ... Congress is going to ... prolong the time before the black man of this country gets a real voice in the Government; far longer than it would be if there was good co-operation...” (Metcalf, 1964, p.586).

From the above, the intention of the colonial government to allow more participation from the natives was clearly stated. Moreover, preference for chiefs becoming the representatives of the people rather than educated natives forming political parties was also not acceptable as it may attract much opposition. Nonetheless, Government did not altogether neglect the educated natives in introducing indirect rule as Lord Lugard termed it. We see this in the processes leading to the enactment of the Municipal Corporations Ordinance of 1924.

4.1.4.1.5 Municipal Corporations Ordinance 1924

In line with Government intentions to offer natives some representation in governance, Governor Guggisberg set up in 1921 the Town Councils Committee on the Constitution and Workings of Town Councils in the Colony. The committee was chaired by Sir John Maxwell and had as members educated natives namely Casely Hayford, T. Hutton-Mills, E.J.P. Brown and J. Glover-Addo (Parker, 2000). Key proposals included the extension of franchise to all rate payers in Accra and other towns who elect majority of the membership of town councils. This right goes with increases on annual taxes paid on land and property. The committee appears to favour the interest of only a small segment of the population (educated elites and wealthy natives) and wary of chiefs playing influential role in the management of towns as it observed that the “grant of full democratic institutions to a community before the general body of people is fit and ready to exercise its powers and duties is a very dangerous proceeding” (Metcalf, 1964, p. 588). Moe’s assertion that power dynamics to a large extent rather than mutual cooperation is critical in institution creation is evident here. The educated natives often referred to as the intelligentsia with their majority in the committee made sure the new ordinance served their interest and not that of the highly favoured chiefs.

The Municipal Corporations Ordinance, 1924, a product of the committee's report aimed to “give autonomy to the townships, and the councillors nominated by the Government were to be limited to one-third of the total” (Bennion, 1962, p. 29). The new ordinance doubled the powers of direct taxation of the previous ordinance to become one-fifth of the annual value of premises.

4.1.4.1.6 Native Administration Ordinance and Native Authority/ Courts (Colony) Ordinances

With the policy of indirect rule, colonial authorities held the view that native institutions need to be strengthened to manage land and governance. Between 1925 and February 1927

when the Native Administration Ordinance was passed, some paramount chiefs met several times to consider aspects of Governor Guggisberg's proposed constitutional changes including the Joint and Provincial Councils. The NAO which eventually passed was introduced as an unofficial member's bill by Nana Ofori-Atta, the Paramount Chief of Akyem Abuakwa (Bennion, 1962). The preamble states "An Ordinance to define and regulate the exercising of certain powers and jurisdiction by native authorities and assign certain functions to the Provincial Councils and for purposes connected therewith" (NAG, ADM.11/1/987).

As a formalization of the indirect rule ideology that attracted so much of colonial officials' attention, the NAO gave greater political and judicial power to paramount chiefs who could create by-laws for their areas of jurisdiction. Imperialistically motivated, the NAO was not in tune with native customs as it sought to give so much power to chiefs at the expense of their subjects. In the process, it created more confusion within the Ga State as some stools were elevated and others demoted. Asere, Alata and Osu stool were assigned Divisional Chiefs next to that of the Ga Mantse while Gbese, Sempe, Otublohum and Akumajay stools were not recognized as divisional chiefs (Parker, 2000). A more detailed discussion of the NAO's reception in the Ga State is discussed at the collective-choice level.

By 1941, much of the NAO was found to have operational anomalies. Following the recommendations of the Blackall Committee, two ordinances were passed. The first was the Native Authority (Colony) Ordinance, 1944 (No.21) which gave the Governor power to appoint chiefs, native councils or other persons as native authority. The Native Authority so established by the Governor were given extensive power to raise revenue through taxation, court fees and other sources for performing local government functions including police service (Bennion, 1962).

The second was the Native Courts (Colony) Ordinance, 1944 (No. 22) which gave the Governor powers to choose the membership of Native Courts and determine the conditions for the four grades of such court to function. Each court had a Judicial Advisor and Registrar attached to it. These ordinances legally ended the use of native courts. The presence of the Judicial Advisor who acts as a “guide, philosopher and friend” signalled the zenith of indirect rule and cultural imperialism so far as land administration in the Gold Coast was concerned. With a Land Court established at the Supreme Court, land cases transferred from the native courts and English Common Laws quickly replaced Ga and other African customary land laws as the Native Courts were empowered to “declare and modify rules of customary laws” (Bennion, 1962, p. 36). With such extensive powers, Ga customary land tenure became quickly reinvented as rising land values aroused numerous land and chieftaincy litigations which mandatorily appeared before these traditionally ‘neutral’ native courts. The resolutions were often modifications of the dominant Akan traditions or completely alien western property rights ideals unsuitable for Ga communal land tenure (Rathbone, 2000). Ga codes and rules of behaviour so far as land was concerned changed as the Governor dictated the membership, jurisdiction and interpretation of Ga customs by the Native Courts.

4.1.4.1.7 Establishment of Lands Department and Lands Courts

Following the 1925 constitutional reforms and the memorandum on land title registration in 1927, a Lands Department was eventually set up in 1928 to oversee the implementation of land laws passed to “facilitate the acquisition, administration and registration of interests in land in the Gold Coast Colony” (Baryeh, 2008). The Public Lands Ordinance, 1876 and a few other major laws had at the time made it possible for the colonial state to acquire some land throughout the Gold Coast. What remained to be done was to regularize existing claims and reduce tenure insecurity especially when such rights to land were to be registered.

With growing land litigations in the Ga State, the Gold Coast and British West Africa, the West Africa Court of Appeal Ordinance was eventually passed in 1935 to deal with land cases. In one of its earlier land cases involving La Nkwantanang, in 1929, two appellants Christian Boi Owusu and A.A. Dsane both of La took their chief La Mantse to court claiming rights to receive compensation from the colonial government which required the land in question for public use. The appellants appealed against the ruling by the judge that the land was stool and not family land. In 1933, the WACA gave its final ruling affirming the previous ruling by stating:

“The appellants sought to lead evidence to show that some quarter in Labadi owns land not stool land; but the Court refused to allow them to do so on the ground that it was not material as it would not prove that the claimants did the same. It is submitted that the evidence was admissible under the provisions of subsection '(4) of section 6 of the Public Lands Ordinance which reads "the evidence as to ownership of lands may be such as in proceedings before the assessors to the native chiefs would be admissible and relevant evidence as to such ownership" (WACA Report, 1933).

4.1.4.2 Inter-War Years Collective-Choice Level

This section focuses on the analysis of how British government officials, chiefs and non-chief educated elites negotiated reforms of land and chieftaincy organizations particularly in the Ga State as accountable agencies of local government through which chiefs administered stool lands and mobilized internal revenue for local community development. These reforms occurred between 1902 and 1945. Here, we discuss the commitment of British governments, Ga chiefs and the educated native elites to consolidate land administration of Ga lands. For brevity, we focus on some major events which were often triggered by changes at the constitutional level during the period. These include the destoolment of Ga Mantse Tackie Obili in 1918, the disturbances the MCO 1924 caused in the Ga State, the reactions of Ga society actors to the NAO and proposed land registration of the 1920s and finally the divisive chieftaincy disputes triggered by power, land contestations and compensations.

4.1.4.2.1 Mortgage of Stool Property and Destoolment of Ga Mantse 1918

By mid-1918 chieftaincy in the Ga State was in difficulties, there was competition among Ga chiefs for prominence and control of land whose value had been on the rise yearly. For the Ga Mantse, keeping the peace meant taking unilateral actions to ensure the state does not disintegrate (Parker,2000). With a decline of patronage, his native court though the highest of them all had lost its relevance to the more popular district and provincial state courts. The economic implication of less patronage of Ga Mantse court meant less revenue to the stool. The Ga Mantse had to personally bear the cost of maintaining himself and pay taxes imposed on him by the Town Council. Not much revenue accrued from other official sources such as the levy on non-Ga for crossing the lagoon.

As far back as 1907, the Ga Mantse tried without success to get the colonial government reinstates the stipend his predecessor was receiving. Governor Rodgers told him earlier privileges that chiefs got have been reviewed considering changes in circumstances (NAG, ADM. 11/1/9). In an attempt to get some money to manage the stool, Tackie Obili together with three other paramount chiefs used their respective stool as guarantee for credit from the Colonial Bank in Accra (NAG, ADM.11/1/1086c).

In August 1918, a team representing sections of the Ga State led by C.B. Nettey a senior Asafoatse and four members presented fourteen destoolment charges against the Ga Mantse. Of the fourteen charges, the gravest was that Tackie Obili had mortgaged the Ga stool without the consent of his elders and people. Charges 9 and 12 stated:

“That he has since 23rd March 1917 removed from their custody the Ga Royal Stools and refused to return them contrary to custom. ... That he has without the consent and knowledge of the Ga Manche Djase secured himself with the Ga Royal Stool to a certain Firm for trading purposes, which means that in the event of failure in the speculation the said Firm has power to take over all lands and properties of the nation (my emphasis) over which the Ga Manche bears sway, contrary to native law and custom. This is a very grave and unpardonable offence and certainly constitutes the chiefest ground for immediate destoolment” (NAG, ADM. 11/1/1086c).

So compelling were the charges brought against Tackie Obili that despite attempts by Governor Clifford for the beleaguered Ga Mantse to be given a second chance by his people, he was destooled on 15th November 1918. Two issues are worth noting here. Ga lands belong to the people and not the chief(s). Chiefs are trustees who hold land on behalf of the people. Secondly, Ga chiefs reign rather than rule. Chiefs must seek consent of the people before taking actions considered as novelty. Certainly, mortgaging the stool for private or public good is not an accepted Ga norm. It requires consensus building and negotiations.

4.1.4.2.2 Municipal Council Ordinance 1924 and Tackie Yarboi Destoolment Case

On 17th October 1925 at Amugina, Asafoatsemei and Manbii rose in anger and declared that they “would not drink water with Tackie Yarboi again or live in the same town with him as Mantse” (NAG, ADM 11/1/1756, p. 5). They strongly believed that the Ga Mantse, other mantsemei, and other leading members of the ARPS were involved in the drafting of the MCO Bill which the ordinary Ga people saw as very harsh. The meeting was called by the asafo and manbii to bring the MCO Bill to the notice of the mantsemei. The Ga Mantse denied knowing about it. Garshong, one of the conveners explained to the people the harshness of the MCO to ordinary Ga people. It favoured the educated and rich land owning elites who could afford high property rates. The Ga Mantse asked for time to consult the ARPS as “all the mantsemei are members of the Society with the exception of the Mantsemei of Asere and Sempe, on account of their estrangement from Ga Mantse” (NAG, ADM 11/1/1756, p. 5). But the idea to consult ARPS was not accepted by manbii as “they had failed to bring the objectionable law to the notice of mantsemei.” Tempers were very high at the meetings. Besides the fact that the people were not consulted, the MCO was to bring fundamental changes to Ga land tenure and inheritance procedures as a portion stated that on the death of property owner, the building passes to the Town Council which also determines what the family of the deceased property owner receives.

The destoolment attempt on Ga Mantse Tackie Yarboi in 1925 is closely linked to the Municipal Council Ordinance, 1924 and his unilateral action to mortgage the Korle Lagoon to one expatriate W. Blaker who had some investment plans to convert the lagoon into a deep water harbour. Factions that opposed the leasing of lagoon considered a Ga ‘national deity’ attempted to destool the Ga mantse Tackie Yarboi in 1921 (Osei-Tutu, 2000).

British attempt to create local government in Accra since 1858 when a local council of chiefs were tasked with raising revenue and get the indigenes to take part in community projects have been largely unsuccessful. The MCO was considered innovative because it had strong African representation and novel taxation initiatives. Most probably, these innovation such as giving prominence to educated Ga rather than the Manbii in the new town council and the taxation clauses like government taking over land of deceased persons sparked destoolment tensions which affected land administration.

The asafo and manbii were of the opinion that Tackie Yarboi, members of the ARPS, and wealthy Ga businessmen who held property would benefit from the MCO and for that matter did nothing to stop its passage. The MCO imposed harsh terms on ordinary citizens in Accra. A leading member from the ARPS, Dr Nanka-Bruce stressed the need to increase taxes for managing Accra Township. But the asafo and manbii were wary of such tax increases which could further aggravate the conditions of poor people. The new property rate they thought had adverse implications for land ownership in Accra. Secondly, the asafo and those opposed to the MCO were anxious about the possible adverse effects of disruptions in the balance of power between the manbii and educated elite. Actions in the past gave little hope to the asafo that these educated elites who really represent a small faction of the Ga community will take decisions that suit their interests. Though the MCO makes provisions for an African majority, the majority in reality will represent only a small faction of Ga people. Garshong, one asafo member remarked “we

are not educated we chiefs are not, and know nothing to fight our rights. The educated people don't help us and so our rights are taken from us" (Osei-Tutu, 2000, p. 244). This was against native custom. Garshong noted:

"They only go there for their own betterment; they do not inform us of what transpires there. We do not know that this Ordinance is being proposed by Government, we only heard of it recently. These people wish that they might be mayors, etc. They knew that this bill is being made... and know they say that they like certain sections and dislike some. The present commotion in this town is being caused by the literate Town Councillors through this ordinance" (Osei-Tutu, 2000, p.245).

The Ga Mantse, Tackie Yarboi, was summoned by his people to explain to them why such a harsh bill received his assent without their knowledge or consent. After denying his involvement in the drafting of the MCO bill at the first meeting, he refused to sign the petition drafted by the asafo and manbii and this enraged the people who then took decisive steps to destool him. But, the colonial government supported the Ga mantse and refused to accept that the destoolment was done according to custom. Once again, Ga culture was being interpreted and reinvented by the colonial government.

4.1.4.2.3 Resistance to NAO and Land Reforms

As noted earlier, the implementation of the NAO attracted immediate acrimony in the Ga State as some chiefs were elevated and others demoted. But resistance was not from aggrieved chiefs alone. Generally, many segments of Ga community including intelligentsia living in Accra and the local newspapers devoted much attention and effort in criticising the NAO's impact on land administration in Accra and other parts of the Gold Coast colony.

As a law that sought to link African native administration with western colonial administrative apparatus, the NAO was neither African in its entirety nor truly western in both its passage and implementation and it represented the highest manifestation of indirect rule. The aspect about it not being African has to do with unconstitutional procedure followed in its passage. The Gold Coast independent queries " ... why indeed

should the Paramount Chiefs call their people together and explain the provisions of the measure after it has become law when they should have done so before it was passed?” (The Gold Coast Independent, November 26, 1927). The Gold Coast Independent further states “... As a democratic people, our Natural Rulers are not de jure the law makers; it is the Oman which makes law which the head chiefs have to see promulgated and duly enforced” (The Gold Coast Independent, October 29, 1927). It was therefore unconstitutional innovation for paramount chiefs to unilaterally make laws. This according to the paper amounted to “an intrigue and a menace to the enjoyment of our civic rights.” For the Ga State, its culture was hardly taken into consideration as the main progenitor Nana Sir Ofori-Atta I prepared the NAO to suit his Akan state Akyem Abuakwa. Defending the Akan bias of the NAO, he remarks:

“We all know the condition of things in Accra. ... In matters affecting Native Customary Law the Chiefs coming from the interior do not expect to be guided by people in Accra and Coast towns” (Nana Sir Ofori-Atta at Legislative Council Meeting).

The NAO was also not considered western because it is “disquieting to see that our Government is attempting to make encroachments and unwarrantable abridgement into our national rights and privileges. This is unlike the United Kingdom where citizens have civic rights...” (The Gold Coast Independent, October 29, 1927). The main point here is that the NAO law was not legitimate as many as 51 of the 60 paramount chiefs of Gold Coast in a strongly worded petition called for it to be repealed. To these chiefs and the influential ARPS the NAO:

“Is contrary to one of the most fundamental and vital principles of our traditional polity for a Chief to frame laws for his subjects. The procedure sanctioned by immemorial custom and universally acknowledged by us all to be still sound is for those who will have to obey such laws, namely the subjects, to frame such laws and hand the same over to the chief as principal judicial executive officer, to see to its administration” (Petition of Gold Coast Chiefs, 13th February 1928).

4.1.4.2.4 NAO and Ga Custom

The NAO affected Ga customs significantly as attempts to place chieftaincy within British colonial rule introduced new and alien rules that affected relationships among Ga chiefs through the empowerment of the Ga Mantse to take over land cases considered to be above the jurisdiction of the divisional chiefs. The NAO also transformed the symbolic role of Ga Mantse to perform legislative, judicial and executive functions and this intensified the rift between Ga elites (Dsase) and the Manbii party (Asafo). The latter group held the greater influence on the Ga Mantse's destoolment process. At the root of this struggle to control the Ga Mantse was land ownership. While the elites contend that Ga customary law vests lands ownership in the extended family rather than in the paramount or divisional chiefs (Firmin-Sellers, 1996). The Manbii party on the other hand interpreted Ga customary land law to mean that land belongs to the divisional stool which manages it on behalf of the subjects.

Asere and Nleshie Alata Mantsemei rivalry ceased in the face of the many distortions the NAO was likely to have on the Ga State. The Ga Mantse who had earlier distanced himself from NAO became the main beneficiary. Seeing the danger of massive opposition, he called a meeting of mantsemei, Asafoiatsemei and manbii in February 1928 to discuss the NAO but the outcome was inconclusive. Another meeting (convened by those opposed to the NAO and Ga Mantse) held for four days in April 1928 proposed amendments which make the NAO adjustable to Ga customs and not vice versa.

A critical amendment proposed in the NAO sought by the divisional chiefs was making each divisional chief responsible for the internal affairs of areas under their jurisdiction (NAG. ADM. 11/1/1089). Concerned that his powers over the divisional chiefs granted in the NAO would diminish the Ga Mantse refused to sign a petition prepared for him and this created tensions which eventually led to the destoolment of Ga Mantse Tackie Yarboi in 1929.

4.1.4.2.5 Inter-War Land Conflicts

The period recorded an upsurge of land conflicts in the Ga State. These conflicts were of three kinds. The first involved chiefs who contested authority over land and compensation. The second kind involved land conflict centred on chiefs and families competing for allodial rights to prime lands in Accra. Lastly, individuals went to court or took measures to safeguard their landed property. We elaborate on the legal developments during the period.

Legal Pluralism and Land Cases

Colonial authorities dual motives of supposedly preserving Ga customary land tenure while at the same time passing many pieces of legislation to procure Ga lands for public use and protect tenure security in the environs of Accra led to the establishment and modification of both statutory and customary courts of adjudication. Here, beginning with customary law we discuss briefly how both customary statutory land laws developed during the period.

Ga Customary Laws

As noted previously, the NJO and the NAO fundamentally changed modus operandi of native courts, their jurisdiction and enforcement powers. Ga native courts which lost both popularity and prominence in relation to the District, Provincial and Supreme Courts of the Gold Coast with time became less efficient in dealing with land matters. Taylor notes the imperialist view British authorities held of customary laws of the Gold Coast:

“In their pristine character, we were denied the attributes of true laws. They ceased to be yardsticks without more, ... they only qualified to be considered as laws ... after they had been subjected by the courts to a test as to whether they were compatible with, or repugnant to natural justice, equity and good conscience” (Taylor, 1989-90, p. 76).

The native courts and tribunals could by law only deal with land cases involving only natives. Expatriates do not appear before such cases. Interestingly, these native courts differed markedly from pre-colonial indigenous tribunals in “constitution, powers, and

modes of instituting process, and execution of their decrees and orders” (Ollenu, 1969, p. 111).

As unwritten and peculiar to particular traditional polities, customary law for a people changes with societies (Ocran, 1978). Besides, the influence of colonialism, Ga customary land laws was fiercely contested and interpreted by contending segments within Ga society. Hence, what became Ga customary law reflects the power dynamics which manifested in several land litigations on ownership, inheritance and succession, sale and mortgage and even the very process of instituting traditional authority in both customary and statutory courts at operational level.

Statutory Laws and Courts

The West Africa Court of Appeal (WACA) was established in 1928 to deal with land matters in British West Africa involving natives, expatriates and corporate entities including state functionaries. Before we discuss one of the landmark cases, it is important to know the context and composition of the WACA courts and how they go about ruling on a case. The WACA court developed within a context of drastic economic, political, social, cultural, and religious changes. In the Ga State, land was fast becoming commoditized and codification of Ga customary land tenure was being championed by British colonial officials who overtly or covertly infuse English Common laws interpretation into the codification process (Amanor, 2009; Amanor, 2008). Besides, anthropological studies on dominant native polities such as the Akan by Rattray and others created the situation whereby Akan customs were regarded as also prevalent in non-Akan states. For the Ga State, no major anthropological study was published until the 1930s when M.J. Field completed her work the Ga people. Prior to Field’s work, British colonial authorities relied on findings and conclusions derived from European dominated commissions of enquiries like the Maxwell and Welman Commissions of Enquiry into Ga Native affairs in 1900 and 1926-8 respectively to govern. Often, these commissions

assumed that African customs and land tenure were static and incapable of changing to adapt to capitalist economy.

Faced with the problem of having scanty information about Ga customs and land tenure, jurors in the wholly British WACA courts drawn from all four colonies sat and determined Ga land matters on ownership, access, inheritance, succession, sale, transfer, etc. Legal counsels including Ga lawyers who were trained on English Common laws and had vested interests in Ga lands also contributed towards the Ga land tenure codification exercise.

Asante comments on colonial era development of customary law administration as:

“Administered in the upper levels of judicial hierarchy by British or British-trained judges, whose jurisprudential ‘take-off’ is analytical positivism, and who regard a stringent doctrine of *stare decisis* as an axiom of the judicial process. ... Customary law has been menaced by a tradition which restricts the orbit of the law to the narrow confines of authoritative decisions, and strictly commits decision-makers of today to the dubious wisdom of past experience” (Asante, 1969, p. 100).

Simply put, what is considered Ga customary law turned out to be a legacy and product of dominant British cum native Ga elite interests. Moreover, British jurors like Judge Lingley were not prepared to entertain variation in customary law pertaining to the dominant Akan laws when he states the “court cannot allow local customs to override general principles and practices in dynamic societies” (Asante, 1969, p. 111). Ironically, societal change is not homogenous. Laws change with circumstances and needs to change to solve problems that come with change (Ocran, 1978). Interestingly, Ga elites like Dr. C.E. Reindolf were more accommodative of English Common laws and Akan customary laws and championed changes in Ga customs based on such convictions (Firmin-Sellers, 1996).

4.1.4 The Transition Period

Land administration in the Ga State underwent massive changes after the Second World War. In spite of the representative government guaranteed under the 1946 Burns Constitution, agitations for independence coincided with growing concerns among

sections of Ga community that colonial state was discriminatingly appropriating much Ga lands without adequate compensation. In February 1948 riots broke out in Accra and other Gold Coast towns in reaction to high living conditions and hardships. In 1952 alone, 63 square miles of Ga lands belonging to Tema, Kpone and Nungua stools were appropriated by the state for the constructions of an industrial and port city. The section discusses the relationships that developed between the state and the Ga people at the constitutional and collective-choice levels.

4.1.5.1 Constitutional Level

The 1948 civil disturbances that erupted across the Gold Coast led to the establishment of constitutional review committees such as the Watson Commission which recommended self-rule in Ghana to reduce the recurrence of the political, social and economic challenges that caused the mayhem. The Commission found the Burns Constitution obsolete and incapable of furthering the legitimate aspirations of the indigenous inhabitants (*Report of the Commission of Enquiry into Disturbances in the Gold Coast*, 1948). The Coussey Commission which followed up on the works of the Watson Commission recommended representative government elected directly or indirectly by popular votes.

4.1.5.1.1 Gold Coast (Constitution) Order in Council, 1950

In agreement with the Watson and Coussey Commissions, a new constitution was promulgated on 1st January 1951. The major changes included the reconstitution of the Executive Council and replacement of the legislative Council with elected African representatives. The Executive Council had the Governor as the President, three ex-officio members and eight elected ministers. One minister gets elected as Leader of Government Business and leads the Executive Council (EC) at the Legislative Assembly (LA) which is empowered to remove any minister on the EC (Bennion, 1962, p. 42). A Speaker, three ex-officio members and seventy-five elected members make up the LA. Each territory was represented. Ga-Adangme had two members.

The Convention People's Party (CPP) led by Dr. Kwame Nkrumah had earlier described the new constitution as 'bogus and fraudulent' won 34 out of the 38 seats and formed a government. The United Gold Coast Convention won only three and an independent candidate the last.

4.1.5.1.2 Public Lands (Leasehold) Ordinance, 1951

Based on the Coussey Constitution, the colonial authorities enacted the Public Lands (Leasehold) Ordinance in 1951 to enable it acquire lands for public purposes for a specified duration. Prior to this period, stool and family lands were alienated by government on freehold basis such that by 1945 the Ga State Reformation Association, a group of educated young men and women who serves the Ga cause observed that "next generation may find themselves deprived of their rights as Ga people" (Quarcoopome, 1992, p. 44). Lands in Accra were alienated by the colonial state for urban developments such as staff bungalows, road construction, sewage systems, sanitary sites public cemeteries, markets, town halls, recreational centres, planned residential areas etc.

4.1.5.1.3 Local Government- Municipal Councils Ordinance, 1953

The Convention Peoples Party (CPP) led by Dr. Kwame Nkrumah immediately took steps to use political power and state machinery to acquire land and other natural resources for the state. In November, 1951, the CPP introduced the Local Government Ordinance that established local councils directly under central government. Hence, the Town Councils of Accra, Kumasi, Cape Coast and Sekondi-Takoradi were replaced with the Municipal Councils Ordinance, 1953 which reduced to a seventh the membership of traditional rulers in local governance. The membership of the local councils had a third appointed by chiefs and the rest elected thereby reducing the influence of paramount chiefs. Elected members dominated local governance and these local councils were vested with powers of control and management of stool lands. Sections 70, 71, 72 and 73 empowered the MCO to manage stool lands within each municipal area and also:

“A Council may at any time require a Stool to declare its interests in any land within the municipal area, and such Stool shall, within three months of being notified in writing of such requirement, send full particulars thereof to such Council” (Municipal Council Ordinance, 1953).

All proceeds from stool lands were deposited in special account administered by the Accountant-General as the Minister may direct. The MCO effectively extinguished the powers of Ga chiefs to control stool lands and revenues accruing thereof.

4.1.5.1.4 Tema Town and Port (Acquisition of Land) and Tema Development Corporation Ordinances, 1952

According to Firmin-Sellers (1996), the Coussey Constitution and the outcome of the 1951 elections completely altered the ongoing competition among indigenous actors to define property rights within the Ga State. In 1952, the CPP government enacted the Tema Town and Port (Acquisition of Land) Ordinance that allowed the state to acquire 63 square miles of Tema land for the construction of a deep water port and industrial town. Compensation for the land was to be paid to the Tema stool at rates pegged at prevailing prices of land before the construction of the port.

A second ordinance passed in 1952 gave the Tema Development Corporation power to “dispose of any land acquired by them to such persons, in such manner, and subject to such covenants or conditions as they consider expedient, for securing the development of Tema” (NAG, ADM. 4/1/150, p.293). These two ordinances gave enormous powers to the State and the TDC to possess and plan land use in the Tema area.

4.1.5.2 Collective- Choice level – Ga Resistance during the Transition Period

Land alienation by the colonial government, chiefs and traditional authorities, corporate entities and individuals had serious effects on the aboriginal inhabitants of the Ga State. Of the 54, 382.59 hectares of land compulsorily acquired by the colonial government at the end of the colonial rule, 31, 463.40 hectares were lands belonging to the Ga State and what is now known as the Greater Accra region (Odame Larbi, Adarkwah, & Olomolaiye,

2004). Therefore general economic hardship due in part to land loss and the threat of colonial state's use of legislative power to make laws that resulted in massive appropriation of Ga lands created opportunities for factions of Ga society to unite and align themselves to political parties opposed to the CPP to resist the government. The CPP also had some sympathisers as an organised group to counter the government opponents. The involvement of political parties made the resistance assume a national character as it often transcended local politics. We discuss these general developments before specifying on the nature of resistance surrounding the Tema port and industrial city project.

From 1945, the Ga State Reformation Association comprising of the educated Ga elite and youth set up to advance the well-being of Ga natives decried the alarming rate of land alienation. Members of the group accused CPP functionaries of using their position to allocate Ga lands and buildings in places like Kaneshie, Mamprobi and Kanda estates to party members rather than Ga people affected by the 1939 earthquake (Quarcoopome, 1992).

The CPP quest to acquire land for the port and industrial town development lacked unanimous support at all levels. The paramount chief of the Ga State was a CPP sympathiser who had much support from the Ga Youth Association (GYA) which was affiliated to the CPP and for that matter supported most policies implemented by the government. His '*Dzasetse*' and divisional chiefs opposed most government policies. A close ally of the Dzasetse and the divisional chiefs was J. B. Danquah, a member of the United Gold Coast Convention (UGCC) who criticised the Tema land acquisitions as an attempt by the state to deprive its citizen's rights to acquire property. He lambasted the CPP government with the following remarks

“This government has been advised time and again that Chiefs of this country are not the owners of the lands attached to their stools; they are trustees. It is quite well known... that a trustee has not the right to sell land entrusted to him. You are compelling the Tema people to sell this land to you, and

you are conspiring with them to sell land which they hold in trust for unborn generations” (Firmin-Sellers, 1996, p. 123).

4.1.5.2.1 Petition by the Tema People

The Mantsemei and people of Tema, Nungua and Kpone met at Nungua in June 1952 to pass a resolution against the proposed land acquisition for the Tema town and port project. Their protestation did not stop the passage of the ordinance. In May 1955, the people of Tema through their chiefs in May 1955 submitted a petition to the Prime Minister and Minister for Development. They objected to the mode of acquisition as they were not consulted. They considered the ordinances “two high-handed acts of Government, to expropriate private property without affording opportunity to those affected to be heard.... The two ordinances are outrageous and iniquitous in the extreme and the Tema Stool and people will always hold them *ultra vires*” (Amarteifio, Butcher, & Whitam, 1966, p. 80). The petition also cited a breach of faith on the part of the government as they were told the land required was 64 acres and not the 63 square miles that was eventually appropriated. Also, the government’s main propose is “to prevent individual speculators from making profitable investment in Tema land, while conferring on Government the exclusive monopoly of profitable investment in Tema land: in their case, to the detriment and loss of the Tema Stool” (Amarteifio, et al., 1966, p.80). The chiefs and people of Tema petitioned against the demolition of the old Tema town and resettlement of the people in a new site as “it is sacrilegious taboo to site the Tema town outside the two lagoons, Sakumo and Chemu ... Tema people must always dwell within the protective arms of the two lagoons (Amarteifio, et al., 1966, p. 81). Also, the Tema people refused “to be made vassals in their own land” because government plans to lease a plot of land for 75 years rent free after government erects accommodation. Valuation and compensation proposed by government did not reflect market rates.

4.1.5.2.2 Government Response to Petition

The government's response to the petition merely explained in details the processes and timelines for resettlements and compensation. A resolution against removal dated 9th January 1959 held at Mandzono, Tema under the chairmanship of Sakumo Wulomo, Nii Asuboi Kofi and signed by Tema traditional leaders objected to resettling the people in March 1959. The destooled Tema Mantse Nii Adjetey-Ansah still appeared to receive government recognition while the Mankralo was subjected to humiliation after being paraded through town in chains. Clearly, the government had managed to employ its *divide et impera* tactics within the Tema area just to secure land. The Regional Commissioner, Mr. Ocansey was on record to have stated he will use "his official powers to discountenance any judgement against the destooled Tema mantse in his appeal before the Ga State Council" (Amarteifio, et al., 1966, p. 88).

4.2 Post Independence Civilian Regimes

4.2.1 Ideological Underpinnings of (CPP) Post- independence Land Policies

At the time of independence in 1957, Ghana became a de facto one party state following a series of massive electoral victories by the CPP under the leadership of Dr. Nkrumah. The party pursued a socialist ideological agenda in developing the country. Political, economic, socio-cultural policies of the regime subscribed to the modernisation orthodoxy of development that had counter arguments about capitalism or private-sector led economic growth and development options. The CPP was not only dedicated to liberating the country from colonialism but also from "scourges of poverty, conservative social practice, illiteracy and ill-health" (Rathbone, 2000a, p.48).

The Ghanaian State therefore needed to control all factors of production to accelerate development-capital, land and labour. Of the three, land is critical as unhindered access to land by the CPP leadership underpins the practice of socialism and remains the bedrock by

which any government can promote its economic and social policies (Buchanan, 1975).

President Nkrumah therefore stated:

“Certain changes in our land tenure system seem to me inevitable if we are to pursue our development plans, but these will have to be very carefully worked out. They must avoid the creation of rifts in the body politic, and will accordingly have to take into account customs and fundamental traditions. One of the blessings of our land tenure system is that it has not turned ours into a nation where land hunger would have forced us to break up vast holdings for redistribution among a destitute peasantry. Our customs, moreover, had erected a kind of social security adapted to our subsistence economy. Some of our farmers, it is true, have fallen victims to the rapacity of moneylenders” (Nkrumah, 1963, p. 99).

Hence, the adoption of socialist government was among others to help the CPP government satisfy and reward an emerging group of bourgeoisie who supported the independence struggle and also consolidate state power by making the state the biggest employer, producer and regulator of all resources (Hammond, Antwi, & Proverbs, 2006).

The CPP government’s quest to control land in Ghana and the Ga State took two directions namely the regulation of the actual physical user of land and abridgement of the powers of disposition or other incidents of ownership (Gyan, 2010). The CPP land policies generally sought to give the Ghanaian State greater control of most lands in the country which were being controlled by chiefs under customary land tenure. President Nkrumah stated:

“To fulfil our pledge to the people and achieve the programme set out above, socialism is our only alternative. For socialism assumes public ownership of the means of production, land and its resources, and use of those means in fulfilment of the people’s needs” (Nkrumah, 1963, p.120).

Nkrumah gave his opinion about the land question in the country as:

“Lands in Ghana in theory belong to the ‘Stools’, headed by the chiefs. But when Europeans arrived in our midst, bringing enticements of money and goods, many chiefs signed away concessions; and some, in complete disregard of custom, made outright sales. What are worse, parcels of land were sold by families in possession of them, to different purchasers, and this started

a whole series of law suits which, until my government came into office, was the chief source of income to our lawyers” (Nkrumah, 1963, p. 120).

Thus, President Nkrumah proposes to solve the problem through consultation with people from whom government derives its authority:

“At all stages, we seek the fullest co-operation of the people and their organizations, and in this way, and through public control of the means of production, we hope to evolve the truest kind of democracy within the Aristotelian meaning. By mass consultation we shall associate the people with the running of the nation’s affairs, which must then operate in the interests of the people. Moreover, since control of the modern state is linked up with the control of the means of production and distribution, true democracy can only be said to exist when these have passed into the hands of the people. For then, the people exercise control of the State through their will as expressed in the direct consultation between government and them” (Nkrumah, 1963, p. 99).

In fairness, it appears President Nkrumah’s statement captures what ought to be the case rather than what actually transpired. Here, we proceed to discuss the relationship between the government, its officials and the generality of the Ga people. To a large extent, Nkrumah did not recognise Ga chiefs as representatives of Ga people.

4.2.1.1 Constitutional Level

At the constitutional level, the CPP government refrained from restructuring land relations with the Ga State and people in the light of developmental goals. Rather, the CPP relied on the colonial government’s autocratic or monopolistic public policy making processes to legislate new land laws that further weakened the financial base of chiefs and custodians of land who were generally regarded as political opponents of the CPP regime. Hence, the main actors within this action situation included President Nkrumah, his ministers, the National Assembly, bureaucrats working with the local councils and established land sector agencies. We argue here that Ga chiefs and people were only involved at the implementation stages after the laws have been passed. The new land laws passed gave the state right to possess, use, manage, alienate, security of tenure, bequeath and mortgage any land in Ghana in public interest (Hammond, et al., 2006). We proceed to discuss how

the Ghanaian State legislated laws that enable it have control of first Ga chiefs and land owners and secondly land tenure, management and use of Ga lands. At this level of analysis, we focus primarily on development of statutory land administration which includes developing legislation for recording and managing land revenues, cadastre mapping, land ownership, use and regulations.

Post- independence CPP government continued its statist policies it initiated in 1951. Its priority of state-building was to overturn what Hyden calls ‘suspended in mid-air states’, by trying to centralize and concentrate state power through land laws legislation which gave the State control of land and natural resources (Boone, 2007; Boone, 2003; Boone, 1995). In 1963, at the launch of the seven–year development plan, Nkrumah made this policy clear:

“...The state will be controlling on behalf of the community the dominant share of the economy. This would have been accomplished without ever having to resort to such expedients as nationalization, which if carried out with full compensation would only change the ownership of the means of production...and if carried out without such compensation would inevitably incur such a large measure of hostility as to make our development plans very much more difficult to achieve” (Odamé Larbi, et al., 2004, p. 118).

As noted earlier, the 1951 Local Government Ordinance effectively took the power of Ga chiefs to manage land and revenues accruing from it. In 1959 and 1960, following the successes chalked by the CPP leadership in controlling Ashanti and Akim Abuakwa stool lands through the passage of two legislative instruments in 1958, the Stool Lands Control Act, 1959 and the Stool Lands Act, 1960 were respectively passed to give the State complete control of any land in the country including Ga lands. The preamble of the Stool Lands Act, 1960 read “An Act to enable stool lands to be vested in the President as trustee”. Section 1 states:

“Where it appears to the President that it is in the public interest so to do he may by Executive Instrument declare any stool land which is subject to the provisions of Stool Land Act to be vested

in him and accordingly it shall be lawful for the President, on the publication of the instrument, to execute any deed or do any act as a trustee in respect of the land specified in the instrument.”

In essence, the Act gave the state unlimited legal right to intervene as trustee in any stool land the State so required.

Significantly, controlling the power of chiefs was a paramount concern for the CPP. After the passage of the Local Courts Act, 1958 (Act 23) which created new local courts presided over by officers “appointed by the Minister, without reference to the traditional Authority” the Chieftaincy Act, 1961(Act 81) was passed to recreate state and traditional councils. Thereafter, as many as 13 amendments were made to consolidate control of all chiefs in the country. Nkrumah justifies CPP land and chieftaincy policies:

The whole question of land tenure in Ghana is one which requires examination and careful overhaul. It becomes increasingly clear that the system is too cumbersome and complex to adjust to the needs and pace of our development. My government has made efforts to put some order into the administration of Stool lands, which has now been brought under the control of local authorities. This measure was adopted as a means of stopping the misappropriation of funds from land administration, which was beginning to assume alarming proportions. We have also made laws which enable the government to acquire lands suitable for development purposes” (Nkrumah, 1963, p. 99).

The CPP introduced more than 100 pieces of legislation regarding land management and land use. The year 1962 may be considered the watershed year for statutory land laws as several laws which still affect land administration were enacted. These laws deal with land management, survey and cadastre mapping, land use for public and private ends. Notable laws include the Land Registry Act, 1962, Survey Act, 1962, the State Lands Act (Act 125) and the Administration of Lands Act, 1962 (Act 123). Collectively, these pieces of legislation gave the Ghanaian State through the President and the Minister for Chieftaincy power to authorise the acquisition and use of stool and other lands for private and public use as well as regulate the use of revenue from stool lands. Any transfer of stool land or right over stool land is not valid unless it is executed with the State’s consent.

4.2.1.2 Compulsory Land Acquisition under CPP

The State Land Act, 1962 (Act 125) was the main law used by the CPP to acquire land for public use and promote its developmental agenda. Section 1 on land acquisition states:

“Whenever it appears to the President in the public interest so to do, he may, by executive instrument, declare any land specified in the instrument, other than land subject to the Administration of Lands Act, 1962 (Act 123), to be land required in the public interest; and accordingly on the making of the instrument it shall be lawful for any person, acting in that behalf and subject to a month's notice in writing to enter the land so declared for any purpose incidental to the declaration so made” (quoted in Asante Ansong, 1976, p.38).

Hence, the Head of State can acquire land in any part of Ghana in the public interest. Statutory corporations, boards and agencies are also empowered by law to compulsory acquire any land in Ghana granted they have the capacity to pay compensation. The power to compulsory acquire land does not take into consideration the incidence of blight or payments to a third party who incurs damage to his/her property which is next to the land being appropriated. Moreover, Section 10(1) of Administration of Land Act (123) gives the Head of State unlimited power to appropriate any land in the country and pay compensation later:

“The President may authorise the occupation and use of any land to which this Act applies for any purpose which, in his opinion, is conducive to the public welfare or the interests of the State, and may pay into the appropriate account out of moneys granted by vote of the National Assembly such annual sums as appear to him, having regard on the one hand to the value of the land and, on the other hand, to the benefits derived by the people of the area in which the land is situated from the use of the land, to be proper payments to be made for the land; and the money so paid into the account shall be applied in the same way as other revenues collected under this Act” (quoted in Asante Ansong, 1976, p.38).

The legal requirements for compulsory acquisition of land are briefly discussed to show how little involvement the actual owners have and contrasts the legal with actual processes at the collective choice level. After the Minister or government agency seeking to appropriate a selected parcel of land has completed entry inspection, survey, site plans, the

next step is to apply to the Lands Department. Once the Lands Department ascertain the subject land and gives concurrence that it is free, the acquiring authority submits eight copies of requests to the regional administrative officer, who in turn grants permit to the district chief executive to constitute a site advisory committee. Upon the submission of recommendations and certificates of valuation by the committee to the regional and sector ministers, the Minister of Lands and Natural Resources is obliged to pay compensation based on the hierarchy of proprietary interests namely the mortgagee, for his/her legal interest; the lessee mortgagor, for his equity of redemption; and the lessor, for his reversion (Asante Ansong, 1976).

According to Odame-Larbi (2005), of the 210 instruments used for compulsory acquisition of land throughout Ghana in the nine years of CPP government, 59 of these instruments applied to the Greater Accra region where 709.7 hectares of Accra lands became government land (Odame Larbi, et al., 2004).

The Land Registry Act, 1962 (Act 122) and Statutory Wayleave Act, 1963 (Act, 186) allowed for the registration of oral transactions which constitute the bulk of land transactions in the country while the latter published all prior interests and encumbrances for lands that have been compulsorily acquired respectively (Agbosu, 2000).

One statutory law solely applicable to Accra was the Land Development (Protection of Purchasers) Act, 1960 (Act 2) which provides protection for purchasers of land in Accra and their successors after a building has been erected on a parcel of land whose titles are found to be defective. This discriminatory law created much tension and confusion in Accra land tenure as many individuals, groups and corporate interests scrambled to acquire land by hurriedly putting up structures when ownership remains undetermined.

In sum, the relationship between the CPP government on one hand and the Ga chiefs, land owners and people on the other hand may best be described as that of usurpation of power by the former from the later. The CPP government relying on its Blackstonian conception

of the sovereignty of the Parliament of Ghana, in a top-down fashion passed pieces of legislations which curbed the powers of traditional land owners in managing Ga lands. Ga land tenure, local courts arbitration procedures were modified without the involvement of Ga leadership and people.

4.2.1.2 Collective-Choice Level

The Ghanaian State rule-making hegemony and predominance was not fully accepted by Ga chiefs, landowners and residents. At this level, the Ghanaian State comprising of politicians, petty-bourgeoisies and bureaucrats working in land sector agencies is challenged in its capacity as both regulator and player by traditional and civil society groups including private real estate developers, corporate entities etc. which have individually and collectively devised sets of strategies for land ownership, access, use and disposal. Rules-in-form (statutory land laws) tend to compete with rule-in-use created mainly by Ga State traditional and civil society as resistance strategies. Here, we argue that the lack of legitimate authority backing the creation of rules-in-form increases the costs of social control (inability of Ghanaian State to monitor and enforce sanctions) to the extent that non-state actors are able to operate by rules-in use they create to promote their interests. Based on power dynamics, collusive relationships developed among the most powerful state and non-state actors to the detriment of less endowed members within Accra and its environs. The section discusses the nature of interactions and resistance between the various actors and how each major actor reacted to circumstances during the CPP era.

4.2.1.2.1 State Control of Ga Lands

As observed at the constitutional level, the CPP government introduced considerable modifications to land administration in the Ga State through the introduction of several legislative and executive instruments. A notable example passed in 1963 which to date has not been repealed is Executive Instrument 108 which vest all of Accra-Tema lands in the

State. But, the modifications initially created intra-state organizational conflicts, state-society conflicts and later transitioned into an emerging collusive relationship between dominant Ga chiefs and the nascent Ghanaian State.

4.2.1.2.2 State- Society Relationship

Gyimah-Boadi and Oquaye identify four key elements of the policy environment that shapes the relationship between the State and the Ga people. These include political culture, constitutional provisions, regulatory framework and the economic environment. Political culture determines to a large extent the policy environment (Gyimah-Boadi & Oquaye, 2000, p.1). The CPP's "culture of monolithic control, repression and co-optation of civil society" reinforced by the effect of decades of colonial rule's partial emasculation of traditional Ga society brought much challenges (Gyimah-Boadi & Oquaye, 2000, p.2). These include state ownership of Ga lands, individualization of property and reduction in the management functions of land by traditional landowners (Herbst, 2000).

With the objective of consolidating its power over traditional land authorities in the Ga State, CPP land policies also aimed at breaking the ties of allegiance between stools and subject by taking control of Ga lands (Hammer, 1998). Through legislation that fundamentally curbed the powers of traditional authorities, the Ghanaian State was empowered by law to plan, process, use, manage and alienate Ga lands. Ga chiefs and family heads were left with the role of adjudicating land conflicts, which parties chose not to send to the formal courts.

The CPP identified itself with the general will of all Ghanaians and expected every individual to be a member of the party and refused to recognize as acceptable any opposition. The state accessed such large tracts of land for modernised agriculture not through land reforms but through compulsory acquisition by law. The most important law enacted to facilitate land acquisition by the state is Section 7 of the Administration of Lands Act 1962 (Act 123) which empowered "the President to authorise the occupation or

use of any stool land for any purpose which he considered conducive to the public welfare or the interests of the state. This affected such vacant communal lands as fell within the definition of stool lands in the Act” (Woodman, 1996, p.75).

4.2.1.2.3 Effects of State Land Policies on Ga Society and Land Customs

Generally, these statutory land laws led to massive transformations in customary land laws among the Ga-Mashie people. Quarcoopome (1992) observes two major changes. The first has to do with the processes and procedures of land alienation. Of the seven methods of land alienation, leasing land and the use of statutory laws to acquire land were entirely alien to Ga land customs but these became the most frequently applied means of alienating land during the era.

The second major change that intense application of statutory land laws brought among the Ga people was the politicization of Ga land matters at the national, regional and local levels. Two rival groups the Ga Shifimo Kpee and the Ga Ekomefeemo Kpee, aligned to the opposition political parties and CPP respectively, clashed on many occasions. The former group sought to protect Ga lands from being acquired by the state and non-indigenes while the latter supported the CPP land policies. Incessant acts of vandalism and hooliganism raged in Accra during the period, such that the CPP government was officially compelled to take remedial actions through legislation to quell the phenomenon. Kotey notes that:

“The Ga Shifimo Kpee had grown to unexpected heights and was gradually becoming the most dangerous antagonistic group against the CPP in the immediate post-independence era. The violent clashes which were to take place in Accra furnished the CPP with the excuse to introduce far reaching authoritarian and repressive measures than were sanctioned under prevailing statutes” (quoted in Quarcoopome, 1992, p. 49).

Simply put, the Ga people felt betrayed by the CPP regime officials who were using their position of authority to access prime land in Accra. Ninsin notes:

“The roots of this betrayal lie in the character of the social forces that dominated the nationalist movement and successive governing coalitions. The petty bourgeoisie that led the independence struggle into victory did not have the necessary economic base to ensure their own political autonomy as a class as well as the autonomy of the state from external political and economic forces. As a result of this weakness the petty-bourgeoisie manifested two tendencies: (a) it depended heavily on external economic interests which implied a *de facto* sharing of political power with such interests; and (b) it indulged itself freely and remorselessly in amassing wealth at the expense of the masses of the people whose sacrifices assured the success of the independence struggle and who have continued to labour relentlessly to produce the nation’s wealth. In pursuit of their class objectives this class systematically fashioned state policy in a manner that would uphold and enhance their interests. The interest of the underclass was subordinated to theirs” (Ninsin, 1989, pp. 1-2).

The CPP also reacted quickly to the threats posed by the group with the passage of the Avoidance of Discrimination Act of 1957 that outlawed the formation of parties on regional, tribal and religious basis. The Deportation Act followed in the same year targeted at political opponents of the CPP. Finally, the Preventive Detention Act of 1958 was eventually passed to jail recalcitrant opponents. After rioting with the government over alleged land and labour discriminations on Ga people in 1961, about 43 members of the Ga Shifimo Kpee were jailed to put to rest the group’s threats to the ruling government (Quarcoopome, 1992). The CPP took this drastic action because its leadership believed:

“The opposition in Ghana cannot boast this same sense of responsibility and maturity. So far it has been mostly destructive. ... In Accra, they worked upon the tribal feelings of the Ga people and related them to the shortage of housing. They encouraged the formation of the Ga Shifimo Kpee, a strictly tribal organization, in our capital that was fast becoming cosmopolitan” (Nkrumah, 1963, pp.69-72).

4.2.1.2.4 Strategies by Chiefs and Land Owners to Protect Ga Lands- Statutory Declarations, Litigation, Chieftaincy disputes

By EI 108 passed in 1963, all stool lands in Accra-Tema were vested in the State. To prevent the state from controlling their lands, many Ga chiefs especially the educated ones resorted to the practice of making statutory declarations.

Many chiefs had sold land freehold. The judge ruled in a recent case on Ga lands using EI 108. But EI 108 affected land in North Dzorwulu to Achimota and the area known as the Osu manche layout which includes the current location of the British High Commission, Ghana Institute of Journalism towards the Independence Avenue, ARPS Apex bank. These areas mentioned above have been managed by the Osu stool and the colonial government. Government cannot account for these vested lands from the Osu stool. Revenue from these areas was not given to the Osu stool and people (Technocrat A, personal communication, December 18, 2012).

The issue of land alienation in Accra was central in the party politics that constantly divided most factions within the Ga State before and after independence. The CPP government was accused of allocating to its members estate houses constructed on Ga traditional lands such as Kaneshie, Kanda, and Mamprobi originally intended for Ga victims of the 1939 earthquake that struck Accra (Quarcoopome, 1992, p.47). A radical Ga movement, the Ga Shifimo Kpee (Ga Standfast Association) made up of some divisional chiefs, teachers, mechanics, storekeepers, young men (Tokyo Joes), university students, ex-servicemen and key members of political parties opposed to Nkrumah's CPP was formed to "fight for the rights of Gas and to preserve chieftaincy" (Firmin-Sellers, 1996 p.140). The group held the view that the CPP had contravened Ga customary land laws by appropriating land from chiefs who were mere caretakers; paid very low compensation for the lands; and leased public lands to private individuals and trading companies. The group also blamed some Ga chiefs including the Ga Mantse for selling Ga lands to wealthy

‘Ghanaian aliens’. For these, the group acting through the Dzasetse tried without success to destool the Ga Mantse in 1957.

Nkrumah was displeased about such developments and blamed the opposition for stirring up Ga ethnic sentiments about the Tema acquisition. He stated:

“The opposition in Ghana cannot boast this same sense of responsibility and maturity. So far it has been mostly destructive. ... In Accra, they worked upon the tribal feelings of the Ga people and related them to the shortage of housing. They encouraged the formation of the Ga Shifimo Kpee, a strictly tribal organization, in our capital that was fast becoming cosmopolitan (Nkrumah, 1963, pp. 69-72).”

4.2.2 Progress Party (1969-1972)

As a party with liberal-democratic ideology, the Progress Party led by Dr. K.A. Busia generally pursued market friendly policies that also safeguarded the protection of property rights in Ghana. During the short period of its rulership, the government passed some Acts which affected land in Accra and Ghana. Perhaps, the biggest contribution towards land administration in Ghana was Article 164:1 in the 1969 Constitution which gave the control of stool lands to the appropriate stools. The Akuffo-Addo Constitutional Commission ruled that “any action calculated to control and manage communal lands outside the jurisdiction of their traditional owners was tantamount to a violation of private property by the state” (Aryeetey, et al., 2007, p.).

Keen to protect their political allies, Sections 37 and 38 of the Chieftaincy Act 1971 (370) states:

“Consent and concurrence of the Lands Commission required by clause (3) of article 164 of the Constitution, any transaction purporting to alienate or pledge any stool property whether movable or immovable shall be voidable unless made or entered into with the consent of the Traditional Council concerned.”

The Act also made it a condition for the minister responsible for lands to give his consent before Lands Commission can take any stool lands. The State Housing Corporation (Ejection) Act 1971 (322) gave the state power to determine lease on failure of rent

payment. The government also passed the Statutory Declaration Act 1971 (389) which set rules for parties to declare their interest in land. Many Ga chiefs and families however did not abide by the rules as many defaulted by laying claims to large tract of land which did not belong to them. This brought a lot of confusion to the land market in Accra.

4.2.3 Limann Government (1979-82)

The Limann administration established land institutions under the 1979 Constitution. At a glance, the 1979 Constitution safeguarded the security of communal land tenure throughout the country. It returned the control of all land in northern Ghana vested in state since 1931 to communal ownership and guaranteed the institution of chieftaincy (Ninsin, 1989). Chiefs and traditional leaders were by law guaranteed representation on the Lands Commission and the proposed district councils. The Lands Commission Act, 1980 (Act 401) was one the main statute enacted to administer land.

4.2.4 NDC Government (1992-2000)

The 1992 Constitution is the single most important legal document that dictates land administration in Ghana today. Functioning in an essentially pluralistic legal system “based on the co-existence of different regulatory systems, consisting of a hybrid of English Common law principles, Ghanaian customary law principles”, the constitutional and statutory provisions on land contained in the 1992 Constitution are considered critical in dealing with the doctrinal, conceptual, theoretical and practical problems such as uncertainty of title, costly litigation and land conflicts (Agbosu, et al., 2007).

The Constitution recognises the right of every person to own property as an individual or in association with others and prohibits all forms of discrimination against any person based on gender, race, colour, ethnic origin, religion, creed, social or economic status.

Article 36 (8) of the Constitution states:

“the State shall recognise that ownership and possession of land carry a social obligation to serve a larger community and, in particular, the State shall recognise that the managers of public, stool,

skin, and family lands are fiduciaries charged with the obligation to discharge their functions for the benefit respectively of the people of Ghana, of the stool, skin, or family concerned and are accountable as fiduciaries in this regard”.

Basically, there are two types of land ownership in Ghana namely public or state lands and private lands. Public or state lands include “lands compulsorily acquired by the government through the invocation of the appropriate legislation, vested in the President and held in trust by the State for the entire people of Ghana” (National Land Policy, 1999, p. 2). Private lands in parts of Ghana are in communal ownership, held in trust by a stool or skin or a family for a group of people or a community. In a few cases, land may be vested in both the State and traditional authority.

The State performs its task of administering and managing lands in the country through a formal administrative framework based on the Constitution. A number of land sector agencies organised under the Ministry of Lands and Forestry to perform the following: administration of public, vested and stool lands; settlements of stool land boundary disputes; collection of and disbursement of stool land revenue; determination of land and other property values for various purposes; undertaking of national land surveys and mapping, licensing of land surveyors and verification of survey plans; maintenance of up to date scientific data, maps and plans, geographic database and information system; registration of titles and protection of interests in land throughout Ghana; and formulation of land development standards, co-ordination of land development activities and approval of settlement development plans (NLP).

Similarly, as the bearers of allodial titles to lands in the Ga State, Article 36 (8) of the Constitution spells out how Ga chiefs, traditional authorities, heads of clans and families that own private land must conduct themselves as stewards of their subjects with regards to land administration. Also, Article 267 (3) of the Constitution and the Lands Commission Act, 1994 (Act 483) states regulations that have to be followed in disposal of

private land. Both the Constitution and Office of the Administrator of Stool Lands Act, 1994 (Act 481) are very clear on what to do with revenue from stool lands.

Within the Ga State, land sector agencies and other statutory organizations charged with land administration have been encountering serious challenges in fulfilling their mandate to generally create greater accountability in the transaction of land, to hold chiefs accountable, and to facilitate planned development of Ga State lands.

Land transactions within the Ga State continue to lack transparency and accountability. Chiefs and traditional land owners seek maximum benefits from the high demand for land in the polity by 'reinventing customary tenure arrangements to suit their interests'. Multiple sale of land, land litigations in courts and chieftaincy disputes and ethnic tensions are some manifestations of land tenure insecurity caused by the lack of enforcement of statutory and customary land laws within Ga areas.

4.3 Military Regimes

4.3.1 The National Liberation Council Era (1966-1969)

Land administration after the overthrow of Nkrumah and the CPP was characterised by attempts by both the National Liberation Council (NLC) military regime and the Progress Party (PP) which won the 1969 elections to overturn most of the previous laws and acts of the CPP. As governments with liberal democratic inclinations, the NLC privatised most state-owned enterprises and farms established and owned by the state. By and large, the land administration policies of the two regimes appeared a bold attempt to reverse those of the CPP but some pertinent issues which were of paramount interest to the Ga people remained unresolved. For instance, most of the lands acquired by the colonial government and the CPP were not returned to the original owners. Another controversy centred on whether stool lands including those of the Ga State which have been leased to aliens should on expiry be returned to the state or the stool which granted the lease. The

assembly decided in favour of the state, an outcome regarded ‘confiscatory’ by members who preferred stools.

The regime established several commissions of enquiries to investigate land administration by CPP government functionaries. Many officials were indicted and punished by the NLC government. Also, several amendments were decreed to lessen the effects of CPP land legislations deemed to be inimical to traditional land owners.

4.3.2 The National Redemption Council/ SMC Era (1972-1979)

As many as 15 decrees were passed by the military regime affecting land administration in Ghana. Confronted with similar problems on land such as insecure title to land, the regime took actions akin to its predecessors. The Limitations Decree 1972 (NRCD 54) recognised titles that accrue from “adverse possession for a period of time resulting in the extinction of the previous title” (Woodman, 1996). The Conveyancing Decree of 1973, (NRCD 175) provided direction for systematic processes for transferring interest in land including recorded oral transactions (Ninsin, 1989).

In the Ga State, the period was characterised with much tension as the state compulsorily acquired a lot of lands. It was noted that as many as 55 compulsory acquisitions covering 14, 844 hectares representing 83 percent of all post-independence acquisitions took place between 1973 and 1990 (Agbosu, et al., 2007; Kasanga et al, 1996). Ofankor, a Ga State community on the fringes of Accra was most affected as it lost nearly 85 percent of its land in 1977 and 1978. No compensation was paid and the consultative processes stipulated in the compulsory acquisition directives were not complied with. Landlessness became a common phenomenon as many lost their livelihood activities and were forced to migrate or engage in menial low wage paying jobs.

These developments led to many protracted land disputes and tenure insecurity, the very problem the Acheampong regime tried to address when they took office. The popular military rebellion that led to the demise of that regime received massive support from

many Ghanaians including the Ga people who felt cheated by corrupt public officials many of whom had used their closeness to power to acquire Ga lands originally reserved for public use. Not even the passage of the Lands Commission (amendment) Decree 1973 (NRCD 192) that limited to one the number of plots of public land any individual could acquire for residential purposes could stop the phenomenon.

The Armed Forces Revolutionary Council (AFRC) that violently took office in 1979 had a very short time in power and therefore acted on ad hoc basis with regards to land administration. The regime did not issue out any decree on land administration but confiscated many property deemed illegally acquired by public officials. Elections were held that same year and the regime handed over power to Dr. Hilla Limann's Peoples' National Party (PNP) which ruled Ghana for only 27 months.

4.3.3 The PNDC Era (1982-1992)

By the time the PNDC came to office in 1982, economic hardship resulting from years of natural resource mis-management among other factors prompted the regime to deal with land tenure insecurity that affected the majority of Ghanaians. The main state institution that dealt with land matters, the Lands Commission was re-established under Section 36 of the PNDC (Establishment and Consequential Matters Amendment) Law, 1982, (PNDC Law 42). Members were appointed by the PNDC leadership. The Lands Department was formally recreated as Lands Commission Secretariat headed by an Executive Secretary appointed by the PNDC. The law also made provision for regional offices.

The Land Title Registration Law, 1986 (PNDC Law 152) was passed to deal with land tenure insecurity. Independent assessments of the law indicate a deterioration of the problem. Woodman states "in principle registration merely confirms the existence of interests which depend for their effectiveness on customary law or common law. It does not create new interests nor directly increase the effectiveness of existing interests except by strengthening the means of proof in case of dispute" (Woodman, 1996, p.398).

Crook states that legal reforms on land in Ghana since 1986:

“Have incorporated all forms of land tenure, including customary, into a single statutory and common law framework, and subjected transfers to both title registration and centralised regulation by a National Lands Commission. But this attempted centralization and integration of different kinds of regulation has so far proved ineffective, and traditional institutions remain strong” (Crook, 2005, p.1).

Empirical studies across the African continent and in Ghana have consistently shown that “land titling and registration of private property can create rather than reduce uncertainty and conflict over land rights” (Ubink, 2008, p.77).

Within the Ga State, land titling coupled with the rapid growth of urban population resulted in rapid conversion of farming land into residential plots with both state and customary institutions unable to administer land in a satisfactory manner. The consequences of these effects include highly insecure land ownership, rampant disputes over land, and poor enforcement of land planning procedures.

Some Ga chiefs have resorted to “hiring armed land guards to protect what they consider to be their land, land subject to dispute with other stools and rival factions of chiefly lineages and to physically remove land developers who have purchased land from rival factions” (Amanor, 2009, p.118). Odame-Larbi estimates the existence of over 6,600 plots of land under litigation in Accra by the early 1990s (Odame Larbi, et al., 2004).

Such was the situation with land administration in the Ga State when Ghana was returned to constitutional rule by the PNDC government which contested the 1992 elections as a political party- National Democratic Congress (NDC).

4.4 Conclusion

4.4.1 Information Asymmetry and Land Politics

The implications of colonial land policies on the Ga State are numerous. Critically, land use and processes of land alienation changed drastically. Information dominated politics

during the colonial era (Firmin-Sellers, 1996). British colonial officers lacked basic information about Ga customary land tenure. This reinforced their conviction that Ga customary land tenure impeded the development of a viable and secure land market. We have illustrated with evidence in this chapter that colonial land policy and administration was largely influenced by the prevailing pre-1877 Ga State biophysical environment, community attributes, norms and traditions. Without taking steps to understand Ga land tenure, colonial officers wielding coercive power tried unsuccessfully to impose direct control of Ga lands by 1897. Failure to secure full control of Ga society and resources elicited variable reactions. From 1900, colonial officers introduced several pieces of legislation to modify and reinvent Ga chieftaincy customs and land tenure suitable to colonial authorities. But the colonial officer lacked adequate information. One option was to revert to cultural imperialism through the introduction of ‘akanized’ indirect rule in the Ga State which saw Ga chiefs becoming agents of the British colonial administration. As natural leaders of natives, the British saw chiefs as advisors who could help them govern. Both the NJO and NAO gave chiefs powers more than the original symbolic one to arbitrate land within their jurisdictions. Ga elites sought to deal with this new power of chiefs by creating *dsase* and *asafo* institutions as check on the chiefs. They also borrowed the Akan practice of destoolment to dispose of chiefs who stood in their way. But, these moves were strongly contested by the chiefs and their supporters.

The commoditization of land and the evolution of the colonial state affected Ga land tenure in significant ways. Individuals and corporate entities have developed proprietary interests in land as a means of accumulation thereby rendered land as a determinant of “social stratification, a source of contradictions, social security and political instability” (Aryeetey, et al., 2007). At the zenith of the cultural imperialism experiment, the colonial state succeeded in marshalling enough coercive power to regulate and administer Ga lands

which though communal in ownership was fast responding to the evolving market driven by rising land values.

4.4.2 Cultural Imperialism

The colonial government found the prevailing Ga traditional land tenure unsuitable to deal with the resultant growth and development of land market in Accra and its environs which were characterised by excessive land litigations and introduced culturally imperialistic measures to address the land question. Initially, a policy of direct rule which entailed dogmatic prejudices of English cultural superiority exemplified in the dynamic and adaptive English Commons Laws of property rights was canvassed as a credible solution to the land question in colonial Accra. The colonial authorities considered and dismissed native Ga land tenure traditions as static, backward and superstitious and not capable of naturally evolving to address emerging land problems. Many colonial officials shared Chief Justice W. Brandford Griffith's view that traditional native courts are "remnants of barbarism" (NAG, ADM. 11/1/1477). Hence, the Supreme Court Ordinance of 1876 empowered and popularised the use of colonial courts which were regarded as better alternatives to native courts. Expatriates were not allowed to be tried by native courts.

The result was sharp division in the Ga State as expatriate minorities considered civilised lived disturbed by the possibility of losing property or investments they have acquired in Accra and also serious reprisals from the native majority who were regarded as 'backward'. A clear example is the Korle Lagoon saga where an Englishman W. Blakey tried to lease the lagoon for commercial purpose by giving the Ga mantse money so he can dredge and use the lagoon for transportation. The Ga people resisted and even attempted to destool the Ga Mantse in 1925. There are many examples of factions of Ga majority clamouring for self-rule and determination which was often denied throughout the colonial era. A second but rather belated option to solve the problem of information asymmetry and

forestall the potential mayhem for attempts to introduce land title registration in Accra was the commissioning of anthropological studies about the Ga people in early 1930s.

4.4.3 Post- Independence Governments

The majority of the laws created by post-independence governments to solve the land question in the Ga state did not “reflect the concrete objective reality of social practice. ...as they were made to play the primary role in directing economic activities” (Agbosu, 1992, p. 72). The Ghanaian State itself acquired economic and political interests in Ga lands ostensibly for public interests. But, public interests in many instances reflects the actual interests of the dominant political, economic, social and bureaucratic elites in the country as laws, institutions, organizations, policies and programmes being implemented hardly suffice to address the adverse social, economic and political effects embodied in the existing pluralist legal land tenure system (Aryeetey, et al., 2007). For politicians and bureaucrats, private gain serves as their key motivation as many acquired houses or residential plots. Ga chiefs and family heads also took advantage of their poorly informed subjects, land users and in some instances bureaucrats to make large statutory declarations and profited from land sales. The cumulative effects of these developments on the land question are more empirically discussed in Chapters 5, 6 and 7.



CHAPTER FIVE

THE REFORM EFFORT: A REVIEW OF LAP I

5.0 Introduction

This chapter uses empirical data in analysing the contextual issues and processes that led to the introduction of the Land Administration Project I (LAP I) in the country and the Ga State from 1999 to 2010. Here, we discuss briefly how the land question prompted the formulation and implementation of LAP I. We therefore attempt a description of the land question in the Ga State at the time LAP I was initiated then proceed to do a detailed analysis of actors' interaction within action situations and interrogate the politics of interest negotiations, challenges and outcomes of LAP I. I argue that the nature of the outcomes of LAP I were predetermined by the level of *informalization* or engagement and actual participation of Ga State leadership and people, corporate entities and real estate developers and individual private property owners operating within the Ga State.

Furthermore, the cultural dynamics involved in the implementation of LAP I were not adequately addressed. As a nationwide intervention, LAP I was designed to address the land question in multi-ethnic Ghana. Hence, the interventions neither took into consideration Ga ethnic notions of land tenure nor allowed Ga chiefs and landowner families any adequate and meaningful participation. What is considered Ga ethnic land tenure is itself contestable as what is regarded traditional is a creation and outcome of the cultural contest that took place during the colonial and the first four decades of the post-colonial era. Lastly, dwindling political accountability between state and traditional land authorities who act as agents for principals particularly the Ga people, corporate entities and other land users have led to a situation whereby agents engage in corrupt practices, use their positions to abuse and expropriate compulsorily acquired state land for their personal gain.

Specifically, the chapter tries to analyse the research questions and objectives using survey and interview data collected from 2010. Firstly, we state the present land question as conceptualized by land users, land owners and state bureaucrats in the study areas of Nungua, Tema, Kpone and Gbawe. Here issues of land access, availability, security of tenure, land conflicts, landlessness, corruption etc among others are discussed to show how key actors relate to each other on land matters. Secondly, we analyse the incentives (interests, strategies, outcomes and payoffs) that influence these actors to effect change in land administration in Nungua, Tema, Kpone and Gbawe. Finally, we analyse LAP I as a case study in assessing the efficiency, equity, accountability and adaptability of current land administration within Nungua, Tema, Kpone and Gbawe in the Ga State.

The chapter is divided into sections. Section 5.1 discusses how the state got itself involved in the implementation of LAP I to solve the emergent land question at the constitutional level. This discussion focuses on both local and international state actors involved in the formulation and implementation of LAP I. Section 5.2 also analyses at the collective-choice level actors' incentives, role and interactions within the action situations and arena before, during and after LAP I. Section 5.3 attempts a definition of the land question in the Ga State by 2005. Section 5.4 discusses the outcomes of LAP I in helping promote efficient and equitable land access and tenure security in the four study areas. Further assessment on the outcomes of LAP I based on its efficiency, equity, accountability and adaptability are discussed in Section 5.5. Section 5.6 concludes the chapter.

5.1 Constitutional Level 1992-2012

From 1993, a new wave of land administration reforms influenced by post- structural adjustment neo-liberal ideology with Western donor states support was being proposed to solve the land question throughout Africa. In Ghana, the combined effect of this neo-liberal and democracy ideologies influenced the framing of the 1992 Constitution, the Land Administration Project I (LAP I) and other notable land laws such as the Lands

Commission Act, 1994 (Act 483); Lands Commission Act, 2008 (Act 767); Chieftaincy Act, 2008 (Act 759); State Lands (Amendment) Act, 2000 (Act 568); Courts Act, 1993 (Act 459); Local Government Act, 1993 and 2012 (Acts 462 and 834); Local Government Service Act, 2003 (Act 656); and Stool Lands Boundaries Settlement (Repeal) Act, 2000 (Act 587). Besides these acts, there are numerous Executive Instruments (EIs) and Legislative Instruments (LIs) that influence both customary and statutory land administration in the Ga State. But, the Ghanaian State represented by the executive, judiciary, legislature and technocrats are the main actors. Traditional authorities and donor agencies which fund interventions like LAP I play minor roles in rule making at the constitutional level.

5.1.1 The 1992 Constitution and Land Administration

As an outcome of a nationwide consultative process to return Ghana to democratic rule, the 1992 Constitution is the single most important legal document that dictates land administration in Ghana. Functioning in an essentially pluralistic legal system “based on the co-existence of different regulatory systems, consisting of a hybrid of English Common law principles, Ghanaian customary law principles”, the constitutional and statutory provisions on land contained in the 1992 Constitution are considered critical in dealing with the doctrinal, conceptual, theoretical and practical problems such as uncertainty of title, costly litigation and land conflicts (Agbosu et al, 2007, pp. 71-2).

As the supreme law of Ghana, any other law including customary land laws found to be “inconsistent with any provision of this Constitution shall, to the extent of the inconsistency, be void” (Article 1(2), 1992 Constitution). Hence, the statutory regimes on land tenure which are based on the Constitution such as “legislative enactments and policy instruments governing vesting of land and the compulsory acquisition of land by the state, land registration systems, land use planning schemes, dispute resolution systems and constitutional and statutory prescriptions on consents for the validation of grants of land”

have a significant impact on Ga customary land tenure (Agbosu et al, 2007, p. 72). The 1992 Constitution recognises the right of every person to own property as an individual or in association with others and prohibits all forms of discrimination against any person based on gender, race, colour, ethnic origin, religion, and creed, social or economic status. Article 36 (8) of the Constitution states “the State shall recognise that ownership and possession of land carry a social obligation to serve a larger community and, in particular, the State shall recognise that the managers of public, stool, skin, and family lands are fiduciaries charged with the obligation to discharge their functions for the benefit respectively of the people of Ghana, of the stool, skin, or family concerned and are accountable as fiduciaries in this regard”.

Furthermore, Article 20 also safeguards the interests of Ghanaians to hold land and spells out conditions under which the government may compulsorily acquire land for public interests. Hence, there two types of land ownership in Ghana namely public or state lands and private lands. Public or state lands include “lands compulsorily acquired by the government through the invocation of the appropriate legislation, vested in the President and held in trust by the State for the entire people of Ghana” (National Land Policy, p. ii). Private lands in parts of Ghana are in communal ownership, held in trust by a stool or skin or a family for a group of people or a community. In a few cases, land may be vested in both the State and traditional authority.

The State performs its task of administering and managing lands in the country through formal legal and administrative framework based on the Constitution. A number of land sector agencies organised under the Ministry of Lands and Forestry to perform the following: administration of public, vested and stool lands; settlements of stool land boundary disputes; collection of and disbursement of stool land revenue; determination of land and other property values for various purposes; undertaking of national land surveys and mapping, licensing of land surveyors and verification of survey plans; maintenance of

up to date scientific data, maps and plans, geographic database and information system; registration of titles and protection of interests in land throughout Ghana; and formulation of land development standards, co-ordination of land development activities and approval of settlement development plans (Gyan, 2010).

Similarly, as the bearers of allodial titles to lands in the Ga State, Article 36 (8) of the Constitution spells out how Ga chiefs, traditional authorities, heads of clans and families that own private land must conduct themselves as stewards of their subjects with regards to land administration.

Also, Article 267 (3) of the Constitution and the Lands Commission Act, 1994 (Act 483) provides regulations that have to be followed in disposal of private land. Both the Constitution and Office of the Administrator of Stool Lands Act, 1994 (Act 481) are very clear on what to do with revenue from stool lands.

5.1.2 Land Administration Reforms- From National Land Policy to LAP I

Rationale and Agenda-Setting

The debates about the direction of land tenure reforms and the spiralling contradictions in the existing land tenure system have attracted an array of forces and interests. However, the space within which the debates have been carried out and its implementation has been problematic. On many occasions, only the most organised and powerful interest groups, including major chiefs, large family landowners, land administration technocrats, land lawyers and academics took part in the debates.

The politics of land tenure reforms in Ghana has several dimensions. The debates and discussions about what form land tenure reforms should take; the groups that take positions around land tenure issues and how well their interests are represented in debates and policies constitute important aspects of the politics of land tenure reforms. The forms and structure of conflicts, the protagonists, forms of conflict resolution or adjudication, and the role that key state and non-state actors play in adjudicating and generally

managing land conflicts are also important aspects of the politics of land tenure reform in Ghana. The critical question however remains, why has the political system not developed in a manner that makes access to land and security of tenure a central theme in the political processes. In the face of changing socio-political and economic circumstances, why have appropriate land institutions not emerged to take care of the interests of all the different stakeholders, rich and poor, landowner and tenant, men and women, migrant and indigene, citizen and non-citizen? Why have formal political institutions not been central in the discussions of land reform in a more structured way?

Our hypothesis is that most of the different interest groups have been reluctant to allow their parochial interests in land to become part of a national debate over which they may have less control than they do in traditional or local politics. Different ethnic groups, for example, would like their land issues to be discussed only within the confines of their groups. The issues of differential access for men and women, indigenes and migrants, cannot easily be debated outside questions of ethnicity. However, since national political institutions have not been set up to deal with ethnic questions, there is an implicit avoidance of the difficult questions of land reforms since they are likely to increase ethnic passions being raised. It is in the context of local politics and institutions that conflicts arise when more powerful stakeholders are able to exercise greater control over resources than others, who in turn resist them.

Indeed, issues of equity and justice concerning access to land and security of rights in land have fuelled many land conflicts. The problem is that the growth of the market economy has not been accompanied by appropriate and relevant institutions that protect rather than endanger the access of millions of Ghanaians to land, thus exposing them to poverty. Furthermore, the prevailing contradictions in the land tenure system do not encourage access and security of title in land for potential investors, and this inhibits productive

investment, especially in agriculture. All these emphasises the need for a model of land tenure reform that will address the key problems.

In 1994, the sector Minister at the time Dr. K. Adjei tasked some leading academics, professionals and technocrats to put together a national land policy document. The policy was launched in 1999 after many deliberations on the outcome of a national workshop in 1997 (Technocrat B, personal communication, June 2010).

5.1.3 National Land Policy 1999 and LAP I

The main aim of the National Land Policy is to “provide the framework and direction for dealing with issues of land ownership, security of tenure, land use and development, and environmental conservation on a sustained basis” (National Land Policy, p.ii). Based on 12 policy objectives, five policy guidelines were targeted at securing Ghana’s international boundaries and shared water resources; facilitating equitable access to land; security of tenure and protection of land rights; ensuring sustainable land use; and enhancing land capability and land conservation.

5.1.4 Land Administration Project Phase I

The rationale for LAP I was:

LAP was launched in 2003 with government long term goal to “stimulate economic development, reduce poverty and promote social stability by improving security of land tenure, simplifying the process for accessing land and making it fair, transparent and efficient, developing the land market and fostering prudent land management” (MASDAR Report, 2010, p.1). In 2008, being a short term 5 year project, LAP I project objective was rephrased to ‘laying foundations for a functioning land administration system. The specific objectives were as follows:

1. Harmonize land policies and the legislative framework with customary law for sustainable land administration;

2. Undertake institutional reform and capacity building for comprehensive improvement in land administration system;
3. Establish an efficient, fair and transparent system of titling, registration, and valuation; and
4. Issue and register land titles in selected urban and rural areas to test innovative methodologies, including community level land dispute resolution mechanisms.

In the NLP, LAP1 has four main components namely:

- Harmonizing Land Policy and Regulatory Framework for Sustainable Land Administration
- Institutional Reform and Development
- Improving Land Titling, Registration, Valuation and Information Systems, and
- Project Management, Monitoring and Evaluation.

5.1.4.1 Implementation of LAP I

In February 2004 LAP under the Ministry of Lands, Forestry and Natural resources commissioned two key studies to review the Legal and Judicial framework for regulating land in Ghana. The second study focused on institutional reforms. The reports from the two consultancies provided the basis for legal and institutional reforms of LAP I (Technocrat B, personal communication, June 2010). Thus, a very technocratic approach was adopted in implementing LAP I. As a purely top-down programme, civil society groups comprising of indigenes, migrants, landlords, tenants, youth, women and other marginalised groups were virtually excluded even though they were recognised as principal stakeholders in any land administration project (National Land Policy,). Such massive exclusion of civil society compromised the objective of LAP I to make land tenure services efficient and equitable to all social classes in society. The World Bank which gave \$25million of the \$40 million projects had its interests well articulated-strengthening land markets, land titling and registration among others (Technocrat B, personal communication, June 2010).

With technocrats controlling the implementation of LAP I, civil society contribution to decision making was negligible. One technocrat interviewed comments:

“the entire focus of LAP I has been procurement, because that is for the politicians who wants to make money. If you go to the Ministry now their budget is very small, so things like paper computers, toners, I mean these basic office logistics, fuel and the rest, the Ministry’s budget cannot take care of it for about 3 or 4 months, so they need projects like this to be there and anchored in the Ministry so that they will milk from it. In the 90’s or the late 80’s all the way, you realize that forestry projects provided some support for the Ministry of Lands and Natural Resources. By the Late 2000 most of the Forestry Project had ended so where else can the Ministry sustain itself? I mean you have to generate another project. ... Political leadership that should drive the objective of the project is not there because in so far as the project is there oh the Minister is going somewhere you can fill his car with fuel, with the Project Funds and I mean Chief Director to organize a workshop and the project funds are there to be used as to whether that satisfy the set objectives of the project...We also have the technical elite capture. The technical elite capture comes from misuse of the resources. If the project offers a Toyota Land Cruiser I can go to nice funerals, go for very important meetings with free fuel, with even a driver who I can pay from Project funds...and if the whole project management measures are weak then you wouldn’t have any good monitoring and evaluation mechanism. So you see that one or two people just dictates the pace, In so far as the Minister gets what he wants, that’s cool, there is no problem with anybody” (Technocrat B, personal communication, July 2010).

It is fair to conclude from this narration that politicians and bureaucrats captured completely the conceptualization and implementation processes of LAP I.

5.2 Actors Incentives

5.2.1 Incentives of Politicians

It is utopian to assume altruism as sole motive for politicians to intervene in land administration in Ghana since independence. Ideology, regime type and leadership styles among other factors play decisive roles in determining the incentives of politicians in land administration in Ghana (Technocrat A, personal communication, December 2012). Principal-agent theories stress the importance of votes from electorates (principal) as primary incentive for politicians (agents) to perform their functions including reforming

land administration to enhance investment and reduce poverty. Was vote-maximizing the only incentive for the President Rawlings led National Democratic Congress I (NDC I) that ruled Ghana from 1992 to 2000 to develop the National Land Policy? Again did President Kufour's New Patriotic Party (NPP) undertake LAP I and continued the rezoning exercise initiated by NDC I for votes only? Here, we argue that in addition to retaining political power through increased votes, politicians gained economically and socially.

Land in the Ga State ranks among the most expensive on the African continent. A piece of land in the prime areas of Accra ranges between \$ 500,000- \$1 million (Technocrat A, personal communication, December 2012). Years of rising land values have created the land question in Accra. Behind the impetus to improve land allocation and tenure security is the desire to formulate and implement laws and policies like the NLP and LAP I which also creates opportunities for politicians to control bureaucrats and Ga landowners. Politicians supervise the formulation and implementation of executive and legislative instruments which forms the legal backing for compulsory land acquisitions, rezoning of public lands and vesting of land in the President of the Republic of Ghana. The 1992 Constitution also gives the executive branch of government extensive powers to select, based on a prescribed formula, the chairman and board members of the Lands Commission.

Most politicians aspire to own land in prime areas of Accra and rezoning of public lands was the most popular strategy. Both the NDC and NPP regimes undertook extensive rezoning of government land in Cantonments, Labone, Ridge, Airport Residential Area, East Legon, La Wireless, Osu-RE, Achimota, West Legon and North Legon to mention a few (Technocrat A, personal communication, December 2012). The NDC allowed some of these rezoned lands to be developed and sold by real estate developers. Top NDC officials were allowed to buy some of their official bungalows which sat on huge plots of land as

personal property. Rezoning of public lands during the NPP era was quite similar to the NDC regime. Rezoned public land were sold to politicians, affiliated real estate developers and there is much public talk about a list of 100 top government functionaries who had been assigned rezoned public lands for much lower than going land market values (Technocrat C, personal communication, July 2010).

Party ideology and political vision also have some influence on politicians' relations to land. As social democrats seeking to keep close ties with interests groups, the Rawlings regime created and continued to support Ghana Real Estate Developers Association (GREDA). It helped established GREDA in 1988 by awarding many of the members' contracts in the rezoned areas of Accra. GREDA was established to rival dominant state housing corporations which through structural adjustment programmes were retrenching workers (Technocrat A, personal communication, December 2012). The NLP and plans to start LAP I were also means by which the NDC sought donor support for reforming land administration. Politicians were eager to manage the expected \$40million donor funding for LAP I.

The NPP, being a pro-business friendly political party described its tenure as 'the Golden Age for Business' and the party slogan of 'property owning democracy' was implemented as public policy in 2005 when the then Minister for Trade and Presidential Special Initiative, Mr. Kwamena Bartels asked that all ministers be given 100 acres to engage in commercial farming. Massive public outcry by civil society groups led to reversal of the policy (Technocrat A, personal communication, December 2012).

As part of dealing with the equity concerns, the NPP government under LAP I adopted a policy of returning some state acquired land to the Ga chiefs and people. Though difficult to prove, the neo-patrimonial nature of the Ghanaian State lends some credence to the plausibility of shady deals in returning particular lands to the original owners so these released lands invariably becomes the property of the politically connected elites in

society. Ga chiefs who cooperated with political and bureaucratic authorities are likely to have their lands released to them without incurring much transaction cost. Politicians and bureaucrats involved expect votes and landed property as rewards for their roles.

5.2.2 Incentives for Bureaucrats

Self-interested bureaucrats working in LSAs have multiple incentives for taking part in all aspects of land administration management and change processes. Here, we limit our discussion to the implementation of LAP I. Evidence suggest that both budget-maximization and bureau- shaping took place during LAP I.

As the first comprehensive intervention in land administration in Ghana, LAP I was an ambitious project with huge expectations from politicians, bureaucrats and donor community. Due to low publicity, public expectations from stakeholders including traditional land authorities and land users about LAP I was much lower (Chief C, personal communication, September 2010). But it took little time for self-interested bureaucrats to shift their interest to personal gains. These include renewed rivalry between LSAs and the leadership to influence who occupies top positions in the reconstituted Lands Commission; and the desire to make the project budget big and control the procurement processes with many issues of corruption and conflict of interests (Technocrat D, personal communication, August 2010).

The old rivalry between the Survey Department and Lands Commission which evolved from the defunct Lands Department was again activated during the negotiation processes for the ‘one-stop shop’ Lands Commission. A senior technocrat interviewed states “there was a big institutional scuffle for power” (Technocrat A, personal communication, December 2012). The scuffle for control and dominance were not resolved by the numerous meetings and Parliament of Ghana was petitioned by the Survey Department a few weeks before the Lands Commission Bill Act 767. After the law was passed, confusion about who occupies the few top positions became more apparent:

“So the Law has been passed merging the organizations when no arrangements have been agreed upon by all parties for complete integration. So right now it is chaos, because when you merge 4 organizations like that, how are you going to share the positions? So you are putting square pegs in round holes, because right now if you take for example the situation in a region, the Regional Lands Officer at the time was the Chief Lands Officer, then you pick a Principal Surveyor who is 3 steps below him in rank and send him or her there just because Survey Department were given 3 slots...” (Technocrat G, personal communication, July 2010).

Clearly, prestige and self-aggrandizement of bureaucrats replaced the original ideal to make the reconstituted Lands Commission more clients focussed.

Technocrat B at the Ministry of Lands and Natural Resource interviewed points out “the whole focus of LAP I is procurement”. Another technocrat comments on increasing budget:

“The Germans realized that the total cost of funding the new Lands Commission building was no longer 3 million Euros, but 4.8 million Euros. So what they asked was that the Government of Ghana show commitment that they will pay the 1.8 million Euros, before they will release the 3 million Euros” (Technocrat G, personal communication, July 2010).

Not only did officers in charge of LAP I keep procurement to themselves but they also stage managed all activities including Monitoring and Evaluation.

5.2.3 Incentives for Chiefs

Two main positions emerged as drivers of chiefs incentives. Chiefs who also engage in land use activities such as farming, real estate and cattle ranching appear more interested in taking steps that provide security of tenure. Chiefs in Katamanso, Santeo and Gbetsile have farming and cattle ranching as their main source of income. During the interviews, they emphasised the need for good land information system and promoting equitable land use as well as refraining from selling land. In Gbawe where chiefs were also keen on securing tenure security through a well-resourced and motivated CLS, the bulk of land revenue came from collection of ground rent which requires a good data system. This observation about these chiefs confirms Onoma’s earlier assertion about traditional

landowners who do not benefit directly from land sales. Such chiefs are interested and work to ensure secure property rights institutions.

The second observation drawn from the evidence from the interviews is that chiefs who benefit mainly from selling land are not so concerned with insecure land rights in the traditional areas. A strategy many chiefs resorted to was making statutory declarations on land. Lands Commission received and registered a lot of such dubious declarations which simply involved marking out land on topographic sheets. Chiefs then wilfully sold land registered as theirs. The problem of multiple land sales in Accra is closely related to these statutory declarations. Nungua traditional area which proved to be the traditional area with the most insecure property rights had the highest incidence of multiple sale of land by chiefs.

5.3 The Land Question in the Ga State by 2005

There appears to be a state of total confusion in land tenure in the Ga State by 2005 when LAP I began. In a nationwide survey on land tenure in Ghana by ISSER in July 2005, nearly 86.2 percent of 236 urban and peri-urban dwellers located around Accra-Tema metropolis demanded urgent changes to improve land access and tenure security. According to the data, many respondents (72.8%) located in Nungua, Nii Boi Town, Michel Camp, Ofankor and Amasaman indicated they required additional land to carry out their livelihood activities. But nearly a third of these respondents experience difficulties accessing land. Among this group are women (13.2%), Migrants (50.1%) and the poor (26.4) who had the most difficulties acquiring land.

To acquire land, one must deal with either or both customary and statutory land institutions. Respondents were asked to comment on how long they transacted business with these agencies. Table 5.1 below give the frequencies and percentages of respondents:

Table 5.1: Time respondents spent dealing with land institutions

Months	Customary		Statutory		Total
	Number	Percent	Number	Percent	Number/Percent
Less than 1 month	107	74.8	131	55.7	238 (63%)
1-6 months	10	7	22	8.1	32 (8.5%)
7-12 months	13	9.1	19	6.4	32 (8.5%)
13-24 months	6	4.2	15	2.6	21 (5.5%)
25-36 months	1	0.7	6	8.5	7 (1.8%)
37 + months	6	4.2	42	17.9	48 (12.7%)
Total	143	100	235	100	378 (100%)

Source: ISSER LPRP Survey, July 2005.

In the table above, more respondents dealt with statutory land institutions than customary. This may be due to the high incidence of compulsory acquisitions in Accra and the need for doing a search before making payment given the high rate of multiple land sale and litigation. Also, prospective land owners are required to register and pay stamp duty for any land transaction. About 53.1 percent of respondents had registered their lands. From Table 5.1 nearly 18.2 percent spent more than 6 months dealing with customary land institutions compared to 35.4 percent of respondents who dealt with statutory land institutions within the same period.

Respondents also think that both customary and statutory land institutions caused problem of land access and tenure security. For problems with customary land institutions, discrimination, lack of transparency and cheating account for 28.9 percent of reasons for poor performance of customary land institutions. Other reasons include multiple sale (7.9%), administrative lapses, poor records keeping and no layouts (40.9%) and family disputes (7.0%). The lack of information about the land market creates a situation of speculation and ignorance (10%) which affects the behaviour of prospective land buyers.

Not only are respondents less informed about the land market but also majority (77.3%) were ignorant that LAP I was being implemented at the time. Interestingly, many respondents (57%) were aware of and affected by land conflicts in Ga areas.

Table 5.2 below shows perceptions of respondents towards statutory land institutions. According to the respondents, bureaucratic delays (54%) and corruption (28.9%) are the main problems of statutory land administration.

Table 5.2: Problems of Statutory Land Institutions

Problems	Michel Camp	Ofankor & Amasaman	Nungua	Nii Boi Town	Total
Long bureaucratic procedures	5.2%	17.0%	12.6%	19.2%	54.0%
Overlapping of roles	0.0%	3.0%	0.7%	2.2%	5.9%
Inadequate logistics, personnel & equipment	0.0%	1.5%	2.2%	0.7%	4.4%
Poor records System	0.0%	0.0%	1.5%	1.5%	3.0%
Inability to cope with rate of development	0.7%	2.2%	0.7%	0.0%	3.7%
Corruption	0.7%	8.9%	10.4%	8.9%	28.9%
Total	6.7%	32.6%	28.9%	31.9%	100%

Source: ISSER LPRP Survey, July 2005. (N=236)

In sum, difficulties to access and secure land tenure characterised land market around the period LAP I began.

5.4 Effects of LAP I on Land Access and Tenure Security in Ga Areas

In 2003, when the NPP government started implementing LAP I policies including plans to return some land to the Ga people, the Nungua farms land which was acquired by government for agriculture was part of Ga lands proposed for the purpose. Soon after the

land was released to the Nungua stool, it was discovered that much of the land had already been sold out.

In September 2010, some aggrieved youth, fishing folks and citizens of Tema engaged in acts of civil disorder rioting throughout the Tema Newtown Township and eventually meted out brutal vandalism, mayhem and destruction of part of Tema Traditional Council building and other property including a land cruiser four-wheel drive belong that to the Land Commission.

In July 2010 during my field research work at the chief's palace in Katamanso, I encountered a group of youthful men who hailed from neighbourly Oyibi requesting the Katamanso chief to send a delegation to participate in demarcation of land boundary between the two land owning families. It turned out that the Oyibi people were keen on doing unilateral land demarcation as they only informed the Katamanso chiefs and people on the day they commenced the activity.

The land question in the Ga State also includes several instances of multiple claimants of land which compounds the problem of tenure insecurity almost everywhere. For instance, La chiefs and people make claims to parts of the Katamanso lands. Encroachment on Gbetsile lands by Michel Camp retired soldiers and land demarcation problems with Appolonia; illegal sale of Nungua land by a non-indigene farmer who was given farming land at Lashibi; and land incessant conflict/ tensions at Djanman between Weija and Gbawe people are but few examples of Post- LAP I contemporary land question in the Ga State.

In January 2014, TDC with the support of National Security demolished over hundred houses and rendered more than 800 people homeless (<http://www.myjoyonline.com/news/2014/july-18th/parliament-exonerates-tdc-in-adjei-kojo-demolition.php?print=1>). Many of the respondents interviewed during the fieldwork in April-May 2010 stated how they bought land from chiefs/ families, individuals and

others from TDC. In this example, TDC gave notices of its intention to demolish some buildings illegally situated on government acquired land in Adjei Kojo near Tema. TDC claimed that all such transactions were illegal.

Again, not only are the Land Courts established during LAP I inundated with numerous unresolved land cases, there has also been instances when court judgments have resulted in destruction of life and property. Arbitrary behaviour of land guards and other miscreants often result in mayhem. In Santeo, it emerged that several assassination attempts had been made on the family head and caretaker of Santeo family land for his refusal to sell land.

5.4.1 Effect of LAP I on Land Ownership

Land users involved in the survey and landowners and land experts interviewed were asked to give their perspectives on land access, ownership and tenure security. Land ownership falls into four groups- stool, family, government/vested lands and individualized private lands. According to a former Executive Secretary of the Lands Commission, as of January 2001, 173 Executive Instruments have been used to acquire 22,747.84 hectares of land in post-independence Greater Accra region. He states that excluding the Tema acquisition which took much of Tema land “the figure represents only 13 percent of the region’s land” (Technocrat A, personal communication, December 2012). Lands Commission manages all public lands on behalf of the State. Gbawe which is family land owned by one nuclear autochthon family, Tema, Kpone and Nungua have 63 square miles of their lands acquired by government. The Tema Development Corporation manages state lands in Tema, Nungua and Kpone. Below is a map showing the Tema acquisition which affects the three traditional areas:

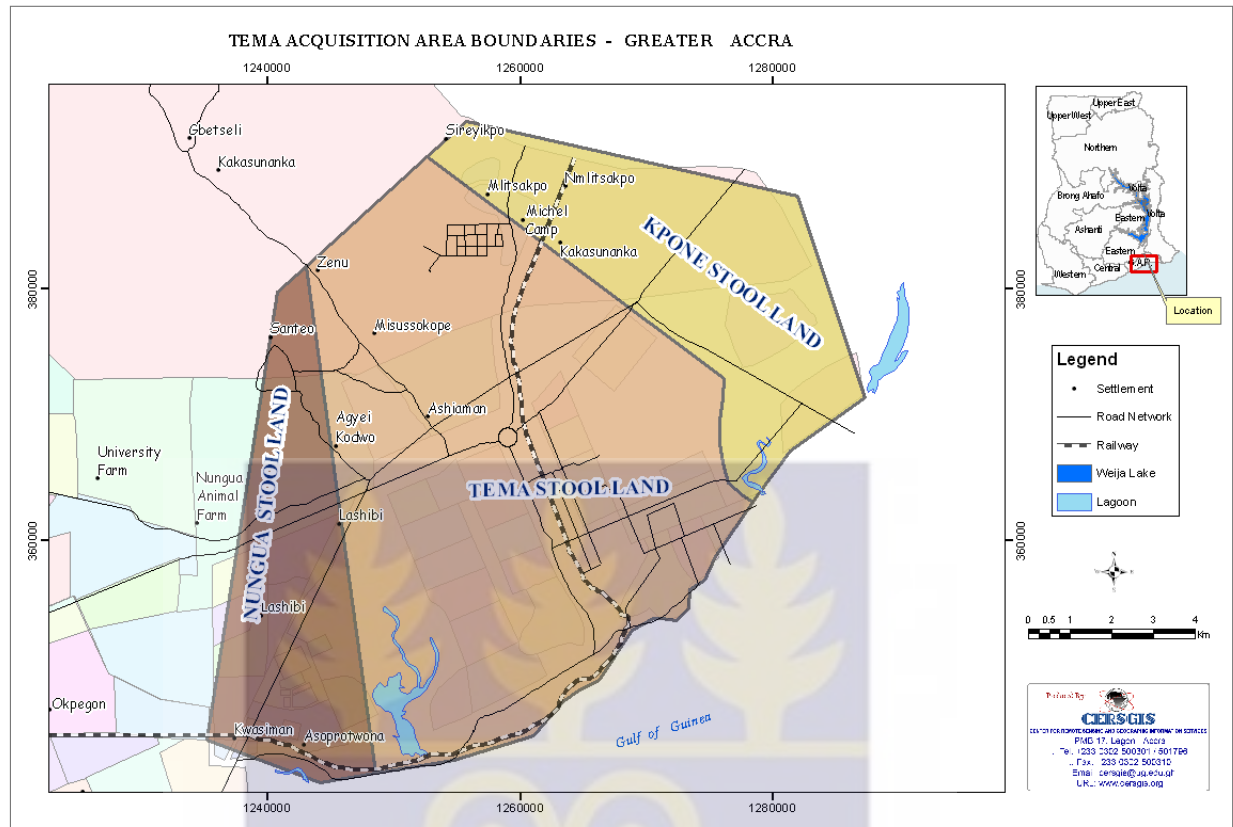


Figure 5.1: Tema Acquisition Area bound

Source CERGIS and Survey Department, Ghana

From above, Tema lost the bulk of their land to the Ghanaian State. The Tema stool through its sub-chiefs controls the remaining lands in parts of Adjei Kojo, Ashiaman, Sebrepkor, Kakasonaka and Mlitsakpo. Kpone also has both stool and family lands but while much of its adjoining land close to Tema has been affected by state acquisition, inland towns and villages like Gbetsile, Appolonia, Saduase and Kpone Bawaleshie located towards the Akwapim hills are controlled by the families and Kpone stool.

With 72 towns and villages, the Nungua traditional area is about the largest of the study area with family, stool and TDC controlled lands. Interviews with the chiefs of Oyibi, Katamanso and Santeo family heads indicates that these three towns are family lands controlled by the families. But except for Oyibi, both Katamanso and Santeo are

considered as part of the Nungua stool lands by the Paramount chief (Nungua chief, personal communication, August 2010).

The issue of land ownership in all four study areas creates much tension as factions within and without each traditional area makes claims. Even in government and TDC controlled land there are many unresolved problems concerning demarcation and who actually can dispose of land. According to the former Executive Secretary of Lands Commission, EI 108 (1964) vests all lands in Accra and Tema in the Presidency. Though not repealed to this day, it has not been possible for government to control Ga lands as:

“Many of the chiefs have sold their lands on freehold basis... and again you (government) needed to know which chief own what, so you needed the boundaries of the lands. ... the Minister ... wrote circulars to all Ga chiefs to submit their plans... I saw one composite plan at the lands Commission many years ago but nothing could be implemented. People made statutory declarations over other people’s lands and created so much confusion. People used these declarations as basis for selling land” (Technocrat A, personal communication, December 2012).

Governments’ confusion about Ga land ownership is also evident in the manner the Tema acquisition and University of Ghana farm lands were transacted with stools. Family heads of the Katamanso and Santeo families who lost portions of land during the Tema Township and university farmland acquisition did not receive any compensation from government. Past paramount chiefs of Nungua have used government recognition to sell both Katamanso and Santeo lands “claiming that the lands belong to Nungua stool and they go further to prepare document for them without our (Katamanso and Santeo chiefs) knowledge” (Chief F, personal communication, July 2010). He states Nungua “*Mɔ niba to bie edze Nungua*” (the first settler hails from Nungua) and according to history or if you go into history he (first settler) came to buy the land, but because he came from Nungua, they think that it is Nungua land so they think or claim that this village is under them, because he came from Nungua then this land is part of Nungua.

5.4.2 Land Users Perspective on Land Access after LAP 1

Having access to land is a demand and supply issue which involves potential land users approaching the land owners for negotiations to begin. The process of land acquisition is dynamic based on several factors ranging from demography, rising land values, economic and cultural identity of the buyers, nature of customary and statutory land governance among others. Transacting land deals solely by oral communication (8.9%) is no longer popular as most land deals are documented on paper. Similarly, mode of making payments for land leased is changing from merely offering drink money (5.8%), free gifting (6.7%) to full cash payment (57.5%). Some land owners still accept drink and cash payment (29.2%). This result confirms findings of previous studies that land transactions are becoming more formalised in the emerging commoditized land markets in Sub-Saharan Africa (Amanor, 2010; Owusu, Kwami and Addoquaye Tagoe, 2008; Tsikata and Whitehead, 2003; Quarcoopome, 1992).

In the survey, nearly 96 percent of respondents or their spouses tried to acquire land within the study areas for residential and livelihood activities. Among the three major land types, stool land (62.6%) was popularly demanded compared to family land (22.6%) and state land (14.8%). In Gbawe and Tema, no respondent made more than two attempts to acquire land.

With the exception of the Tema traditional area where only 46 percent of respondents think access to land directly affect their livelihood activities, overall as many as 71.4 percent of respondents feel access to land directly affect their livelihood activities. It appears Tema have more respondents who do not need land for their livelihood activities due to the prevalence of many industries and white collar jobs. In areas managed by stools, (90.7%) of respondents who needed additional land for transacting their businesses, could not get access to land.

Land users gave their views on how difficult it is to access land for housing only. In all four traditional areas, 60.5 percent of respondent indicated there were some difficulties accessing land for residential purposes. Tema traditional area respondents encountered the most difficulty. The study area where respondents encounter the least difficulty is Gbawe as only 16.5% of respondents have difficulties accessing land. Respondents with difficulties accessing land scored 69.3% and 66.1% respectively for Tema and Nungua traditional areas.

About 79.2 percent of all 360 land requisitions for housing were successful in 2010. In the 2005 ISSER survey, the success rate was 88.9 percent of 162 responses. Generally this shows a decline of about 10 percent which may suggest that as more people seek to lease land for residential and other purpose, the number of successful applicant drops. Several factors including land scarcity, reluctance of land owners to lease out land among others may account for this. Table 5.3 below shows that in both Tema Michel Camp and Nungua areas which were covered in both studies, the success rates dropped:

Table 5.3: Comparisons of Land Acquisition Success Rates

Variable	Yes	No
<i>Traditional Areas</i>		
2005		
Tema Michel Camp (N=35)	88.6	11.4
Nungua (N=32)	81.2	18.8
2011		
Tema (N=115)	79.1	20.9
Kpone (N=85)	72.9	27.1
Nungua (N=95)	78.9	21.1
Gbawe (N=65)	87.7	12.3

Sources: ISSER LPRP Survey, July 2005 & Land Administration Survey, 2011

From above, it is also interesting to note that Gbawe's success rate of 87.7 percent is similar to that of the pre-LAP I period. But, given that Gbawe was not covered in the earlier study, it is difficult to state that Gbawe's relatively higher rate of success (87.7%)

compared to Tema (79.1%) and Nungua (78.9%) may be accounted for strictly by implementing LAP I policies.

Though difficult to establish attribution, this results shows that LAP 1 may have had some positive impact on land access in the Gbawe area where the CLS and other land institutions were resourced. However, in Tema, Nungua and Kpone where not much intervention was reported respondents access to land did not really improve. This finding is consistent with previous studies that land administration reforms across the African continent produce mixed results. Though necessary throughout Africa, sufficient conditions have not been created for land administration reforms to benefit majority of Africans especially peasants and urban poor (Amanor, 2012; Boone, 2009; Chauveau, 2009; Chauveau and Richards, 2008; Lund, 2008; Ubink, 2008; Diop, 2007; Wily, 2006; Boni, 2005; Moyo and Yeros, 2005; Cotula, Toulmin and Hesse, 2004; Peters, 2004; Berry, 2002).

5.4.2.1 Respondents Characteristics and Access to Land

About (92.88%) of respondents interviewed have tried to acquire land. Majority (86%) of respondents made one attempt to acquire land, a few tried twice (11%). Only 3 percent attempted more than twice. A respondent attempted as much as 15 times. Respondents' status as indigene or migrant and occupation significantly influenced their decision to acquire land within Ga areas. Gender, highest level of education, age, ethnic background and the location of respondents were not significant determinants.

Respondents were asked to classify themselves in relation to the traditional area where they reside and sought to acquire land. Tema and Gbawe emerged as the traditional areas with more heterogenous populations as only 10.4% and 16.9% respectively were indigenes. Non-indigenes accounted for 89.6% and 83.1% in Tema and Gbawe respectively. Kpone and Nungua had more autochthones and fairly homogenous respondents. Indigene populations were 47.1 percent and 42.1 percent respectively.

Interestingly, migrants were more successful in acquiring land in Tema (80.6%) and Kpone (86.7%) compared to Nungua and Gbawe. In Gbawe and Nungua where indigenes were 100 percent and 82.5 percent successful in acquiring land respectively, the success rate for migrants were slightly lower in Gbawe (85.2%) and Nungua (76.5%). While all indigenes are able to successfully acquire land in Gbawe, as much as 42.5 percent of indigenes in Kpone were not successful. These may be explained by the fact that in Gbawe all indigenes have equal rights to land and records are well kept on every land transactions. In Kpone, land is leased out to indigenes at lower prices compared to migrants. But there is a lot of confusion with the process of land allocation and records such that the traditional council, land allocation committee and prospective land buyers collectively fail to ensure equitable land distribution.

By gender, about 21 percent of respondents were heads of female headed households. The data does not show that women suffer discrimination. A female participant in a focus group discussion commented on the issue of discrimination in land distribution and inheritance:

“They (women) are given land now. In the past women are not given lands but these days we are saying that women too are human beings born just like men.”

The studies finding that women no longer face discrimination with regards to land access was confirmed in an earlier study by Owusu et al (2008). Their study on gender and land tenure in the Volta and Central regions of Ghana concluded:

“Gender did not critically explain access to, use of , and control over land. Although gender may be important, this study did not capture the nuances with respect to gender access to, use of and control over land, largely because too few of our respondents, particularly of the survey, were using lineage land for their livelihoods” Owusu et al, 2008, pp.94-95).

However, several studies on gender and land tenure in Africa clearly show how unequal disparities along gender and social stratification basis adversely affects women, migrants

and other marginalised groups in Sub-Saharan Africa's largely patriarchal customary land tenure systems (Amanor, 2012; Joireman, 2007; Hunt, 2004; Whitehead and Tsikata, 2003; Khadiagala, 2001; Manji, 2001; Tripp, 2001).

5.4.2.2 Duration for Acquiring Land

Access to land was also assessed by how long it took a respondent to acquire land. The table below shows duration of land acquisition by traditional areas:

Table 5.4: Duration of land acquisition by traditional area

	Tema	Kpone	Nungua	Gbawe	Total
Up to 3 months	53.9	56.9	54.8	74.5	58.7
4 - 6 months	13.2	12.5	19.4	13.7	14.5
7 months - 1 year	15.4	2.8	14.5	3.9	9.8
1 - 2 years	2.2	11.1	1.6	2.0	4.4
2 - 5 years	5.5	12.5	4.8	3.9	6.9
More than 5 years	9.9	4.2	4.8	2.0	5.8
Total	100	100	100	100	100

Source: Land Administration Survey, 2011 (n=276) $P(x^2)$ significant at 0.01

Of the 4 traditional areas, Gbawe stands out as unique when it comes to land acquisition as majority of respondents (74.5%) are able to complete documentation within 3 months. For Tema, Kpone and Nungua, a little over half of respondents acquire land within 3 months. This may be explained by the fact that Gbawe's CLS is very well organised and operates efficiently. Gough and Yankson (2000, p.2492) observed that about 40% of respondents in Accra were able to acquire within a year in 1998. Therefore, generally the data suggest duration for acquiring land has improved in Accra.

Table 5.5: Duration of land acquisition by land type

	State land	Stool land	Family land	Total
Up to 3 months	52.3	55.8	72.4	58.7
4 - 6 months	13.6	14.4	15.5	14.5
7 months - 1 year	13.6	10.3	5.2	9.8
1 - 2 years	2.3	5.8	1.7	4.4
2 - 5 years	2.3	9.2	3.5	6.9
More than 5 years	15.9	4.6	1.7	5.8
Total	100	100	100	100

Source: Land Administration Survey, 2011 (n=276) $P(x^2)$ significant at 0.05

Land type strongly influence how quickly one gets land. For family lands, most applicants (72.4%) complete their documentation process within 3 months compared to stool (55.8%) and state land (52.3%). Also, only 6.9% respondents take more than a year to acquire family land at Gbawe, 20.5% and 19.6% of respondents spend more than a year to acquire land in state and stool land areas respectively.

Table 5.6: Duration of land acquisition by Age

	Youth	Adults	Old	Total
Up to 3 months	26.3	58.6	72.5	58.8
4 - 6 months	26.3	14.5	9.9	14.6
7 months - 1 year	18.4	9.0	7.7	9.9
1 - 2 years	10.5	3.5	2.2	4.0
2 - 5 years	13.2	7.6	3.3	6.9
More than 5 years	5.3	6.9	4.4	5.8
Total	100	100	100	100

Source: Land Administration Survey, 2011 (n=276) $P(x^2)$ significant at 0.01

Respondents' age proved very significant in determining how promptly one acquires land. Respondents (72.%%) above 60 years classified as old took much shorter time to acquire land compared to the youth (26.3%) whose ages range between 23-39 years.

Figure 5.2: Duration of land acquisition by status



Source: Land Administration Survey, 2011 (n=276) $P(x^2)$ significant at 0.05

While more than a third (71.6%) of respondents who are indigenes can acquire land within 3 months, only half of migrants (53.3%) are able to do so. Similarly, Guans (80%) and Ga-Dangme (71.1%) respondents acquire land within 6 months compare to Akan (61.9%) and Ewe (59.5%) below:

Table 5.7: Duration of land acquisition by ethnic background

	Ga-Dangme	Akan	Ewe	Guan	Hausa/Yoruba	Total
Up to 3 months	68.5	47.6	38.1	72.0	0.0	58.7
4 - 6 months	12.6	14.3	21.4	8.0	66.7	14.5
7 months - 1 year	4.2	14.3	21.4	12.0	0.0	9.8
from 1 - 2 years	4.2	4.8	4.8	0.0	33.3	4.4
2 - 5 years	6.3	9.5	4.8	8.0	0.0	6.9
More than 5 years	4.2	9.5	9.5	0.0	0.0	5.8
Total	100	100	100	100	100	100

Source: Land Administration Survey, 2011 (n=276) $P(x^2)$ significant at 0.01

5.4.2.3 Mode of Land Acquisition

Mode of acquisition is the last criterion for assessing land access.

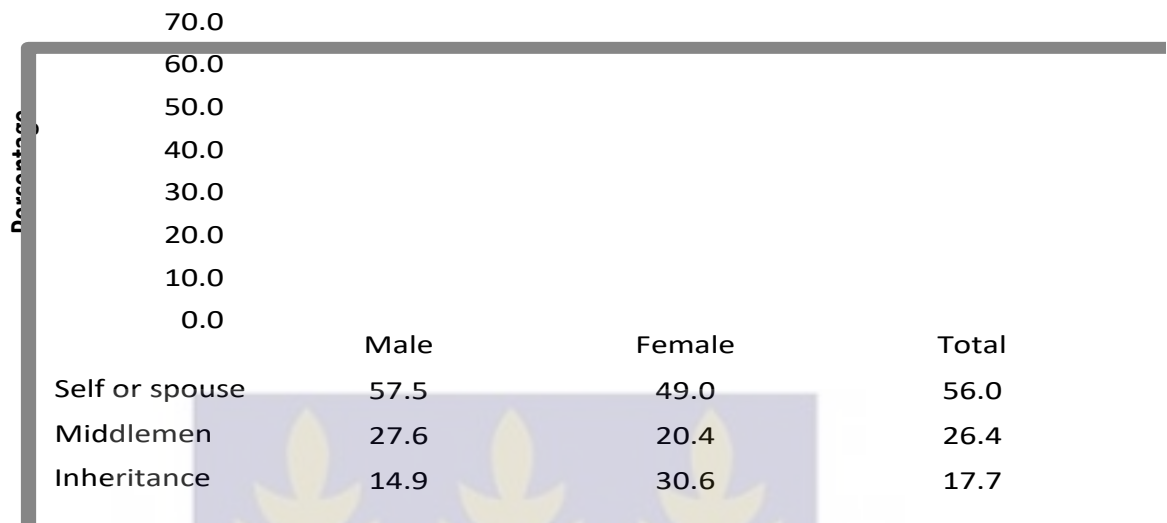
Table 5.8: Mode of acquisition by ethnic background

	Ga-Dangme	Akan	Ewe	Guan	Hausa/Yoruba	Total
Self or spouse	51.0	65.1	59.0	60.0	33.3	56.0
Middlemen	18.4	31.8	38.5	36.0	66.7	26.4
Inheritance	30.6	3.2	2.6	4.0	0.0	17.7
Total	100	100	100	100	100	100

Source: Land Administration Survey, 2011 (n=277) $P(x^2)$ significant at 0.01

Berry (2002) states that land rights in Africa are negotiated based on social standing. From the data, three main modes of land acquisition emerged namely oneself or spouse acquisition, acquisition through middlemen and agents and acquisition by inheritance. Analysis of survey data seek to establish whether respondents ethnic background, gender, age, educational level, occupation and status in community correlates with mode of acquiring land. By ethnic background, there appears to be a very strong relation between one's ethnic background and mode of land acquisition. From Table 5.8 above, being of Ga-Dangme descent implies less use of middlemen (18.4%) and more reliance on direct negotiation by self or spouse (51%) and rights to inheritance (30.6%). Respondents of Akan, Guan and Ewe origins rely mainly on direct negotiation to acquire land even though nearly a third also acquire land through middlemen.

In terms of gender in Figure 5.3 below, less than half of respondents who are women directly try to acquire land compared to men (57.5%). Interestingly, more women (30.6%) acquire land through inheritance compared to men (14.9%). This may be attributable to longevity issues such as women living longer than male partners.

Figure 5.3: Mode of acquisition by gender

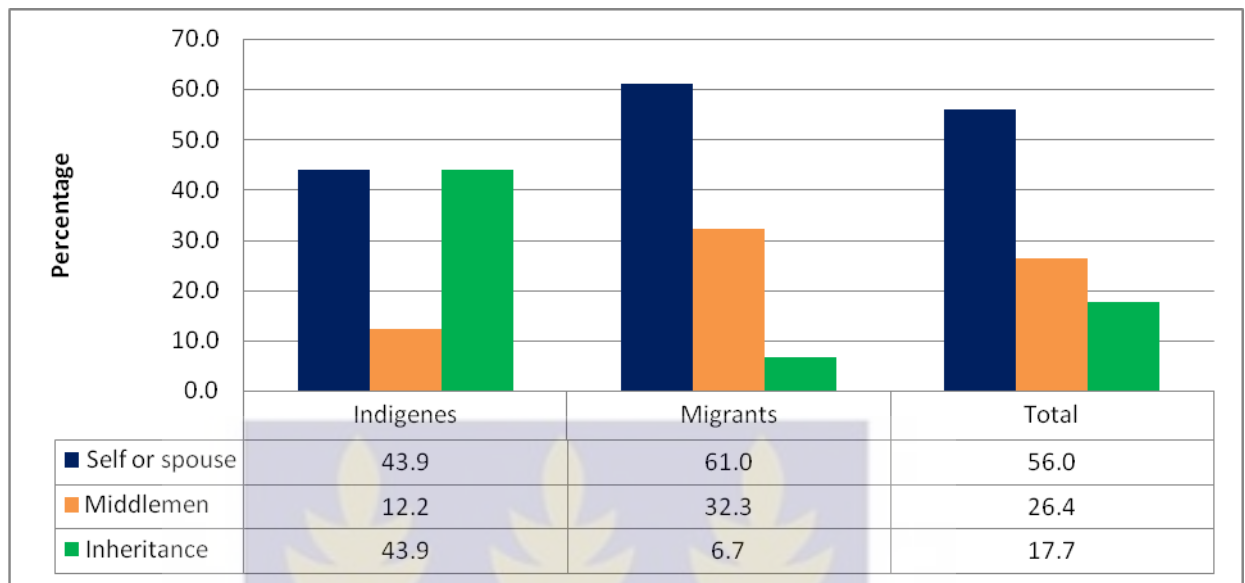
Source: Land Administration Survey, 2011 (n=277) $P(x^2)$ significant at 0.05

Compared to respondents in Nungua where few rely on direct dealings by self or spouse with land owners, majority (69.8%) of respondents in Tema directly approach TDC for land. Also, while Tema had the least proportion of respondents either relying on middlemen (23.3%) or inheritance rights (7%) for acquiring land, nearly a third (31.8%) and a quarter (24.2%) of respondents in Nungua depend on middlemen and inheritance rights respectively. Kpone traditional area has the highest proportion of respondents who get access to land through inheritance rights (30.1%). This may be due to Kpone's peri-urban and rural demographic characteristics.

Table 5 9: Mode of acquisition by traditional area

	Tema	Kpone	Nungua	Gbawe	Total
Self or spouse	69.8	45.2	43.9	63.5	56.0
Middlemen	23.3	24.7	31.8	26.9	26.3
Inheritance	7.0	30.1	24.2	9.6	17.7
Total	100	100	100	100	100

Source: Land Administration Survey, 2011 (n=277) $P(x^2)$ significant at 0.01

Figure 5.4: Mode of acquisition by status

Source: Land Administration Survey, 2011 (n=277) $P(x^2)$ significant at 0.01

As expected in Table 5.11 below, more indigenes (43.9%) use their inheritance rights to acquire land and hardly contract the services of middlemen (12.2%) to acquire land. On the contrary, nearly a third of migrants employ the services of middlemen (32.3%) during land acquisition processes. The most popular means by which migrants acquire land however remains direct contact by oneself or spouse. This may be because migrants cannot acquire land through inheritance.

Table 5 10: Mode of acquisition by type of land

	State land	Stool land	Family land	Total
Self or spouse	79.6	47.7	62.7	56.0
Middlemen	15.9	28.7	27.1	26.4
Inheritance	4.6	23.6	10.2	17.7
Total	100	100	100	100

Source: Land Administration Survey, 2011 (n=277) $P(x^2)$ significant at 0.01

From Table 5.12 below, respondents educational level strongly correlates with mode of land acquisition. Only 32.1% of respondents with no education compared to respondents with secondary (60.9%) and tertiary (60.8%) levels of education use self or spouse to acquire land. The most popular means by which respondents with no education acquire land is by activating inheritance rights. Overall, about a quarter of all categories of respondents depend on middlemen to acquire land. This may be partly due to the high transaction cost of obtaining information on the land market in Ga areas.

Table 5.11: Mode of acquisition by level of education

	None	Basic	Secondary	Tertiary	Total
Self or spouse	32.1	54.6	60.9	60.8	56.0
Middlemen	25.0	23.9	25.0	29.9	26.4
Inheritance	42.9	21.6	14.1	9.3	17.7
Total	100	100	100	100	100

Source: Land Administration Survey, 2011 (n=277) $P(x^2)$ significant at 0.01

5.4.3 LAPI and Land Tenure Insecurity

To understand the level of tenure insecurity in all the traditional areas respondents were asked whether they or their spouses had acquired and lost land before. Generally, about 32.8% of respondents tried to acquire but lost their land. Majority of respondents (67.2%) had no such experience. Both Nungua and Gbawe turned out to be outlier traditional areas. In Nungua, an equal proportion (50%) of respondents acquired and lost land while in Gbawe a good majority (83.1%) did not experience land loss at all.

Respondents were also asked to state the group or entity they lost their land to. Majority indicated that they lost land to another family (36%) or the Ghanaian State (18%) through the process of compulsory acquisition. Chiefs/stools (5%) and same family members (11%) who are not satisfied also took back land from respondents.

To describe the nature of land owned by respondents whether their plots are registered. Generally, about 42.6% of respondents' plots had registration with Tema (51.6%) being the highest. Kpone traditional area (31.5%) had the least percentage of registered plots. Majority of respondents (57.4%) did not register their land. An earlier study by Gough and Yankson (2000, p. 2492) recorded 60% of respondents had their plots registered. The reduction in the number of registered plots by respondents of this study may be due to the fact that Kpone lands cannot be registered by individual buyers, cumbersome registration processes, increase in multiple claimants and activities of fraudsters and general lack of confidence that registered land is more secure.

Table 5.12: Land Loss by land type and traditional areas

Variables	Yes	No
<i>Land Type</i>		
<i>State/Vested</i>	31.0	69.0
Stool	44.6	55.4
Family	33.8	66.2
Total	33.8	66.2
<i>Traditional Areas</i>		
Tema	32.4	67.6
Kpone	33.8	66.2
Nungua	50.0	50.0
Gbawe	15.0	85.0
Total	33.8	66.2

Source: Land Administration Survey, 2011 (n=323) $P(x^2)$ values significant at 0.01

Respondents explained they lost land to chiefs/stool (26.61%), family heads and relatives (24.85%) who most probably were involved in the land acquisition process from the onset. Government's inability to protect state acquired land from encroachers was mentioned by respondents who claim they lost land they acquired to the state. Competition from other prospective land buyers (38.53%) was the most popular reason for land loss. These reasons appear credible given the high rate of chieftaincy and family disputes which trigger multiple sale of land by stools and families who often contest land ownership. The

increased number of real estate developers and speculators who are able to use money and political influence to settle all factions involved in land disputes easily crowds out individuals who need to raise money to pay for their leases. By the time they are able to pay up, the land in question may have been sold to wealthy and influential ‘land sharks’.

Table 5.13: Circumstances for land loss by respondents

Reasons	Tema	Kpone	Nungua	Gbawe	Total
Multiple claims	11.8	8.5	7.8	3.9	32
Indeterminate boundaries	2.6	3.3	5.2	0	11.1
Breach of contract by former owner	1.3	4.6	7.2	0	13.1
Breach of contract by potential buyer	5.2	7.2	3.3	0.7	16.4
Family disputes	2.6	2	4.6	2	11.1
State acquisition	6.5	5.2	3.9	0.7	16.3
Total	30	30.8	32	7.3	100

Source: Land Administration Survey, 2011 (n=158)

Even though Gbawe is the only traditional area with LAP 1 supported CLS, it is difficult to attribute the low rate of land loss to this as shown in Table 5.14.

Table 5.14: Groups respondents lost land

Reasons	Tema	Kpone	Nungua	Gbawe	Total
State/government entity	23.5	14.8	20.5	11.1	19.3
Chief/ trad. Council	5.9	18.5	2.6	0.0	7.3
Another family	35.3	29.6	46.2	55.6	39.5
Same family member	11.8	11.1	15.4	11.1	12.8
Member of same ethnic	0.0	3.7	0.0	0.0	0.9
Member of diff. ethnic	23.5	22.2	12.8	22.2	19.3
Commercial entity	0.0	0.0	2.6	0.0	0.9
Total	31.2	24.8	35.8	8.2	100.0

Source: Land Administration Survey, 2011 (n=109)

Table 5.15: Action taken by respondents to protect land interest

Reasons	Tema	Kpone	Nungua	Gbawe	Total
Physical development of land-wall, house etc	24.2	22.2	42.1	22.2	29.9
Farming or engaged caretaker	9.1	7.4	10.5	11.1	9.3
Made part/full payment	9.1	0.0	2.6	0.0	3.7
Negotiated with other parties	0.0	0.0	2.6	11.1	1.9
Reported to traditional authority/landowner	18.2	29.6	15.8	0.0	18.7
Reported to police, court action, LSAs	21.2	29.6	5.3	22.2	17.8
No action	18.2	11.1	21.1	22.2	17.8
Total	30.9	25.2	35.5	8.4	100.0

Source: Land Administration Survey, 2011 (n=141)

Age, gender, education, occupation, status, land type, traditional areas and ethnicity of respondents do not influence measure taken in any significant manner.

Respondents reported on counter measures taken by parties which litigated over land. Again their responses were not in any significant way influenced by the variables listed above. Below is a table showing the responses:

Table 5.16: Counter action taken by respondents' opponents to safeguard their land interest

Counter reactions	Tema	Kpone	Nungua	Gbawe	Total
Demolition of crops/structures	15.6	0.0	18.9	11.1	12.5
Reported to police/LSAs/Court action	9.4	23.1	24.3	22.2	19.2
Engaged land guards	9.4	11.5	5.4	11.1	8.7
Physical development	34.4	34.6	24.3	11.1	28.8
Reported to traditional authority/land owner	0.0	7.7	0.0	0	1.9
No action	9.4	0	0.0	0	2.9
Used political/economic/religious means	21.9	11.5	13.5	33.3	17.3
State reclaimed land	0.0	11.5	13.5	11.1	8.7
Total	30.8	25	35.6	8.65	100.0

Source: Land Administration Survey, 2011 (n=141)

Physical development became a popular means because of the Land Development (Protection of Purchasers) Act 1960 which protects persons investing on land with defective titles. Land guards and threat to life are recent phenomenon dictated by high cost of land and scarcity. Fewer people report land issues to the traditional authorities and land owner appear to have lost faith in these institutions. Less than 3 percent would sit

unconcerned. Many employ all means within their power to protect their land interest. Some do this through land guards who are often willing parties to demolition exercises.

Gbawe consistently had the least of land tenure insecurity problems. Data also confirms that family land is better administered as the incidence of land tenure security occurred more in state (12.5%) and stool land (77.9%). Multiple claimants/ sale of land (36.3%), unregistered land (14.7%), loss of control through death (14.7%) and reclamation of state land (11.8%) were the most popular reasons respondents gave for land tenure insecurity especially in Tema, Kpone and Nungua land areas.

From the analysis, it appears Gbawe stands out as an area where land acquisition processes are formalized and well administered compared to Tema, Kpone and Nungua areas where land tenure insecurity is still very high after the LAP I intervention. Generally, problems associated with land access in the Ga State appear to grow worse with population increases and expanding economic activities which also causes astronomical increases in the of land .

5.4.4 Problems of Statutory and Customary Land Institutions

Dealing with statutory land institutions was most inconclusive in Kpone traditional area as 11.2% respondents could not conclude their transactions with statutory land institutions. Tema (3%), Nungua (3.4%) and Gbawe (3.7%) respondents gave much lower levels of inconclusive transactions as shown in Table 5.17 below.

Table 5.17: State of land Dealings in Percentage %

Traditional Area	Concluded Transaction(s)		Inconclusive Transaction(s)		Transaction(s) Still in Progress	
	Statutory	Customary	Statutory	Customary	Statutory	Customary
Tema	96.5	94.3	3	1.6	0.5	4.1
Kpone	86.4	89.5	11.2	4.5	2.4	6.0
Nungua	95.2	78.3	3.4	12.0	1.4	9.8
Gbawe	96.3	98.2	3.7	1.8	0	0

Source: Land Administration Survey, 2011 (n=110)

With regards to dealing with customary land institutions, 78.3% of respondents in Nungua compared to Tema's 96.5% and Gbawe's 96.3% successfully concluded their transactions with traditional land owners. As much as 12% and 9.8% of Nungua respondents could not complete transactions or had the transaction pending.

Respondents in all four traditional areas identified delays in the processes as a major problem. More than half of respondents in Gbawe (80%), Nungua (71.7%) and Tema (60%) blame delays in land processes for difficulties they have with land. Corrupt landowners and officials emerge as the next biggest bottleneck for respondents as it accounts for nearly 25%, 15% and 6.5% of the problems in Kpone, Tema and Nungua respectively.

Respondents in each traditional area addressed their problems in a number of ways. In Tema, 37.5% of respondents involved the police in the land problems and eventually took the matter to court or the TDC (8.3%) for resolution. Interestingly, about 25% of respondents in Tema took no action at all while another 29.2% were courageous enough to report their problems to the chiefs and landowners. In Kpone, about 15% of respondents took no action at all while 7.7% went to court or TDC for resolution. Many respondents in Kpone kept faith with the chiefs and traditional council as nearly 70% sought the assistance of chiefs. In Gbawe, reporting land problems to the chiefs (20%) was not as popular as going to court (80%). Respondents in Nungua appear to use chiefs (24.5%), the courts (28.3%) and the police (17%). But, 17% of Nungua respondents were not ready to undergo any further frustrations as they took no action at all to secure their land interest.

With the exception of Gbawe where respondents gave very high ratings, the rating for Tema and Nungua was very poor as shown below in Table 5.19.

Table 5.18: Respondents' Rating of Experience (%)

Traditional Area	Excellent	Very Good	Good	Poor	Very Poor
Tema	0	4.7	7.0	20.9	67.4
Kpone	0	20	27.5	32.5	20
Nungua	1.9	11.3	13.2	17.0	56.6
Gbawe	20	40	0	40	0

Source: Land Administration Survey, 2011 (n=110)

Respondents' views on difficulties involved in acquiring land when dealing with customary land institutions in each traditional area are discussed in the following table:

Table 5.19: Problems with customary administration

	Traditional Area Name				
	Tema	Kpone	Nungua	Gbawe	Total
No land available	13.65	11.04	8.94	20.24	12.56
Expensive	15.14	16.23	10.57	18.45	14.54
Buy through middlemen	1.71	2.92	1.36	0.6	1.75
Land not registered by state	0.43	1.62	1.08	0	0.84
Land not registered by owner	3.2	6.17	6.78	6.55	5.33
Activities of land guards	6.4	0	2.44	3.57	3.42
Fell into the hands of fraudsters	5.97	5.19	8.94	3.57	6.32
Corrupt land owners	8.96	8.77	7.32	5.95	8.07
Corrupt land official	3.62	6.49	1.63	0	3.27
Delays in processing	4.69	9.09	4.88	4.76	5.78
Buying unsuitable land	1.28	2.92	1.08	4.76	2.05
Buying prohibited land	0.43	0.97	1.9	0	0.91
Dispute among same family	9.59	5.52	12.47	5.95	8.98
Disputes among different families	6.18	4.55	11.92	10.71	7.99
Multiple sale of land	12.58	10.06	13.55	5.36	11.34
State has acquired most lands	2.35	1.62	0.54	0.6	1.45
indeterminate boundaries	0.64	4.22	2.17	2.98	2.21
No layout for area	3.2	2.6	2.44	4.17	2.97
No Conflict	0	0	0	1.79	0.23
Total	100	100	100	100	100

Source: Land Administration Survey, 2011 (n=296)

From Table 5.20 above, high land cost (14.54%) and non-availability of land (12.56%) are the biggest challenges respondents encounter with regards to customary land tenure.

Corrupt practices of landowners, officials of land sector agencies and fraudsters who speculate in land business collectively account for 17.66 percent of problems respondents confront. Inter and intra- family disputes among many Ga land owning families do not only result in mutation of such families into smaller units but also creates problems (16.97%) for prospective land buyers and users. Family disunity, delays in processing land documentation (5.78%), difficulties of securing proper land papers (6.17%) and indeterminate boundaries/no layout (5.18%) altogether contribute to the multiple sale of land (11.34%) problems so prevalent throughout the Ga State.

Within the study areas some variations exists. Multiple sale of land is more intense in Nungua (13.55%) and Tema (12.58%) than Gbawe (5.36%). Interestingly, the issue of corrupt landowners and officials was rated very high in Tema (28.55%) and lowest in Gbawe (9.52%). Respondents biggest problem with customary land administration in Gbawe were non-availability and high cost of land (38.69%). In Nungua, family disputes (24.39%) were identified by respondents as the biggest challenge. In the Kpone area, land registration and delays in processing documentation (15.88%) were twice that of Tema (8.32%). Again, while there was no report of land guards activities in Kpone, Tema respondents attribute land guard activities (6.4%) as a challenge.

5.4.5 Perceptions of Respondents when Dealing with Statutory Land Institutions

Respondents also gave their opinion about problems they encounter when dealing with statutory land institution. Generally, these problems fall into four main categories namely delays experienced by respondents when processing their land documents (26.77%); high land values (23.98%); corrupt officials (17.66%); and non-availability of land (10.22%). Not many variations are observable between the traditional areas. An interesting outcome with regards to the issue of land guards was that none was reported in Kpone traditional area. This appears contrary to previous findings in literature which shows the prevalence of land guards in peri-urban Accra (Onoma, 2010). Nonetheless, in Nungua which also has

some peri-urban lands respondents listed the problem of land guards (3.09%). In both Gbawe and Tema the figures were much smaller. With regards to multiple sale of land, the incidence is less endemic in Gbawe (1.35%) compared to Kpone (8%) and Tema (5.07%). Respondents were asked about land related conflicts in their areas. About 72.5 percent of respondents in Nungua were aware of major land related conflicts. Only about 22 percent of the respondents in Gbawe were aware of conflicts.

5.5 General Assessment of LAP I

LAP I started in 2003 for an initial five-year period became extended and finally ended in 2011. Discussions of primary data collected from 2010- 2012 so far indicates that the implementation of LAP I in the Ga State did not in any significant manner resolve the land question. LAP I was a holistic intervention to resolving land problems in Ghana land administration. According to the Coordinator of LAP I, in the Ga State LAP I was useful in three main areas (Technocrat A, personal communication, December 2012). The first focused on the need to reform the judiciary to deal effectively with numerous land cases. The second has do with improving customary land management by traditional land owners as enshrined in the 1992 Constitution which firmly recognises traditional land owners as custodians of customary land. Improving customary land demarcation within the Ga State was the last major task. This section discusses some major achievements of LAP I based on some IAD criteria namely economic efficiency, equity, adaptability and accountability in the assessment.

5.5.1 Economic Efficiency

By economic efficiency, we seek to consider how revisions in rules to both statutory and customary land laws in the country has affected land service delivery and the behaviour of politicians, bureaucrats, chiefs, Ga clan/family head of landowning families, real estate developers, corporate entities with interests in land and individualised property owners

with particular regard to land resource allocation. Essentially, how efficient has land resource allocation been within the Ga State?

Several components were put together under LAP I to improve economic efficiency. These include institutional and new legal reforms; strengthening land service delivery; strengthening CLSs; training and capacity development; training and research institutions; land information system; and strengthening services for land survey and planning (MASDAR Report, 2010). As a national programme some of these were not directly earmarked for implementation in the Ga State. It is therefore useful to assess LAP I based on its performance in Accra alone despite the high probability of looking at issues from a national capital perspective.

5.5.1.1 Institutional and New Legal Reforms

Apart from the Lands Bill which went through its second draft before LAP I ended, the Lands Commission Act 767 was passed in 2008 and 5 new land courts were established in Accra. Interviews with top staff of the newly reconstituted Lands Commission reveal number of operational difficulties which directly hamper efficient land administration. Knowledge about LAP I within staff of LSAs was abysmal. A senior technocrat interviewed remarks:

“Now you go round the LSAs, ask them, oh; what is LAP about? You will find that 9 ¾ out of 10 don’t know. I’m talking about people within the institution (Lands Commission). Ask them and most of them would tell you, yes, I have heard about LAP, what is LAP? Oh it is to improve Land Administration period, they don’t really understand why and so 7 years down the line, why haven’t we made them to understand the basis, so it comes back and then you just see about the abysmal failure of LAP”(Technocrat B, personal communication, July 2010).

The consultation processes through which these bills are passed is also a big challenge. Again, another technocrat makes these remarks about the Lands Bill:

“Yes, there was a lot of consultation but when you are talking about consultation I am a bit sceptical about the word consultation in this country, because you see when we talk of consultation,

we (technocrats) set the agenda, then we organize a workshop which starts at 11.00 and then 13.00 pm is lunch, and then you come from lunch about 14.30pm or 2.30pm and then they say can we have a discussion for 30 minutes, and then we close, and then that is all. People collect their allowances and then go away, and that is the part of it and most of these are donor funded projects and that is what they do. About 3 weeks ago, we went through the same thing. For example they are setting up a Lands Bill, the discussions on the Lands Bill is taking place, and for a very long time the Minister himself said he didn't know what it is about, all that we knew was that, a Legal Team has been constituted to discuss the Bill then suddenly about a 100 people were invited to Sogakope to go discuss the Lands Bill. By the time you get there, somebody has decided that oh you can discuss issues on land Tenure, so they put your name there and box you into that group. So you go there and the Agenda has already been set for you, you are only going to speak to the agenda, nobody has the overall picture of what is going on. So after that have you had the consultation? Yes, it was a workshop 100 people attended, they give them their names, and they gave them some allowances and then you come back and after that whether the discussions are reflected in the final product you never know, and this is the type of thing that goes on all the time. So really the people who stand to benefit, maybe I should not say benefit but those who went to formulate the agenda would craft it and then ensure that it suits their agenda” (Technocrat B, personal communication, August 2010).

Obviously, ownership of LAP I institutional and legal reforms was compromised and it is not surprising that MASDAR, an independent team assessing LAP I reported “our findings were that there are operational issues that have not been addressed” (MASDAR Report, 2010, p.17).

5.5.1.2 Strengthening Land Service Delivery

This involves bringing all LSAs under one central location and operating as a unit or ‘one-stop shop’. It also includes decentralizing the Lands Commission offices. In Accra, the building project was at the initial stages when LAP I folded up. Zonal offices of Lands Commission have been opened up in Tema, Weija and Madina (MASDAR Report, 2010, p.24).

5.5.1.3 Strengthening Customary Land Secretariats

The 1992 Constitution like the 1979 Constitution allowed stools to take up the management of stool lands. Dr Odame-Larbi gives the rationale for the establishment of CLS:

“We needed to strengthen stools control of their lands especially in the area of records management. Since 1969 when leases became the only legal means of disposing land, it became imperative that we had very well trained staff working in customary land secretariats who are able to read the lease covenants, interpret them and help chiefs manage lands very well. Management include putting in place an effective system for collecting rents annually, ensuring that land leased are used for the purpose stated in the lease and no party breaches the contract. East Legon has transformed from residential into a commercial area.”

Establishing CLS within the Ga State was initially a top-down approach. Determined to build on existing CLS as case studies for promoting CLS throughout Ghana, the already existing Gbawe CLS was selected. So many stool and families own land in the Ga State. By the end of LAP I, 3 CLS were expected to have been established on demand basis in the Ga State. These include the Sempe CLS, Ashongman CLS and the La CLS. Dr. Odame-Larbi explains further:

“There are so many stools and families holding land, we needed to pilot to make sure the CLS will work. We chose four –Gbawe, Sempe, La and Ashongman. Sempe died at birth with the purported destoolment of the Nii Adote Obour. Some people went and ransacked the secretariat and took away all computers. The CLS at La did not function well as they the La people could not organize themselves well and the LAP staff abandoned it. The CLS at Gbawe and Ashongman were to a large extent successful and still functional.

The Sempe CLS suffered a still birth. Its principal actor within the Sempe community Nii Adote Obour II was destooled and not much was done. The La CLS was functional but not well organised” (Odame-Larbi W., personal communication, December 2012).

A major shortcoming was that the funding agency Dfid insisted its funds should not be used on staff of the CLS. Hence the chiefs and families could not recruit qualified staff to manage the CLSs:

“The shortcoming of the CLS throughout the country was the quality of staff. The donor funding the component insisted its funds should not be used to pay CLS staff despite we at LAP arguing

that for the model to work we needed good quality staff. We asked the chiefs to pay the staff after the donors declined our suggestion and we knowing the government cannot pay. So the CLSs could not attract and recruit highly skilled staff. Gbawe and Ashanti Bekwai CLS are the ones paying staff well and they are able to collect revenue and function well” (Odame-Larbi W., personal communication, December 2012).

Apart from funding and lack of revenue generation which resulted in poor staffing, economic efficiency of the CLSs throughout the country were also affected by difficulties within the traditional areas; poor coordination with district assemblies and land agencies; lack of survey capacity; excessive geographical coverage; lack of appropriate equipment and training; and poor public education about LAP I and CLSs (MASDAR Report, 2010, pp.27-31).

5.5.1.4 Customary Boundary Demarcation

Gbawe was used as pilot in the Ga State. LAP officials invited all stools and families which share common boundary with Gbawe to attend the first workshop. At the meeting Nii Kojo Ababio, the Jamestown Mantse engaged in a heated argument with the LAP officials that portions of the land being claimed by the Gbawe CLS belonged to them. They produced judgements from the high Court to make their case. According to the LAP officials the judgments being produced by the Jamestown Mantse were ‘artificial judgements’. Such judgements are so-called because losing parties such as the Jamestown Mantse in land cases take advantage of poor court records to initiate legal proceedings on same parcel of land which has been ruled on in another court of judicature. With regards to the Gbawe lands, having the land case to Gbawe at both the Appeal and Supreme Courts of Ghana, the Jamestown Mantse took the Sempe Mantse and people to the High Court of Ghana and obtained a ruling in the former’s favour as being the rightful stool for the land. It was this ruling that the Jamestown Mantse was relying on to compel the LAP officials to use at the gathering for Gbawe customary land demarcation.

To offset the above impediments, it was generally agreed upon by all parties to carry out the customary boundary demarcation for Gbawe lands in areas where there are no contending claims. All but the portions between Gbawe and Weija in the south and the Wesley Grammar areas have been demarcated. For the land that has been demarcated, what remains a challenge is enforcement.

5.5.1.5 Land Survey, Planning and Information System

Apart from the partial customary land boundary in Gbawe, no survey was done in the Ga State. For deeds registration which was done in Accra, the advantages of having all LSAs brought as the new Lands Commission did little to alter the delays and cumbersome procedures clients endure to register land (MASDAR Report, 2010, p.39). Systematic land titling took place in six areas of the Ga State. Nationwide, LAP I could not meet its set target of 50,000 (revised from 300,000) certificates. Only about 8000 certificates were issued at the end of the project (MASDAR Report, 2010, p.39).

5.5.2 Equity

Literature on land in Ghana links equity concerns with the colonial and Ghanaian State hegemonic powers to compulsorily acquire land from traditional polities. Results from the study's coded qualitative data also indicates that equity concerns are not between the Ghanaian State and Ga chiefs and people only but also within the Ga State where some stools and family litigate over family lands. By and large, statutory and customary land administration system lacks requisite transparency for equitable distribution among competing demand (Amanor, 2009, p.112). Redistribution of land resources creates tenure insecurity and protracted court cases. LAP I attempts to deals with these concerns is discussed and assessed in this section.

More land in the Greater Accra region compared to other regions of Ghana has been appropriated. Most compulsory acquisitions are backed by EIs. Below is a graph showing all EIs since 1960:

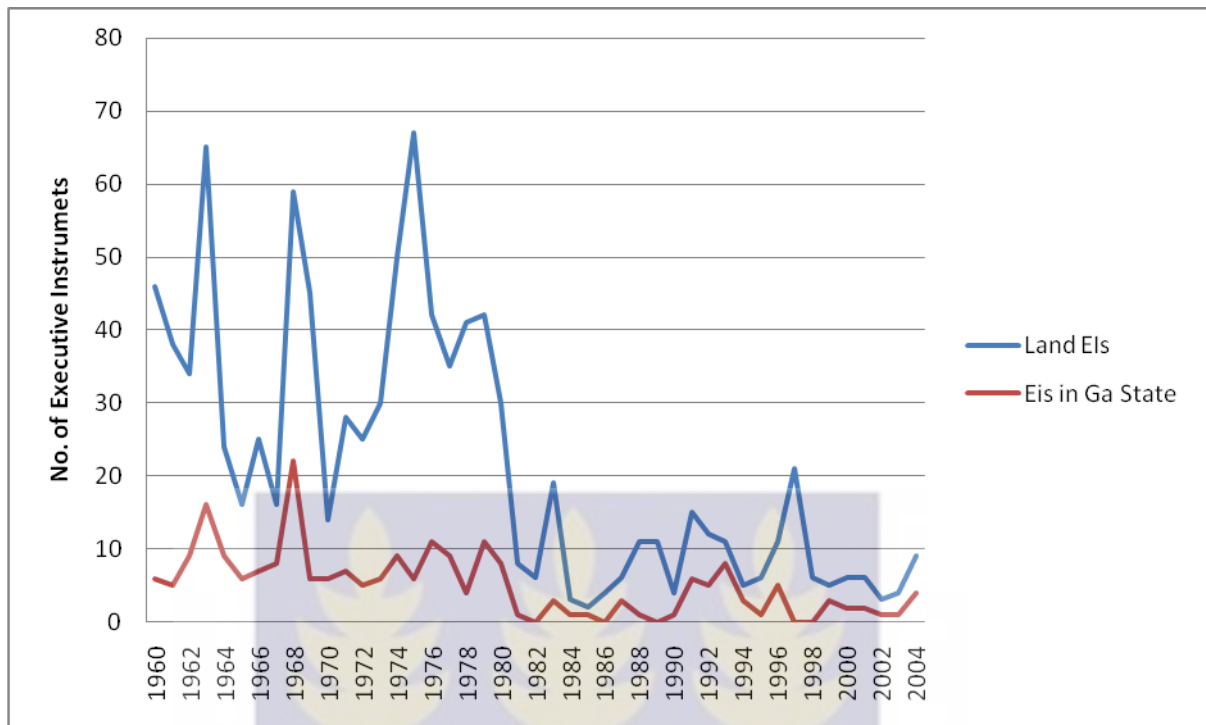


Figure 5.5: Graph of showing all EIs since 1960

Source; Compiled from Ghana Law Finder Database

Prior to 1992 the graph above show EIs (nationwide) for compulsory land acquisitions (blue line) peaking in 1963, 1968 and 1975. The latter two were military regimes which are known for arbitrary rule. In 1968 under the NLC regime, 22 out of 59 EIs were for Ga land. From 1992 when EIs for land nationwide averaged less than 10, EIs for the Ga State was about 45% of the whole country.

It was estimated that over 40% of Ga lands have been compulsorily acquired by the Ghanaian State (Odame-Larbi et al, 2004). Since 1957, governments have compulsorily acquired about 22,747.84 hectares of Greater Accra land. Nationwide, nearly 104,523.87 hectares of land has been taken by the State. Of the total, about 69,756.44 hectares were acquired for agriculture and forestry purposes. Compared to the other regions, Greater Accra had much of its land acquired for public use as shown in Figure 5.6 below:

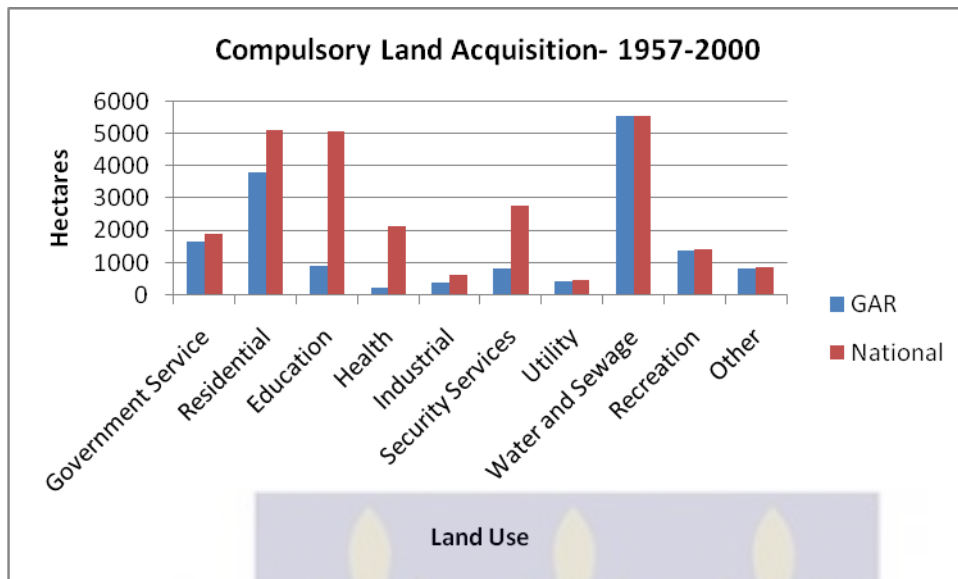


Figure 5.6: Compulsory Land Acquisition 1957-2000

Source: Odame-Larbi et al, 2004

Compensation for majority of these lands were either not paid for at all or the affected landowners received part payment of often under-valued land. Proper consultation processes remained questionable and in many instances the Ghanaian State took more land than was required and often failed to use it for the right purpose. Dr Odame-Larbi states:

“The Acheampong regime did acquire so much land for housing schemes throughout the country. They did not consider compensation, as an incidental consequence of the compulsory acquisition; they did not realize the magnitude of the problems they were creating. So theirs was just to acquire, acquire, acquire and they were acquiring the lands without thinking about how to pay compensation. In Accra, they did a lot of allocation, East Legon Ambassadorial enclave was allocated to the people in 1974, also Airport West, Roman Ridge, Achimota Forests, which is the place called Abelemkpe. Other areas include the Police Depot at Achimota and Ofankor, Zongo Junction, Madina, North Legon, REDCO Flats and North Legon were all compulsory acquired during the Acheampong era. The sport complex was a huge land over 2,700 acres (Odame-Larbi, personal communication, December 2012).

Land acquired by the State in most circumstances was much larger than was required. One technocrat interviewed commented on the Local Government Institute land at Madina. Original acquisition covered more than 300 acres when what was required was

about 26 acres for a women's training institute (Technocrat F, personal communication, September 2010).

Under LAP an inventory of state lands acquisition in the Greater Accra region was made. Records have been generated under LAP and the data is with consultants. More than 600 sites were acquired by the state in the Greater Accra region. Of a sample of 30 sites randomly selected, 6 out of 30 sites were observed to have documentations showing some compensation was paid. However, some trillion of Ghana Cedis remains to be paid for land compulsorily acquired in the Greater Accra region alone (Technocrat A, personal communication, December 2012).

State elevation and recognition of Ga chiefs as allodial owners of Ga lands has created a situation whereby paramount chiefs are fighting sub-chiefs and family heads over land ownership. During the fieldwork, the chiefs and family heads of Katamanso and Santeo family lands had pending court dispute with the Paramount chief of Nungua for claiming and selling parts of their lands as Nungua stool lands. These two cases like 35,000 land cases in court drag on for years (Technocrat A, personal communication, December 2012). To address these protracted land cases, LAP I has assisted the Judiciary to establish 5 land (High) courts in Accra and it was estimated that more than 60 % of land cases have been resolved by December 2010 (MASDAR Report, 2010, p.18). The MASDAR Team which independently reviewed LAP I could not verify this claim during the review.

From 22nd August 1969, the 1969 Constitution by law (Prohibition of Freehold) truncated all freehold stool land acquisition into 50 year leaseholds. UTC etc in Accra were converted to 50 year leaseholds. Most leases in Accra would expire in 2019. The law states that these lands reverts to the State but where is the data to support and manage the exercise:

“Yes the land revert to the State not the Ga people because the principle was that the chiefs have already sold whatever rights they have as freehold, so if the State had used state power to re-create certain rights,

those rights should inure to the state, not chiefs who sold whatever rights he has in the land (Technocrat A, personal communication, December 2012).

Hence, in 2019 we are likely to have a very complex situation. Equity concerns include the moral justification of the Ghanaian State to lay claims to these Ga lands when it failed in the first instance to prevent Ga chiefs and scrupulous land dealers from selling these lands to individuals? LAP I could not adequately address equity concerns such as determining the rightful entities to receive compensation from the State. Under the Kufour (2001-2008) and Mills/Mahama (2009- administrations, the policy to return some compulsorily acquired Ga lands to the Ga people is another thorny equity issue fraught with many challenges such as determining the rightful owner and whether to pay compensation at commercial or government adjusted rates. Recent eviction and demolition exercise at Adjei Kojo by TDC and National Security agents brings to the fore contradictions in policy of equity and returning some Ga lands to the Ga people. The question is which group of people will be happy to see that state takes land from the Ga people and non-natives sell or use Ga lands at commercial rates? At the time LAP I ended a policy document on land compensation was yet to be completed (Legal Expert, personal communication, October 2010).

5.5.3 Accountability

Accountability of statutory land institutions like LAP I and Ga customary land institutions are complementary as both in practice are fused together. Since 1957, many laws and committees of enquiries have been instituted to promote accountability of both the State and traditional trustees of stool land revenue collection and distribution as well as funds generated from land resources throughout the country. Essentially, what institutional arrangement were put in place at the time of implementing LAP I which allowed Ga people and inhabitants with the Ga State gain adequate information about LAP I and how did such interventions promote accountability ?

Respondents were asked in the survey about their awareness of LAP I and their involvement in changes occurring within their traditional areas. The results in Table 5.21 below shows a low level of awareness that LAP I was being implemented. Generally, majority (81%) of respondents were not aware of LAP I. Only Gbawe which was implementing the CLS programmes which had about 31.3% of respondents knowing about LAP I. Interestingly many respondents perceived themselves to be part of the land administration change process. But these high levels of perceived involvement had little effect on their ability to hold statutory and customary institutions accountable. In Gbawe which had the highest respondents involvement (94.3%), as many as 77.7% were of the opinion both statutory and customary land institutions were not accountable.

Table 5.20: Respondents Perceptions on LAP 1 and Accountability (%)

	Awareness of Changing Land Tenure (LAP I)		Involvement in Land Tenure Change Process		Accountability of Land Tenure Institutions	
	Yes	No	Yes	No	Yes	No
Traditional Area						
Tema	10.4	89.6	82.8	17.2	14.7	85.3
Kpone	18.5	81.5	75.6	24.4	14.6	85.4
Nungua	15.9	89.1	75.6	24.4	16.5	83.5
Gbawe	31.3	68.7	94.3	5.7	22.3	77.7

Source: Land Administration Survey, 2011 (n=323)

Dr. Odame-Larbi explains some of the reasons for low levels of accountability:

“The (Ga) stools own just the small areas which belong to them. That is all. You see what we are doing or the confusion we are creating in Accra is that we are equating jurisdictional control with proprietary interests or control over land. So, well we are Aseres and so the Asere Mantse controls all Asere lands. No, we are Asere and we only recognise the Mantse as our chief and that is all. That is the jurisdiction the Asere Mantse has over us, we recognise that but when it comes to land let us separate the two and let’s make sure that it is indeed separated. Akan chieftaincy has never been original Ga custom. We have elevated chieftaincy to a height that is becoming a problem for us and citizens are let down seriously. We cannot control chiefs. A judge told me he can never jail a chief. If you jail a chief, you cannot sleep in Accra” (Odame-Larbi, personal communication, December 2012).

Yet chiefs wilfully perpetuate multiple land sales in Accra. Chiefs themselves make some comments on accountability. A chief in Nungua said:

“Traditionally, they don’t have that right but we have associations like the Nungua Youth Association and other association like the Ga-Dangme. These are not traditional association. What they do is that when they see that there is something going on which is not right, they come to the chief and suggest or discuss it with the chief. They have no right to demand accountability. Last they wrote a letter to the Nungua Traditional Council and then copied it to the Nungua stool. So we invited them and asked them about their capacity or status or who they were, what authority do they have to do that, and we dismissed them” (A Nungua chief, personal communication, September 2010).

Nungua chiefs’ refusal to recognise Ga civil society aspiration in holding the Nungua stool accountable for land revenue contrasts sharply with that of Gbawe. In Gbawe, the youth and other groups’ interests are safeguarded through active participation and mandatory annual reporting system.

Generally, evidence on the ground suggest respondents’ awareness of LAP I and its possible impact of marginal improvement in accountability in Gbawe where its implementation was more elaborate compared to Tema, Nungua and Kpone traditional areas.

5.5.4 Adaptability

LAP I like other land tenure reforms may be understood as an attempt replace the cultural of pre-modern traditional African state polity with that of the modern Western state’s culture of land ownership, access and use. The extent to which changes to statutory and customary rules are adaptive to Ga land tenure and customs is critical. Commenting on land law making in Ghana, Dr. Odame-Larbi (personal communication) observes that “our land laws are far, far behind and society is moving forward. If you make law, you must know what is happening otherwise the law will be abstract”. The point here is that LAP I project conception and implementation had very minimal involvement of Ga chiefs and

people. The passage of the Lands Commission Bill in 2008 was regarded as an affair for technocrats to consider. Similarly, the consultation process of the Lands Bill which is yet to come into force is also flawed.

Contemporary processes of land law making such as LAP I often lack ownership for many reasons (Bugri, 2008). Perceived gaps in land laws are mainly rectified through the issuance of Legislative Instruments or Executive Instruments. Not even the LIs involve all stakeholders especially at the operational and collective choice levels. Customary land laws hardly merit any research as it is assumed to be static or unchanging. The objectives of LAP I are not necessarily shared by the Ga chiefs and people as the consultation process was superficial. For the Ga State, apart from La Mantse, Sempe Mantse and Gbawe chiefs and CLS staff consultation processes before and during the implementation of LAP I were inadequate. Other rule defining authorities within Ga land tenure like the wulomei were completely ignored. Hence, it is plausible to assert that Ga land tenure customs and traditions were not adequately considered and incorporated in LAP I. In a nutshell, as a top-down statutory intervention, LAP I was not designed to adapt and improve Ga land tenure and customs. We therefore proceed to use evidence from the survey and interviews to show the effect of LAP I on land access and tenure security in Ga areas.

5.6 Conclusion

The land question in contemporary Ga State appears not be improving despite a comprehensive interventions such as LAP I. Access to land and tenure security remains an acute challenge. Some communities and social classes face dire situations of landlessness. For those who manage to acquire land at high transaction cost (due to inefficient and lack of equitable land allocation processes at the operational, collective-choice and constitutional levels) most often resort to all sorts of means to secure their property.

LAP I failed to meet the expectations of Ga chiefs and people, inhabitants of Accra-Tema metropolis, politicians and bureaucrats for a variety of reasons. Notable among these are a dearth of ownership and low public mobilization; self-interest of bureaucrats to maximize LAP I budget or reorganize the new Lands Commission to satisfy their egos; and poor implementation strategies.



CHAPTER SIX

TOWARDS A MORE EFFECTIVE LAND ADMINISTRATION

REFORM ARRANGEMENT FOR THE GA STATE

6.0 Introduction

At each point in time land administration reflects historical events in a path-dependent fashion from which emerge different types of forces and relationships. Combinations of topology and demography, political, economic and socio-cultural dynamics creates landowner/land users, indigene/migrant, landlord/tenant and individualized land ownership relationships which are regulated by both statutory land laws and customary norms and traditions all follow historical antecedents.

The drive towards effective land administration throughout sub-Saharan Africa may be seen in the large number of countries implementing land administration reforms. Motives of these reforms in many instances are to ensure that land administration systems are efficient, effective, equitable, adaptable, accountable and sustainable for poverty reduction and socio- economic development. We argue that these ideals are only achievable when land administration reforms are implemented with the principles of a participatory approach which takes into careful consideration the cultural uniqueness of each African polity's land tenure. That is, both political and economic institutions of property rights in Ghana should be *inclusive* rather than *extractive*.

Politics is the “process by which a society chooses the rules that will govern it” (Acemoglu and Robinson 2013, p.79). Inclusive institutions encourage participation by the great mass of people with different interests and objectives about how to structure society (Acemoglu and Robinson 2013, pp.74-83). Extractive institutions concentrate political and economic “power in the hands of a narrow elites and place few constraints on the exercise of these power” (Acemoglu and Robinson 2013, p. 81).

Hence, consultation processes need to reverse top-down trend for regional and national debates, commissions of enquiries on land ownership structures, boundaries, land rights and responsibilities. That is, the attributes of effective land administration systems which include adaptability, flexibility, upgradability, institutional legitimacy and credibility and affordability only emerge within political systems with democracy and good governance that safeguard the land interests of vulnerable and minority groups such as the Ga people who are most affected by Accra's status as Ghana's administrative and commercial capital (Arko-Adjei, 2011).

The above caveats for effective land administration calls for innovative mechanisms to get all actors board the land administration policy reform and implementation processes of determining land ownership; distribution; utilization; alienability; management and control (Okoth-Ogendo, 1998). Hence an empowered civil society may take centre stage in public discourse that informs and scrutinizes legal and bureaucratic procedures that co-opts the services of land experts and independent commissions of enquiries. Evidence in the previous chapter show that LAP I had most of these except the active involvement of the public. Hence, their inputs and capacity to scrutinize politicians and bureaucrats was largely absent. The chapter elaborates on these points as basis for proposing improvements.

The rest of the chapter is as follows: Section 6.2 is a synthesis of general and contemporary discussion of the nexus between statutory and customary land administration in the study areas. Section 6.3 examines from the perspectives of bureaucrats, traditional landowners, and land users problems of land administration in the Ga State. Section 6.4 discusses factors which account for the relative success of the Gbawe Kwatei Family Customary Land Secretariat. Here, we focus on why landowners in Gbawe compared to the Nungua, Tema and Kpone traditional areas have been able to secure and administer its lands better. Based on the narrative analysis and confirmatory

evidence from the survey data, we make propositions towards an effective land administration system for state, stool and family lands in Section 6.5. Section 6.6 summarises the conclusion of the chapter.

6.1 Statutory and Customary Land Administration-Actors and Structures

Within the Ga State, land sector agencies and other statutory organizations charged with land administration have been encountering serious challenges in fulfilling their mandate to generally create greater accountability in state, stool and family land management. Land transactions within the Ga State continue to lack transparency and accountability. Chiefs and traditional land owners seek maximum benefits from the high demand for land in their polity by ‘re-inventing customary tenure arrangements to suit their interests’ (Amanor, 2009).

6.1.1 Actors

Backed by the 1992 Constitution, the Ghanaian State through the LSAs, Accra Metropolitan Assembly, Tema Municipal Assembly and the Tema Development Corporation collectively act as regulators of land administration. Some of these state agencies like the Lands Commission and TDC which by law manage public and Tema Industrial Township lands respectively also double as players on Ga lands compulsorily acquired by government. With the exception of Gbawe Kwatei Family lands which solely own and controls through its Customary Land Secretariat all Gbawe lands, chiefs and family heads compete (among themselves) and participate in land matters in Tema, Kpone and Nungua traditional areas.

For Tema traditional area, the TDC, TMA and LSAs located within Tema are the main statutory land actors with TDC wielding extensive powers in land allocation and transaction. The paramount chief of Tema, Nii Adjei Krakue IV, the Tema Traditional Council including the chiefs of Adjei Kojo, Ashiaman, Zeenu, Kubekor, Adegon Saasabi control stool and family lands.

Apart from public lands controlled by TDC, TMA and LSAs, the paramount chief of Kpone, Kpone Traditional Council which includes the chiefs of Gbetsile, Appolonia, Saduase, Mlitsakpo, Bawaleshie and Sebrekpor. Bawaleshie and Saduase are family lands under the jurisdictional control of the Kpone paramount Chief. The paramount chief of Nungua claims allodial ownership of all land within his jurisdiction. Nungua traditional area has 72 villages which include stool and family lands (Nungua Chief, personal communication, September 2010).

6.1.2 Structure of Customary Land Administration

The study finds that all four study areas are undergoing changes with regards to customary land administration. Even though there are many similarities, each traditional area has aspects of land tenure that differs. Generally, with the exception of Gbawe which has formalized most of its structures and rules governing land access and management, Tema, Kpone and Nungua display variable mixtures of formal and informal land relations. Also, with the exception of Gbawe which had a centralised family, self- monitoring and enforcing Customary Land Secretariat (CLS) and stable, predictable sanctioning regime, Tema, Kpone and Nungua have dual and multiple stool and family structures with largely external monitoring and enforcement regimes which are barely able to expose and impose sanctions on violators (refer to Figure 6.1).

In Tema, Kpone and Nungua, the paramount chief acts as the principal authority with regards to customary land administration. In Nungua, the Paramount chief is ably supported by the Gborbu Wulomo and Dzasetse (major signatories to stool lands), other chiefs and heads of families to control land. When these functionaries meet as a group, together with the registrar and other staff they constitute the Nungua Traditional Council (NTC) which has other functions besides land administration. But often, land transactions are done at the paramount chief's palace in a less formalized manner. Kpone and Tema have similar structures like Nungua except that each has a Land Allocation Committee

(LAC) which is not necessary chaired by the paramount chief and are more directly supervised by their respective traditional councils. With LACs comes regularized community accepted rules and norms of procedures to acquire and seek redress to any problems associated with land transactions. This is in contrast to Nungua where every issue must be dealt with by the paramount chief and principal officers.

In Gbawe, the Gbawe Kwatei Family Customary Land Secretariat (GKFCLS) is a registered legal entity whose functions are stipulated in a constitution. With trained professional staff and adequate resources for records management and self-financing, GKFCLS directly oversees all aspects of customary land administration and reports to a governing structure which has at its apex Nii Adam Kwatei Quartey, the head of family. Table 6.1 below shows the nature of exogenous variables changes in each traditional area by 2010:

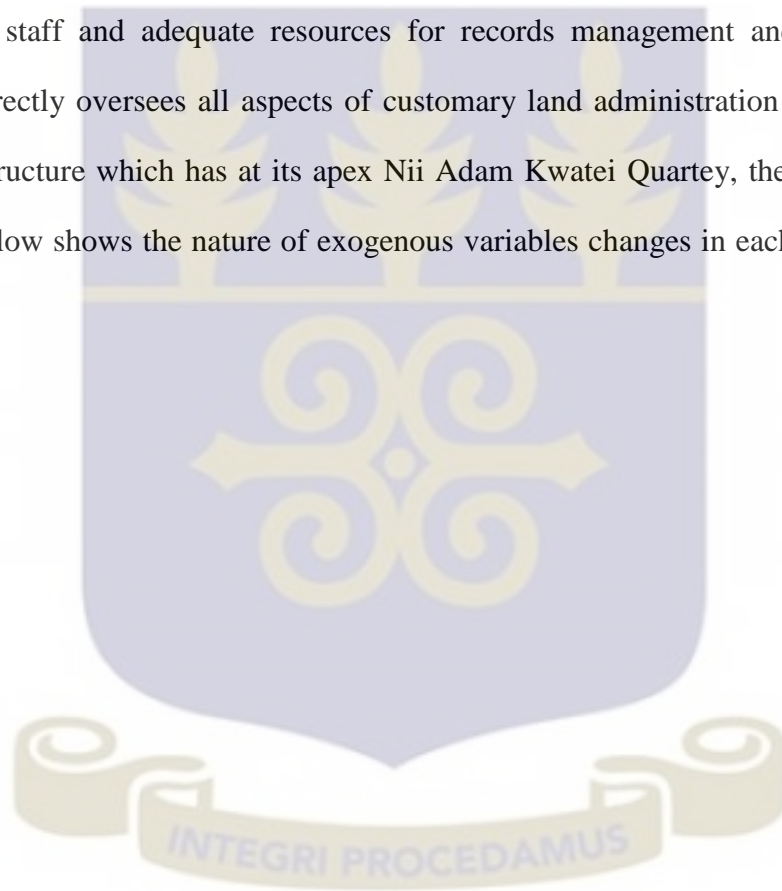


Table 6.1: Changes in Exogenous Variables in Traditional Areas

Gbawe	Tema	Kpone	Nungua
Biophysical and Material Conditions (Bounded rationality, norms of reciprocity, etc.)			
<ul style="list-style-type: none"> ○ Family leadership has strong attachment to land (inalienable) ○ Small land size ○ Strong shared values ○ Family land only ○ Urban land 	<ul style="list-style-type: none"> ○ Stool has strong values for land ○ Lost control & identity of most land ○ 'no land' ○ State, stool & family land ○ Urban/peri-urban 	<ul style="list-style-type: none"> ○ Stool has strong values for land ○ Lost control & identity of large land ○ small land left ○ State, stool & family land ○ Urban/peri-urban 	<ul style="list-style-type: none"> ○ 'land is our blood'-lives depend on it ○ Inalienable (youth) ○ Not strong values shared by all ○ Large land ○ Urban/peri-urban
Attributes of Community			
<ul style="list-style-type: none"> ○ One centralised family controls all land ○ Well organised, formal CLS - board, audit, annual reports, recruitment, etc ○ No chieftaincy disputes ○ Isolated land dispute (Djanman) 	<ul style="list-style-type: none"> ○ Dual structures for land control ○ No CLS. TTC handles land ○ Chieftaincy disputes ○ Land guards (Ashiaman) ○ Mild tension b/n state & stool 	<ul style="list-style-type: none"> ○ Dual structures for land control ○ No CLS. KTC handles land ○ Chieftaincy disputes ○ Land guards (Gbestile, Appolonia) ○ Mild tension b/n state & stool 	<ul style="list-style-type: none"> ○ Multiple structures for land control ○ No CLS. NTC handles land ○ Families independent of NTC (contest) ○ Chieftaincy disputes ○ Land guards (Several areas) ○ Mild tension b/n state & stool
Rules			
<ul style="list-style-type: none"> ○ Legal pluralism ○ Single self-monitoring and enforcing (CLS) ○ High risk of exposure & sanctions ○ Stable & predictable 	<ul style="list-style-type: none"> ○ Legal pluralism ○ Imposed external monitoring & sanctioning (TDC) ○ Multiple self-monitoring & sanctioning authorities (TDC, TTC, TMA, Ashiaman, Saasabi) ○ Medium risk 	<ul style="list-style-type: none"> ○ Legal pluralism ○ Imposed external monitoring & sanctioning (TDC) ○ Multiple self-monitoring & sanctioning authorities (TDC, KTC, TMA, Gbestile, Apolonia, Bawaleshie) ○ Medium risk 	<ul style="list-style-type: none"> ○ Legal pluralism ○ Imposed external monitoring & sanctioning (TDC) ○ Multiple self-monitoring & sanctioning authorities (TDC, NTC, LKMC, Santeo, Oyibi, Katamanso) ○ Low risk

Source: Land Administration Survey and Interviews, 2011

6.1.3 Rules of Allocation, Adjudication and Enforcement

Each traditional area has rules and processes for allocating land based on the nature of land information system and how records are kept. Traditional adjudication processes exist in each area and its success is highly dependent on the structure of traditional court; the integrity and credibility of the chief. Traditional means of enforcing land tenure rules such as the use of taboos and belief system are giving way to more physical modes like engaging youth/asafo and land guards.

6.1.3.1 Nungua

The first activity for a prospective land buyer is to approach the paramount chief or the Gborbu Wulomo with customary drinks and gifts. After one presents his/her request, the paramount chief who presides over all land transactions and his councillors meet as a land committee consider and respond to the request. An affirmative response means the prospective buyer will be shown the land and asked to settle negotiated payments before he/she get the indenture to the land. There no fixed amounts for land. It is always negotiated based on one's status as indigene or migrant and one's standing in society. A valid indenture must have the signatories of the Paramount chief, *Gborbu Wulomo* (most senior priest in Nungua), *Dzasetse* (presides over enstoolment of chiefs), *Akwashontse* (commander of traditional army/asafo), and the *Mankralo* (overseer of town development).

The process differs slightly with regards to Nungua family lands of Oyibi, Katamanso and Santeo where the chiefs and family heads play significant roles. Throughout Nungua land is leased and the lease period has reduced from 99 years. Now depending on land use, lease period ranges from 20- 60 years. All records are kept at the Paramount chief's Palace which has an office for the purpose.

For adjudication the process involves all members of the NTC who take part as advisors but the final decision rest with the Paramount chief. One chief remark: “We have different committees at Nungua Traditional Council, but as for land, we have the chief, the *Gborbu Wolomo*, the “Dzasetse”, the “Mankralo”, the 8 clan heads and some elders, but the traditional council has some branches and departments in it and all matters relating to land issues are rendered to them. For example, if there is a dispute over any land they will invite them to deal with that dispute, but they don’t take decision” (Nungua Chief, personal communication, August 2010).

Surveyors and lawyers and members of the Nungua Lands Trust are co-opted into adjudication processes as advisors to the Paramount chief who takes final decision. Of course, dissatisfied parties are free to seek redress in Ghanaian courts. Protracted chieftaincy disputes with the current situation of having two people holding themselves up as paramount chiefs have affected the traditional adjudication process in Nungua. Moreover, the Nungua stool’s tussles with Katamanso and Santeo family lands have further reduced the potency of traditional adjudication within the whole traditional area. For enforcing land tenure rules and norms, the Paramount chief has deployed his men on the ground to monitor land use. A chief interviewed notes:

“There are people on the grounds who are monitoring whatever is going on, and they would come and inform the chief. They will only inform the chief and he will send people to come and seize the land”.

6.1.3.2 Kpone

Like Nungua, the Paramount chief of Kpone also oversees all land relations with the assistance of the traditional council and land allocation committee. But the traditional council and the land allocation committee attached to it play a more elaborate role in allocating land. The traditional council keeps all records of land meetings and transaction unlike Nungua where the paramount chief is custodian of all records. A surveyor is attached to the land allocation committee and the traditional council which does the actual land allocations.

Also, in Kpone there is no controversy about the family lands administered by the sub-chiefs of Gbestile, Sebrepkor, Mlitsakpo, Appolonia, Gota and Bawaleshie. These chiefs inform the Kpone Mantse about every transaction and all these are processed by the Kpone Traditional Council. For instance, at Gbetsile a prospective land buyer/leaser meets and negotiates with a lands committee (Royal Sanshi family members dominate with a surveyor attached. Lawyers services are procured on needs basis) and is required to pay processing fees, site visitation fees, and any other charges relating to the request. He or she also provides passport pictures and fill all forms in triplicates. After the buyer has been served with land, he keeps a copy, the Gbetsile stool also keeps a copy and the last is sent to the Kpone Traditional Council. Each family pays a proportion of land revenue to the paramount chief through the traditional council.

Adjudication follows a similar procedure as that of Nungua except that decision taken by a well constituted Kpone Traditional Council with advisory input from the Kpone Land Allocation Committee is binding. Similar adjudication processes are followed in the villages with farming land. Enforcement of land tenure rules in the Kpone traditional area are collectively done by the chiefs, the traditional councils and the land allocation committees. Being the organization on the ground, land allocation committees monitor land transactions and keeps records which are very useful in enforcing and resolving land conflicts. The Paramount chief and his retinue of sub-chiefs handle issues which are beyond the mandate of the land allocation committees.

6.1.3.3 Tema

With the loss of a greater part of stool lands to TDC, land allocation by the stool does involve the TDC which makes land available for allocation by Tema Mantse and the Tema Traditional Council. The chiefs of Zeenu, Adjei Kojo, Ashiaman, Kubekor and Sassabi manage their family lands. Tema Mantse Nii Adjei Krakue II describes the process in an interview:

“If somebody wants a land at Zeenu, the chief would make a recommendation introducing the person, to us that this person wants so and so acres of land and this is where I have gotten with him in the negotiation, so after the introduction he has finished with his work. The first point of call is to go and see the chief of that village, who will make the recommendation to us. Then I will invite the members of the Lands Committee who will discuss it with the person who is coming to buy the land. They will decide if they will involve the Traditional Council Members” (Tema Chief, personal communication, August 2010).

He further explains that his role is to witness the transaction to make sure the right person is selling the land. For indigenes seeking land in Tema, TDC treats them differently. Tema Mantse remarks:

“If you are an indigene they would only demand some drinks. Even at T.D.C, a land that would be sold or given to you for 80 million old Ghana Cedis that same land would be sold to me at 10 Cedis. So on the form that is filled for land, we have indigenes and non-indigenes so it is based on that that T.D.C would charge you for the land. If you are an indigene of Tema you will not pay a pesewa” (Tema Chief, personal communication, August 2010).

Having lost control of almost all stool lands, Tema Mantse plays minimum roles in both adjudication and enforcement of customary land tenure practices. For instance, even though they try to keep some records of land transactions at the Tema Traditional Council, TDC has all documentations covering all lands and have enforcement powers which makes the power of the seemingly quasi-stool land authority redundant.

6.2 Interaction among Actors in Ga Areas Action Arena

Literature indicates that chiefs collude with politicians and land sector agencies to maximize their profits from land tenure insecurity (Amanor, 2012; Boone, 2009; Onoma, 2009; Peter, 2009). But collusive behaviour is not without some relational problems among these actors as chiefs in all four study areas generally have relational difficulties dealing with politicians and LSA bureaucrats. Discussion of these relational problems

emerged as recurring themes in the in-depth- interviews, focus group discussion and survey.

6.2.1 Relationship between Actors-Chiefs Perspectives

Most chiefs were of the opinion that politicians in most governments have used the State's power of eminent domain to appropriate much of Ga lands. Tema (56%) lost the bulk of its lands to the State and almost half of Nungua (23%) and Kpone (23%) lands became part of the 63 square miles Tema acquisition. Gbawe also had a fair share of state land appropriation for housing schemes known as Dansoman and SSNIT Estates. Some family heads complained bitterly too. Santeo family head said more than 3000 acres of their land was taken during the Tema acquisition without any compensation made to the family (Santeo Family Head, personal communication, July 2010).

Politics and state hegemony according to the all chiefs interviewed dominated the process. Tema Mantse Nii Adjei Krakue (personal communication, August 2010) states "Those days we didn't have good and matured people to advise us as to what to do. Like we said we had some UP people in it who were pushing that Agenda. So everything became political". Besides the politicization, not much consultation took place between the State and the chiefs and people. Petitions presented to the State yielded no positive results.

The issue of compensation payments for state acquired lands also marred state-society relationship. For some compulsorily acquired lands especially during military regimes, no compensation was paid to these landowners. Nii Adam Kwatei Quartey, the head of the Gbawe Kwatei family remarks "I was by then the chief, they did not come to us. They (Acheampong government) just acquired it (Dansoman Estates land owned by Gbawe and Sempe Stool). I know everything. They did not come to see us, and up to date they have not paid any compensation to us. They just took the land without any compensation. The Odorkor Cemetery was acquired by Dr. Kwame Nkrumah in 1960, and up to date they have not paid any compensation to us." Moreover, in cases where compensation have

been somewhat negotiated such as the Tema acquisition, the Ghanaian State has until recently defaulted in making regular payments. This remark confirm earlier studies which state that bureaucrats and their close associates are overly bureaucratic, corrupt and engage in unapproved dealings or abuse laws (Amanor, 1998; Kasanga et al, 1996).

Chiefs in all four study areas complain about the performance of LSAs. Apart from Gbawe which managed to engage the services of some bureaucrats to develop layouts and improves its customary land secretariat, most chiefs see LSAs as non-performing organizations which fail to satisfy public and national interest in land; correction of anomalies in customary land tenure; introduce deeds and land title registration; and generally easing land acquisition and documentation processes (Nungua Chief, personal communication, September 2010). Land users in Kpone have a lot of tenure insecurity partly because Survey Department has not mapped out Kpone lands and layouts are still in the process of being registered (Focus Group Discussion at Kpone, September, 2010). Chiefs in Nungua identified boundary demarcation as one of their biggest problem when administering land. Majority of the chiefs are of the opinion that LSAs have failed to do proper demarcations and often databases created by these agencies are full of mistakes. These inaccurate and falsified documentations are often used by statutory land agencies to administer land thereby creating more problems on the ground.

But blaming LSAs bureaucrats alone for these developments may not be accurate as chiefs also take actions which tend to frustrate LSAs bureaucrats. A component under LAP I was customary boundary demarcation. Gbawe was used as pilot in the Ga State. LAP officials invited all stools and families which share common boundary with Gbawe to attend the first workshop. At the meeting Nii Kojo Ababio, the Jamestown Mantse engaged in a heated argument with the LAP officials that portions of the land being claimed by the Gbawe CLS belonged to them (Technocrat G, personal communication, October 2010). They produced judgements from the high Court to make their case. According to the LAP

officials the judgments being produced by the Jamestown Mantse were “artificial judgements”. Such judgements are so-called because losing parties such as the Jamestown Mantse in land cases take advantage of poor court records to initiate legal proceedings on same parcel of land which has been ruled on in another court of judicature. With regards to the Gbawe lands, having the land case to Gbawe at both the Appeal and Supreme Courts of Ghana, the Jamestown Mantse took the Sempe Mantse and people to the High Court of Ghana and obtained a ruling in the former’s favour as being the rightful stool for the land. It was this ruling that the Jamestown Mantse was relying on to compel the LAP officials to use at the gathering for Gbawe customary land demarcation.

Collective-choice relations between the Ghanaian State and Ga society from 1992 to 2012 has been ad hoc and not that engaging as almost all the chiefs interviewed indicated they were not involved in statutory land administration activities including LAP I. Over the years, land use plans and layouts are done by LSAs without the active participation of chiefs and landowners. Dansoman and SSNIT Estates were planned without the Gbawe and Sempe chiefs. There are no layouts for most communally owned lands in Accra and other parts of Ghana. Land is sold on ad hoc basis as a big disjoint exist between customary and statutory land management. More recently, rezoning of state acquired land like Odorkor Official Town has been neither participatory nor transparent. A chief from Gbawe states:

“Another case is the Odorkor cemetery which the government acquired in 1969 but now Lands Commission has leased the land to other people and is collecting the leasing fees. They have given out that land to other people to put up filling stations. That is Lands Commission. When we went there they told us that the government have acquired that place through an executive instrument so they are going to compensate us for it, but up till now we have not heard anything from them (Gbawe Chief, personal communication, August 2010).

Implied from the viewpoint of Gbawe chiefs is the possibility of some shady deals or corrupt practices on the part of Land commission staff. Similarly, the recent demolitions

exercise by TDC at Adjei Kojo near Tema also gives the impression that relations between chiefs and state authorities are strained as some victims acquired their property from the chiefs who also claim they had secured permits from TDC. The TDC Board has chiefs from Nungua, Tema and Kpone serving on it.

Chiefs participation in the LAP I processes is another means of gauging their relationship with politicians and bureaucrats. Apart from Gbawe where some discussions and interviews took place between LAP I officials and chiefs, Nungua, Kpone and Tema chiefs were hardly involved. Tema mantse (personal communication) remarks “Nobody has ever come here to discuss anything about the Land Administration Project with us. But they have set up a court at T.D.C that can settle land disputes”. Among the Ga chiefs, only the La and Sempe Mantsemei were consulted in their capacity as members of Greater Accra Lands Commission Board (Technocrat A, personal communication, December 2012).

The lack of involvement of Ga chiefs has serious implications for ownership and the success of LAP I as one of its objectives targets harmonization of statutory and customary land administration. Generally, government acting as a player has shown considerable interest from time immemorial to actually owning Ga lands for public use. As player on Ga land market, government is often caught in between factions fighting for control of land for which government is also interested in. This has affected government capacity to act as regulator of Ga lands. Often, government has been perceived to take sides or is not seen as an impartial arbiter in many land conflicts such as boundary disputes. Other plausible reasons for low engagement of Ga society in land administration include low resource capacity of the Ghanaian State and inherent information asymmetry difficulties government officials have about Ga land tenure. Agents are not well informed to make court rulings accepted by all factions or deal with boundary demarcation issues as proposed under LAP I. Also, beneath the pretext of the technical nature of aspects of work such as valuation and surveying, bureaucrats find little reason to involve chiefs and

landowners in statutory land administration (Technocrat H, personal communication, August 2010).

6.2.2 Relations between Actors-LSA Staff Perception on Land Matters in Ga State

Bureaucrats in LSAs interviewed gave their perceptions on various aspects of land administration. These include their relations with Ga chiefs and landowners; statutory land administration and LAP I; and causes of land tenure problems in the Ga State. Interviews with bureaucrats reveals that a lot of changes driven primarily by the introduction of LAP I are taking place to improve land administration in Ghana. But many problems still exists as even the implementation of LAP I is creating new problems.

Understaffing is a major problem. A survey of LSAs in 2009 revealed that professional staffs fall short of the ideal range of 60-75% of total workforce. Only 19% of total workforce is professional (Senior Technocrat, personal communication, October 2010).

One top bureaucrat remarks:

“We have a very large stock of support staff, labourers, cleaners, clerks who really don’t contribute much to output but the contradiction in the government policy is that when people go on retirement say a driver with a Land Economist, they equate the two as same... so they bring in two people to replace the retirees. When you bring in two people and their salaries is like a driver fine and the excuse is that we don’t have enough money for a Land Economist or a surveyor or planner, so this is what is available, so you either accept it or leave it and that is what we live with and yet the Universities are producing 16 a year and we cannot recruit them” (Senior Technocrat, personal communication, October 2010).

Governments over the years have been recruiting less professional staff. With growing population Accra needs more professional staff but even the inadequate number of planners and other professional stand little chance of being employed in LSAs. The total number of physical planners in Ghana was 98 in 2009. This figure is very low compared to the required a minimum of 1,190 and a Maximum of 1,890 Planners for Ghana’s MMDAs (Senior Technocrat, personal communication, October 2010). Accra-Tema metropolis has

only 5 planners compared to Stockholm, Sweden which has about 106 planners. The few building inspectors stationed in Accra are poorly trained as well. Equipment needed by these professionals is generally lacking. Surveyors do not have facilities for taking geodetic maps beyond Achimota.

Land administration is also overly politicized. Civil servants are not allowed to function professionally. Both the minister and chairman who oversee the Lands Commission are appointed by the President of Ghana. Leadership of LSA positions are not based on merit alone but also on how affiliated bureaucrats are to ruling governments. Within the LSAs, institutional reforms such as establishing the New Lands Commission which is a merger of 6 agencies generated internal power struggles for reduced top positions.

Bureaucrats also think chiefs and traditional landowners are not cooperative and many of them lack the capacity to manage land. Many chiefs in their opinion fail to collect ground rents, do impartial adjudication and engage in multiple sale of land. Some of these Ga chief claim ownership of family land. Another technocrat observes “It is difficult to understand the way Ga chiefs are trying to entrench themselves over areas that they do not really have control.” The relationship between chiefs and their subjects is not mutual as “it is the dominant against the dominated”. Land information system in most traditional areas is poor with no accountability measures in place. Hence, chiefs sell land and satisfy their selfish interests without investing in land management structures and developmental issues.

6.2.3 Improving Land administration in Ga Areas- Perception of land Users

In the land survey and focus group discussions, land users were asked to comment on the interactions between governments, bureaucrats, chiefs and landowners. The following are some of the responses proposed by land users to improve land tenure in Ga areas. In a FGD at Nungua, a participant strongly raised the following:

“Firstly, Land Commission Staff must stop registering Nungua lands in the name of other interests. Secondly, all government acquired lands which have not been used for the said purpose must be returned to the Nungua people. If in future the government requires such lands again and approaches the stool it will be given back. Ultimately, government must take second look at policy of compulsory acquisitions of stool lands. Government does not as in the case of Nungua people pay compensation. Thirdly, government agencies must ensure that all Nungua lands are properly demarcated to reduce conflicts. Fourthly, Town and Country Planning must in active consultation with Nungua Stool, elders and people plan Nungua lands. Finally, the Government must intervene to resolve chieftaincy disputes in Nungua” (FGD participant, Nungua, August 2010).

The first point indicates the level of distrust between the Ghanaian State and the people of Nungua. The issue of non-payment of compensation by the state deepens the distrust and has the potential of weakening the institutional credibility and legitimacy of the LSAs and government. The LSAs capacity to regulate and enforce sanctions through cooperation with Nungua, Kpone, Tema and also Gbawe chiefs and peoples becomes compromised given this equity concerns.

Another critical issue that promises to bring sanity in Ga areas and administration was raised by land users as they called for determination of land ownership and boundary demarcation which is a precondition for land use planning in Ga areas. For success, participants stressed ‘active consultation’ with traditional authorities, landowners and people.

From the survey, some respondents suggested the creation of an organization that shall link customary and statutory land organization for effective management of land in Ga areas. Other raised the issue of corruption and among both customary and statutory land bodies and recommended public education and sensitization to help check corruption. Some others asked for commission of enquiries to help determine boundaries, chieftaincy disputes and proper documentation of land records.

6.3 Why is Gbawe Better?

6.3.1 One Big Family and Customary Land Secretariat

Customary land administration in Gbawe is markedly different compared to Nungua, Kpone and Tema traditional areas for a number of reasons. In the first instance, Gbawe has no traditional council due to its status as a division under the Asere traditional area of Ga Mashie. Gbawe as a large family land has caretaker chiefs who are not gazetted by the National House of Chiefs.

Gbawe has only family lands belonging to one big and united extended family which has also developed a distinct system of customary land administration. A Council of Elders (COE), Land Management Committee (LMC) and the Gbawe Kwatei Family Customary Land Secretariat (Gbawe CLS) are the main organizations which collectively administer Gbawe lands. The Coordinator of the Gbawe Kwatei Family CLS in an interview describes the relationships and functions:

“The Council of Elders, they deal with Land boundary Disputes because some of them are elderly people or old people and apart from Council of Elders, we have the Land Management Committee, which is in the family. They allocate land and we as a Secretariat when they finish allocating the land we take over from them. So apart from the Chief we have Council of Elders, Land Management Committee, and a Customary Land Secretariat. The Head of Family is the Chairman of the Council of Elders and the person who sign the Land Documents. When you look carefully at the land documents, his name appears on it, Head of Gbawe Kwatei family, but inside the documents 2 family members also sign as witnesses” (Gbawe CLS Coordinator, personal communication, August 2010).

The COE who have a lot of experience gives instructions to the LMC and advises the CLS whose staffs have been trained to perform some technical functions. Gbawe CLS is a registered entity with board of governors. It is headed by a Coordinator who has 19 staffs who manage its units which include a land board, registry, monitoring and evaluation, inspectorate, customer relations, and revenue departments. The Coordinator also serves as

the liaison between the CLS and COE and LMC. The Land Board within the CLS is chaired by Gbawe's only Surveyor and has Gbawe's only family lawyer as a member. The head of family, Nii Adam Kwatei Quartey states Gbawe's uniqueness:

“What makes our case unique is that we have only one family head who signs all our land documents, and also one lawyer who also signs our documents, we have one surveyor who takes care of all our lands so it is centralised. If there is any land dispute we allow the sub-chiefs to go into it and resolve it, but if they are having challenges they bring it here, and by doing so it reduces the pressure on us. We only bring the major ones here” (Quartey A.K., personal communication, August 2010).

6.3.2 Good Relationships with LSAs

Another distinct feature of Gbawe has to do with the strong relations between the Gbawe family and most land sector agencies. Though it is not clear when this relationship started, in 1990 Town and Country Planning Department (TCPD) staff was contracted to develop layout for all Gbawe lands. The whole process was participatory and involved members of the Gbawe community. The layout map is boldly displayed at the Gbawe CLS and has hardly been altered.



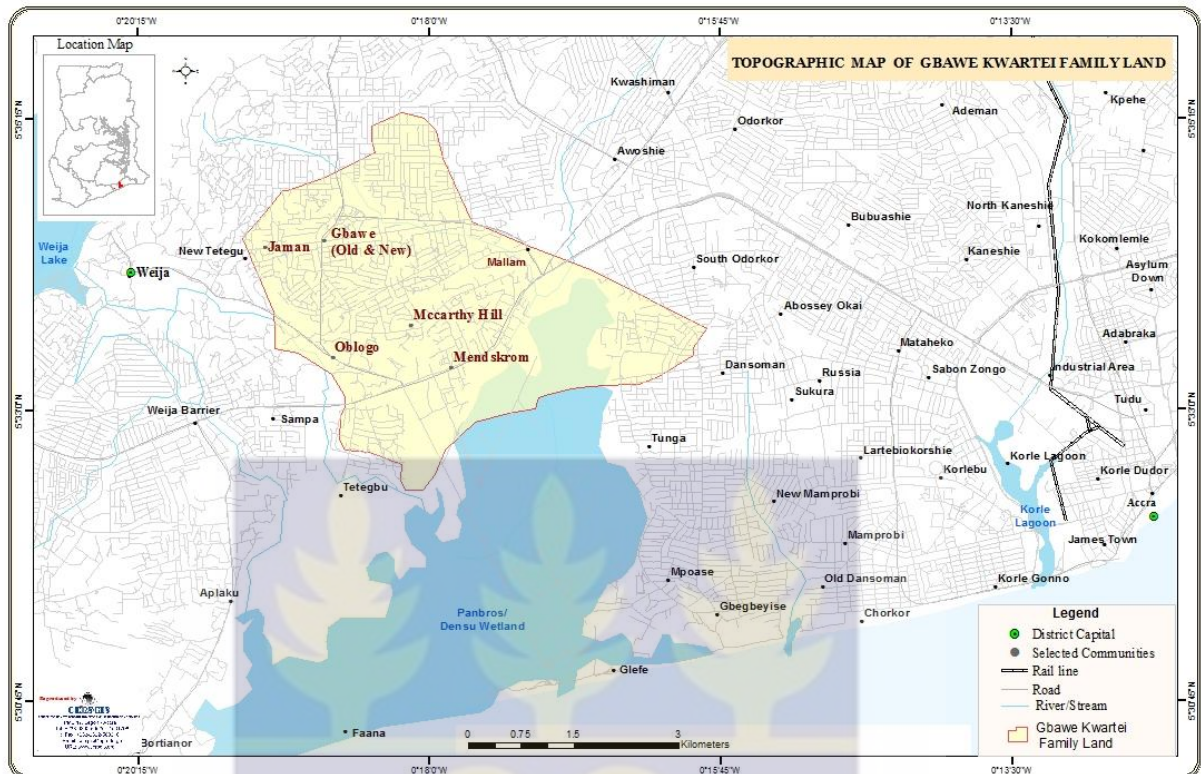


Figure 6.1: Topographic Map of Gbawe Kwartei Family land

Source CERGIS and Survey Department, Ghana

For many years, Gbawe land owners have had cordial and transparent dealing with the Land Commission and other agencies. They have been consistent in lodging records and land judgement at the Lands Commission. In 1998 the family approached Office of the Administrator for Stool Lands (OASL) for assistance to develop the capacity to collect ground rent. Through these relationships, LAP I selected Gbawe to be a model CLS. The Gbawe CLS has received technical support, training and equipment to manage customary land administration. Dr. Odame-Larbi describes the distinct manner Gbawe elders relate to LSAs:

“He (head of family) listens to professional advice. So for several years, Gbawe had one surveyor who did all their survey work and he was transparent in his dealings with them. Gbawe also maintained one faithful lawyer.... The land owners of Gbawe listened to the advice of Town and Country Planning officers to have a composite lay-out for the whole of Gbawe lands before any

leasing is done. That lay-out was never changed and the land owners were prepared to defend their lay-outs which covered all their lands in the courts” (Odame-Larbi W., personal communication, December 2012).

6.3.3 Accountability and Transparency in Land Administration

Compared to Nungua, Kpone and Tema, respondents in the survey found Gbawe landowners more accountable and transparent in land dealings. Quality records (mostly digitalized) of land transactions are kept and systematically updated at the Gbawe CLS and Lands Commission to protect all stakeholders. The composite layout which is never altered is also openly displayed to show unsold land. Since 2004, the Gbawe CLS has been publishing and widely circulating annual reports which present each year’s activities, estimated and actual expenditure and revenues targets and projections for the coming year. There is transparency in the disbursement of revenue generated from leasing land and ground rents.

Staffs were recruited based on merit and trained to deliver on set targets. Emoluments of the staff are generated from the ground rents.

In sum, tenure security is possible and sustainable when customary and statutory land institutions relate well by sharing information and enforcing agreements.

6.4 Principles and Attributes for Effective Land Administration Reform Arrangements in Ga Areas

So far we have used empirical evidence from the in-depth interviews, FGDs and land survey to show current problems of land administration particularly after the implementation of LAP I. The basic arguments that LAP I was not formulated to tackle the uniqueness of Ga land areas problems and the lack of ownership of Ga chiefs, land owners and people except for the Gbawe areas is well supported by empirical evidence provided so far. With LAP II currently being implemented 2013, with limited scope for

generalisability of our findings we make some proposal for principles and attributes necessary for effective land administration in the Ga State.

6.4.1 Principles

Land administration reforms is a very political, economic, social and cultural activity which must of necessity embody most if not all of these principles, namely participation, adaptability, accountability, equity, efficiency and effectiveness to be successful. With the exception of participation, these principles were explained in the previous chapter during the assessment of LAP I.

The notion of participation implies the direct or indirect involvement of persons and groups in decision-making processes and outcomes that affect their livelihood (Kuafmann et al, 2007). Participation is key because without it public policy making such as LAP I defaults on being adaptable, accountable, equitable, efficient and effective. Participation involves interactive consultation, cooperation, collaboration and representation during the conception and implementation of LAP I. Where participation was adequate as in Gbawe, the outcomes of LAP I all things being equal were appreciably better than in Nungua, Tema and Kpone where the chiefs and people hardly participated. Results of data analysed so far confirms a big difference in the manner the LAP I Project Coordinator, his team and Lands Commission officials consulted, cooperated, collaborated with the Gbawe chiefs and CLS.

Briefly, adaptability of LAP I requires a gradual and incremental approach towards formalization of land records management. Capacity has to be built around local land organizations like traditional council until a CLS like that of Gbawe is developed. Also, fundamental English Common law notions of land title registration need to be adapted to suit each locality's unique situation. This calls for legal flexibility in developing rules of deeds and title registration; institutional flexibility in using local indigenous knowledge for land access and tenure security; and technical flexibility in relying on indigenous

knowledge of local experts and in the use of different data sources to complete cadastral mapping, surveying, recording and registration, and alternative dispute resolution (Arko-Adjei, 2011). These have the potential of being very cost effective, efficient and affordable to urban poor and marginalized in society.

Finally, equity concerns such as compulsory land acquisitions and non-payment of compensation elaborately expressed by respondents, chiefs and landowners directly impinge on LSAs, TDC and Government of Ghana's institutional legitimacy and credibility as enforcer of both rules-in-form and rules-in-use. The Judicial system and LSAs do not have a bird's eye view of the dynamics of Ga land tenure as stated by Dr. Odame-Larbi:

“The Bureaucrats, don't have a birds-eye view of what is happening. You see the Bureaucrat sits in his office, specific files come before him, he looks at the specific files and it goes, until an issue arise, say there is a court action or there is litigation and somebody says you are claiming my whole land, the Bureaucrat looks at what is before him and make a decision in relation to that, If he has any historical knowledge about that particular thing before him, you may bring it to bear, otherwise he looks at what is happening, with that microscopic eye and that is all ... In 2004, when we were invited by the Ghana Bar Conference to make a presentation as to what we call conflicting judgment to them they never understood, and they have always challenged us, when we say there are conflicting judgement, because they have never thought that their judgments conflicted, until we superimpose them on plans and we said per this judgment this area (A) was declared for Sempe Division, per this judgment this same area (A) was declared for Akumadjan Division and when you put them on the Plan, this is what it looked like, then they realized that Oh! Is that what we did? Otherwise, it never occurred to them that what they are doing can create confusion.”

Thus, such misunderstanding of Ga land tenure dynamics renders LSAs and the judiciary ineffective. These statutory bodies rather create a vacuum in land administration and helps protract chieftaincy disputes and power struggles among and between stools and families. Therefore, the principles of participation, adaptability, accountability, equity, efficiency and effectiveness collectively function to promote effective land administration in legal pluralist polities such as exist in the Ga State discussed below.

6.4.2 Attributes of Effective Land Administration

An effective land administration in Ga areas may therefore be conceptualised as an enduring situation whereby the Ghanaian State and or any prospective land user is able to access land through timely processing of certified land documentation for which land the State or the prospective land user suffers no encroachment, litigation or any other form of tenure insecurity. Individual and corporate land users enjoy tenure security when they suffer no encumbrance of any political, financial, physical and cultural nature in the use of their property.

6.4.2.1 Statutory Land Administration

Land tenure changes in the Ga State reflect to a large extent power relationship between the colonial and subsequently the Ghanaian State's hegemony over Ga chiefs and family landowners. The supremacy of the 1992 Constitution of Ghana and statutory lands enacted over the years need to be revised based on the principles of participation, adaptability, accountability, equity, efficiency and effectiveness for effective land administration in the Ga State and throughout Ghana. We examine the laws governing eminent domain to buttress this viewpoint.

The Ghanaian State's legitimate quest for public lands resulted in the enactment of many pieces of legislation to regulate property rights in Ghana. Among these are the State Lands Act 1962 and the Administration of Lands Act 1962 which have been discussed in Chapter Four. The latter Act grants the President powers to declare any stool land public land and empowers the minister to manage stool lands and revenues in Sections 1,7, 17(3), and 48 (1). Also, until amended by State Lands Act.1962 (Amendment) Decree 1968, a mere declaration through publication of an instrument in the public interest vests ownership of an affected parcel of land in the State. Moreover, Section 23(4)(c) and (d) of the Land Title Registration Law 1986 empowers the Land Registrar to register land as state land if

he or she so determines that no person is entitled to be registered as proprietor (Josiah-Aryeh, N.A, 2005).

Briefly, it appears the Ghanaian State has absolute hegemony in its relationship with traditional land authorities. The sheer strength of constitutional powers creates a situation of minimal level of cooperation between statutory and customary land actors. With weakened bargaining power, traditional landowners hardly participate in land law making and adopt counter measures at the implementation to advance their interests.

Effective statutory land arrangement therefore requires some level of revision of the laws of eminent domains to promote participation of traditional landowners and land users in land administration reform process. The mode of public land acquisition, payment of compensation, relations between state and traditional landowners, enforcement capacity and accountability issues need to be reviewed. The drafting of the new Lands Bill must reflect these principles for tenure security to prevail in Ga areas and Ghana.

6.4.2.2 Customary Land Administration- Stool and Family Lands

Stool lands management in Ga areas compared to state and family land such as Gbawe have a very high incidence of tenure insecurity. Some chiefs have recognised the need to cooperate with families and the state in managing stool lands. The Paramount Chief of Nungua states:

“There must be a policy from the government that monthly or quarterly meetings between the Lands Commission and the chiefs be instituted to discuss matters concerning the Nungua Township. Personnel from the Lands Commission cannot sit at the office and know what is happening in a village at Nungua.”

Effective stool and family land administration depends on these variables: the commitment of chiefs and land owners to be impartial in regulating and accounting for their stewardship as trustee; level of formalization of land management institutions and records

keeping; impartial arbitration mechanisms; and cooperation between landowners and statutory land institutions (Gyan, 2010).

Evidence from Gbawe shows that when landowners are committed to ensuring land tenure security, they take proactive steps to experts from both public and private sectors to help demarcate and draw layouts for land use and management purposes. Committed landowners also use the principles of participation, accountability, adaptability, equity and efficiency to establish customary land institutions and structures of decision-making such as the Gbawe CLS to protect their land interests and promote effective land administration and management for succeeding generations.

6.5 Conclusion

Achieving effective land administration reform arrangements, borders on power relational principles of participatory decision-making processes that incorporate accountability, adaptability, equity, efficiency and effectiveness. These attributes largely contributed towards the relative success of land administration by the Gbawe CLS. In view of this, the chapter has discussed the potential benefit of reviewing statutory and customary land administration laws and reforms based on the participatory approach.



CHAPTER SEVEN

SUMMARY CONCLUSION AND RECOMMENDATIONS

7.0 Introduction

This chapter summarises, concludes and makes recommendations for this thesis. The introductory chapter gave a background to the land question in the Ga State, the study objectives, methodology and significance of the study. Literature review in Chapter Two discussed among others debates on origins and nature of African and Ga land tenure institutions; colonial and post-colonial land tenure reforms; ideological debates of post SAP land administration reforms and some effects of land reforms. Chapter Three mainly centred on a discussion of the theories of property rights institutions and change. Chapters Four, Five and Six constitute the results chapters. Chapter Four discussed factors which influenced actors' incentives and interactions in land administration in the Ga State during colonial and post-colonial era. The focus was how such interactions contributed towards land tenure security in Ga areas.

Chapter Five concentrates discussions on the reform efforts. That is, how land laws and policies developed at the constitutional level; interactions and incentives of state and non-state actors at the collective- choice and operational levels. The chapter also generally assessed the efficiency, equity, accountability and adaptability of LAP I before narrowing the discussion on its effect on land access and tenure security in the Ga State. Chapter Six examined from the perspectives of bureaucrats, chiefs, traditional family landowners and land users factors that hamper effective land administration and reforms in Ga areas. Drawing on the reasons accounting for the relative success of Gbawe compared to Tema, Kpone and Nungua traditional areas, the chapter concludes with some proposals for promoting effective statutory and customary land administration in Ga areas and Ghana. The rest of this last chapter discusses the conclusions reached and implications of findings

for politicians, bureaucrats and traditional land authorities in developing and implementing institutional reforms in land administration.

7.1 Summary of Research Process

The primary objective of this research was to investigate the origins, nature and roles of actors in Ga State's evolving land tenure; analyse the incentives structures of these actors; and assess the efficiency, equity, accountability and adaptability of LAP I. In this regard, a thorough review and critique of theories of property rights institutions was conducted as a basis for selecting the IAD conceptual framework which provides the explanatory paradigm of the study.

As a study focused on actors and their interactions within Ga polity and society, the pragmatist approach dominated practical research activities geared towards understanding and unravelling the land question so endemic in Ga State's body-politic (Creswell, 2014). The philosophical assumptions of real-world practical orientation and problem-centeredness of land tenure, the pluralistic nature and consequences of actors' interactions within sequential action situations and arena merited an eclectic approach (Creswell, 2014).

Convergent parallel mixed methods design which involves collecting both quantitative and qualitative at the same time was the research methodology. Qualitative data methods such as review of archival data and official documents, observations, in-depth interviews and focus group discussions with chiefs and bureaucrats at LSAs were simultaneously combined with a household survey of land users in purposively selected traditional areas.

Themes obtained from coded transcriptions of interviews were juxtaposed alongside descriptive statistics of the survey data for analysis and interpretation of the results.

7.2 Summary of Findings

This study investigated the processes by which land administration in the Ga State has developed from the eve of colonial rule in 1860s to 2010. The overarching argument has

been that holding certain exogenous variables constant, politics more than economic and technological imperatives plays a crucial role in land administration in the Ga State. In explaining why land administration has been so chaotic in the Ga State, two hypotheses namely the gradual erosion of trusteeship idea between Ga traditional land authorities and the Ga people and secondly statist control of land administration which often overrides the interests of the Ga people in general were examined. The study establishes to a large extent that intense and sustained re-invention of Ga land tenure by both colonial and post-colonial state and Ga chiefs and intellectuals have led to a situation whereby Ga people and Accra inhabitants lack the mechanisms to hold the Ghanaian State and Ga chiefs and heads of family accountable for stewardship of land resources. The second hypothesis was also confirmed through the analysis of data which proved (except in the case of Gbawe area) minimal involvement of Ga chiefs and land owners in the conceptualization and implementation of LAPI.

7.2.1 Colonial Era

Archival data, government reports and papers as well as some secondary data were heavily relied upon to establish ex ante exogenous variables which determined actors' participation, incentives and outcomes during colonial and post-colonial Ghana. For the colonial period, western culture of colonial expatriates was deemed superior to perceived Ga land ethos which was not considered as adaptive to changing social, demographic, political and economic circumstances of Ga political economy. Cultural bias and poor appreciation of the dynamics of Ga land tenure by the colonial officials resulted in many confrontations which often favoured the colonial State which had coercive power. Divide and rule tactics worked well to weaken nascent Ga civil society. In situations where African land tenure deserved being promoted, versions of 'Akanized' land tenure were often projected to replace Ga land tenure at the collective choice level and court judgements based on English common laws drastically transformed person/family land

relations which was neither European nor Ga (Rathbone, 2000). The Ga people had little or no participation in land law making at the constitutional level. At the collective choice level, Ga chiefs and elite lost their powers to adjudicate land matters in their proscribed '*kpabu*' (traditional court). Ga land tenure experienced displacement, layering, drift and conversion on a large scale due to the introduction of English common laws mixed with some Akan land tenure practices and revised Ga land ethos- legal pluralism.

7.2.2 Post- Colonial Era

Similar strategies were employed by the ruling elites of independent Ghana to break the front of Ghanaian chiefs who controlled majority of customary land in the country. It did not take long to roll out socialist ideology as the driving force behind the Ghanaian State dominance of land law making and regulation. Drastic displacement, layering, drift and conversion of Ga land tenure took place in during the period. The massive intrusion of the nascent Ghanaian State in the Ga land tenure resulted in several allegations of corruption by politicians and public officials in land allocation and management. Commission of enquiries reports indicted many politicians and top public servants even in constitutionally elected governments. Military regimes were more arbitrary as decrees were used to compulsorily acquire Ga lands without compensation. These developments confirm the theory that a state strong enough to protect property rights is also strong enough to appropriate land (Libecap, 1999).

If colonial rule saw the creation of an imposed legal pluralism for land administration, post-colonial rule beginning with the Nkrumah administration intensified state control of land administration in Ghana and the Ga state through several EIs and LIs. The net effect of these practices was the perpetuation of tenure insecurity which resulted in multiple land sales, land litigation, chieftaincy disputes, landlessness, and land conflicts among several others.

7.2.3 From 1992 to LAP I

7.2.3.1 Constitutional Level

Analysis of land laws and policy making in contemporary Ghana remains a purely technical process initiated and implemented by politicians and bureaucrats. Parliament of Ghana is the only avenue through which Ghanaian citizens and Ga people can contribute towards law making. But Members of Parliament (MPs) linkages with their constituencies for citizens' inputs into policy and decision making are weak for many reasons. Therefore Ga chiefs and society have limitations in contributing towards land policies and laws. Interviews and survey results showed that only two Ga chiefs attended some initial meetings during the formulation of LAP I. Also, the survey results showed only 18% of respondents were aware of LAP I after 7 years of implementation. Ownership rates of land laws and policies are abysmally low in the Ga State and many parts of the country.

Incentives of politicians and bureaucrats were considered. Rezoning of some public lands in Accra inures to the personal benefit of politicians and top bureaucrats as they are privy to information and do not pay high market value when these lands are put up for leasing.

Government decision by both the Presidents Kufour's NPP and Mills' NDC to return Ga lands to the chiefs and people under the LAP I project was not a decision based entirely on altruism as political gain for votes among Ga people may be a motive behind the policy.

The study found out that self-interested bureaucrats maximized LAP I budgets for personal benefits. Bureaucrats also engaged in intense lobbying and deal to create and secure positions in the new Lands Commission.

7.2.3.2 Collective-Choice Level

Analysis of survey data and in-depth interviews did not show the prevalence of collusion between chiefs and traditional landowners on the one hand and bureaucrats. Rather, from the chiefs and family landowners' perspectives, LSAs were lambasted for poor performance especially in failing to assist landowners in demarcating their property. Ga

chiefs and landowners also decried the Ghanaian State's excessive use of its coercive power to compulsorily acquire land without adequate consultation and non-payment of compensation to affected stools and families. Estimates obtained from LAP I officials confirm the viewpoint of Ga landowners that some form of compensation (not in full or at market value) has been paid for only a fifth of every compulsory land acquisition in the Greater Accra region. Rezoning of public lands is done without any consultation with the original landowners and some families cast aspersions on the whole rezoning process as means for bureaucrats and politicians to share these plots among themselves and their relatives.

Bureaucrats also gave their perception about the stewardship of Ga chiefs and landowners and generally the land question in Accra. They identified inadequate logistics and a serious shortfall (19%) in the number of professional staff working in LSAs as their biggest challenge. The general notion bureaucrats gave about Ga chiefs and landowners had to do with the latter's inability to administer land allocation, keep proper records of land transactions or collect ground rents efficiently, adjudicate land matters timely and impartially.

Interestingly, bureaucrats generally gave very positive comments about Gbawe chiefs and family landowners. Known to be efficient in managing its vast family land, Gbawe was chosen as a control group for the study. Personal observations and interactions confirmed that there were more accountability structures for customary land administration in Gbawe. Digitized, efficient, accessible and easy to records on all land transactions are kept at the Gbawe CLS and Lands Commission. Gbawe CLS also produces and circulates annual reports on all activities from disbursements of expenditure and revenue from land sales and ground rent, CLS staff training and future projections and set targets.

Empirical evidence from the study documents different responses of chiefs and landowners within similar environments of rising land values in Ga State. Study shows

how perceived direct or indirect benefits motivate and influence incentive structures of Ga chiefs and family heads (Onoma, 2010). Much of Ga stool lands, created during colonial and postcolonial era have been appropriated by the State. Gbawe, Katamanso, Santeo, Oyibi, Gbetsile, Saasabi, Zeenu, Sebrekpo in the Nungua, Tema and Kpone traditional areas are family lands managed by family heads and sub-chiefs. Chiefs in Santeo, Katamanso, Gbetsile among others were also farmers who were keen to see to it that tenure insecurity was relatively minimised. Paramount chiefs in Tema and Kpone allow these families to manage their lands. In Nungua, the stool's consideration of only Oyibi as family land led to distributional land conflict.

7.2.3.3 Operational Level

Land conflicts results in land tenure insecurity. Over 78% of respondents in Nungua compared to a range of 40-49% in Tema, Kpone and Gbawe indicated that they were aware of land conflicts. Also, more than 50% of respondents in Nungua compared to only 16.9% in Gbawe ever acquired and lost their land. Hence, the prevalence of land conflicts correlates with land tenure security. Moreover, respondents ratings of dealings with both statutory and customary land institutions was very good in Gbawe (60%) alone. Ratings were very poor in Tema (88.3%), Nungua (73.6%), and Kpone (52.5%).

Overall, assessment of the effects of LAP I on land access and tenure security showed that Gbawe which actively participated LAP I performed much better than Nungua, Tema and Kpone traditional areas. However, because no previous studies have been conducted on Gbawe prior to this study it is difficult to confirm that its involvement with the LAP I process was the sole reason for its relative success.

7.2.4 Assessment of LAP I

LAP I was poorly conceived and implemented. In terms of efficiency, land resource allocation problems are becoming more acute with landlessness among certain societal classes. Set targets for customary boundary demarcation and registration of land title

certificates were not met in the Ga State. Of the target to issues 50,000 certificates, only 8,000 were issued in Accra and Kumasi combined.

Equity concerns have also become more of a problem as evidence suggest that some stools are putting themselves up as owners of family lands so the Ghanaian State pays compensation to them. The processes for compulsory land acquisition as of the time LAP I ended saw no major changes as policy proposals for revising the process were still being reviewed. The inventory of compulsorily acquired lands in the Ga State progressed at snail pace. Compensation for the completed ones was not paid due to lack of funds.

As a sequel to State creation and recognition of stool lands, Ga chiefs continue to equate jurisdictional rights to proprietary rights. As a national land administration project, the cultural attributes of the Ga people and land tenure which emphasise land belonging mostly to families and not stools attest to LAP I's incompatibility with known Ga land tenure. In the first instance, consultation process during LAP I design and implementation was negligible. LAP I was therefore not adapted to suit and improve Ga land culture.

Finally, the principle of participation of all stakeholders in land decision-making processes which has been absent in the unilateral statutory land laws legislation also remained very minimal with LAP I formulation and implementation. Evidence from in-depth interviews, FGDs and land survey and official reports suggest an appraisal of processes of incorporating participation, accountability, adaptability, efficiency and equity in land administration and reforms in Ga areas and Ghana at large.

7.3 Limitation of Research Findings/ Outcomes

Few studies in 1990s have discussed how traditional and urban African polities like the Ga State buffeted by the Ghanaian State is coping with economic, political and socio-cultural factors driving exogenous and endogenous changes in land tenure relationship and outcomes. The study relied heavily on narrative analysis methods. Hence the findings are

specific to the Ga State and can therefore not be generalized beyond polities with similar characteristics like that of the Ga State.

7.4 *Implication of Research Findings/ Outcomes*

Literature is replete with information on how modern states manage land tenure. Literature is clear about how legislation can fast track development in African states. Moreover this study shows that unless the legislative process for bringing up new institutions is participatory and inclusive of viewpoints of minority ethnic polities like the Ga people, national efforts like LAP I are bound to have little impact. Emerging land laws and institutions need to be legitimised by those it affects. Without such accountability measures land institutions remain rules in form and not rules in use.

As a conflict preventive study, this study helps give a better understanding of a volatile situation that has been a problem and likely to cause further problems in the future. There is non-rationality and inconsistency in deciding land tenure issues. This study brings out the need for rationality and consistency to address the near arbitrariness on the part of officials and chiefs in land law making and enforcement in Accra.

Also, the study clearly shows that superimposing external monitoring and sanctioning rules with low enforcement capacity by the Ghanaian State creates relatively more anarchy and disorder in Nungua, Tema and Kpone traditional areas than the Gbawe area.

Moreover, the study contributes to the literature which claims that broadening rule making processes reduces high transaction costs for monitoring and enforcement of sanctions. The study also shows that credible property rights institutions and creation and change must be based on trust and participation of all actors as both agents and principals are both boundedly rational.

All things being equal, the relative success of Gbawe attests to how beneficial high levels of participation, transparency and accountability structures/ mechanisms are. The Gbawe land owners invested a lot of resources in developing suitable rules in form that were

participatory, transparent and accountable before they engaged the services of LSA experts who rendered professional services and facilitated the relationship between the Gbawe landowners and the Ghanaian State. In Nungua, Kpone and Tema, the relationship between land owners and the Ghanaian State were not very strong compared to Gbawe.

The original contribution of this work lies with how power relations between actors determine land law making at macro and micro levels in urban Ga polity. By setting aside the dominant view propounded by Knight (1995) and widely shared among new institutionalism that institutions emerge as a result of mutual cooperation among actors, this study shows how power dynamics determine which property rights institutions are created as espoused by Moe (2006).

Also, the study shows that the assertion that all things being equal agents are more informed in the principal agent theorem has proved not to be the case here. Technocrats and top legal luminaries who design land administration reforms and rule on Ga land tenure appear to be less informed than the principals or Ga people.

Within the broader new institutional economics theory that strong property rights institutions are desired by rational actors who want to reduce high transaction cost associated with weak institutions, a conclusion drawn from the analysis of property rights institutions in the Ga State indicate that land owners particularly some chiefs with jurisdiction over stool lands and some politicians and bureaucrats benefit from the status quo and have little incentive to support the change process proposed in LAP I.

Finally, the study outcome poses new questions for further research. These include:

1. Why do Ga family and society members who feel countenanced by the poor stewardship of family heads and chiefs fail to take collective action to ensure accountability and land tenure security?
2. What significant role does culture and ethnicity play in land administration reforms in Africa?

3. What are the issues of convergence or divergence and the implications of land conflicts on development prospects in African states?

Answer to the above questions help explain why less powerful actors who constitute majority or principals are excluded in decision making processes in Africa. It is plausible to state that broadening rule making processes to include society members reduces high transaction cost for ensuring enforcement. The participatory nature of property rights institution creation has the potential to eradicate the menace of legal pluralism or as Ekeh calls it two publics as both 'modern' African state merges with traditional African state/society. Development of African people and resources which is the main purpose of land administration and reforms can become a reality when the voiceless majority located in rural and urban areas become part of the modern state in Africa and reinforce accountability.

7.5 Conclusion

The use of the IAD framework in this thesis has contributed to our understanding of the land question in the Ga State. Many changes have occurred with regards to the exogenous variables in all the study areas. Among these changes are the decline in trusteeship ideals of Ga land tenure and prevalence of the Ghanaian State's imposition of external monitoring and enforcement regimes which are barely capable of imposing sanctions on violators of rules. The central problem of the land question in the Ga State still persist despite interventions like LAP I.

The predictive function of the IAD shows that institutions of land administration in the Ga State remain largely extractive rather than inclusive. This phenomenon among others results in the pervading land tenure insecurity. If inclusive institutions are not created in the near future, the land question may become more acute leading to an escalation of land conflicts in the Greater Accra region.

A careful analysis of how African statutory and customary land laws develop over the years suggests that not much mutual cooperation ensued in the process. Conflicts, tensions and distrust characterised the whole process. Much antagonism existed between the chiefs who emerged dominant and family heads, *wulomɔi* (displaced by chiefs on land control) among others in changing customary land tenure from pre-colonial, colonial and post-colonial times.

The relationship between the colonial state and Ga chiefs and other social forces such as the Aborigines Rights Protection Society (ARPS) in changing land administration in the Ga State was more acrimonious than of mutual cooperation.

Not much attention has been paid to how participatory the process of property rights institution creation has been in Sub-Saharan Africa. The problems of land administration should be examined from the political perspective and not only economic as politics determines the outcomes. The notion that property rights institutions are a product of mutual cooperation between actors has not and is not the reality in the Ga state.

The failure of the colonial State, Ghanaian State and the Ga State to secure access and tenure security for most lands within the study areas raises a number of concerns. The problems of land administration in the Ga State is a reflection of lack of ownership of land administration change processes by the ordinary indigenes and those who are most affected by statutory and customary land laws. The Ga people have entrusted their chiefs and state authorities with power to hold land in trust for their benefit.

The state land laws and policies do not adapt to Ga land tenure as Ga chiefs and Ga people do not agree or actively took part in most of the laws created and enforced by the state. The processes were not transparent. Bureaucratic rezoning processes of public and private Ga lands remains a black box not open to public scrutiny.

In a nutshell, land administration in the Ga State in Ghana is about social engineering through law as an accelerator of social change, with legislation as its key instrument.

Administrative pathology arises when bureaucrats and other public office holders use discretionary powers at their disposal to make land laws aimed at speeding the wheel of development (Ocran, 1978). But, such discretionary powers need to be controlled particularly in Africa which has many transitional societies. Excess and uncontrolled power in the hands of bureaucrats and other public office holders may and often results in the violation of the economic, political, socio-cultural and human rights of individuals and groups of people.

We may say this has been the case of the Ga people and the Ga state. Administrative pathology generally results in arbitrariness and bureaucratic insensitivity. Corruption, bureaucratic under organization and illegalities directed at individuals or groups of persons are some examples of arbitrariness on the part of public office holders. In many instances, the motive of such behaviour is the actualization of their private ends using their positions. These public officers act *ultra vires* beyond the scope of their authority out of sheer malice or by accidental 'good faith' to thwart or sabotage the social, economic and political aims of implementing land administration policies such as LAP I. Bureaucratic insensitivity refers to the slowness with which public officials serve clients (Ocran, 1978). In the absence of a public service and judicial charters in Ghana, many citizens experience insensitive acts by bureaucratic working in the land sector agencies.

7.6 Recommendations

Based on the conclusions, generally there is the need for public policy makers to use social science research methods to learn about the effects of the pieces of laws they legislate and use the feedback from these researches to amend the laws to make them more enforceable. Research on consultative processes that addresses politics of power distribution in Ga society is necessary for improving land access and tenure security. Research decentralization and enforcement of land administration and reforms decision-making

processes is generally recommended. The study makes the following specific recommendations:

1. Lands Commission should consult, collaborate and negotiate with stools and family landowners to have representation within LSAs and to establish land boards, customary land secretariats (with membership drawn from indigenes, migrants, civil society, state, chiefs, families, labour and corporate entities) to develop composite maps and lay-outs of all Ga State land depicting boundaries of traditional areas, family lands.
2. The establishment of an independent commission of enquiry that utilizes indigenous knowledge to register, gazette and publish all Ga land titles and stool and family heads succession and also examine the prospects of designing a land insurance scheme to regulate Ga land market.
3. Public education, training and participation of landowners and users in the establishment of CLS for Nungua, Kpone and Tema.
4. Adaptation of cultural concerns of major traditional polities in the formulation and implementation of LAP II.
5. Lands Commission, the Judiciary and Ga persons with high indigenous knowledge should collaborate to review Ga land norms, laws and advise on how to make statutory law such as the Head of Family Accountability law more acceptable and enforceable.

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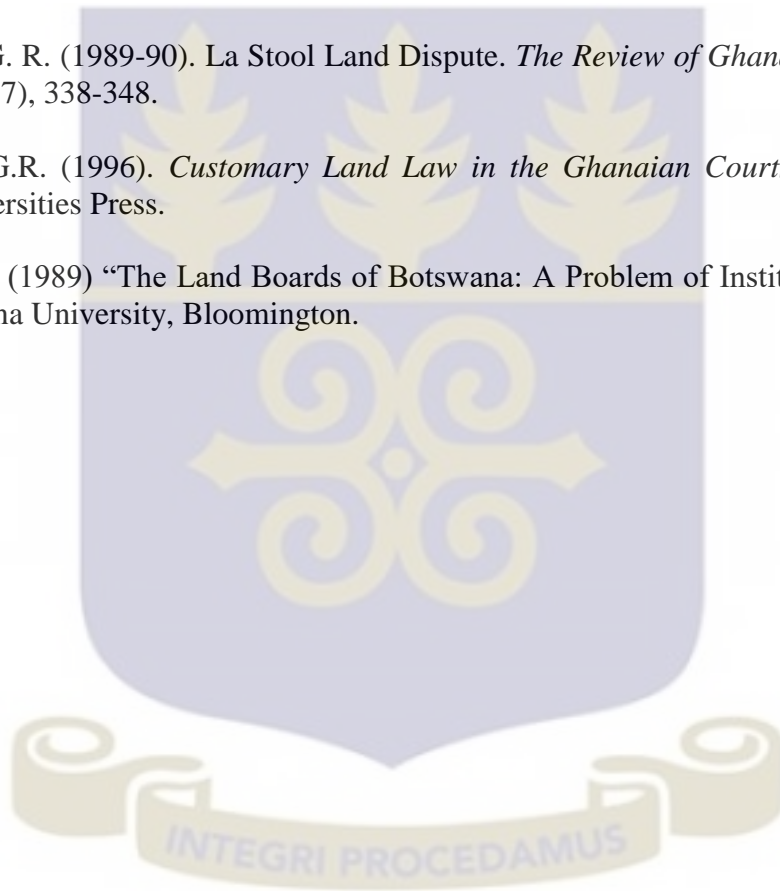
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APPENDICES

Appendix I: In-depth Interview for Chiefs and Land Owners

Section A

1. Apart from you who would you say have control over land in this traditional area? (State, chiefs, traditional council, registrar, land allocation committees, clan and family heads of land owning families)
2. How do you relate with these groups you have mentioned?
3. What are your key interests in land in this traditional area? (personal and on behalf of your people)
4. What strategies do you use to achieve your interests? (New rules, public education, arbitrations, legal, enforcement?)
5. What outcomes have you achieved using the various strategies especially in resolving land related problems in this area?

Section B

6. What historical, social, economic, cultural and political factors determine the strategies you use in (re)acquiring and administering land in your area?
7. What major changes have you made with regards to land administration? (securing land from encroachers, giving out land to indigenes and migrants, relating to state authorities on issues of land registration, compulsory acquisition, legal matters, CLS)
8. What is driving these changes? (Personal ideology, best practices, pressure groups, LAP, etc.)

Section C

9. In what ways have LAP brought changes to customary land administration in this traditional area? (Activities, outcomes, etc.)
10. Traditionally, what accountability structures exist in this area when it comes to land matters?
11. Have there been any changes since the introduction of LAP?
12. How do you account to your subjects, family members when it comes to land matters today?

Appendix II: Household Survey Questionnaire

Identification (To be filled by interviewer at the beginning of the interview. Interviewer must confirm with the respondent that the latter has lived in the in the enumeration area for at least two years before proceeding with the interview.)

Traditional Area Name Questionnaire ID

Name of locality/ Enumeration Area

House Number

A1. Description of Locality

1. Indigenous settlement
2. Migrant settlement
3. Mixed settlement

A2. Dominant Mode of Land Administration

1. State land administration
2. Stool land administration
3. Family/Clan land administration
4. Mixed (state/stool/family) land administration

Name of Interviewer ID Number.....

Date of InterviewStart Time Time Completed

Name of Supervisor

Editor's Code



A3. Household Size and Composition (Starting with Respondent/Household Head)

Sex	Age	Relationship to Household head	Occupation	Education (highest level of education)
1. Male 2. Female		1. Head 2. Husband/wife 3. Son/daughter 4. Grand child 5. Father/mother 6. Relation of head/spouse 7. House help 8. Other non relation	1. Civil Servant 2. Other Public Services 3. Parastatals 4. NGOs 5. Cooperatives 6. Inter. Org/Diplomatic Mission 7. Private Sector formal (incl paid apprentices) 8. Private Sector Informal 9. Farmer/Agric Business 10. Unpaid Apprentice 11. Student 12. Carpenter 13. Tailor/dressmaker 14. Land guard 15. Traditional authority 16. Unemployed 17. Pensioner 18. Other (Specify).....	1. None 2. Preschool 3. Primary 4. Middle/JSS 5. Vocational/Commercial 6. O-Level 7. SSS 8. A-Level 9. Training College 10. Tech/ Professional 11. Tertiary 12. Koranic 13. Other (specify)

A4. What is your nationality?

1. Ghanaian (by birth)
2. Ghanaian (Naturalized)
3. Non-Ghanaian

Please indicate your nationality

A10. Have you or your spouse/household ever owned land(s) in this area or any other area in the **Ga State** and lost part or all that land ownership before?

1. Yes Area..... Size
2. No [If no, skip to A18]

A11. If yes, from whom did you obtain the land?

1. Chief/ stool
 2. Family head
 3. Male relative
 4. Female relative
 5. Non relative
 6. Government
 7. No one
 8. Other (Specify)
-

A12. Under what circumstances did you lose part or all the land? (multiple choice)

1. Multiple claims
 2. Indeterminate boundaries
 3. Breach of contract by former owner
 4. Breach of contract by potential buyer
 5. Family Disputes
 6. State acquisition
 7. Other (Specify)
-

A13. To whom did you or your household lose the land?

1. State/government entity (compulsory acquisition, vested land)
2. Chief/ traditional council
3. Another family
4. Same family member
5. Member of same ethnic group
6. Member of different ethnic group
7. Commercial entity
8. Other (specify)

A14. Was the land you lost registered by the state?

1. Yes

2. No

A15. What measures did you or your household take to secure the land you lost? [Legal, Political, Socio-cultural, Economic, Physical]

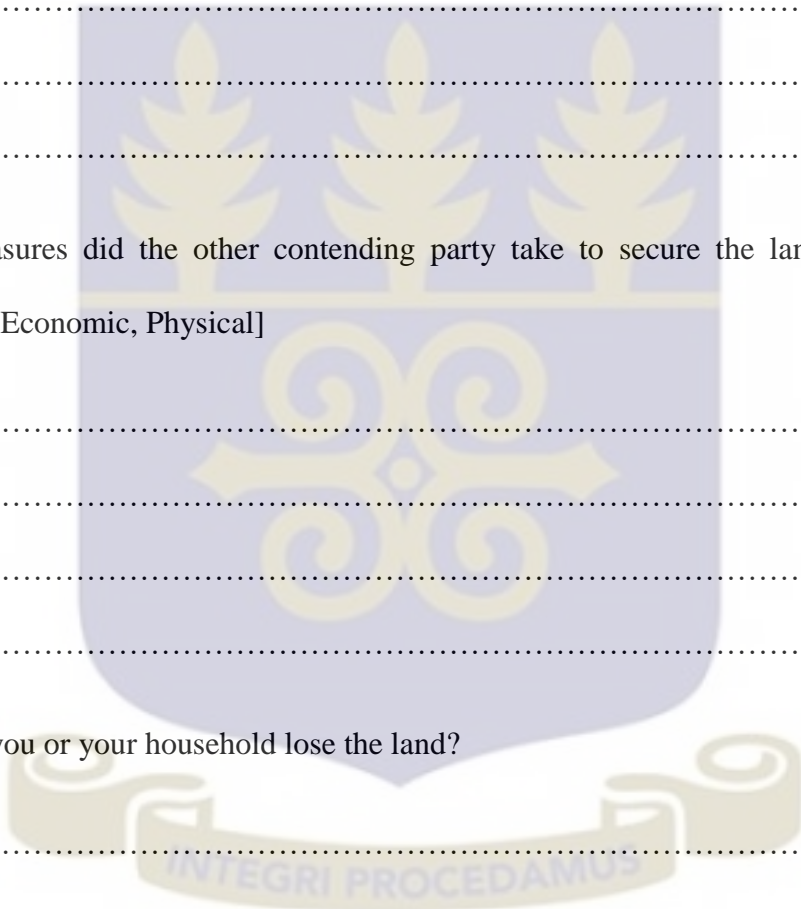
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A16. What counter-measures did the other contending party take to secure the land from you? [Legal, Political, Socio-cultural, Economic, Physical]

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A17. How and why did you or your household lose the land?

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A18. Have you or your spouse/household ever tried to acquire land/landed property in this traditional area and any other part of **Ga State**? 1. Yes 2. No (Skip to 21)

Location	Land type	From whom did you try to acquire the land	How many times did you try to acquire land	Purpose	Nature of Title	Deal Type	Payment	Amount/Year	Outcome	Reason(s)
	1. State land 2. Vested land 3. Stool land 4. Family 5. Clan land 6. Individual	1. State /government 2. Chiefs 3. Family head 4. Clan head 5. Male relative 6. Female relative 7. Non-relative 8. No one 9. Other (Specify).....		1. Housing/residential 1. Business activity 2. Farming 3. Other (specify)	1. customary 2. freehold 3. leasehold 4. Other (specify).....	1. oral 2. written 3. Both (oral and written) 4. Exchange (specify)	1. Drink 2. Money/cash 3. Free/gift 4. Drink & money 5. Exchange (specify)		1. successful 2. Not successful	

A19. If yes, what difficulties did you face?

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A20. How did you make the initial contact with owner of the land?

- | | |
|----------------------|-------------------------|
| 1. By self | 4. Family |
| 2. Through Neighbour | 5. Friend |
| 3. Work Colleague | 6. Other (specify)..... |

A21. How does one go about acquiring land for housing in this area? [Please probe for details and find out if one was able to use the land for the purpose originally intended]

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A22. Generally, how difficult is it to acquire land in your area? (To be filled by all respondents)

No.	Land Type/purposes	Duration for acquisition (Years)	Remarks
	State land		
	Vested land		
	Stool land		
	Family/clan		
	Individual		
	Housing/ residential		
	Business activity		
	Farming		
	Other (specify)		
			1. Very difficult 2. Fairly difficult 3. Somewhat difficult 4. Not Difficult

A23. What makes it **difficult or not difficult** for one to acquire land in this area? (Multiple answers)

Difficult	Not Difficult
<ol style="list-style-type: none"> 1. No land available 2. Expensive 3. Buy through middlemen 4. Land not registered by state 5. Land not registered by owner 6. Activities of land guards 7. Fell into the hands of fraudsters 8. Corrupt land owners 9. Corrupt land officials 10. Delays in processing land papers by landowners 11. Delays in processing land papers by land sector agencies staff 12. Buying unsuitable land 13. Buying prohibited land from false owners 14. Dispute among same family 15. Disputes among different families 16. Multiple sale of land 17. State has acquired most lands 18. Indeterminate boundaries 19. No layout for area 20. Other 21. Other 	<ol style="list-style-type: none"> 1. Land not expensive 2. Land is registered by state 3. Land registered by owner 4. No multiple sale of land 5. Not difficult to transfer land 6. No land guards 7. Unity among land owning family 8. Land is available 9. All land demarcated 10. Layout for land strictly enforced 11. Other 12. Other 13. Other

NON-LANDOWNER SECTION:

A24. What do you think are the reason(s) why you currently do not own the land in the area? (you may refer to codes A23 above)

1. Cannot afford the price of land
2. Not interested
3. Land is not available
4. Other (specify)

LANDOWNERS SECTION (Only respondents who own land)

A25. How did you acquire the piece of land you own in this traditional area?

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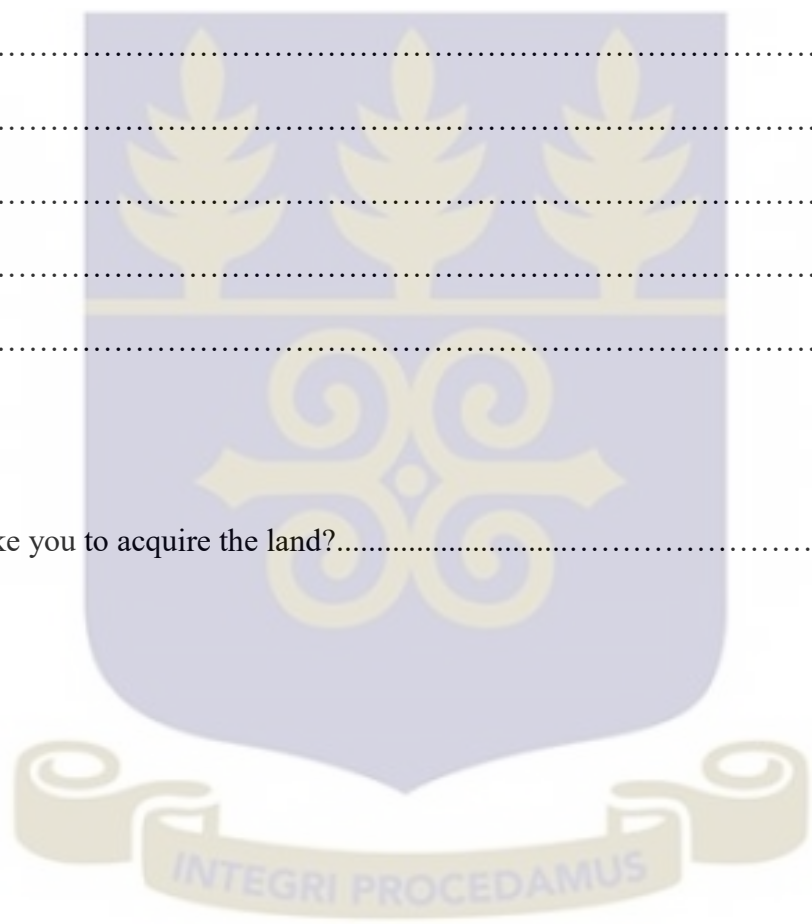
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A26. How long did it take you to acquire the land?.....



A27. Which customary institutions/persons did you deal with and what was the nature of the dealings?

Institution/Person	Which services did they provide? (Refer to codes below) A	Which difficulties did you face ? B	How did you overcome them? C	State of Dealings 1. Concluded 2. Not concluded 3. Still in progress D	Duration (months) E	How satisfied were you with these services? (1 – 5 scale) F
Chief						
Traditional council						
Family/ head						
Clan head						
Wulomo						
Chief/family surveyor						
Trad. council registrar						
Land guard						
Queen-mother						
Customary Land Secretariat						
Real Estate Developer						
Lawyers						
Civil Society Organisation (NGO)						
Land Allocation Committee						

Codes for Ques. A27 and A28

Type of Service(s) A	Nature of Difficulties B	Action(s) C	Rating of Satisfaction F
1. Information/ counseling 2. Site visitation 3. Processing of land papers 4. Signing land papers 5. Providing receipts 6. Arbitration 7. Facilitation of land papers processing 8. Land demarcation 9. Registration of land documents 10. Verification of land documents 11. Provision of service plots 12. Insuring property 13. Facilitation of negotiations 14. Legal counsel 15. Security on land 16. Other (specify).....	1. Multiple sale of land 2. Land under litigation 3. Inability to get signed documents 4. No receipts 5. Fraud 6. Unusable land 7. Problems with land guard 8. Problem with land owners 9. Negotiation problems 10. Delays in processing land papers 11. Delays in demarcation land 12. Corruption 13. Overbearing official costs 14. No building permits 15. Threats to life 16. Other (specify).....	1. Reported to law enforcement agency 2. Court action 3. Reported to traditional authorities 4. Sold property 5. Built walls/ structures to secure the land 6. Negotiated with contending faction 7. Negotiated with landowners 8. Insured property 9. Paid off land guards/youth 10. Regular surveillance 11. Placed squatters on land 12. Rented to garage/ traders 13. Bribed to finalize land documents 14. Finalized legal documentation to land 15. Other (specify).....	1. Excellent 2. Very good 3. Good 4. Poor 5. Very poor



A28. Which statutory institutions/persons did you deal with and what was the nature of the dealings?(Please refer to codes above)

Institution/Person	Which services did they provide?	Which difficulties did you face?	How did you overcome them?	State of Dealings 1. Concluded 2. Not concluded 3. Still in progress	Duration (months)	How satisfied were you with these services? (1 – 5 scale)
Lands Commission						
Survey Dept.						
Land Valuation Board						
Town and country Planning						
Land Title Registry						
Office of the administrator of Stool Lands						
District Assembly						
Judiciary/ land court						
Police						
Lawyers						
Surveyors						

A29. How did you find your way to the real landowner?.....



SECTION B- SOCIAL NETWORK AND LIVELIHOOD ACTIVITIES

B30. How long have you lived in this area?years.

B31. What is your main livelihood activity?

B32. Does your main livelihood activity take place here in this area?

- 1. Yes
- 2. No

B33. If yes, do land issues affect your livelihood activities?

- 1. Yes
- 2. No

B34. Please give reasons for your response

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B35. Did you require additional land for your livelihood activities?

- 1. Yes
- 2. No

Purpose for additional land

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B36. If yes, did you get the additional land?

1. Yes
2. No

B37. Please explain your answer in Qu. B36.

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B38. To which association do you belong to? (Multiple choice)

- | | |
|-------------------------|---|
| 1. Business association | 6. School association |
| 2. Asafo company | 7. Church organization |
| 3. Professional Bodies | 8. Youth association |
| 4. Workplace welfare | 9. Ethnic based development association |
| 5. Royal | 10. Other specify..... |

B39. Are you and your household active members of this community?

Activity	1. Yes 2. No	Number of times	Member of organizers? 1. Yes 2. No	Remarks
Local elections				
National elections				
Demonstrations				
Communal labour				
Coronation/destoolment of chief				
Festival				
Payment of development levies				
Land allocation committee				

B40. How does your network/relationships help you overcome problems related to your plot(s) of land?

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B41. Does your membership in an association help you get easy access to services offered by the following:

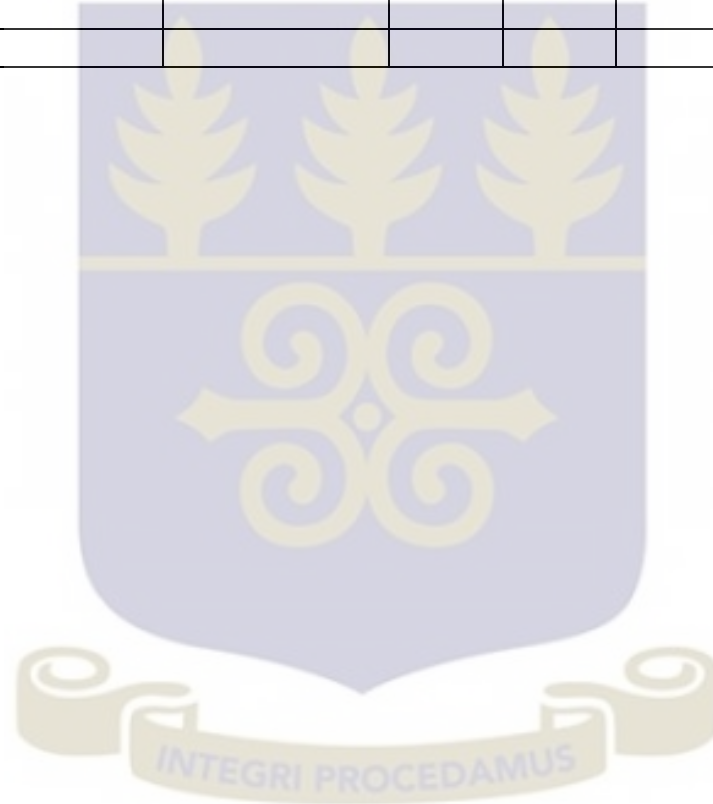
No.	Institution(s)	1. Yes 2. No	In what ways (Please use their experience with the agencies to get responses)
1.	Lands Commission		
2.	Survey dept.		
3.	Land valuation board		
4.	Town and country Planning		
5.	Office of the administrator of Stool lands		
6.	Land title registry		
7.	Traditional council		
8.	Regional house of chiefs		
9.	Chief		
10.	Family head		
11.	Clan head		
12.	Wulomo		
13.	Individual land owner		
14.			

SECTION C- CHANGES IN LAND TENURE

C42. In your dealings with customary and statutory land institutions, what change(s) have you observed?

Institutions	Change(s))	What is the Change if yes?	Who do you think are the drivers of this change?	Do you see any opportunities to contribute towards these changes?		How could one contribute?	If no: what do you think is hindering you?	Rating
				Yes	No			
	1. Yes 2. No 3. Don't know	1. Institutional restructuring 2. New laws 3. Changes in procedure 4. Improved facilities 5. Other specify	1. Local leadership 2. Donor 3. Pressure groups 4. Constitution 5. Politicians/B'crats 6. Other specify.....	Yes	No			1. Significant improvement 2. Improved somehow 3. No change 4. Deteriorated
Lands Commission								
Survey dept.								
Land valuation board								
Town and country Planning								
Office of the administrator of Stool lands								
Land title registry								
Traditional council								
Regional house of chiefs								

Chief								
Family head								
Clan head								
Wulomo								
Individual land owner								



C43. Have you heard of the on-going Land Administration Project (LAP)?

1. Yes

2. No

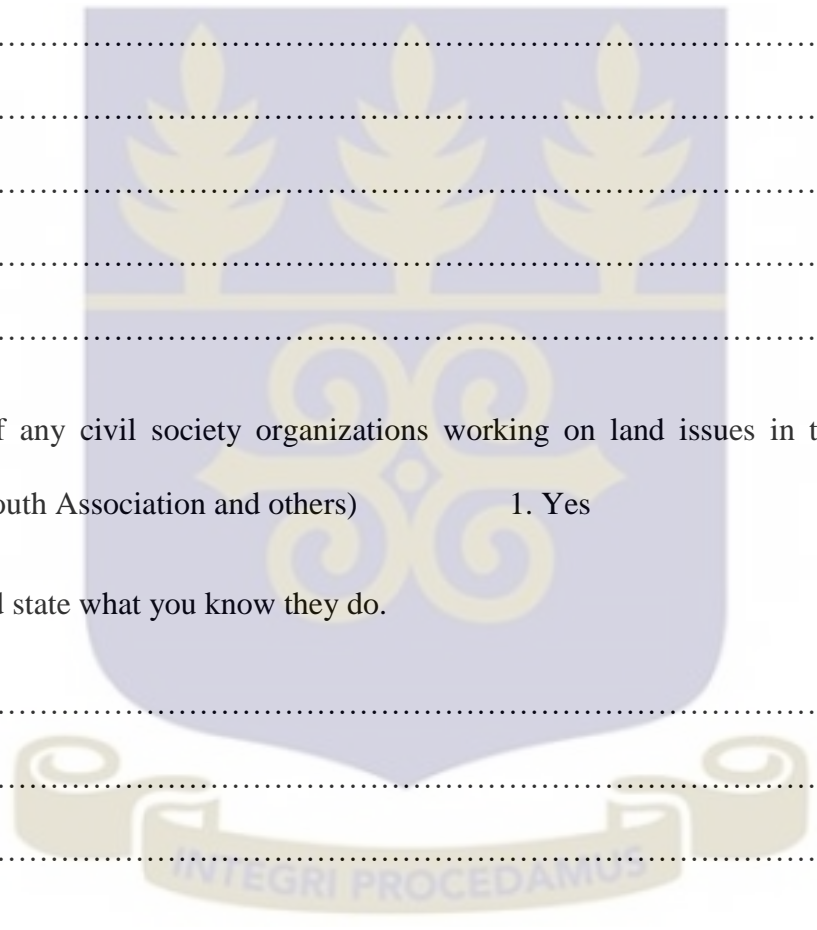
C44. If yes, what do you know about LAP and how involved are you their activities?(attending meetings, programs, serving on committees etc.)

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C45. Are you aware of any civil society organizations working on land issues in this area? (CIPOL, DEDEP, Ga Dangme Youth Association and others) 1. Yes 2. No

C46. If yes, mention and state what you know they do.

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D49. If yes, who are these and what difficulties do they experience in relation to the land tenure system?

(Multiple responses possible and rank in order of who is most at risk.)

Group	Ranking	Difficulties
	1 – Very Difficult 2 – Fairly Difficult 3 – Somewhat Difficult 4 – Not Difficult 5 – Don't Know	1 – They are discriminated against under inheritance rules 2 – They have difficulty getting lineage land for use 3 – They have difficulty acquiring state lands 4 – They easily lose their land 5 – Other (specify).....
Women		
Migrants generally		
Migrants from specific ethnic groups (specify).....		
Indigene (subject)		
Poorer members of community		
Others (specify)		



D50. Are you aware of any major land conflicts/ disputes in this area?

1. Yes

2. No

D51. If yes, what factors cause land conflicts?

Nature of Conflict	Cause	Observations
Boundaries of land		
Multiple claims		
Breach of contract by former owner		
Breach of contract by potential buyer		
Other (specify).....		

D52. Have any of the conflicts affected you personally?

1. Yes

2. No

D53. Please explain your answer.

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D54. For the land problem and conflict which have affected you personally, what role did state and customary institutions play to solve the problem? (Nature of problem, action taken, duration, rating the experience, perception of respondent.)

Nature of Problem	Action Taken Cust. Or State inst.	Duration	Perception of respondent of land agency or person who was involved in resolving the issues (eg. Corrupt, took sides, delayed the processes)	Rating the Experience
				1. Excellent 2. Very good 3. Good 4. Poor 5. Very poor
Boundaries of land				
Multiple claims				
Breach of contract by former owner				
Breach of contract by potential buyer				
Other (specify).....				

D55. Is your area affected by land scarcity?

1. Yes

2. No

D56. Please, explain your answer.

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D57. Are you in favor of compulsory land acquisition by the state?

1. Yes

2. No

D58. Please explain your answer.

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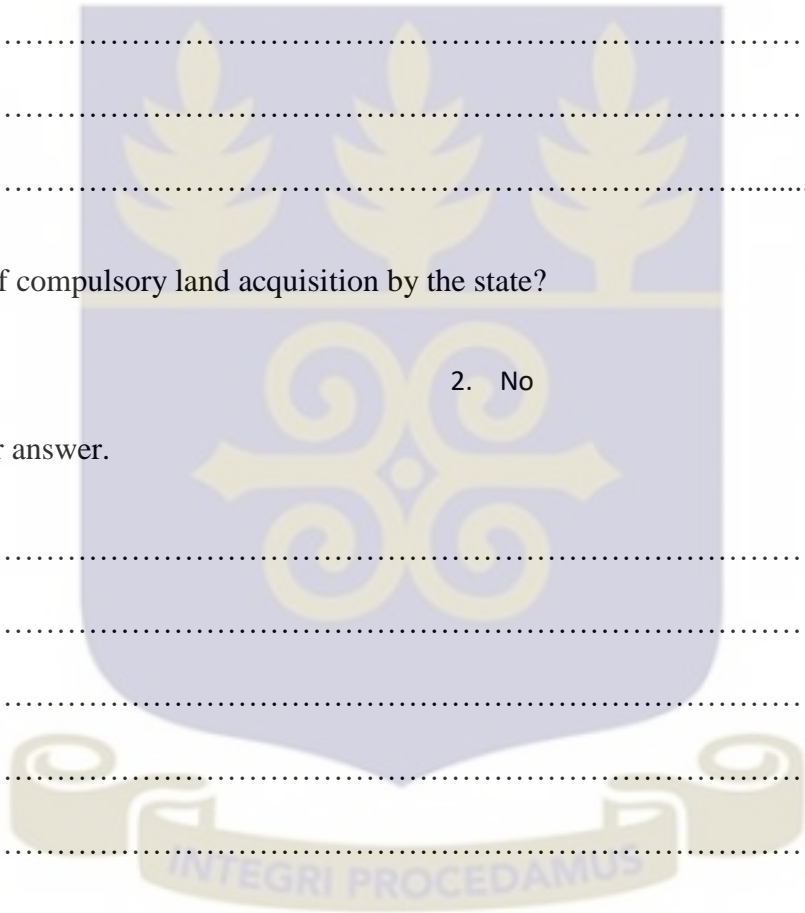
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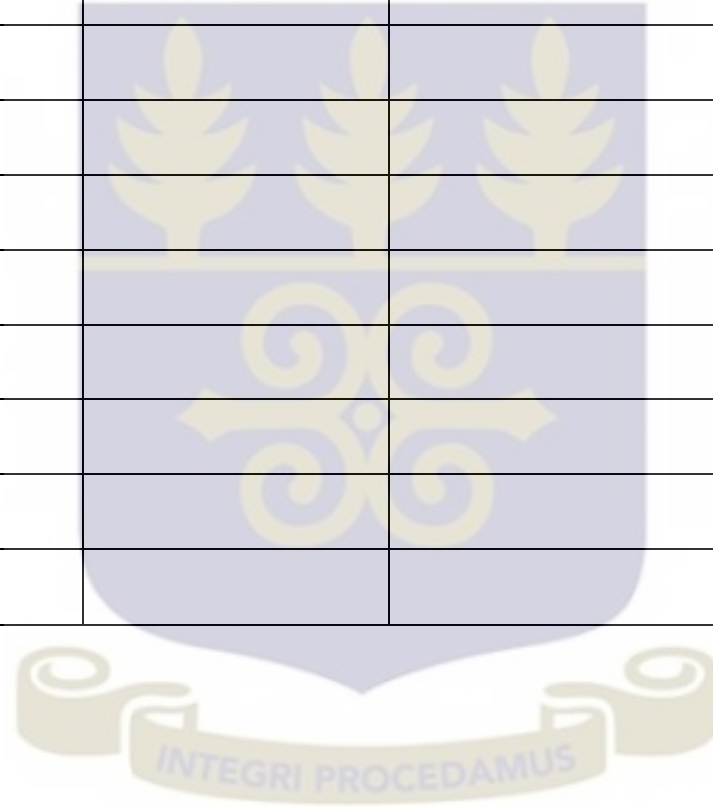


SECTION E- ACCOUNTABILITY OF STATE AND CUSTOMARY INSTITUTIONS

E59. Are you aware these institutions are accountable?

Institution/Actor	Awareness 1. Yes 2. No	Do they Account ? 1. Yes 2. No	If they do, how do they account for the following?			Ranking 1. Very satisfies 2. Fairly satisfied 3. Somewhat satisfied 4. Not Satisfied 5. Don't Know
			Proceeds from land	Changes in rules and customs	Stewardship (general)	
Lands Commission						
Survey dept.						
Land valuation board						
Town and country Planning						
Office of the administrator of Stool lands						

Land title registry						
Traditional council						
Regional house of chiefs						
Chief						
Family head						
Clan head						
Wulomo						
Individual land owner						



E60. How do you hold the following institutions and persons accountable for their actions?

Institution/Actor	Activities by respondents (eg Destoolment, protests, court actions, reporting to media or higher authorities, voting government out of office, boycotting services of land sector agency or chief/ land owner)	How effective are your actions?
Lands Commission		
Survey dept.		
Land valuation board		
Town and country Planning		
Office of the administrator of Stool lands		
Land title registry		
Traditional council		
Regional house of chiefs		
Chief		
Family head		
Clan head		
Wulomo		
Individual land owner		

E61. Which of the following aspects of land administration are you able to negotiate? (Multiple choice)

- 1. Land rights
- 2. Land prices
- 3. Other

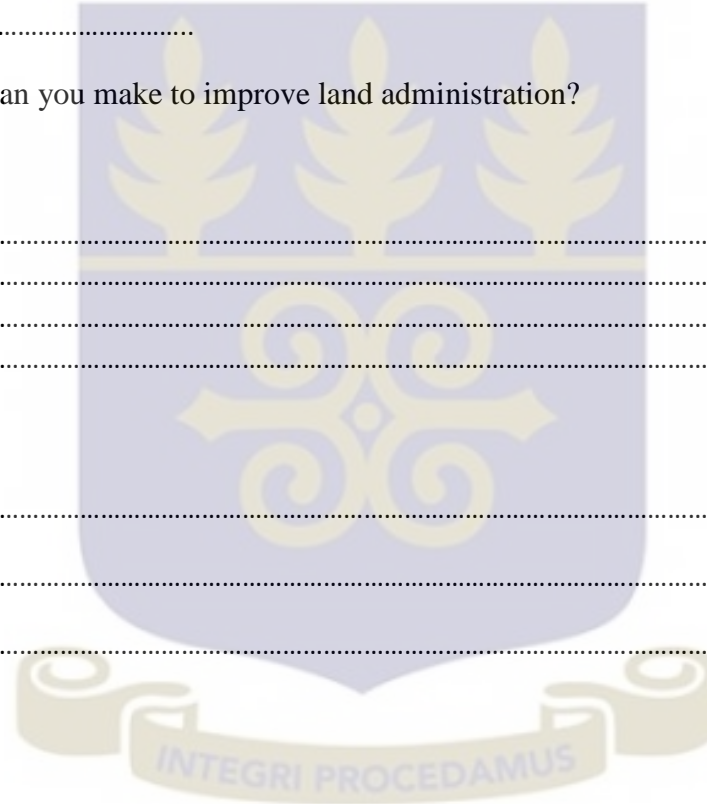
E62. What general recommendations can you make to improve land administration?

A. Customary

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B. Statutory

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Appendix III: In-Depth Interview Guide for Politicians and Bureaucrats

1. Name of Respondent
2. Gender of Respondent
3. Name of Organization
4. Position/Rank in Organization
5. Location of Organization
6. Contact Details
7. Name of interviewer
8. Date of interview
9. Duration of Interview



Section A- Historical Context

1. As a bureaucrat/politician, what are you and your organizations/ government's general perceptions of land administration within the Ga State since 1957?
2. As a bureaucrat/politician, what do you consider to be the major political, economic and social events that have influenced current developments of land administration in the Ga State? (Colonial legacy, competition and value of land in Accra, ideology of state for development, change in regimes, institutional arrangement, civic riots, land conflicts, ethnic mobilization etc.)
3. How has these past events impacted on decision making processes of land administration in Accra today?
4. Since independence, what key changes would you say have occurred between the Ghanaian State and the Ga State relationship so far as land administration is concerned?
5. Do you think past events play a decisive role in how the State and the Ga State relate presently on land matters? Kindly elaborate on your answers.
6. As a bureaucrat/politician, what current land administration problems do you and your organization/ government consider as having to do with past policies on land and requires immediate resolution? (probe for current public policy on land administration, eg LAP)

Section B- Decision-Making Processes

7. Who are your organization's major stakeholders when it comes to making a new statutory land law or implement a land policy and how do they contribute towards the process? (society leaders, business interests, wealthy individuals, international development partner, media, military, political party)
8. What is the status and effect of individuals or organizations which support or oppose a new statutory land law or policy? Can we use a recent example like LAP or a law for compulsory acquisition in any locality within the Ga State

9. How long does it take to formulate a policy (Elaborate on steps, and functions of organizations involved)

Section C- Societal Pressures and Interests

10. What factors affect you the most when it comes to making decisions on land administration reforms?
11. Does your organization have any channels of contacts with the Ga state?
12. Are these contacts formal or informal? Frequency, permanent or ad hoc basis
13. Who represents the Ga State? Are they mobilized or divided?
14. Do you involve representatives of the Ga state your organization's land administration decision making processes?
15. What pressure(s) do representatives or members of the Ga community exert on your organization?
16. How do you deal with such pressures? Can you use a typical issue to illustrate your response?
17. In what ways do such pressures influence land administration decision making processes in your organization?

Section D-Perceptions of Policy Elites

18. Please, how did you get to work in a land sector agency? Has it got to do with your educational background? Schools attended, where and when, list of qualifications.
19. Have you been involved in any other training programme that has enhanced your capacity to perform your job? Certificates obtained, workshops attended, funding,
20. What social, cultural, economic values/goals do you as an individual hold? Do you think agents (politicians, bureaucrats and traditional leaders must be

accountable to their principals? (Politicians, electorate, subjects/ citizens/ clients etc.).

21. With regards to decision-making on land matters, do you think the state should legislate and enforce laws all by itself or should involve other stakeholders such as land owners and users?
22. How should decision-making process proceed? Bottom-up, top-down, consensus building, unilateral, incrementally, comprehensively
23. Are you ideologically neutral? No beliefs in African socialism, democratic socialism, liberal democracy, mixed economy? Are you focused or have diffused ideology?

Section E-Perceptions of Elites on Policy Reforms

24. What do you perceive to be the ideology of the various governments you have worked for as far as land administration is concerned? Any variations? How does that affect decision making?
25. Does decision-making processes change when different governments come into power?
26. Do bureaucratic procedures and personnel change with each new government? Are policies continued or discontinued?
27. Have you been involved in any land administration policy reform before? What was your role in decision making then? What was the outcome- social, economic and political?
28. How has memories and experience of past reforms influenced current reform processes?
29. What are the likely benefits of these new LAR for your organization, state and the Ga society?
30. Does your organization have an issue you want to see made part of the new policy? What issues?
31. How do you put these issues through the decision making process?
32. Are technical considerations your only concerns for the new policy reform? What about political?

33. Do you have problems working as a neutral bureaucrat? Threats, opinions not being considered etc.

Section F- Implementation

34. How does your organization implement and enforce statutory land laws and policies? Autonomy, participation, support, timing,

35. Does your organization face resistance from the Ga State? How do you overcome difficulties? Bargaining, cooperation, court action, etc.

