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Dedication

This thesis is dedicated to my dear mother Bridget Faustina Kumchenga (Nee Kishombe) for believing in me throughout my academic endeavours and has been a pillar of support in my career pursuits. You have been and still continue to be an inspiration to me and you being an educationist (primary school teacher) who believes in education I reward you with this. I love you mum.

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List of Abbreviations

AI	Adverse Incorporation
AISE	Adverse Incorporation and Social Exclusion
ADC	Agricultural Development Corporation
ADR	Alternative Dispute Resolution
CBO	Community Based Organization
CDD	Centre for Democratic Development
CHPS	Community Based Health Planning Services
CHRAJ	Commission on Human Rights and Administrative Justice
CLS	Customary Land Secretariat
CPP	Convention Peoples' Party
DA	District Assembly
DC	District Commissioner
DCE	District Chief Executive
DFID	UK Department for International Development
DOVVSU	Domestic Violence and Victim Support Unit
ERP	Economic Recovery Programme
EU	European Union
FGD	Focus Group Discussion
GPRTU	Ghana Private Road Transport Union
GSS	Ghana Statistical Services
GOG	Government of Ghana
GDP	Gross Domestic Product
HC	House of Chiefs
IFWL	The International Federation of Women Lawyers
IGR	Internally Generated Revenue
IMF	International Monetary Fund
ISSER	Institute of Statistical, Social and Economic Research
FDI	Foreign Direct Investment
LAP	Land Administration Project
LC	Lands Commission

MIDA	Millennium Development Authority
MLF	Ministry of Lands and Forestry
NDC	National Democratic Congress Party
NHC	National House of Chiefs
NLP	National Land Policy
NLC	National Liberation Council
NA	Native Authority
NPP	New Patriotic Party
NGO	Non-Governmental Organization
OASL	Office of The Administrator of Stool Land
OFY	Operation Feed Yourself
OFYI	Operation Feed Your Industries
PHC	Population and Housing Census
PP	Progress Party
PNDC	Provisional National Defence Council
RHC	Regional House of Chiefs
SAP	Structural Adjustment Programme
SE	Social Exclusion
SSA	Sub Saharan African
TCDC	Town and Country Planning Department
UP	United Party
UGCC	United Gold Coast Convention
UNDP	United Nations Development Programme
USAID	Unites States Agency for International Development
WB	World Bank

Abstract

In Ghana, like in other Sub Saharan African (SSA) countries, land commands economic as well as social, cultural and political value. Access to land therefore becomes crucial to both government and farmers, given the rapid rate of urbanization with attendant increase in the commodification of land, redefinition of land ownership and tenure arrangements and contestation of rights to land. This study examine the accountability and legitimacy of local chiefs for land management. Using data obtained from questionnaire survey, in-depth interviews, and focus group discussions conducted in five peri-urban communities of Kasoa (a satellite town to the capital Accra) between March 2009 and March 2010, the study focus on cases of conversion of agricultural land to residential lands as a form of reverse land-grabbing in the selected communities. Accountability mechanisms are highlighted in relation to the extent to which chiefs legitimize farm land conversions with customary law; how these actions impact on their subjects' livelihoods; and how chiefs influence existing state reform initiatives on land administration.

The key findings show that while 70% of migrant farmers are more likely to lose land they acquired on arrival, indigenes are equally no longer assured of secured land titles due to an increasing rate of land sales by chiefs and family heads. This practice has largely exacerbated land conflicts in the area. Local controls on land administration by chiefs consist of checks on chiefs administrative powers through a council of elders. However, these elders have been corrupted and abuse their authority to also gain substantial income from land sales. Government and donor initiatives to enhance accountability mechanisms in customary land management, such as the Office of Administrator of Stool lands and the Customary Land Secretariat exist. But chiefs use various means to legitimize their community farmland conversions through, for instance, making reference to outdated customary laws, the adaptation to vagaries of rapid urbanization that is out-stripping the pace of town planning initiatives, profiting from increased attention of selling unused farmland, and the manipulation of the meaning of communal landownership, to foment conflicts in the area.

The real losers in the communities are those with little or no employment options outside agriculture. Individuals who have benefited from conversions and the changing livelihoods are the chief or landowners, women and youth acquiring skills in building construction. It is interesting to note that women have been positively affected, though excluded from traditional forms of land

ownership, but can access land based on their financial strength. However, prices of foodstuffs have increased as they are now imported from other areas of Ghana.

Deutsche Zusammenfassung

Land als Quelle von Einkommen, Nahrungsgrundlage, Beschäftigung und Exporteinnahmen stellt in Afrika eine wichtige Ressource dar. (Toulmin und Quan, 2000:1). Es ermöglicht den Zugang zu Handel, das Akkumulieren von Reichtum und dessen Transfer zwischen den Generationen (World Bank, 2003). Das Management und die Verwaltung von Land sind deshalb von großer Bedeutung für jede Wirtschaft, die auf Landwirtschaft basiert. In Ghana, wie auch in anderen Ländern Sub-Sahara Afrikas, hat Land zusätzlich zum wirtschaftlichen Nutzen eine soziale und kulturelle Bedeutung und spielt bei der Verteilung von Macht eine entscheidende Rolle. Zugang zu Land und die Möglichkeit der effektiven Landnutzung sind für das Wohlergehen der Armen weltweit entscheidend und damit maßgeblich für weiter reichende Armutsminderungsstrategien und nachhaltige Entwicklung ist. In den meisten Ländern Sub-Sahara Afrikas ist der Zugang zu Land durch hierarchische Machtstrukturen, Prozesse und Institutionen bestimmt. Der Prozess des Landerwerbs wird oftmals durch formelle und informelle Institutionen begleitet und beeinflusst. Lokale Politik und deren Einbettung in Machtstrukturen sowie institutionelle Zuständigkeiten spielen beim Zugang zu Land und Eigentumsverhältnissen eine entscheidende Rolle. Ghanas Urbanisierungsrate hat in den letzten zwei bis drei Jahrzehnten einen schnellen Anstieg erfahren; vor allem aufgrund des Bevölkerungswachstums in den städtischen Randgebieten und aufgrund von Landflucht. (Abdulai and Ndekugri 2007: 256; Ghana Statistical Service, 2002). Dies stellt besonders für die Bereitstellung von ausreichendem Wohnraum ein Problem dar. Vor allem randstädtische Gebiete sind davon betroffen, in denen die Nachfrage nach Wohnraum sowie die Nutzung von Land für gewerbliche und industrielle Zwecke steigt. Als Reaktion auf die gestiegene Nachfrage verkaufen traditionelle Autoritäten[1] (Dorfälteste, Chiefs) als Hüter sogenanntes "stool land"[2] an Externe[3] und tragen dazu bei, dass landwirtschaftliches Gemeinschaftsland schnell in nicht-landwirtschaftlich genutztes Land umgewandelt wird. Dieser derzeitige Trend des üblichen, dem Gewohnheitsrecht folgenden Landmanagements in peri-urbanen Gebieten führte zu einer

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[1]   In dieser Arbeit werden die Begriffe traditionelle Autoritäten und traditionelle Führer synonym verwendet. Damit werden in Ghana sogenannte Chiefs, Familienvorstände oder *tendamba*—Nachfahren der der ersten Siedler der jeweiligen Dörfer oder Repräsentaten des "Erdengottes" bezeichnet (Kasanga and Kotey 2001: 14). In Zentral-Ghana, wo die Feldforschung durchgeführt wurde, bezieht sich der Begriff auf die sogenannten Chiefs.

[2]   Ein "stool" (Thron) bezeichnet den Sitz eines Chiefs in einer traditionellen Gesellschaft (manchmal auch Familienvorstand), welcher die Autoriät des Chiefs symbolisiert. Er steht als Symbol für Einheit und bedeutet die Übernahme von Verantwortung für den jeweiligen Repräsentanten, den Chief und seine Berater. Folglich wird das zugehörige Land als "Stool" Land bezeichnet (National Land Policy, Ministry of Lands, Accra 1999). Anmerkung: Die Tierhaut in Nord-Ghana ist das Äquivalent zum "stool" in Süd-Ghana.

[3]   Hierbei handelt es sich um Mitglieder außerhalb der Gemeinschaft. Sie werden auch als Fremde bezeichnet.

zunehmenden Kommerzialisierung von Land und infolgedessen zu Konflikten in Bezug auf Besitzverhältnisse und Landrechte. Im Zentrum der Konflikte stellt sich die Frage nach der Befugnis, Landtitel nach dem Gewohnheitsrecht zu erwerben, Land zu verkaufen sowie den Nutznießern aus den Erträgen durch Landverkauf.[4] Insbesondere Migranten, Viehhalter, Jugendliche, Frauen und Arme sind von verschlechtertem Zugang zu Land und unsicheren Besitzverhältnissen betroffen. Folglich stellt sich die dringende Frage nach der Legitimität und Rechenschaftspflicht von traditionellen Autoritäten.

Am Beispiel von Ghana lassen sich diese Aspekte – Legitimität und Rechenschaftspflicht – traditioneller Autoritäten in Bezug auf Landverwaltung und Besitztitel exemplarisch erforschen, da 80% der Landvergabe auf dem Gewohnheitsrecht basieren und traditionelle Autoritäten damit betraut sind, dies für die Bevölkerung zu verwalten. In der Verfassung von 1992 ist diese Rolle der traditionellen Autoritäten als Verwalter des Landes mit treuhänderischen Pflichten gegenüber der Bevölkerung festgeschrieben worden.[5] Folglich verfügen traditionelle Führer in Ghana in vielen Gegenden über politische Macht ohne einer regierenden Partei zugeordnet zu sein. Ubink konstatierte 2006, dass traditionelle Autoritäten nicht auf eine „folkloristische Rolle" reduziert werden, wie in vielen anderen afrikanischen Staaten der Fall[6] (Van Binsbergen 1999; Van Rouveroy van Nieuwaal 1996: 43; von Trotha 1996: 87). Die Position der traditionellen Autoritäten wird durch die Verfassung von 1992 festgeschrieben, die die Macht des Parlaments beschneidet, ,die Rolle der traditionellen Autoritäten in Zweifel zu ziehen oder deren Anerkennung in Frage zu stellen'[7].

Vor diesem Hintergrund ist die Zielsetzung dieser Arbeit, Rechenschaftspflicht und Legitimität bei der Verwaltung von Land basierend auf Gewohnheitsrecht durch traditionelle Autoritäten zu untersuchen. Hierbei soll ein besonderes Augenmerk auf die Überführung von ehemals landwirtschaftlich genutztem Land in nicht-landwirtschaftlich genutztes Land gelegt werden.

Des Weiteren analysiert diese Arbeit Prozesse und institutionelle Rahmenbedingungen der Landverwaltung; hierbei werden insbesondere Kriterien untersucht, die Zugang zu Land sowie den Grad und die Dynamik von Transparenz, Rechenschaftspflicht und Legitimität traditioneller Autoritäten in ihrer Rolle als Verwalter von Land determinieren.

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[4]   Dies wird in Kapitel 3 und 7 weiter erläutert.

[5]   Absatz 267(1) and 36(8), Verfassung von 1992.

[6]   Bespiele für diese Länder sind Malawi, Botswana, Tansania und Mali

[7]   Absatz 267(1) und 36(8), Verfassung von 1992.

Es wird in dieser Arbeit die Position vertreten, dass ungleiche wirtschaftliche Beziehungen und Machtgefüge zwischen Akteuren (Immigranten, Landmanagement-Behörden, indigene Bevölkerung und traditionelle Autoritäten) zu einem Mangel an Rechenschaftspflicht der traditionellen Autoritäten als Landverwalter in randstädtischen Gebieten führen sowie zu einer Akkumulation von Ressourcen und Reichtum durch die Chiefs beitragen.

Die traditionellen Autoritäten haben in diesem institutionellen Gefüge ein besonderes Interesse an einer Wertsteigerung des Landes, was in der Regel den Interessen der lokalen Bevölkerung zuwider läuft. Um ein besseres Verständnis von Prozessen der Exklusion und ungleichen Verteilung von Macht und Reichtum zu erzielen, sollen die Mechanismen der Rechenschaftspflicht und deren Effizienz genauer untersucht und analysiert werden.

Am Beispiel von Kasoa, ein Hotspot peri-urbaner Landkonflikte in Zentral-Ghana, soll aufgezeigt werden, wie traditionelle Autoritäten ihre Machtposition nutzen, um sich persönlich zu bereichern und die lokalen, von der Regierung initiierten Mechanismen der Rechenschaftspflicht aushebeln.

Als Schlüsselergebnis bleibt festzuhalten, dass je mehr es von traditionellen Autoritäten als Institution erwartet wird, ihre Rolle (als Landverwalter) gleichberechtigt gegenüber der lokalen Bevölkerung ausüben, der sie nahe stehen, um so mehr nutzen diese lokalen Eliten ihre politische und wirtschaftliche Macht, um sich persönlich zu bereichern.

Dort, wo lokale formale und informale Mechanismen der Rechenschaftspflicht über die Vergabe von Land für die traditionellen Autoritäten existieren, sind diese de facto wenig effizient. Im Gegenteil schüren sie die Zunahme von Landkonflikten und haben negative Auswirkungen auf die Existenzgrundlagen der lokalen Bevökerung.

Mit den identifizierten Schwächen der lokalen und formellen Mechanismen der Rechenschaftspflicht in einem modernen Staat, zeigt diese Arbeit Interventionsmöglichkeiten auf, die auf eine stärkere Verknüpfung von Mechanismen abzielt, die sowohl auf dem Gewohnheitsrecht basieren, als auch moderne Mechanismen der Rechenschaftspflicht umfassen.

Die Arbeit stützt sich dabei auf Theorien bezüglich Institutionen und Macht und liefert damit einen wissenschaftlichen, gesellschaftstheoretischen. Insbesondere die Arbeiten von Ostrom und Shepherd (2007), Hickey und du Toit (2007), Vobruba (2000) sowie von Guy Peters (2005) aus der politikwissenschaftlichen Institutionentheorie werden herangezogen. Demnach werden Institutionen als das Regelwerk eines Spiels verstanden - bezogen auf diese Arbeitgeht es um das Regelwerk der

Landverwaltung. Dies ermöglicht es, Machtdynamiken und Machtverhältnisse, Inklusion und Exklusion (Betroffene, Außenstehende) genauer zu untersuchen.

Dank dieser Theorie kann nachvollzogen werden, wie traditionelle Autoritäten als Institution sowohl bestehende gesellschaftliche Strategien der Inklusion und Exklusion als auch ihre Positionsmacht im lokalen Politikgefüge nutzen, um sich durch Landumnutzung und Landverkäufe persönlich zu bereichern.

In Bezug auf Machttheorien wird der Fokus auf Konzepte von Rechenschaftspflicht und Legitimität gelegt, insbesondere in Verbindung mit Literatur zu sich verändernden Besitzverhältnissen, schwieriger incorporation sowie sozialer Exklusion (AISE). Hierfür wird insbesondere die Literatur von Berry (1989, 1993, 2001), Amanor (1999, 2001), Juul und Lund (2002), Oomen (2002), Peters (2002), de Haan und Zoomers (2005) herangezogen sowie durch Literatur über Machtbeziehungen von Dahl (1970), Levitas et al. (2007) und Basu (2000) komplettiert. Die Arbeit zeigt auf, dass die Regeln für die Landverwaltung nicht nur politischer Natur sind (indem sie Macht und Ressourcen verteilen), sondern auch einen wirtschaftlichen Charakter aufweisen. Deshalb wird der Ansatz der politischen Ökonomie als analytischer Rahmen in Bezug auf Landfragen herangezogen. Die verwendete Literatur legt einen Schwerpunkt auf die Arbeiten von Bernstein und Byres (2001) sowie da Costa (2008). Alle Autoren haben intensiv zu Prozessen veränderter landwirtschaftlicher Produktion, Eigentumsverhältnisse und sozialer Machtbeziehungen geforscht und dabei insbesondere das Zusammenspiel von Kräften untersucht, die Landstrukturen determinieren, sowie die Rolle von Macht zwischen Eliten, Marginalisierten und dem Staat.

DerAnsatz ermöglicht die Untersuchung der (formalen und informalen) institutionellen Dimensionen von Organisationen und Prozessen besser, die darauf abzielen, bestimmte Akteure auf verschiedenen Ebenen bei der Entscheidungsfindung auszuschliessen.Um ein besseres Verständnis der Gegenwart zu erzielen, nimmt der Ansatz den historischen Kontext der Menschen, Gemeinden und den durch Produktion bedingten Wandel sozialer Beziehungen in den Blick.Heterogenität wird als analytisches Prinzip herangezogen, um die Erfahrungen unterschiedlicher Akteure und gesellschaftlicher Gruppen sichtbar zu machen. Außerdem rückt der Ansatz strukturelle Machtbeziehungen, die Anhäufung von Besitz, Ausbeutung von Arbeitskraft, Ungleichheit in Bezug auf Zugangsmöglichkeiten, Benachteiligung etc. in den Fokus, um anhaltende Armut zu erklären. Folglich trägt der Ansatz zur Erforschung emergierender Land(-nutzungs)rechte und entstehender Ungleichheiten bei, die durch sich verändernde Eigentumsverhältnisse und einer

sozialen, politischen und wirtschaftlichen Dynamik bedingt sind. Schließlich können die Theorien und Ansätze zur Erkenntnis beitragen, inwiefern formelle und informelle Regeln zusammenwirken und welchen Einfluss sie auf die Aspekte Rechenschaftspflicht und Legitimität haben.

Viele Studien zum Thema Land, insbesondere diejenigen, die das Gewohnheitsrecht in peri-urbanen Gebieten untersuchen, legten einen Schwerpunkt auf die Auswirkungen des Bevölkerungswachstums, der Urbanisierung oder der Globalisierung auf die lokale Bevölkerung. Autoren wie Ubink, Berry, Amanor und Lund haben in zahlreichen Studien zu Ghana die Sicherheit von Landtiteln, die auf Gewohnheitsrecht basieren, Landgesetze, Besitzrechte und Landkonflikte untersucht. Bisher gibt es dagegen wenig Literatur in Bezug auf Rechenschaftspflicht und Legitimität lokaler Autoritäten bezüglich der Konversion landwirtschaftlich genutzer Fläche in der Zentralregion Ghanas. Anliegen dieser Arbeit ist es deshalb, einen sozialwissenschaftlichen Beitrag zu bereits bestehendem Wissen und Verständnis in Bezug auf traditionelles Landmanagement und der damit verknüpften politischen Steuerung und lokalen Aushandlung. Innerhalb dieses sozialen Kontextes beschreibt die vorliegende Arbeit, wie traditionelle Autoritäten Reichtum durch Landerwerb oder Verkauf anhäufen.

Die Arbeit ist folgendermaßen aufgebaut:

Kapitel 2 bildet das Fundament dieser Arbeit. Es präsentiert den theoretischen und analytischen Rahmen, der dieser Arbeit zugrunde liegt. Als Grundlage dienen Theorien über Institutionen und Macht, um die Interaktionen zwischen Machtbeziehungen und Institutionen zu beschreiben. Der Ansatz der politischen Ökonomie als Analyserahmen integriert Konzepte, die ein breites Wissensspektrum des Themas dieser Arbeit aufweisen. Die Macht-Theorie hilft dabei, die Komplexität der Beziehungen zwischen den verschiedenen Gruppen in den Gemeinden und deren Verhältnis gegenüber traditionellen Autoritäten besser nachzuvollziehen. Letztere verwalten Land nach dem Gewohnheitsrecht und wenden Strategien an, um durch Landverkauf Reichtum zu akkumulieren.

Außerdem soll auf der Grundlage der Konzepte in Bezug auf Machstrukturen in diesem Kapitel demonstriert werden, wie tief verwurzelte Machtstrukturen in einer Gesellschaft darüber entscheiden, wer Teil einer bestimmten Gruppe, eines bestimmten Netzwerkes ist und wer davon ausgeschlossen bleibt – ein Differenzierungsprozess der für den Landsektor prägend ist. Die

Mechanismen der Ausbeutung und Kontrolle, die Eliten wie traditionelle Autoritäten und Familienvorstände überlicherweise im Landsektor nutzen, werden dadurch deutlich. Auf Basis der Forschungsergebnisse werden mögliche Handlungsvorschläge gemacht und Schlußfolgerungen gezogen.

Kapitel 3 unterstreicht die Relevanz dieser Arbeit, indem es eine umfassende historische Beschreibung der Landnutzungspraktiken und des Landmanagemenrts in Ghana leistet.
Es wird weiterhin in diesem Kapitel argumentiert, dass die Ressource Land und deren Management schon immer konstitutiv für Entwicklung war und dass im Besonderen Landreformen in einigen afrikanischen Entwicklungsländern eine Rolle wichtige gespielt haben. Trotz dieser Tatsache werden einige afrikanische Länder, zu denen auch weiterhin Ghana zählt, dadurch charakterisiert, dass sehr wohl Landlosigkeit, unsichere Besitzverhältnisse sowie der Kampf und Konflikte um Land vorherrschen. Für diese Krise wurden verschiedene Erklärungen herangezogen. Das Kapitel umreisst die zugrundeliegenden Politiken und wirtschaftlichen Erwägungen, die Landzugang, Eigentum und Verwaltungstrukturen bestimmen. Außerdem wird ein Blick auf post-unabhängige Regierungen geworfen und untersucht, inwiefern deren Landpolitiken Einfluss auf Landzugang, Eigentumsverhältnisse und das sozio-ökonomische Leben der Gemeindemitglieder haben. Dieser Überblick ermöglicht es dem Leser, Hintergrundwissen zu Landmanagement zu erwerben, welches wiederum eine Voraussetzung ist, um Rechenschaftspflicht in Bezug auf Land einzuordnen.

Kapitel 4 beschreibt den sozio-ökonomischen Hintergrund der peri-urbanen Forschungsgemeinden. Das Untersuchungsgebiet gilt als Knotenpunkt für die Anfechtung von Landtiteln und Landkonflikten zwischen Gemeindemitgliedern und traditionellen Autoritäten.
Gemäß der Zielsetzung der vorliegenden Arbeit stellt das Kapitel neben der politischen Einbindung traditioneller Autoritäten insbesondere deren Rolle für die Konversion von Agrarland in nicht-landwirtschaftlich genutzes Land heraus. . Somit können Landbesitz-Strukturen, potenzielle Quellen für Landkonflikte, Vergabedauer von Landtiteln und die Perzeption der lokalen Bevölkerung, inwiefern die Hüter des traditionellen Land-Gewohnheitsrechts ihrer Rechenschaftspflicht nachkommen, eingeordnet werden.
Kapitel 5 stellt die Ergebnisse aus der empirischen Feldforschung vor, die in 5 untersuchten Gemeinden durchgeführt wurde. Auch hier stand der Aspekt der Rechenschaftspflicht in Bezug auf Land im Vordergrund. Das Kapitel beschreibt die Bemühungen der Gemeinden im Hinblick auf

Landerwerb und oftmals den Verlust des Landes an traditionelle Autoritäten. Des Weiteren gibt es Aufschluss über das Wissen und Erwartungen der Gemeindemitglieder, die sie im Hinblick auf die Verwaltung von Land durch traditionelle Autoritäten haben sowie deren Wissen und Wahrnehmung in Bezug auf Rechenschaftspflicht durch traditionelle Autoritäten. Dieses Kapitel verdeutlicht sowohl die Komplexität, mit der Gemeindemitglieder versuchen, Mechanismen der Rechenschaftspflicht einzufordern, als auch die erlebte Frustration, die in Ghana diesbezüglich oftmals zu konstatieren ist.

Beispiele von konkreten Konflikten werden herangezogen, um die Frustration von Bürgern, traditionelle Autoritäten zur Rechenschaft zu ziehen, zu verdeutlichen. Die theoretischen Ansätze der Machtbeziehungen sowie des Ansatzes der politischen Ökonomie finden hier ihre Anwendung und können die verschiedenen Mechanismen unterschiedlicher Akteure, Rechenschaft von traditionellen Autoritäten und Familienvorständen einzufordern, untermauern.

Kapitel 6 zeigt die verschiedenen Initiativen der Regierung im Zeitverlauf auf, die eingesetzt wurden, um Mechanismen der Rechenschaftspflicht in Bezug auf traditionelle Landverwaltung, zur Anwendung zu bringen. Dies umfasst die kolonialen Institutionen wie die Gemeindeversammlung, vertreten durch die Abteilung für Stadt-und Landesplanung, das Büro zuständig für die Verwaltung von "Stool Land" sowie das von Gebern unterstützte Programm eines Sekretariats für traditionelle Landangelegenheiten. In diesem Kapitel wird untersucht, welche Funktionen die jeweiligen Einrichtungen in den Gemeinden haben, wie effizient sie arbeiten und inwiefern sie dem Anspruch, für Ausgleich und Kontrolle im Hinblick auf Landmanagement durch traditionelle Autoritäten zu sorgen, genügen.

In Kapitel 7 werden die durch Umnutzung des Landes bedingten sozio-ökonomischen Auswirkungen auf die Gemeinden beschrieben. Es werden sowohl die Dimensionen dieser Auswirkungen auf die Gesellschaft analysiert als auch deren Ausmaß. Ein Fokus wird auf zunehmende Landkonflikte gesetzt, die von traditionellen Autoritäten geschürt werden und gewalttätige Jugendliche instrumentalisieren, um Landverkauf gegen Widerstand durchzusetzen. Abgesehen von den Konflikten, führt dies zu einer Situation, durch die viele Haushalte ihre Lebensgrundlage verloren haben, während wiederum einige Frauen, die ursprünglich keinen Zugang zu Land hatten, davon profitieren. Dieses Kapitel macht deutlich, dass die Landumnutzungen zu einem wirtschaftlichen und sozio-kulturellen Wandel der Gesellschaft beitragen. Innerhalb des

theoretischen Rahmens können die sozialen Auswirkungen verdeutlichen, dass der Prozess einer Anhäufung von Reichtum und Gütern innerhalb sozialer Strukturen Auswirkungen auf das soziale Gleichgewicht einer Gesellschaft hat, die sich an der Landproblematik festmacht.

Schließlich werden in Kapitel 8 Schlußfolgerungen gezogen, die aufzeigen, wie traditionelle Autoritäten materiellen Nutzen aus ihrer Macht und Autorität gezogen haben und sich durch Umnutzung des Landes und den Verkauf von Agrarland auf Kosten der Gemeindemitglieder bereichert haben. Die lokalen und informellen Mechanismen der Rechenschaftspflicht, wie beispielsweise durch den "Ältestenrat" oder durch "enstoolment" und "destoolment" traditioneller Autoritäten in den untersuchten Gemeinden, sind zwar vorhanden, aber mit eingeschränkter Wirkung.

Dies hebt die Bedeutung von staatlichen Interventionen hervor, die durch die verschiedenen Land-Institutionen Einfluss auf die auf dem Gewohnheitsrecht basierende Landverwaltung nehmen und insbesondere Rechenschaftspflicht einfordern sollten, wo Mängel offensichtlich sind.

Am Beispiel des auf dem Gewohnheitsrecht basierenden Landsektors wird deutlich, welche Herausforderung es ist, Rechenschaftspflicht als Kriterium für gute Regierungsführung von traditionellen, nicht gewählten Autoritäten in randstädtischen Gesellschaften einzufordern, die über andere kulturelle Werte und Normen verfügen.

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Cologne, 30th April 2012   Tapiwa Uchizi NYASULU

1.0   Introduction

Land remains the most important resource in Africa particularly for income, food, employment and export earnings (Toulmin and Quan, 2000:1). It provides access to economic opportunities, accumulating wealth and transferring it between generations (World Bank, 2003). The management and administration of land is therefore of much significance to any agro-based economy. In Ghana, like in some other Sub Saharan African (SSA) countries, in addition to economic value, land has social and cultural significance and is a significant asset in the distribution of political power. Access and ability to make effective use of land are thus critical to the welfare and livelihoods of poor people, and central to any broad-based strategy of poverty reduction and sustainable development. In most parts of SSA, access to land is usually rooted in hierarchical power structure, processes and institutions (source). The process of acquisition of land is often mediated through and influenced by formal and informal institutions. Local politics embedded in power structures and institutional arrangements plays crucial roles in shaping access to land and rights of tenure.

Ghana has witnessed a rapid increase in the rate of urbanization over the last two to three decades (Abdulai and Ndekugri 2007: 256; Ghana Statistical Service, 2002) mainly due to natural increase in the population of the urbanites and rural- urban drift. Among many problems, this has raised the issue of housing. This problem has greatly affected peri-urban areas, where there is a rising demand for residential, commercial and industrial land. In trying to respond to this demand, local authorities[8] such as chiefs who are custodians are selling stool[9] land to 'outsiders[10]' resulting in rapid conversion of agricultural communal land to non-agricultural land. This trend in customary land management in peri-urban areas has witnessed increase in commoditization of land which has brought a problem of tenure and contestation of rights to land. At the heart of these contestations lie the issues of authority to allocate rights in customary land, land sales and expenditure of the proceeds from such allocations[11]. Struggles for land at the local and national levels have resulted in deteriorating access to

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[8] In this thesis I will use 'traditional authorities' and 'traditional leaders' as synonyms. In Ghana, these terms can denote chiefs, heads of families, or *tendamba*—descendants of the pioneer settlers of their respective villages and representatives of the 'earth god' (Kasanga and Kotey 2001: 14). In the Central Region of Ghana where this study took place, the terms are only used to refer to chiefs (Ubink 2007)

[9] A stool means the seat of a chief (sometimes of a head of family) which represents the source of authority of the chief (or head of family). It is a symbol of unity and its responsibilities devolve upon its living representatives, the chief and his councillors. Land owned by such a state is referred to as stool land. (National Land Policy, Ministry of Lands, Accra 1999). Note: A skin in Northern Ghana is the equivalent of a stool in Southern Ghana

[10] These are non- community members. In some instances they are called as strangers

[11] This is elaborately explained in chapter 3 and 7.

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land and security of tenure for immigrants, pastoralists, youth, women and the poor. This poses some serious questions with regard to legitimacy and accountability of chiefs.

Therefore, Ghana provides a suitable case for studying the accountability and legitimacy of traditional authorities that is, chiefs in the administration of customary land and tenure systems. This is because about 80 per cent of total land is customary and its administration is vested in chiefs on behalf of and in trust of their people. This role of chiefs is guaranteed in the 1992 Constitution that requires chiefs to manage the customary land in a manner consistent with their fiduciary duty towards their people[12]. Consequently, traditional leaders in Ghana possess political power in many localities, without being politically co-opted by any ruling party. Ubink (2006) states that chiefs are not reduced to a mere 'folklorized' version of themselves, as is the case in many other African countries[13] (Van Binsbergen 1999; Van Rouveroy van Nieuwaal 1996: 43; von Trotha 1996: 87). The position of chiefs is guaranteed in the 1992 Constitution, which withholds any power from parliament to 'confer on any person or authority the right to accord or withdraw recognition to or from a chief'[14].

It is against this background that this thesis has an objective is to investigate accountability and legitimacy in the administration of customary land by traditional authorities, with a particular focus on conversion of agricultural land into non-agricultural use. It further analyses processes and institutional arrangements for administering the land with particular focus on criteria that determines access to land and the degree and dynamics of transparency, accountability and the popular legitimacy of chiefs in relation to their roles in land administration.

Central to this thesis is that, lack of accountability of chiefs in the administration of customary land within peri-urban areas is an outcome of unequal power and economic relations between actors (for example, migrants, government land agencies, indigenes and traditional leaders) and an avenue for wealth accumulation by chiefs. The chiefs within this institution have exhibited special interest in increased land value that is not necessarily in line with those of the people in the local communities. Investigating and analyzing the accountability mechanisms and how effective they are provides a better grasp of the process of exclusion and unequal distribution of benefits or wealth.

Kasoa, a land tenure hotspot peri-urban area of Central Region in Ghana, is used in this study to demonstrate how chiefs use their powers for personal economic gain and in the process remain

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[12] Sections 267(1) and 36(8), 1992 Constitution.(Ubink, 2007)
[13] Examples of these countries include: Malawi, Botswana, Tanzania and Mali.
[14] Sections 267(1) and 36(8), 1992 Constitution.(Ubink, 2007)

unaccountable despite existence of local mechanisms as well as government interventions on land accountability. The key findings are that as much as traditional authorities as institutions expected to execute their functions equally towards their people, which are closer to the people for land allocation, in practice they accumulate power and wealth at the expense of their people. In as much as there are local, formal and informal, accountability mechanisms in place to facilitate traditional authorities' accountability on land matters, in reality these have minimal effectiveness. As a result, the practice has contributed to the increase of land conflicts and has also negatively impacted on the peoples' livelihoods. With the identified local and formal accountability mechanisms' weaknesses within the modern state the thesis offers possible areas of intervention by suggesting strong collaboration of combining customary and modern accountability mechanisms.

The thesis draws on theories on institutions and power in order to contribute to broad academic knowledge in social studies. Literature on institutions reviews the works of Ostrom, Shepherd, (2007), Hickey and du Toit (2007), Vobruba (2000) and also Guy Peters (2005) on institutional theory in political science. Institutions, defined as rules of the game, in this case the game being the administration of customary land, enables one to explore power dynamics and relations, inclusion and exclusion (insiders or outsiders). This theory helps to understand how the traditional authorities as an institution with their power in local politics over land accumulate wealth through land conversions and sales through the inclusion or exclusion strategies used within the society. While the theory on power is contextualized within the concept of accountability and legitimacy at the intersection of literature on changing tenure rights, adverse incorporation and social exclusion (AISE) with the literature review of Berry 1989, 1993, 2001; Amanor 1999, 2001; Juul and Lund 2002 (eds.); Oomen 2002; Peters 2002; de Haan and Zoomers, 2005 and supported with literature on power relations of Dahl, 1970, Levitas et al., 2007; and Basu, 2000. The thesis shows that the rules for administering land are not only political (in that they distribute power and outcomes) but also economic. Therefore, the Political Economy Approach is used as an analytical framework on the land question. Literature review focuses on the works of Bernstein and Byres 2001 and da Costa, 2008, all of whom have written extensively on the processes of change in agrarian production, property rights, and social power relations over time by focusing on the interplay of the forces that determine the structure of land, role of power between the elites and the marginalized and the state. This approach helps us to understand the institutional dimensions (formal and informal) on organizations and processes that attempt to exclude some people at multi-levels of decision-making. To understand the present, the approach focuses on the historical backgrounds of people,

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communities and changes occurring in social relations of production. It employs the notion of heterogeneity as a defining analytical lens and experiences of diverse people and groups in a society. It also looks at the structural power relations, accumulations processes, labour exploitation, inequalities of access and deprivations to understand persistent poverty. This makes the approach orframework suitable for studying the emerging land relations and rights, class formation and erosions of land rights brought about by the changing property right institutions and dynamics of the social, economic and political fabric of society. Furthermore, the theories and analytical framework has helped in exploring the interaction of formal and informal rules in how they affect accountability and how the question of legitimacy is played out.

Many studies on land, particularly those examining the customary land administration in peri-urban areas, have strongly focused on the impact that the population growth, urbanization and globalization have had on communities. Authors such as Ubink, Berry, Amanor, and Lund have conducted various studies in Ghana on the customary tenure security, land laws, property rights, and land conflicts. However, there exists little literature on the accountability and legitimacy of traditional authorities in relation to conversion of agricultural land in the Central region of Ghana. In this regard, the different contribution this thesis makes in the field of social studies is to expound on existing knowledge and understanding of customary land management and its politics involved. Within the social context, it describes how traditional rule or institutions, in relation to land, accumulate wealth through land sales in Ghana.

This thesis is organized in the following manner:

Chapter 2 serves as the foundation from which the thesis emerges. It presents the theoretical underpinnings and analytical framework. In this chapter, theories on institutions and power form the basis of discussion on the interaction of power relations and institutions plays a role. The political economy approach as an analytical framework integrates concepts that underpin a broad knowledge of the topic under study. The theory on power helps one to understand the complex interplay between different groups of people in the communities in relation to the traditional authorities who administer customary land and the strategies they employ in accumulating wealth through land sales. Furthermore, in examining the concepts on power, the chapter makes clear how deeply embedded power structures in society raise the issue of who is included or excluded in certain groups or networks – an issue which cannot be avoided in the land sector. It reveals the exploitation and control mechanisms that the elites such as traditional authorities and heads of families make use of

in the land sector. This chapter guides the discussion on these findings through which possible suggestion and sound conclusions are made.

Chapter 3 brings out the relevance of the thesis by giving detailed description of land access, practices and management in Ghana from a historical and broader perspective. The discussions centres on the argument that land as a resource and the management of it have always been part of development and for that matter land reform of some developing countries of Africa. Yet, landlessness, insecurity of tenure, struggle and conflicts over land in the hitherto land abundant continent continue to characterize some countries including Ghana. Several explanations have been provided for this crisis. The chapter briefly discusses the politics and economics of land access, ownership and patterns of management and administration, and looks at post-independent governments and their land policies to explain the structure of land access, tenure, and socio-economic life of community members. The discussion therefore gives the reader background knowledge about the land administration thus enabling an informed appreciation of the current state of land accountability.

Chapter 4 presents the socio-economic background of respondents in the communities of the peri urban research area that happens to be the hotspot for tenure contestation and land conflicts between community members and traditional authorities. Beyond the involvement of chiefs in governance, the chapter elaborates their role in the conversion of agricultural land into non-agricultural land, which is the core problem and objective of this study. This description allows us to situate landholding patterns, as well as reveal potential sources of land conflicts, duration of tenure, and local perception of responsibility and accountability in customary land.

Chapter 5 discusses the empirical findings of the community land-related accountability aspect in the five studies communities. The chapter focuses on community struggles and loss of land to traditional authorities coupled with their knowledge and expectations they have towards chiefs on land administration. Further, it presents the result on the community members' knowledge and perception of the chief's accountability on land before discussing the actual local control or mechanisms of holding chiefs accountable. The chapter reveals the complexities within the communities the different accountability mechanisms they try to employ thus giving a better understanding of another dimension of frustration faced by local community members in Ghana. Examples of conflicts in relation to holding traditional authorities accountable are also presented to depict the frustration felt by the community members in Ghana. The theoretical concepts of power

relations and the political economy approach are very reflective as the outcomes shows different mechanisms that groups struggle to hold their chiefs and heads of families accountable.

Chapter 6 demonstrates government initiatives that have been deployed over time to enhance accountability mechanisms in customary land management. This stems from the colonial antecedents such as the District Assembly (DA) through the Town and Country Planning Department (TCDC), the Office of the Administrator of Stool Lands (OASL) and the donor supported programme of Customary Land Secretariat (CLS). The expected functions of these land agencies in the communities are examined in relation to traditional authorities and their actual efficiency in the administration of customary land.

Chapter 7 discusses the socio-economic impact of land conversions on the communities. The dimensions of outcome and the extent to which these affect society are explained. Much focus is on the increased land conflicts as fueled by the traditional authorities as one means of reinforcing compliance through violent youths for those their land is deemed to be sold. Apart from the conflicts, the practice has rendered many households without their source of livelihood while others such as women who in the first place could not access land have benefited from this practice. The discussions demonstrate that these conversions have contributed to economic and socio-cultural changes in society. Contextualizing the social consequences within the framework of the theories, it is evident that the processes of wealth or asset accumulation vis-à-vis social structures have a bearing on the social fabric of society in relation to land.

Chapter 8 draws conclusions that demonstrate how traditional authorities have used their power and authority to accumulate wealth in this farmland conversions and sales at the expense of the community members. Also, the informal or local accountability mechanism such as through the council of the elders as well as the enstoolment and destoolment[15] of the chiefs as demonstrated in the studied communities has proved to be existent but limited in terms of efficiency. This also highlights the state intervention on customary land administration accountability aspect through its land related agencies, which have revealed its shortcomings. The dilemma posed by accountability concept as demonstrated in the customary land sector with the non-elected leaders shows the challenges of enforcing this principle of governance within peri-urban societies, which still emphasizes on cultural norms and values towards traditional leaders.

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[15] As the chief's throne is called stool, the installation and deposition of a chief are called enstoolment and destoolment. In the Northern part of Ghana it is enskinment and deskinment

2 A Contextual Background to the Study and its Theoretical Underpinnings: The Political Economy Approach

2.1 Introduction

For the past thirty years donors such as UK Department for International Development (DFID) and World Bank (WB) have tried strenuously to transform the social fabric of African societies in the interests of development, efforts that have been organized under what is known as the Governance agenda under which the principle of accountability is advocated for (Kersall, 2008:627). This has not spared the land administrations and it has been noted through the international trends in land policy in developing countries. Some scholars have tried to emphasize the importance of promoting accountability measures within the customary tenure systems managed by traditional authorities in order to achieve equitable land management, in the context of poverty reduction (Deininger and Binswanger, 1999; DFID, 1999; Toulmin and Quan, 2000; Whitehead and Tsikata, 2003; World Bank, 2003; EU, 2004). Ghana, like other countries where land transactions have become increasingly monetized in recent years as a result of growing scarcity and increased land values, the equity of customary tenure systems as well as its accountability aspect is being questioned by the international community and local people. The recent developments in the customary tenure system are that of the increased farm land conversions into non-agricultural lands by chiefs in many areas. These processes have increasingly concentrated control of the economic benefits flowing from land into the hands of traditional chiefs, which has a direct effect on people's livelihoods and creates high tensions in many localities.

This study looks at the accountability mechanisms, exclusion and disputes over rights to land under the customary administration, the recursive strategies employed by diverse social actors, and highlight the implications for the resource poor farmer in the context of conversion of agriculture land into residential land in peri urban areas of Ghana. Land is fundamentally an invaluable resource, particularly for the resource poor and marginalized farmers in Africa (Shipton and Goheen, 1992) partly due to the absence of effective social security systems. Therefore, it has significant political and socio-economic implication on nations and the people. The survival and wellbeing of majority of the world's poor heavily depend on access to, control and effective use of the resource land. It is therefore not surprising that the issue of accountability, (in) security of access to land and tenure on

smallholder farms has re-emerged on the development agenda (Deininger, 2003). Access to secure land critically determines the potential for increase land investment, commercial, foreign direct investment and productivity and therefore livelihoods support and sustainability of poverty reduction strategies (WDR, 2008). The increasing commercialization, land marketization, population and scarcity of land, has led to the use of complex and diverse processes in the acquisition of the poverty reducing resource. Coupled with the monetary transactions over land and lack of policy action to assist the resource poor, many people find it difficult to gain easy access to land. The customary system which is the most widely used in many parts of West Africa, particularly Ghana has in recent times become a subject of vigorous debate as many authorities involved in land management such as chiefs are on the increase of selling land hence depriving the poor people be it indigenes or migrants. While some authors claim that customary laws are flexible, negotiable and provide equitable social security for all, (Berry, 1993; Kasanga et. al, 1996), other authors argue that, over privileging the customary, overlooks the problem of unfavourable exclusion and inclusion, erosion of rights to benefits of land, inequalities, disputes and competition over land (Amanor, 2001; Peters, 2004) in the sub region. With increasing commercialization and commoditization of land, the future of the land question and agriculture is becoming uncertain.

One concern here is that, rather than promoting land investment, productivity and reducing poverty, chieftaincy institution in Ghana seems to engender unfavorable exclusion, increase inequalities and therefore perpetuates poverty (Harris-White, 2005). This study attempts to understand why and how chieftaincy institution as an instrument for change and development in Ghana, may fail to contribute meaningfully to poverty alleviation under the good governance agenda. Ways in which different individuals and groups are involved in the process of access to secure land and tenure rights and accountability in the context of poverty alleviation are explored. Additional examinations were into how social relations, processes and mechanisms associated with land access and tenure arrangements, under the putatively flexible and negotiable local customary system may unfavourably exclude certain individuals and/or social groups from benefiting from secure access to land and tenure and increasing farmland conversions in the absence of agrarian (land) reforms.

The political economy of land in southern Ghana, where majority of the resource poor are facing different forms of exclusion regarding secure access to land and tenure due to farmland conversions in peri-urban areas presents an interesting setting. Drawing on both quantitative and qualitative data from both primary and secondary sources, the study collected and analyzed historical and

contemporary information on processes and mechanisms of accessing land at local level, and its effects on horticultural production in Awutu-Senya district, where exists intensive use of land and labour in the cultivation of related crops and the potential to generate quick turn over, employment and poverty reduction (Awo, 2007; Mari and Knottnerus, 2007) in the community. Local and national accountability mechanisms employed in customary land management within chieftaincy institution were also investigated. The study links these analyses to power relations based on gender, social identity and status within a broader socio-economic context. Data was gathered from opinion leaders, traditional leaders, both migrant and indigenous farmers and the vulnerable groups such as women and the youth.

2.2   Background to the Study

In Ghana, land can be acquired through traditional landownership system alongside the state system (Abdulai 2006; Abdulai and Ndekugri 2007; Graefen et al pg1). Local customary land tenure is based on land being ascribed to a community[16] of common ancestry (Wily et al 2001: 15-16). Such land is held in trust by the community leaders, who assume responsibility for distributing unallocated land. The dual nature of governance of land allocation in Ghana by both customary practices and enacted legislation has created an interface between formal and informal institutions that serve as accountability mechanisms for land administration. Nevertheless, the interface between customary practices and enacted legislation has also been a source of conflict when it comes to accountability. Majority of the Ghanaian population acquire land through the practice of customary tenure regime (Kasanga, 1998). Within the customary sector land is owned and controlled by communities represented by chiefs and families referred to as customary landholding institutions (Abdulai and Ndekugri 2007:258). A person's or household's rights to land are derived from his or her relations with other person in the household and in the community, and are also determined by local and national laws (Cornhiel 1997:1318). In Ghana, a large proportion of the land is administered by traditional authorities on the basis of customary law (Larbi et al. 1998: 1). There are over 30 different ethnic groups and traditionally land is vested in chiefs or families depending on tribe. Where land is vested in chiefs it is called skin land among ethnically defined communities in northern Ghana whilst it is known as stool land among ethnically defined communities of southern Ghana. In Southern Ghana chiefs as traditional rulers sit in state on specially designed stools or chairs whilst in Northern

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[16] A group of people who arrived on the land are regarded as first comers or 'settlers' and the ones who come later also known as late comers are regarded as 'strangers'

Ghana, they sit on specially prepared skin of an animal (Abdulai and Ndekugri 2007:261) and also earth priest in the North allocate land. This is the reason why eventually the land is called stool or skin land. In the Southern region it is the chiefs who are caretakers of all customary land or stool land. Stool or skin lands thus are communal properties as it is believed that their forefathers were the first settlers and acquired land for every member in the community who belonged to that clan or tribe. As long as there is vacant land each member of a community has the right to farm and build on part of it, which gives the member a usufructuar[17]y title to the land with the chief's consent. The usufructuary interest is heritable, and is extinguished only through abandonment, forfeiture or with consent of the interest holder. The usufructuary cannot be deprived of any of the rights constituting the interest. In other instances not even the chief can lay an adverse claim (Asante 1969: 105-106; Danquah 1928: 197-200, 206, 221).

However, in Ghana customary tenure systems under the control of traditional chiefs are being questioned (Ubink and Quan 2007:198). This is due to the fact that according to customary law as well as the constitution do not make more specific provision on how customary lands should be managed by traditional authorities, and in practice increasing land values lead to widespread disputes over powers to allocate rights in customary land (Abdulai, 1996, 2002; Kasanga et al). It is alleged that chiefs have tried to tap a 'gateway to prosperity' by allocating communal land to migrant pastoralists for substantial payments to the detriment of indigenous farmers (Tonah, 2002, pp 53-57). Ubink (2007:199) notes that 'traditional authorities are displaying a tendency to adopt landlord-like positions with regard to customary land'. Therefore, there are many uncertainties over the nature of customary interests, rights and ownership held in land. This uncertainty of rights and ownership has led to constant frictions and conflicts between various interest holders, chiefs and communities.

As a source of income, food, employment and export earnings, land remains an important resource in Africa (Toulmin and Quan, 2000:1). Land is an important vehicle that provides access to economic opportunities, accumulating wealth and transferring it between generations (World Bank, 2003). The management and administration of land is therefore of much significance to any economy. In Ghana, like in other Sub Saharan African (SSA) countries, land commands economic as well as social, cultural and political power. Access to land therefore becomes crucial to both government and farmers. In most part of SSA, access to land is usually rooted through hierarchical

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[17] This is the next interest after allodial interest. Usufructuary interest is also called as customary freehold interest. That is the interest of both members and non members (strangers) of the community acquire through gift or sale from allodial interest holders. A usufruct is the holder of a usufractuary interest (Abdulai and Ndekugri 2007:258)

power structure, processes and institutions. The process of acquisition of the resource is often mediated through and influenced by both formal and informal institutions. For example, while land allocation is generally under the customary laws, recognition of such rights to the land is based on state legislative instruments (Larbi, 2005). Politics (local and national) related to power, therefore plays crucial role in shaping access to land and tenure development atleast in certain areas in the country. In Ghana, the political nature of the processes has been attributed to colonization and the rush for land in southern Ghana during the cocoa boom (Hill, 1963) where land for agriculture was free up until the colonial administration decided to introduce several strategies and enacted several legislatives (Berry 1993, Amanor, 1999).

Generally, access to land under the customary tenure regime in Ghana has undergone several processes and changes overtime and space. Before the advent of colonial rule, land was held by the community under the total control of their chiefs. The resource was held through the allodial title vested in local leaders (usually chiefs and heads of family or clan) by the community to keep and hold in trust for the people. Land for agriculture and housing in the southern Ghana was accessed based on social relations, tenancy agreements such as *abusa* and *abunu*[18] which was free. The form and processes of acquisition however changed when more and more migrant farmers from several parts of the country were attracted to the booming oil palm and cocoa industries in south-eastern Ghana, creating competitions and struggles, and hence raising demand of the resource. Allocation of lands at that time was based on birthrights or mainly through membership of a land owning social or descent group. While land was being allocated in this way some chiefs and other community elders or landowners started to sell land. Some other people including outsiders also gained access to land through the tutorat[19] system, which was mainly based on social relations. The process of moving from almost free land access to the point when people began to exchange land for monetary rewards was however gradual and without many problems except for political 'witch hunting'. This took place during Nkrumah' regime where his government punished those chiefs and people who did not support his party to power through the introduction of the land rent stabilization law (Gyasi, 1993). It is on record that most farmers, migrant and local, acquired large tracts of agricultural land, mainly

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[18] While the *abunu*, is a 50% sharecropping arrangement between a tenant and landowner, the *abusa* is a 1:2 sharecropping arrangement between the two where the major contributors takes two thirds and the other one third of the proceeds
[19] System of land access, where migrants are allocated land, when they agree to follow local rules and norms

through social relations and also payment of token fees or drink money'[20] (Hill, 1963; Gyasi, 1994) to local land owners, chiefs and leaders, in exchange for land.

As a result of the relatively easy access to land, cultivation of the cocoa crop for example, is said to have accelerated the movement of many people out of poverty, through direct increases in producers' incomes and laborers' wages, lower food prices and the establishment of new livelihoods opportunities which created a platform for economic diversification (Konings, 1986) and investments in the cocoa communities. At the beginning of the 20th century, investments in commercial transport operation, petty trading and mining among others, brought in enough money, which most rich farmers ploughed back into agriculture. This continued till somewhere in the mid-19th century when the system of land acquisition began to change or was modified. Land sales and therefore adherence to more rigid tenancy arrangements began in earnest, in response to increasing demand for land for agriculture (Gyasi, 1994). Although land has always been in high demand, the resource was cheaper to acquire in those days because land was relatively in abundance and land sales were mainly embedded in social relations and networks (Gyasi, 1994). People used to sale and buy land through their relations and acquaintances. This ensured that the increased commercialization and demand for land did not generate any substantial differentiations among actors (Berry, 1993: 19).

In recent years, chiefs have been reported to be on the increase in converting agriculture land into residential land. Today, in peri-urban areas, the main traditional perennial cash crops which were often used as security and an evidence for one's continuous cultivation of a piece of land (Abudulai, 2002) have been replaced with buildings or houses. One question which may be associated with the phenomenon is what the assumed flexibility and negotiability of the customary law really means to the diverse people with different interest in land and what is it about its nature that engenders (in)security of land access and tenure? Above all, with all these conversions, who holds these chiefs accountable and how legitimate are their actions? Examination of the system of land holding and accountability mechanisms in customary land management in the country could provide a clue to the above questions.

Currently, Ghana operates a pluralistic (statutory and customary) system of land management and administration. Thus land is categorized into broad domains of public and customary and sometimes private. This implies that different ways of acquiring land can be employed in order to gain access to

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[20] Drink money is cash (token) or drink presented to land owners as a form of thanksgiving present. It also signifies the end of a transaction on a transfer of a piece of land to the one presenting the drink, usually the farmer. The ceremony is often carried out in the presence of many witnesses to ensure community acceptance of the new owner as the 'caretaker' of the land.

land. Although the primary and widely used mode of access to land in most parts of the country is through the customary (Larbi, 2005), secure access to land and tenure is still controversial. The customary system of land access is often embedded in a hierarchical structure of power relations based on gender, age, ethnicity and statuses among others. This has led to some actors based on these categorized being marginalized and excluded from accessing land hence falling into the poverty trap.

On the other hand, public land is under the statutory law and the allodia is vested in the President of the country and managed by the Lands Commission (LC) through the Ministry of Lands and Forestry (MLF). By virtue of its importance in the economy of many households and the state, land has always been an object of policy since colonial days (Berry, 2002; 2008), indicating that land, has never been independent of state political influences (Berry, 2008). Land under the customary is generally accessed and held in perpetuity and can be transferred by several means such as inheritance, gifts, and outright sale or transfer. Transfer of rights to land is however the responsibility of the actual land owner or allodia owners (Knox, 1998: 69, 71). Allocation of lands however, does not always take place as prescribed by the norms and laws of society and this often results in disputes and contestations between chiefs and landowners, between chiefs and different ethnic groups, males and females. Also conflicts arise between the state and the people and among family or kinship groups.

Recent field work in peri-urban areas such as in Kumasi revealed some interesting issues related to the land question which sounds a bit different from what the literature says about traditional land access and security of tenure in Ghana (cf. Ubink, 2008). Clearly there were some evidences of competition for and contestations over land and re-negotiation and re-definition of laws and norm of land rights. This struggle is based on several factors. During the visits in Awutu Senya district and Kasoa in particular it was realized that some local leaders have literally taken the laws into their own hands to please themselves and their political and wealthy cronies. They sell land entrusted to them by the people and for people but fail to account for the proceeds accrued from the sales. Like other peri-urban and agricultural communities in Ghana, the price of a plot of land (1 acre) in peri urban Accra has increased ranging between 1500 and 3000 USD so much that local resource poor farmers are unable to purchase land even if they wanted to do so (Kasanga, 1996; Amanor, 1999; Abudulai, 2002). Observations around the community and discussions with some people, it was evident that virgin land, thus primary or secondary, for farming is absent, except for some portions of land which are also difficult to till and are not suitable for a crop like tomato. It became clear from the

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discussions that parents do not have enough lands to share with their children, while they are still alive (Amanor, 2001). Share tenancy such as *abunu* and *abusa* which used to exist between migrant farmers and indigenes (owners of land) is now been practiced among local people of the Guan tribe and even people of same descent or lineage even though for obvious reasons, outsiders are the most preferred choice of land owners. Outsiders are preferred because most of them are migrants who come to do serious cultivation than the local people who prefers doing small-scale businesses. Unlike during the earlier years, the *abunu* and *abusa* system of sharing does not involve land sharing anymore. Rather produce from the field and in some cases cash are shared between land-owners and tenants. Since most of the people, particularly the youth have lost hope of prospering in the community, majority of them are engaged in petty trading. The indiscriminate sale of land, lack of accountability, the growing scarcity of agricultural land and the near absence of virgin lands for fresh cultivation among others, have contributed to the many conflicts and struggles over land in most of the communities in the Awutu Senya district. The use of descent groups, social identity, family and others based on social relations in accessing productive resources is gradually shifting but with contest from the youth (Amanor, 1999). These factors are not good signs for agricultural development and poverty reduction among the poor farmers. The decline of virgin forest lands has also contributed to the transformation of the nature of production and tenurial arrangements in many agricultural communities in Ghana (Amanor, 2006). This transformation has resulted in a complex process of differentiation in the communities (Amanor, 1999; 2001). Land is gradually becoming the preserve of the wealthy and local political elites while increasing large number of the poor and youth are being excluded from participating in agriculture. The present situation in the area is creating increase inequality and insecurity, regarding land access and tenure, disincentives to land investment and productivity. This is evident by the mounting land accumulation strategies mounted by some local elites to outwit others, usually the poor. Competitions, struggle and disputes over land and other resources for agriculture development (Kasanga and Kotey, 2001; Abudulai, 2002) are on the increase in various localities in Ghana including Kasoa (Seini and Tsikata, 2004). However, the indigenous youth in the community claim that their leaders and chiefs should enter into new negotiations with non-native land owners (settlers) and tenant farmers in tandem with the economic situation in the country.

2.3   Problem Statement

Ghana has witnessed a rapid increase in the rate of urbanization over the last two to three decades (Abdulai and Ndekugri 2007: 256; Ghana Statistical Service, 2002) mainly due to natural increase in the population of the urbanites and rural- urban migration. This has among many problems raised the issue of housing. This problem has greatly affected peri-urban areas, where there is a rising demand for residential land due to high urbanization and population growth. In trying to respond to this demand, local chiefs who are custodians-lease land to 'outsiders[21]' resulting in rapid conversion of agricultural communal land to residential land (Kasanga and Woodman, 2004; Berry, 2002 and Ubink, 2006:3). This current trend in customary land management in rural and peri-urban areas poses some serious questions with regard to the merits of customary systems and accountability of chiefs. It also queries the presumptions that chiefs represent developmental, sustainable and somewhat equitable and inclusive governance and that customary law offers security to members of a customary community. This situation therefore has raised concerns that despite the fact that chiefs are customarily and constitutionally obliged to administer land in the interest of the whole community, they are perceived generally to display little accountability as resource accrued from such land sales seem not to be ploughed back into the communities.

A lot has been reported that chiefs demonstrate little, and in other case no accountability at all when it comes to land administration in areas where conversion of farm lands are being converted into non-agricultural that is having an effect on the farmer's livelihoods. In fact, there has been little in-depth research into accountability mechanisms in relation to chieftaincy institution by both the subjects in the communities and the state institutions over customary land management. Therefore this research delved into giving the insights at local level accountability strategies.

Related to land issues in the study area are land conflicts. While some conflicts over land engage the attention of the international community, other become national issues and others occur but go unreported even at the local level, though they contain conflict laden clouds. The cases are not reported at local level due to various reasons amongst which is the fact that people try to use local means in solving the cases through their family leaders. The case of insecurity and conflicts over land in the Awutu Senya district is an example of the latter. Ghana, like many other countries in the sub-Saharan region such as Kenya, Mali and Ethiopia, has witnessed increasing commercialization and commoditization of agricultural land and services, which are expected to provide the impetus

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[21] These are non- community members. In some instances they are called as strangers

for poverty reduction in farming communities. At the same time there has been conversion of agricultural land into non-agricultural land in peri-urban areas. On the contrary, land commercialization and commoditization have resulted in the re-definition, re-interpretation and changing of rights to land and insecurity of tenure leading to disputes, conflicts, exclusion and differential (adverse) inclusion of certain individuals and social actors from benefits of such poverty reducing opportunities. Some relevant and related studies conducted on the phenomenon of unfavorable exclusion and inclusion so far in the country, have focused on women's exclusion and erosion of rights to land (Bortei-Doku, Tsikata, 2002; Whitehead and Tsikata, 2003), with less or no attention paid to other social groups (Amanor, 2001). Re-definition and re-negotiation of rights and increasing value of scarce agricultural lands often create intense pressure on land, which results in competition and contestation between and within different social actors usually based on gender, age or generation, places of origin or ethnicity and social interest among others (Ubink 2008, Kasanga 1994, Lentz 2000 and Lund 2002).

Research on the land question in Ghana, has raised a number of issues related to unequal playing fields for all parties involved in land transactions and rights (Goldstien and Udry, 2006; Ubink, 2006), extent of equality, flexibility and negotiability of the customary (Amanor, 1999; 2001; Ubink, 2008), discrimination and exclusion of customary laws against women (Bortei-Doku, 2002; Tsikata, 2002; Whitehead and Tsikata, 2003), insecurity and inequity of tenure (Tonah, 2006; Botchie et al, 2007), social differentiation, regarding access to land, tenure and benefits to land rights and participation in production (Konings, 1986; Amanor, 1999; 2008) and identities, inequalities and conflicts over lands and local leadership (Seini and Tsikata, 2004) among others. However little is discussed on the accountability aspects on the part of the chiefs when it comes to land allocation and how effective some of the accountability mechanisms instituted by government and the chieftaincy institution itself are? Okoth-Ogendo (1989) maintains that 'the system of rights to land is best understood in terms of the power (rights) which society allocates to various members to execute a particular quantum of functions' (pp.7). However, while all these studies aforementioned identify local power and politics as the underlying factors of the struggle, disputes and competition over land, they fail to systematically look at the role of power relations, associated with the customary land law, accountability, transactions and processes of securing access. They also fail to pay attention to the historical antecedents that may have produced the present challenges and

conflicts (Amanor, 2002). The question of the role of structures and processes of land access that seem to stimulate the conflicts and insecurity of land access is crucial (Moyo, 2007) in this direction. Analysis of the political economy of the phenomenon rooted in social relations is required to understand the background of the contemporary situation and to drawing lessons from the past, find solutions to a problem at hand, and predict possible future effects of current decisions by chiefs. Relations between people and land are rooted in history. Therefore historical antecedents of the community, relationship between elites, chiefs and masses of the marginalized and poor, enmeshed in social, political and economic frameworks as well as the power relations and structures operating in the community, regarding land issues was required to better understand the current situation in the community of study.

2.4   Significance and Scope of the Study

In the context of increased conversion of agricultural land into non-agricultural land, land commoditization, commercialization, exclusion and unfavorable inclusion, understanding about land governance through accountability processes become critical for policy making. As a way of contributing to the formulation of more equitable land rights policies in the context of poverty reduction, the study will provide profound insights into erosion of land rights, disputes and struggle over lands, accumulation of land and processes and mechanisms of exclusion and unfavorable inclusion, under the putatively equitable, flexible and negotiable customary land laws. The study is aimed at helping to give a clear understanding about the nature of security of access to land and tenure under the customary land law in the context of conversion of agricultural land into non-agricultural land and implications for the livelihoods and poverty status of particularly, resource poor migrants in peri urban Ghana. In-depth studies at a sphere of resource allocation at micro level, land transaction procedures, and strategies of the resource poor to hold the chiefs accountable, will help unravel the 'mysteries' behind the politics and power relations that seem to marginalize some members or groups of people in the study community (Bracking, 2003).

The study provides nuanced understanding of how the changing rights to land, processes and mechanisms of exclusion and adverse incorporation creates excluders and excluded and shape processes and characteristics of social differentiation and class formation within farming communities (Botchie et al, 2007; Amanor, 2008) as well as poverty outcomes. It traces the historical processes and economic changes that explain the role of power in determining tenure arrangements

and the series of changes that have taken place with respect to the patterns of land rights and access to land and its associated conflicts and competitions in the study area. Understanding the link between how different social groups or actors among the resource poor are included or excluded in diverse areas at household and community level in decision making on land and their experiences of security of access and tenure can throw more light on how pragmatic policies aimed at circumventing constraining power relations for sustained poverty reduction could be designed.

2.4.1 Objective of the Study and Research Questions

The main objective of the study is to analyze the formal and informal accountability mechanisms instituted within their communities as well as of that by the government of Ghana in customary land management which are being managed by chieftaincy institution. It also explores ways in which the customary system of land allocation, may limit the access to land of certain persons or groups, leading to unfavourable exclusion and conflicts. Its implications on peoples livelihoods due to tenure insecurity and insecure land access as well as benefits from rights to land in the context of increasing farmland conversion in peri urban Ghana is analyzed.

Specifically, the study is concerned with critically analyzing the assumptions, understandings and expectations of accountability within chieftaincy institutions with specific reference to land conflict in Ghana by examining ways and strategies that local people use to hold chiefs accountable in land disputes as well as analyzing the impact of lack or inefficient of accountability mechanisms in land administration on people' livelihoods. Further, the study also attempts to analyze the losses and those benefiting from the ongoing conversion of farmland into non-agricultural land usage in Awutu Senya district in the central region of Ghana. In view of this, the study seeks to address the major question: how, to what extent and with what accountability mechanisms do people hold their chiefs accountable in their area central to cases of conversion of agricultural land into residential land?

In order to meet the above mentioned objectives, the following questions will help to realize these objectives. The specific questions thus include:

- What are ordinary people' understanding and perception of accountability?
- What local, thus formal and informal, accountability mechanisms are in place to hold chiefs' accountable in land matters and how effective are they? To what extent is chieftaincy institution accountable in land administration and how legitimate are their actions?

- Does the institution of chieftaincy in land tenure changes in areas with rapidly increasing land prices?

- What processes and factors that leads to exclusion in accessing land and hinder accountability processes?

- What impact does accountability by chiefs in land management have on people' livelihoods?

2.5   Research Design and Methodology

2.5.1   Location and Socio-Economic Characteristics of the Study Area

The study was carried out in an agricultural community in a peri-urban area Odupong-Kpehe also known as Kasoa in Awutu-Senya district of the Central region. There are five villages comprising the study area namely Ofaakor, where the chief's palace is located, Gada, Bentum, Oklu Nkwanta and Kovor Torgah. It is at Gada, Bentum, Oklu Nkwanta and Kovo Torgah (See Map 2.1) where the migrant farmers reside while majority of the indigenous people resides at Ofaakor community. A detailed characteristic of these localities is provided in Chapter 4. It is worthy emphasizing that in the course of the study, the researcher stayed within the area where the research was undertaken. This decision was made after a reconnaissance fieldtrip of one and half months to Lower Axim in the Western region, Cape Coast and Kasoa in central region upon the first contact in Ghana. This exercise gave a fair insight into the issues which were to be investigated.

The pressure on land use is generally acknowledged in this area and was more visible than in Lower Axim and Cape Coast and these pressures can be noticed in the following activity areas of residential land use and developments for hotel facilities, filling stations and shops. There are a quiet number of driving forces in the community such as increasing demand for land for various uses e.g. residential housing, agricultural and industrial uses among others. The position of Kasoa being very close to Accra has made it possible for people to easily migrate from the capital into the area as housing rent prices are very high in Accra. To add on, the speculative land buying for profit purposes has also increased. Above all, the increasing population growth in Accra has contributed immensely to this problem.

While there are several reasons for selecting Kasoa for the study, three are worth mentioning here.

Kasoa, apart from being close to Accra, possesses fertile lands suitable for agriculture but it is currently experiencing some challenges, with respect to access to land under the customary laws,

institutions and erosion of rights to and disputes over land. The people in the area have a long experience of cultivation of tree, food and vegetable crops as main sources of livelihoods. A minor but equally important reason for selecting the area is the introduction of the Millennium Development Authority (MiDA) project of Ghanaian government with the support of United States Agency for International Development (USAID) which is expected to bring a sigh of relief to the people in terms of reducing poverty. In many ways the project has contributed to the disturbances, conflicts and power struggle over land in the area. Furthermore, the site has a programme established by the Land Administration Project (LAP) known as Customary Land Secretariat (CLS) which is aimed to strengthen the accountability aspect in land management in the area. Therefore, the communities chosen seemed to provide the best conditions for this type of research.

Map 2-1 Research sites location in Awutu Senya District
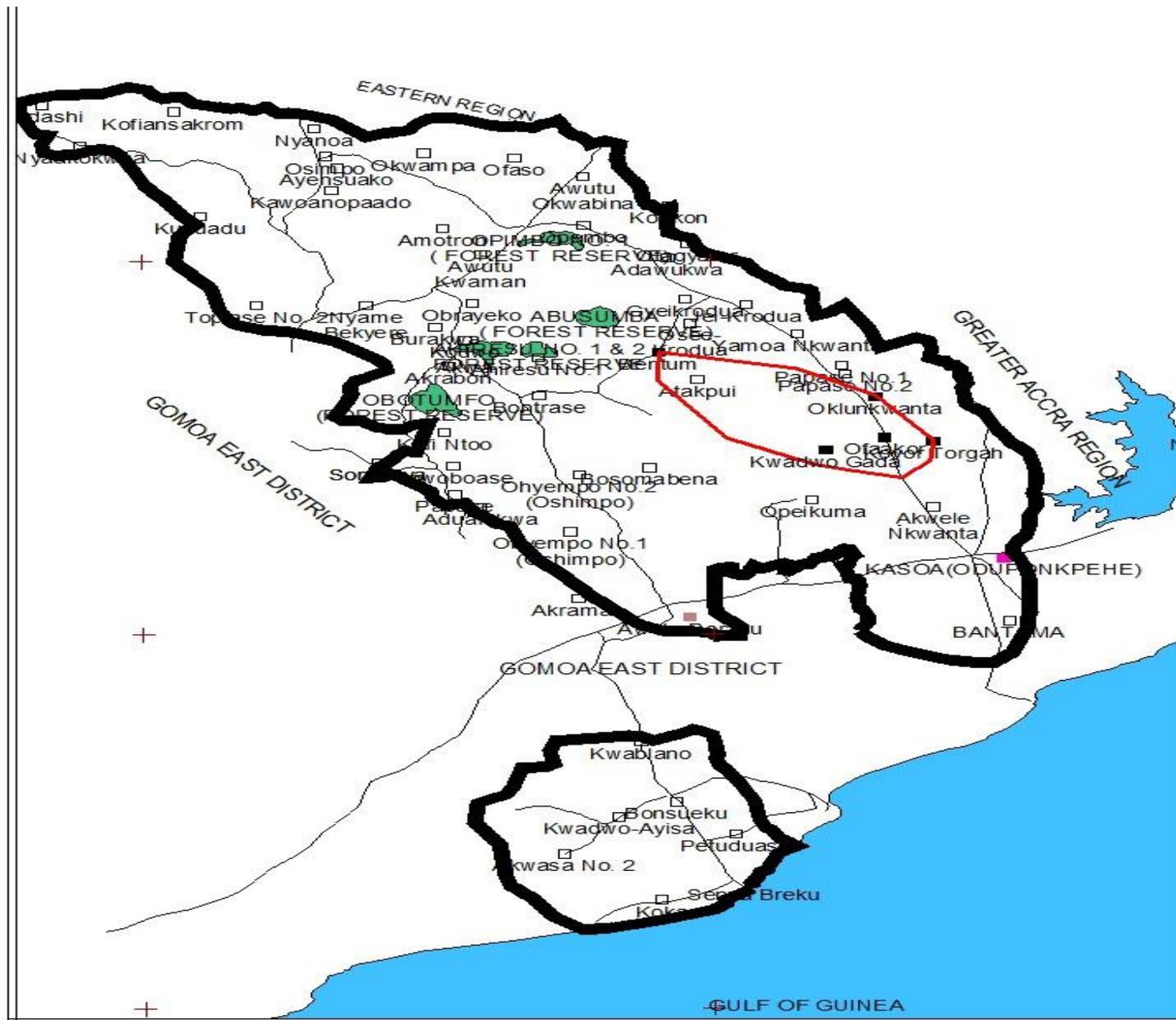
AWUTU SENYA DISTRICT

According to the population and housing census (PHC) conducted in 2000, about 121,052 people living in 197 communities inhabited in Awutu-Senya district. Over the years, the population has consistently increased, at an annual growth rate between 5.0 and 6.0 percent, which is even higher than the national average of 3.0 percent (GSS, 2000). The area is characterized by the co-existence of several ethnic groups, mainly the Awutu's and the Senya's as indigenous people, and the Ga, Akan, Ewe, Wala/Dagarti, Moshie, Basare and other numerous minority ethnic groups from several parts of the country (GSS, 2007). From about 10 percent in 1970, Ghana' urban and peri-urban population has increased to over 45 percent in 2000 with an average household size of about 7.5, higher than the national average of 5.1. Socio-economic data reveals that women head about 40 percent of households in urban and peri-urban areas, with majority of them involved in petty trading and agriculture production (GSS, 2000). The increase rate of population growth and urbanization provides large markets for land commoditization and marketization in the area. Agriculture production is mainly on small-scale and land tenure arrangements, is primarily owner occupier and share tenancy (land lease to farmer to cultivate and produce, sharing outcome between the land owner and the farmer). Basically, access to land is customary and it is allocated by the chief, elders and family heads, the custodians of the lands. The main economic activities in the district include agriculture (fishing and farming) wholesale or retail trade, agro-processing, informal sector service and commerce. The land use situation in the area is skewed towards residential facilities. Most of the areas have been built up while others are on their way to be built up. The bare green areas seen around the communities are assumed to be agricultural land, meanwhile most or all of it has been sold out to individuals for residential and other purposes order than agriculture. The current land use shows pocket of agricultural activities which are on subsistence farming. 9,000 hectares of land which was previously used for agriculture in the 1970s have currently been used for residential and commercial purposes in and around Kasoa (Akole, Ofaakor, Kwadwo Gada, Oklu Nkwanta) with the estimated 2010 population (Awutu-Senya District Profile, 2008).

2.6.2   Research Design and Methodologies

2.6.2.1 Data Requirement, Type and Sources

A cross-sectional approach has been employed in this data collection exercise. It includes survey data, in-depth interviews, and analysis of contemporary and historical data relating to power

relations, chieftaincy institution, accountability mechanisms, social differentiation, disputes, competition, alienation and displacement over agricultural lands and therefore exclusion and inclusions of people within the society. The field work also collated information useful for the understanding of socio-political processes by which rights (power) over land are vested in an individual or groups and the mechanisms by which such social processes of access rights to lands are determined. I have tried to collect information on actors' perceptions and actions about the accountability of chieftaincy institution and the dynamics processes and mechanisms of exclusion. Further, the political and economic explanations of the phenomenon of changing rights of land, local power relations and unfavourable exclusion of some people to benefits of land rights in the context of customary land allocation and management of land by chiefs. The data has mainly been gathered from the experiences of the resource poor, local elites, politicians, chiefs, diverse social groups and individuals located in the selected community of study.

A mapping of the various local actors, including chiefs, elders, clan and family heads, farmers (men and women) and other social actors such as local government agents, civil society organization, youth and immigrants among others was conducted at the community level.

Quantitative and qualitative data from both primary and secondary data sources for the case in question to explore events, processes and activities related to the land question in relation to chieftaincy accountability based on cross-sectional survey design. The qualitative data was collected by means of in-depth, semi-structured interviews, survey, site visits and participant observations. In addition, historical data and narratives have been employed in order to understand the context or settings of the researched from a historical perspective. This is because current events can be judged as spill over from the past. The choice of the mixed approach method of data collection was based mainly on the research problem as there are many conflicts related to land within the area which involves chiefs and family heads, which requires an in-depth and statistical analysis of the social relations between individuals and group of people such as the poor and non-poor, more powerful (chiefs) and less powerful resource holders, land owners and non-land owners.

Specifically the data collection exercise I have employed two broad forms of closely related data collection approaches- circumspective and retrospective. The first includes data collection on contemporary issues. The circumspective approach involves a combination of in-person interviews, site visits, survey questionnaire, focus group discussions, while second group of data (retrospective approach) focuses on changes over time. It involves analysis of institutional framework, structures,

historical context of the situation, inferences from broad trends of the phenomenon and identification of the various institutions, individuals or groups (poor, marginalized and weak groups or individuals as against the more powerful, rich and local elites) who have been and are involved in the change processes.

The circumspective (contemporary) approach helped to obtain data on demography, ethnicity, inheritance, social identity and relations, relations and structure of local land rights, tenure security, processes of accessing resources, institutions, rules and regulations guiding activities related to land and land tenure at the micro (community and individual) level, membership of groups, patron-client ties etc. Others include farm sizes, location of farm, tenure arrangements, ownership and tenancy types, management and control over land by chiefs and family heads, accumulation strategies of elites and wealthy in society, contests and disputes over land and processes of resolution, who is selling and who is buying land. All this data was collected based on gender, age, class, migration status and ethnicity.

The retrospective (historical) data approach was thus useful for understanding how, why and to what extent to which changes have occurred in the chieftaincy institution in accountability aspect as well as allocation and access to land at the micro level, I required to gather a historical data or background of the socio-political structure in the community, settlement and growth of community, (British) colonial impacts, access to land in olden days and present day Odupong-kpehe, social, political and economic life in relation to agriculture and land issues in the past. This will help in understanding the evolution of the chieftaincy institution and its community, farming, general economic activities. Data required included social identities and processes, ethnic and immigrants composition, regarding land access and security of tenure. Historical information on 'strangers' access rights, general principles and practices of access to community resources, land rights and other related issues in the community, who sold land, who had the right to sell or buy land and for what purpose and in exchange for what. Focus group discussions (FGD) and oral history noting involving conversations with some selected elders and opinion leaders in the community as well as review of previous research on the community were carried out. Situations of land related conflicts involving chiefs and family heads, disputes, opportunisms within the community in the past have been collected. Attempts have also been made to identify those who were and are being excluded, excluders, processes and mechanisms that were and are involved and how they have been applied in the past and present.

2.6.2.2 Sampling Techniques, Data Collection Instruments and Strategies

For the purposes of triangulation, this study used various data collection methods comprising survey, focus group discussions and key informant interviews. The data collection exercise in selected study area (community) started with the qualitative data collection. The exercise collected data on experiences, perceptions, interpretations and views of diverse actors (farmers, elites, and others who have been or are likely to be affected) on the changing chieftaincy institution, land rights, dynamics of land related institutions and negotiations under customary laws as well as social differentiation in order to build on past studies. As part of the first phase of the qualitative data collection, some key informants in the community, such as opinion leaders (lineage or family or clan heads), were interviewed and accounts of oral histories taken note. This was carried out after the focus group discussions. In-depth interviews were conducted on the selected social actors in order to obtain details of changing chieftaincy institution roles in society, power relations, accountability mechanisms, tenure arrangements, social and economic activities. Snowball sampling technique was used to select people for the interview.

The qualitative data from the field was summarized after sufficient data was collected and then the second phase of data collection started which focused on quantitative data. Data selected at this stage was to help me refine the interpretation of the qualitative data. This was followed by another round of qualitative data collection, when there were unexpected finding that required further explanations or clarification on data inconsistencies. The quantitative data was mainly used to analyse the distribution of the problem under study as well as establishing relationships between some variables such as socio-economic characteristics, accountability mechanisms, access, type of tenure arrangements etc. Based on the first round of survey that involved household listing, both indigenous and migrant farm households were selected for interview based on a mix of characteristics but mainly on age, education background, occupation status, ethnicity, gender, and class statuses.

A total of 225 respondents from different households (in Table 2.1 below) through the survey questionnaire after 450 households were listed during the household listing exercise. The non-probabilistic purposive techniques were employed to capture the perception of people on chieftaincy institution and accountability issues, experiences and other non-quantitative data from the

researched. Whiles the farmers were interviewed using a structured questionnaire, the other groups like chiefs, *Odikros*[22], key informants like elders and family heads were interviewed with a semi structured questionnaire. The questionnaire captured information on issues related to age, gender, ethnic composition, other demographic factors, institutional arrangements and enforcement of rights, migration, chieftaincy institution, good governance and accountability, current land transactions, defining rights, patterns of access to land and other farm resources, land investments, characteristics and processes of social differentiations, disputes and dispute resolutions among others.

Table 2-1 Number and percentage distribution of interviewed respondents

Variables	Number	Percentage
Location		
Ofaakor	124	55.1
Gada	21	9.3
Bentum	40	17.8
Oklu Nkwanta	25	11.1
Kovor Torgah	15	6.7
Sex		
Male	157	69.8
Female	68	30.2
Community Status		
Indigene	83	36.9
Migrant/settler	142	63.1
Occupation		
Farmer	107	47.6
Civil servant	10	4.4
Trading/Business	92	40.9
Student	5	2.2
Unemployed	11	4.9
Land ownership		
Yes	219	97.3
No	6	2.7
Total	**225**	**100.0**

Source: Field work in Ghana April 2009-March 2010

Another bulk of the data in this study relied on participant observation. Fieldwork began soon after the researcher settled in the community which was seconded by mapping out both statutory and customary land institutions in the area in terms of land allocation and management. The study villages were visited and protocol was observed like the proper introduction to the villages mainly through the chief palace where all the divisional, sub chiefs and odikros together with elders were present as this is an important and unavoidable matter of protocol when entering most or almost every Ghanaian communities. During this occasion the research assistant explained the purpose of

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[22] These are care taker chiefs

my stay in Kasoa. The elders and the chiefs had tried to offer me a place of accommodation within the palace which I refused as my acceptance could have had a bearing on my research gathering and some respondents could have had difficulties sharing information concerning the chiefs if they knew I was staying in the palace. After I started my fieldwork I also took part in community meetings like during durbars as well as were invited to the palace to witness land disputes litigation processes. At the beginning of my research I tried to get a general feeling on certain topics with people by just engaging in conversation with them and in most cases the engaged were curious, and normally such conversations were very lively and as I always had to explain the purpose of my presence in the village, discussions often already focused on some of my areas of interest. In fact it was easier for people to open up to me as they were interested in knowing the land tenure system in my own mother country Malawi. While explaining the situation back home to them the respondents would immediately start narrating their stories. I also tried to identify potential local partners and visited their offices. In so doing, I introduced myself to the district assembly as I had to collaborate with the Town and Country Planning Department (TCPD) who dealt with land use schemes in the district. It should be noted that during interviews I did not record the interviews since the informants did not approve of our conversations being recorded and sometimes even raised objections when I took notes during interviews since they feared that such information might end up in the hands of the elders and chiefs. All in all, the fact that I was an outsider to the community being studied certainly helped to get information, while in other cases it seemed to obstruct the process due to language barriers.

Since I was dealing with chieftaincy institution I also used a case study approach. It has been noted by Moore (1978) that extended case studies are the appropriate way to study institutions, institutional performance and institutional change. I therefore followed up on a number of cases that were conflictious in nature which involved youths, chiefs and migrant farmers. In one community, Kovo Torgah, I had to flee for my life when I was caught up in the interview process as closer to 200 panga knives armed youths (land guards) approached the *odikros* place. These interesting cases will be used to illustrate and exemplify my findings. All in all, these quantitative interviews together with ethnographic research and qualitative interviews they provide meaningful insights to my study.

2.7   Limitations:

It is difficult if not impossible to imagine doing fieldwork in an unfamiliar environment without encountering challenges. These include methodological, ethical and moral challenges. There was the challenge of getting the consent of some of the respondents to interview. Some were afraid to answer questions simply for the fear of later being punished or having any problem with their chiefs. This was due to the fact that research on power relations is always sensitive and hence people took time to gain confidence in me to get their side of the stories documented. Furthermore, ethical issues are often involved in opinion on poverty and how people cope with difficult situations. This was observed in the cases where respondents had lost land and were struggling to cope with life at household level. Getting the affected people to tell their strategies on how they get by were a bit problematic. However, by assuring the respondents of their confidentiality through anonymity, they cooperated and narrated their stories.

Another main problem was that of language as due to limited time it was impossible to learn the local languages for useful data gathering. Some interviews were conducted in English when the respondents were able to speak it. This therefore prompted me to hire a full time research assistant Joseph Ackay who proved to be very valuable to my work. I am in fact still in contact with him as he continues to brief me on certain cases that are ongoing in the study site. He could speak both local languages; therefore he acted as a translator. However, a large number of interviews, especially those with elders and farmers were conducted in *Twi* and *Ewe* depending on the communities I visited. As a result of the translation process, interviews were prolonged and some information was inevitably lost. I did end up re-interviewing some respondents when there were some inconsistencies in the information gathered. However, the information presented here is reliable within the limits of the cultural and personal subjectivities, which social scientists that do interpretative field research in societies other than theirs are unable to avoid.

It is also a serious challenge when a researcher is not familiar with the place where he is collecting data, and the people whom he is dealing with. Payne and Payne (2004) expressed the same view and pointed out that the researcher may do things in an unfamiliar way, sometimes responding to events that he has not practiced or is not prepared for. While in the field, I encountered situations where people were making demands for payment in return for responding to questions. Respondents like farmers and settlers both during individual and focus group discussions demanded money. To ad on the list of people or groups of people demanding finances were the divisional chiefs and their

odikros. For many people, I am being paid for the work I am doing whether I am a student or not. The fact that I am a foreigner who is studying in Europe worsened the situation. In fact, I could not avoid giving some money to a few of them, since it is considered as customarily ethical, though academically it might pose ethical problems. This however posed a great challenge to me since I had to be involved in the field. But one needs to consider how he is involved or detached with the people he studies. This may depend on what the informants expected from the researcher and what he is capable of providing. The challenge is that "researchers' performances and reactions to them must be constantly reviewed, self-interrogated and re-interpreted" (Payne and Payne, 2004:95). In addition, some also asked "how do we benefit from your research?", "will you help us in stopping the chiefs and family elders getting the land?", "are you coming to resolve the conflicts for us?" and many other interesting questions. My response to them was all the time "I am not coming to resolve the land disputes neither will I make your chiefs accountable to you. I am a student and the study is for an academic purpose". I sometimes added "it will contribute to knowledge by giving political leaders and policy makers involved in land administration insights into issues to consider in strengthening local good governance in land management". The latter may really not be true. This is in line with Srinivas et al (1979:11)'s observation that an ethnographer does not do fieldwork with the intention of benefiting the people he studied but rather to enhance his own career.

Last but not the least, since this topic also discussed financial accountability related issues, it was difficult for institutions especially chiefs to disclose the exact amount of money or revenues they were accruing from land sales hence the findings relied heavily on second-hand information obtained from questionnaire survey conducted.

2.6   Theoretical Underpinnings and Analytical Framework

2.6.1   Introduction

In the absence of a single unifying theory to adequately cater for the phenomenon under study, the 'most influential tradition of analyzing social processes, power relations and poverty outcomes in development studies is provided by the discourses surrounding social exclusion (Shepherd, 2007: 138) and adverse incorporation (Hickey and du Toit, 2007) which is explained in detail under section 2.8.4 in this chapter. This is carried out within the political economy framework. In general the 'terms inclusion or exclusion and governance are the key to investigations of multidimensional

dynamic processes of integration and disintegration within society, focusing on actors' potentials in these processes' (Vobruba, 2000:604). These concepts will form the basis of explaining the data that has been gathered for the study, bearing in mind, the limitations of the concepts in studies of inequality and poverty. The theoretical foundation for the proposed study is therefore located at the intersection of literature on changing tenure rights, adverse incorporation and social exclusion (AISE) and supported with literature on power relations, and agency, social structure, legitimacy and accountability within good governance. The framework adopted attempts to explain, how the dynamics of social processes and mechanisms of customary land access and tenure security and other external factors may lead to unfavorable exclusion and inclusion, social differentiation, class formation, inequality and in so doing restrict access to land, create disputes and contestations over land and perpetuate poverty in farming communities. In the sections following, we first define some relevant concepts and building blocks before considering the analytical framework.

2.6.2 Legitimacy and Accountability

Strongly linked to the objective of this research are the concepts of legitimacy, accountability, good governance and traditional authorities especially chieftaincy institution. The question being raised in customary land management is that of how legitimate are the chiefs' actions in farmland conversions and how accountable are they to the communities. Legitimacy is a concept or subject where law and leadership, culture and society intersect (Mohlig and Trotha 1994:263). Brigitta Benzing (2006:29) argues that legitimacy is understood as the network of social values on which power is founded and which, therefore, provides the basis for its acceptance. Mohlig and Trotha distinguish between sources of legitimacy of numinous characters such as divination, inspiration, selection, direct revelation and sources of pragmatic characters such as laws for election and laws for succession. While the legitimacy of traditional rule through sacred kingship and or selection falls into the first group, the modern state draws its legitimacy from sources of the second character. Gehard Totemeyer (2006:63) points out that legitimacy refers to those in authority having the moral right to rule over a defined territory and its population in accordance with the provisions of law, accepted rules and procedures. Gerard argues further that "a political system and authority can only generate legitimacy when people identify with it in the belief that it gives expression to their aspirations, values, wants and needs, and that it delivers the goods expected from it. Legitimacy refers to the quality of a state to be legitimate and to the state's moral obligations and responsibility. Legitimacy is

marked by ethical standards". The ethical standards in government and administration include a sense of accountability, to practice honesty and integrity, to respond to public needs, to accommodate public interests, to be committed towards equality and equity, to apply empathy and courtesy, to be committed to public goods and not own interests, and to be concerned about social and economic needs as well as gender and environmental issues. A community is democratic only when the humblest and weakest person can enjoy the highest civil, economic, and social rights that the biggest and most powerful possess (ibid: 64). On the other hand some authors like Oomen states that legitimacy implies an acceptance of the right to rule of the authority concerned, and a compliance that is more or less voluntarily (2006:130). Oomen operationalised the term as justified 'support' in order to assess the legitimacy of traditional leaders-the institution and the office holders. In this case the support can be material or immaterial-expressed in actions or verbally while the second element is that of justification. Oomen argues that according to Weber, legitimacy can be seen as the way in which people think of, speak about and justify the way in which institutions and organizational arrangements obtain their authority (ibid:130). Therefore legitimacy is where people who are governed must accept the decisions of the authorities as legitimate. There must be social inclusion, empowerment, equal voice, and participation (regardless of gender, youth, social class, ethnicity or religion). Legitimacy is to a large extent based on what citizens believe is legitimate and what they accept. If people do not accept the decision-making process as legitimate, they will not accept a decision that does not correspond with their own preferences. If citizens accept the mode of decision-making, they will likely accept the decisions they do not agree with as well.

The concept and practices of accountability has dominated the discussion from all corners of the society, especially with the donor community (de Wit and Akinyoade 2008). Accountability as a concept is not new but has been a topic of interest alongside efforts to combat corruption, and then became part of the concerns with 'good governance'. Broad interest in the 'good governance agenda' has gained ascendancy in the interaction and relations between government agencies and the people they are expected to serve (Goetz and Jenkins, 2005). One strong impetus for the catapulting of the concept into prominence was the World Bank development report (2004) on 'Making services work for Poor People'. Edward and Hulme(1995:9) defines accountability as 'the means by which individuals and organizations report to a recognized authority or authorities and are held responsible for their actions" while World Bank by Fox and Brown (1998:2) similarly describes accountability as 'the process of holding actors responsible for actions'. This is political or vertical accountability according to Schmitter (2004) which may also be horizontal as it involves different actors

(Fukuyama, 2005). However Cornwall et al (2000:3) broaden this perspective by suggesting that accountability is both about being 'held responsible' by others and about 'taking responsibility' for oneself. Therefore, accountability has both an external dimension in terms of an obligation to meet prescribed standards of behaviour (Chisolm 1995:141) and an internal one motivated by 'felt responsibility' as expressed through individual action and organizational or institutional mission (Fry 1995). This dual perspective is not unlike that proposed by democratic accountability theorists, even though their focus is on public institutions and a representation by elected officials rather than non-profit organizations or institutions (e.g. Behn 2001;Weber 1999, Dunn 1999) as quoted by Alnoor Ebrahim (2003:813-814). Accountability operates along multiple dimensions which involves numerous actors such as patrons, clients and selves), using various mechanisms and standards of performance which can be external and internal, explicit and implicit, legal and voluntary) and requiring varying levels of organizational response (functional and strategic)[23]. In summary, Schedler (1999) states that the notion of accountability has three main features: information, justification, and punishment (or compensation). Regarding accountability in African context, Bujo (200, p181) points out that even 'where it takes individual decisions, the conscience must always have communitaristic features, never losing sight of the welfare of the community'. The important aspect is that of representation in Africa is necessarily communal and collective. It is the social reference group which provides the measure of legitimacy and accountability of one's actions. The procedure of decision making is an important aspect of local accountability. Generally, decision making in Africa is aimed at consensus. In this study accountability shall be understood as defined as being held accountable as well as being responsive

2.6.3   Traditional Authority and Good Governance

It is important that an understanding of the degree to which chiefly power is rooted in local societies should form the first step in any assessment of the position of indigenous socio political structures in the post-colonial era. Manfred Hinz (2006: 23) indicates that traditional leaders, kings, and all who base their aspirations to rule on royal bloodlines are linked by a leadership concept in which they appear as symbols of life to their subjects. They represent the connection between the living and their ancestors. Kings were dethroned due to contravention of the traditionally determined

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[23] Kearns (1996:43) proposes a similar integrated framework for conceptualizing accountability organized along three dimensions: 'the higher authority to whom organizations (institutions) and individuals are accountable, the standards of performance-explicit or implicit-for which organizations (institutions) are held accountable, and the responses to the accountability environment from inside the organization or institution''

limitations of their ruler-ship. Therefore ruler-ship limitations have their foundation in the same set of principles which legitimizes traditional leadership. Therefore the main question is that of who is a traditional authority? Lutz and Linder (2005:5) states that "tradition" primarily has a historic meaning and relates to something that has its roots in the past which means by referring to "traditional," we assume that there is a distinction between tradition and modernity. This is embedded in the distinction between formal and informal structures or institutions. Therefore, formal structures are defined to be directly derived from the modern state, while informal structures are not based on a constitution but nevertheless determine people's everyday lives and the social, economic and political interaction between them. Traditional leadership refers to the execution of power and leadership selection procedures that differ from modern democratic systems. Traditional authorities are the leaders of traditional communities. The word "traditional" refers to historic roots of leadership, which legitimizes the execution of power. There are many existing forms of traditional leadership. In Europe, the rule of kings and nobles was the dominant governing force for a long time until it was gradually replaced by democratic structures. In Africa, Asia, and Latin America, traditional authorities are mostly referred to as chiefs and elders. Lutz and Linder (2005:12) indicate that "traditional leadership" is anthropologically defined as including "those political, socio-political and politico-religious structures that are rooted in the pre-colonial period, rather than in the creations of the colonial and post-colonial states. By these key considerations, traditional leaders can include kings, other aristocrats holding offices, heads of extended families, and office holders in decentralized polities, as long as their offices are rooted in pre-colonial states and other political entities" (Ray 2003b: 2f). Traditional forms of authority differ from the modern state in that the leadership in modern societies are usually elected or appointed by elected officials, while traditional leadership is usually inherited or appointed. Traditional leaders are not subject to an electoral process, although some are subject to accountability mechanisms. Modern states and traditional leadership have different sources of legitimacy. In traditional leadership legitimacy is rooted in history and culture, often combined with religious or divine or sacred references. Fransis Nyamnjoh (2003:233) argues that chiefs and chiefdoms are neither completely traditional nor completely modern. In Africa chieftaincy is either of pre-colonial origins or a colonial and postcolonial creation (Harneit-Sievers 1998, Geschiere 1993). Thomas Spear (2003:5) argues that tradition has been one of the most contentious words in African historiography, widely condemned for conveying a timeless, unchanging past and the evil twin of modernity. Peter Skalnik (2004:78) describes that political life of the chieftaincy is based on consensus rather than coercion and ritual ideology is the unifying force

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and that agriculture is usually the economic basis of chiefdom societies and they are socially stratified.

In relation to the question of accountability of chiefs in customary land administration it is therefore paramount to define governance as a concept of traditional authorities. It should be stated the concept is discussed from a western perspective. Therefore governance is a concept used when discussing the achievement of various development goals such as poverty reduction, improvement of health and education services, or natural re-source management (Human Development Report 2002). Governance as a broader concept goes beyond institutional political structures. UNDP defines it as

> "Local governance comprises of a set of institutions, mechanisms and processes, through which citizens and their groups can articulate their interests and needs, mediate their differences and exercise their rights and obligations at the local level. It requires partnership between local governmental institutions, civil society organizations and private sector for participatory, transparent, accountable and equitable service delivery and local development. It necessitates empowering local governments with authority and resources and building their capacity to function as participatory institutions that are responsive and accountable to the concerns and needs of all citizens. At the same time, it is concerned with strengthening of grass roots democracy and empowering citizens, communities and their organizations such as community based organizations (CBOs) and non-governmental organizations (NGOs) to participate as equal partners in local governance and local development process"[24]

It is noted that governance is that it is about how power is exercised, and how important decisions in a society are made. It refers not only to institutions, but also to the performance of these institutions. The definitions also emphasize the importance of not only state actors, but also various civil society actors, and traditional authorities in governance at the local level. Therefore good governance can then be defined as

> "Good governance is, among other things, participatory, transparent and accountable. It is also effective and equitable. And it promotes the rule of law. Good governance ensures that political, social and economic priorities are based on broad consensus in society and that the voices of the poorest and the most vulnerable are heard in decision-making over the allocation of development resources. Governance has three legs: economic, political and administrative. Economic governance includes decision-making processes that affect a country's economic activities and its relationships with other economies. It clearly has major implications for equity, poverty and quality of life. Political governance is the process of decision-making to formulate policy. Administrative governance is the system of policy implementation. Encompassing all three, good governance defines the processes and structures that guide political and socio-economic relationships"[25].

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[24] http://www.undp.org/governance/local.htm
[25] http://magnet.undp.org/policy/chapter1.htm

This definition does not specify the type of leadership needed for good governance at the local level. It follows then that it does not need to be limited to democratically elected rulers, but can also refer to other forms of leadership such as traditional authorities. Local governance must be responsive and transparent. The rulers are to be accountable, which means that it should be possible to penalize inadequate behaviour. It should be emphasized here that why this concept is relevant to the study because while people might accept local government authority for some governmental decisions (e.g. local development, infrastructure etc.), they will refer to traditional authorities for other things affecting their lives (e.g. settling of land disputes, religious or social matters).

2.6.4   Concept of Social Exclusion

Although it might be relatively new in its application in Africa and other non-industrialized countries, Ghana inclusive, social exclusion (SE), its involvement with issues such as discrimination, marginalization, and poverty among others has long existed on the continent. Social exclusion (SE) has been defined in various ways. It has been defined as the processes through which individuals or groups try to monopolize specific opportunities or power to their own advantage, and systematically disadvantage others, using factors such as gender, age, origin, ethnicity, religion and rule of law to justify their actions (de Haan and Zoomers, 2005). S.E affects both the quality of life of individuals and the equity and cohesion of society as a whole (Levitas et al., 2007: 9). According to Beall and Piron (2005), some common threads in most of the definitions are that it refers to a state of ill being, it is founded on social relations, it has institutional dimensions, it is concerned with the excluded and excluder, it looks at causes leading to inequality, deprivation, insecurity, poverty and it is multidimensional in that it looks at the interaction and intersection of different disadvantage processes from political, economic social and cultural viewpoints. Power relations therefore take a center stage position in its analysis of causes and processes.

It focuses on the mechanisms by which some people exclude others from access to resources (land) or livelihoods, returns or employment or society's products. It concentrates on the use of social identity, lack of access to a material resource (land), prejudices (peoples' *habitus),* and denial of equal citizenship (demographic factors), and other ascribed qualities as opposed to acquired (Berry, 1993) that may restrict people's achievement or deprive them from their rights and opportunities. It therefore offers a meaningful foundation for the understanding of inequality, deprivation and poverty which are firmly rooted in traditional social sciences (de Haan, 1999). It accepts the importance of politics, power relations and history in understanding poverty as a multidimensional

phenomenon. It focuses attention on ways by which different institutions (formal or informal, social, cultural, economic or political), facilitate or hinder access of different people to different forms of resources (de Haan and Zoomers, 2005). By so doing it looks at power relations and its concentration, which are ubiquitous in African production and marketing systems. This makes the concept adaptable and useful to the context of Africa and Ghana in particular.

2.6.5   Notion of Adverse Incorporation

Berry (1989) argues that 'if access to the means of production is based on social identity, then the definition of property rights is linked to the limit of social boundaries, and exploitation may operate through the subordination of some people within access-defining groups, rather than on the complete exclusion of people from ownership of the means of production' (pp. 63-64). To analyze such situations, the concept of adverse incorporation has been introduced. Researchers are cautioned not to attribute every problem of deprivation or poverty to social exclusion alone, since deprivation could also be due to inclusion of people into society or production systems against their wills or on unfavorable terms and conditions (Sen, 2000). This brings to focus the significance of the terms of inclusion of diverse people in the society or access for commercial or residential land, in the case of the present study. This form of unfavorable inclusion has come to be associated with the term 'adverse incorporation'. Adverse incorporation (AI) mainly looks at unequal or differential terms of access to resources or exploitative conditions of employment or participation in an institution. This has been introduced as a concept to help address some of the so called weaknesses or 'baggage' of SE in poverty analysis (Hickey and du Toit, 2007). Adverse incorporation can also be measured as exclusion from equitable inclusion (Sen, 2000). There are people who may socially be excluded not on the grounds of being poor but because of their inclusion on unfavorable terms. Example is where people are compelled by a situation to take up a low paying job. For example people or workers who have been displaced from their previous farmland by chiefs or other landowners, have taken up employment for low wages and in order to survive (Amanor, 1999).

Adverse incorporation refers to 'relations of exploitation, where such relationships permit one party to profit and accumulate capital while the other party earns a wage which may or may not be improving over time, depending on labour productivity; more widely to sets of social, political or economic relationships which hold people back, including relations of dependence on patrons (sometimes in the form of local authorities) for security' (Wood, 2003). That is adverse inclusion

focuses on the terms of inclusion within the production system. This may take several and diversely complex forms and processes, including patron-client relationships, the use of kinship, ethnicity, age, gender and social authority (elders) as a way of justifying actions or maintaining loyalty. These are common forms of adverse inclusion in Ghana and other parts of sub-Saharan Africa, where poorer and weaker people may not have the voice or remain powerless. The use of patriarchal social norms, chief, elders and other local authorities in the allocation of resources and distribution of returns generally represents conditions of insecurity and deprivation. The concept helps researchers to 'capture the ways in which localized livelihood strategies are enabled or constrained by economic, social and political relations over both time and space, in that they operate over lengthy periods and within cycles, and at multiple spatial levels, from local to global, relations which are driven by inequalities of power' (Hickey and du Toit, 2007:5). While it lays emphasis on the negatives of inclusion it also highlights the positives of inclusion from the perspectives of membership and/or peer groups as the basis of collective action and activation of human agency. Adverse incorporation may include processes such as declining assets, low wage employment, job insecurity, reliance on patrons, minimal access to basic necessities and life enhancing resources.

2.6.5.1 Criticism of SE and the use of both AISE

In spite of the many advantages the social exclusion concept brings to poverty studies, the approach has received a number of criticisms, including its lack of emphasis on agency, portraying the poor as always passive and lacking agency, and its failure to critically consider the terms under which various people are included in socio-economic systems and the justification of its use in developing countries (Hickey and du Toit, 2007). Since people are not always excluded in all areas of the society, or the excluded is invariably included in some sections of society, it is important to look at how people are integrated in other areas of the wider society. That is the terms of inclusion are important to understand the nuances of exclusion and inclusion processes and mechanisms.

Hickey and du Toit (2007) advocate for the use of both concepts of adverse (differential) incorporation and social exclusion (AISE) in poverty inequality analysis since they both complement each other. According to du Toit (2004) a move away from the simple dichotomous debate on exclusion and inclusion to a much more sensitive analysis that links livelihood (in this case inequality and poverty) dynamics and the broader discursive, social and spatial formations of power is relevant. The relevance of the use of both concepts in unequal resource access and poverty analysis is that they help capture the experience of diverse people, social networks, groups and categories of people

in a society which is somehow deprived, excluded or included on unfavorable terms but which existing poverty or inequality frameworks might ignore. Systematic consideration of the nuanced forms and terms of inclusion (adverse, constrained or unfavorable or differential) of the resource poor is critical. The use of adverse incorporation, according to Murray, (2001) help researchers to capture various ways in which localized livelihoods strategies are enabled or constrained by relations of economic, political and social power relations. The approach used in this research is more sensitive to local agency than the conventional political economy approach.

2.6.6 Power Relations Theory

Generally, power refers to the 'ability of one person to get another to do something that is of advantage to the former but not in the latter's interests' (Basu, 2000) or the ability of one to induce a compliant phenomenon in others (Dahl, 1970). The patterns of power in society thus determines the boundaries of choice making as well as attractiveness of choice (White, 1993) and may determine to a large extent patterns (Bardham, 1991) and outcomes of trade. The challenge for political economy analysis is to look at power and power relations within the production system and ascertain how the interactions of socio-political structures with economic processes shape poverty outcome and wealth accumulation of different actors co-existing in the same community. According to Foucault (1979) power is tolerable only on condition that it masks a substantial part of itself. Its success is proportional to its ability to hide its own mechanisms' (p. 86). Foucault's description of the overt and covert nature of power and its subtle operation in a farming community is very relevant for consideration in the study. In the context of farmland conversion by chiefs, role of politics and power relations can be well captured by the use of the (agrarian) political economy framework.

Hindess, (1996) indicates that power can be thought of as capacity – an idea originating from Weber – and as such can be understood as both enabling social change and sustaining the *status quo*. Gaventa (2005:5) notes that although everyone possesses and is affected by power, the meanings of power – and how to understand it – are diverse and often contentious. Some see power as held by actors, some of whom are powerful while others are relatively powerless (Gaventa 2006:23). Some see power as a negative' trait – to hold power is to exercise control over others (Dahl, 1961). However, others see power to be about capacity and agency to be wielded for positive action. Power is often used with other descriptive words. *Power over* refers to the ability of the powerful to affect the actions and thought of the powerless. The *power to* is important for the capacity to act; to exercise

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agency and to realize the potential of rights, citizenship or voice. This may be an angle where local people if rightly empowered may use power to realize their potentials in the wake of rampant land conflicts in peri-urban Ghana. Robert Chambers as quoted by Eyben et al, (2006:2) concludes that power over others can be used to as power to empower. This is what Gaventa (2005: 5) refers to as power *'within'* often refers to gaining the sense of self-identity, confidence and awareness that is a pre-condition for action. As the struggles between the powerful and the powerless continues over land rights in Ghana, the powerless may not attain their full potential if they work as individuals but they can do so by working in groups. This can be achieved when they have power *'with'* refers to the synergy which can emerge through partnerships and collaboration with others, or through processes of collective action and alliance building.

Issues of power are inseparable from the perspective of institutions. Institution or property rights are sets of ordered relationships among people that define their opportunities, their exposure to the rights of others, their privileges and their responsibilities. In this case rights are defined as correlative among people in the context of an interaction or transaction (Schmid 1994:67). If interests conflict, there is necessarily the exercise and result of power-the right holder has power when he or she has an opportunity which is a cost to another. As Lund (2007:69) puts it "power is relational… and only conceivable as a capacity in a social relation". On the other side of the transaction, the non-right holder has no power and is exposed to the cost of others' behaviours. At the heart of most of the Ghanaian land conflicts, chiefs are implicated. Chiefs in Ghana are a symbol of power and authority. Therefore it will be of great importance to understand the current land disputes between chiefs and local people by analyzing power relations so as to understand chieftaincy accountability.

2.7   The Political Economy Approach

Bernstein and Byres (2001) defines political economy of land as an 'interdisciplinary study of the processes of change in agrarian production, property rights, and social power relations over time'. This implies that political economy analysis focuses on the interplay of the forces that determine the structure of agriculture, role of power between the elites and the marginalized and the state. It involves institutional dimensions (formal and informal) focusing on organizations and processes that attempt to exclude some people at multi-levels of decision making (da Costa, 2008). These institutions affect the economic outcomes (Bollig, 1998:137), that individuals realize this, and that they attempt to change institutions to serve their ends more effectively, whether these ends be

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ideology or materialistic (Ensminger 1992:xiii) To understand the present, it focuses on the historical backgrounds of people, communities and changes occurring in social relations of production. It also looks at the structural power relations, accumulations processes, labour exploitation, inequalities of access and deprivations to understand persistent poverty. This makes the approach suitable for studying the emerging land relations and rights, class formation and erosions of land rights brought about by the changing property right institutions and dynamics of the social, economic and political fabric of society.

Since mainstream classical political economy analyses do not explicitly discuss human agency (O'Laughlin, 2002), as a factor necessary for the poor to break out of poverty, some authors have attempted to introduce some social science concepts such as agency in analysis of this nature. According to Dekker et al (2008) the new political economy unlike the earlier approach dwells on conflicts of interest as the organizing principles of the field (pp. 5). Gamble et al (1996) defines the 'new' political economy analysis as 'a field of study regarding the relationship between the state and the economy' and it seeks to 'build on those approaches in social science which have tried to develop an integrated analysis, by combining parsimonious theories which attempt to analyze *agency* in terms of a conception of rationality with contextual theories that analyze *structure*s institutionally and historically. Using knowledge of social structure to improve our analysis of agency and knowledge of agency to improve our analysis of structure, avoids the sterility of much existing work in structuralism and rational choice' (pp. 5-6) Gamble and others' definition of political economy implies that rather than looking at the dichotomy between structure and agency (say institutions), the two can be considered together to enhance understanding of the entire social system and how the interaction of various social groups helps one to make effective choices.

The economic version of the perspective on land promotes the idea that smaller-scale agriculture could reach a reasonable level of productivity and that land reform is a useful basis for development, since urbanization is partly reversible (Lipton 1976). On the other hand the political version of land has two main tendencies of the micro and macro thinking (Moyo, 2007). Moyo argues that the micro tendency sees political value in land reform as a means to dissolve non-capitalist relations of production or excessively concentrated power structures. The macro tendency on the other hand views land reform as a means of dissolving the political power of large agrarian capital. The figure (Figure 2-1), proposes a modified framework (following da Costa, 2008) that looks at linkages among structural changes in political and economic decisions at micro level, social relations of land tenure, agency of the poor, elite' strategies of accumulation within structural social system in the

context of accessing land for farming and residential purposes in Ghana. It helps us to describe and analyze how various institutions, structures, relations and mechanisms under the customary system of land allocation may stimulate processes of unfavourable exclusion and inclusion of certain category of people, create disputes and conflicts and render the excluded poorer, in the context of farmland conversions. Hoben's definition of land tenure as, 'encompassing the ways in which land and land-based resources are used, categorized, and the processes and strategies through which access to land are acquired, maintained, and lost' (Hoben, 2001:6) is adopted in this study. It is hypothesized that unfavourable exclusion and inclusion, under the customary law is intense within communities where access to secure land and tenure are mainly controlled and managed by unsystematic socio-economic and political processes, unaccountable institutions and mechanisms, often crafted, defined and interpreted by power wielders in the community. This invariably may create enormous opportunities for the elites and powerful in this case the local chiefs, who are able to manoeuvre and exclude the poor, disregarding the consequences.

In Ghana, just like most part of Africa, both traditional authorities and government's decisions, regarding economic development are often motivated and influenced by factors related to the external (marketization, globalization, privatization, liberalization, global trade, FDI, credit supply, and financing) and internal (protest, pressure groups, NGO's, social movements, collective actions, political parties and demographic changes) as well as historical antecedents of the country. All these elements interact within the political, economic, cultural and social context and in order to influence (directly or indirectly) state policies on land, agriculture and economic development and poverty reduction for example.

Figure 2-1: Framework for the analysis of causes and pressure on local governance to secure access to land and tenure
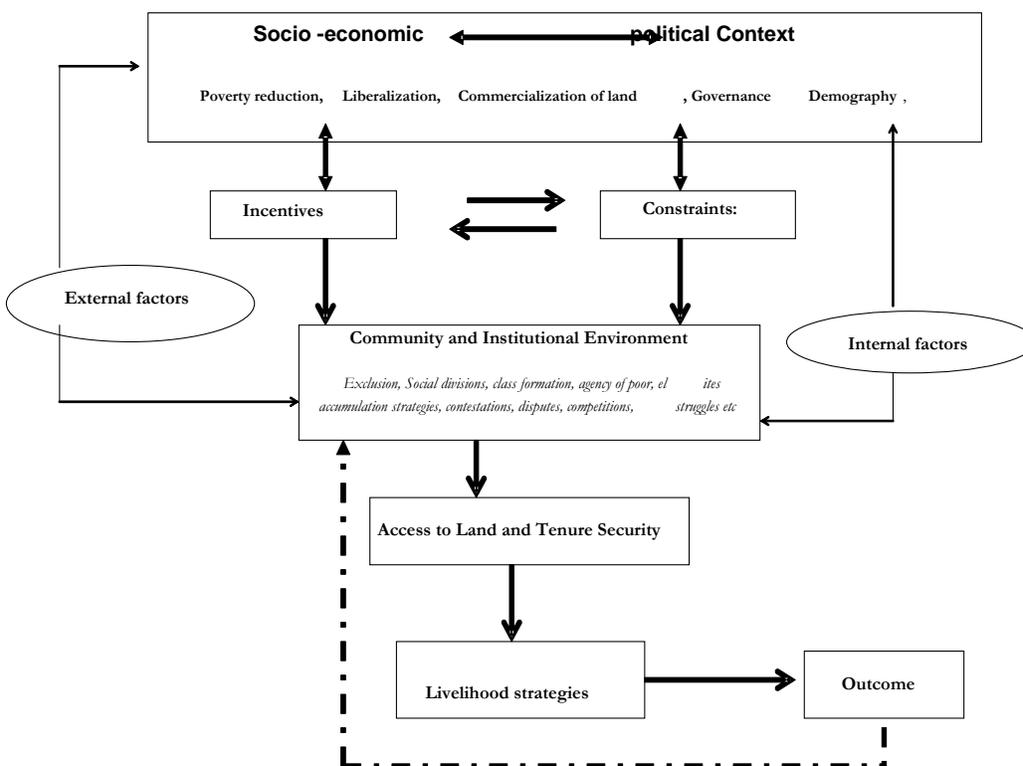
Local governance programmes aimed at economic development and empowerment are influenced by both external and internal conditions. The outcome of such process often creates both opportunities and constraints, which may vary among the diverse groups or individuals within the community in question. Land access, control and use usually take place at the micro level (community or household) where most of the interactions occur. The study therefore focuses on the micro level. However, since the macro affects the micro but through the meso level, where various translational corporations, credit and other market institutions are located (da Costa, 2008), activities at the macro and meso level, relating to land access, governance and land tenure will also be considered in the study. Historical analysis into local governance is also critical here since many of the system that has traditionally the developmental processes still exit alongside emerging systems. It also provides us with the underlying historical dimensions of what is really happening today. In general it helps us to understand the present situation so that we do not attempt to attribute everything (changing rights to land) to contemporary and local challenges alone. This influences the

activities and behaviour of the various institutions (formal and informal) that govern access to resources such as land through re-interpretation or formulation of new rules or laws.

Poverty reducing incentives such as rights to land, when equitably distributed ensure harmony and offer less opportunity for conflicts, while the reverse (inequitable distribution) fuels conditions for struggle, competition and conflicts that may affect the poor. Imposition of rules on rights to land through the development of new rules or interpretation, so defined by the powers that usually not benefit the entire community due to conflicts of interest. This may create opportunities for some people and while displacing or eroding the rights of certain groups or individuals from lands they previously owned or farmed. This may compel the excluded or those who may be unfavourably included to look elsewhere for jobs in the community and/ or in another sector. Other people may simply be forced to migrate to seek for greener pastures elsewhere. Thus such exclusion involves mainly re-allocation of resources into non-agricultural production (Maxwell and Larbi, 1998). The constraint and opportunity positions of actors are also dynamic. The dynamics of the society or institutions may change to favour different people at different times and in different locations, depending on the existing conditions and terms prevailing in the political, social and economic arena of resource distribution. Thus exclusion and inclusion of people should be seen as dynamic processes and not a dead-end situation. Situations and processes of exclusion must therefore be analyzed in relation to institutions, which are of course represented by real people (Vobruba, 2000:604) interacting within an open society. These societies are usually structured based on power relations within the social set up and hence the need to look at the interactions between the political processes and economic decisions.

Commoditization and commercialization of land, population growth, among others increase demand for land and speculation which, in turn may raise the use value (rent) or exchange value (sale) for such lands. This often creates difficult conditions for the poor, who may not have the resources to compete, or negotiate well or be able to purchase land for agriculture. As land becomes increasingly scarce, in response to development dynamics, (such as population growth, commercialization, commoditization, policy adjustments), new institutions (rules, norms and policies) will emerge which might restrict access to land of a certain group of people (cf. Amanor, 1999:12) but allow access of others to land. As such institutions develop their impacts on the distribution of economic opportunity and constraints. The emerging institutions often redefine or readjust rights to properties (such as land), which may in turn help determine the incentives for investment and increased productivity and growth or even choice of economic livelihoods. If the change does not ensure

relatively equal property rights for all people, the distribution of it could generate disputes, which may lit the chances of the poor to access secure resource (e.g. land). The returns to acquired land will also be skewed to those who have the right to define, enforce and regulate rules of the game (Goldstein and Udry, 2006). Weaker rights often lower the certainty of reaping good returns from land (Goldstein and Udry, 2006b:1). This implies that struggle over land, is not just economic but essentially one of power (Okoth-Ogendo, 1989), which is usually embedded in unequal access to land. (Peters, 2004; 2007) Exclusion and adverse inclusion are fueled by some social processes and mechanisms often associated with the customary systems of land holdings in any given society (Kabeer, 2000; Whitehead and Tsikata, 2003).

Exclusion and inclusion on adverse terms are usually effected through institutions and various behaviors of people that reflect, reproduce and enforce standardized normality of social attitude or value often defined by the most powerful in societies (Kabeer, 2000). Some common forms of exclusion or inclusion from customary land are social closures (monopolization and restricting access to resource to a selected few), unruly practices (creation of interpretation gaps between legality or rules and actual practice or legitimacy), mobilization of institutions bias (the use of dominant rules and institutions, that serves the interest of a preferred people, putting the privilege in a position to always defend and preserved their vested interests), manipulation of public meanings of land rights (Ubink and Amanor, 2008).

3 Land Access, Practices and Management in Ghana: A Historical and Broader Perspective

3.1 Introduction

Land is a resource and the management of it have always been part of development and for that matter agricultural development policy of some developing countries of Africa such as Malawi, Ghana and Kenya to mention a few. Despite this, landlessness, insecurity of tenure, struggle and conflicts over land in the hitherto land abundant continent continue to characterise some countries including Ghana. Several explanations have been provided for this crisis by several authors such as Kasanga (1998), Amanor (1999), and Berry (2002). This chapter looks at the modes of land access, evolution land tenure, and communal conflicts over lands, land holding arrangements and agricultural development and policies in Ghana. While this review attempts to explore tenurial systems, conflicts over land and development of agricultural policies and performance in Ghana as a whole, the primary focus in this chapter is on southern Ghana, where land holding rights, farm-land conversions, commercialization and commoditization of agriculture increasing creating social tensions and confrontations over who has right over which land and for what. The chapter briefly discusses the politics and economics of land access, ownership and patterns of management and administration, and looks at post-independent governments and their agricultural policies to explain the structure of land access, tenure, agriculture and socio-economic life of producers, particularly food crop producers have been shaped.

3.2 Stylized Facts about Land and Agriculture in Ghana

3.2.1 Agriculture's Contributions to the Economy

Ghana's economy is driven by its agricultural sector besides the industry and service sectors. This is reflected in the sector's contribution to major macro-economic aggregates such as gross domestic product (GDP), employment, and export earnings. With a slight drop from 39.3 percent in 2006 to 38.0 percent, the sector still contributed the largest by a single sector to GDP and accounted for 45.5 percent to foreign exchange earnings, with cocoa as the leading export earner (ISSER, 2007). The sector employs over 60 percent of Ghana's active labour force in various related disciplines of agriculture. Although it has been fluctuating, agricultural contribution to overall GDP has generally

remained high, higher than the other two sectors-services and industry (Figures 3.1 & 3.2). Nonetheless, the services sector contribution to GDP has been steadily rising since the early 1990's particularly in years where agriculture and industrial sectors have exhibited a slacking trend.

Figure 3.1: Sectoral contributions (average) to Gross Domestic Product

Average Sectoral Contribution to GDP (1970-2007)
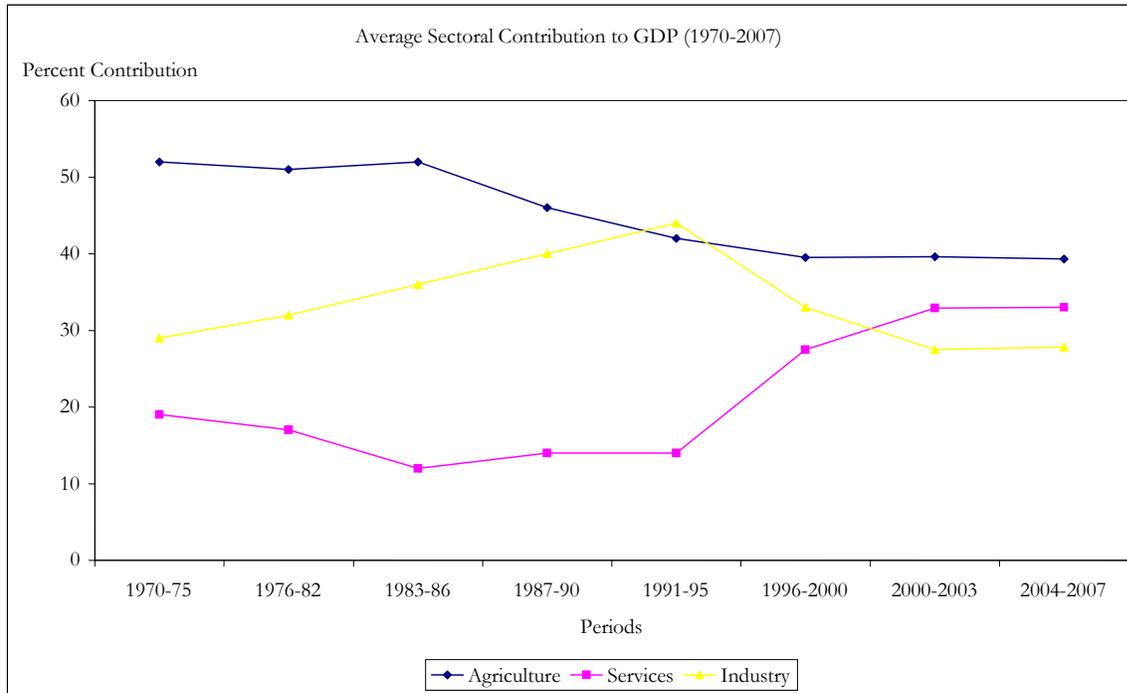
Data Source: Ghana Statistical Services (2007)

Figure 3.2: Main sectors of the Ghanaian Economy by 2009
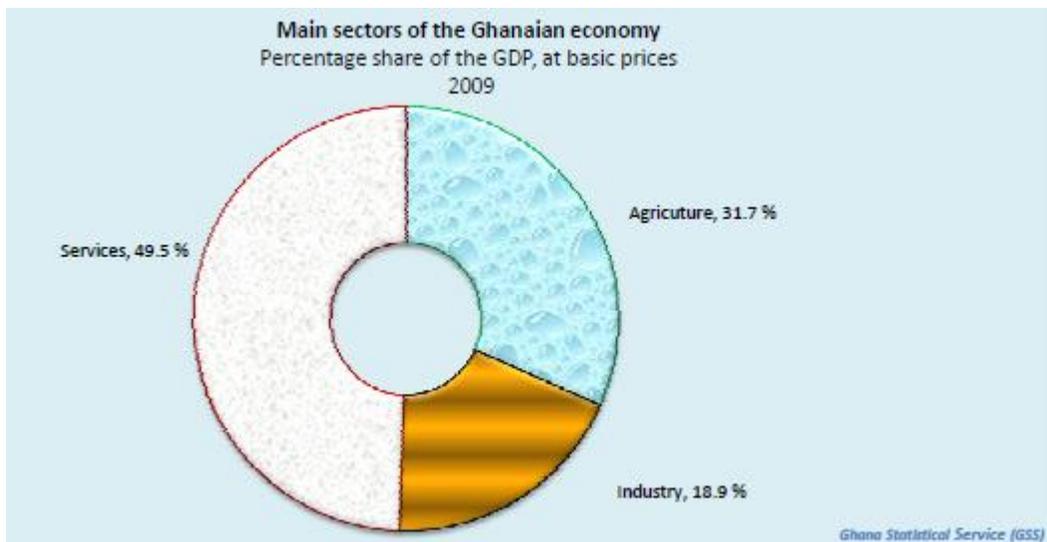
Data Source: Ghana Statistical Services (2009)

Today, Ghana is showcased as Africa's number one in terms of sustainable food production and reduction in food prices. On the national front, poverty has been declining since 1992/93 even though inequality, particularly on regional basis is still high (WDR, 2008). The agriculture sector has experienced satisfactory growth rates from 2007. In 2007, the agricultural sector grew at an average of 4.3 percent as against 7.0 percent in 2004(Figure 3.3). Despite, this inconsistency and poor performance of this sector, Ghana is aimed at achieving a middle income status by 2015 through agricultural development. Apart from its role as a source of income and livelihood for a large number of households, the sector has greater links with the other sectors (services and industry) regarding production and employment among others. This reinforces the role of Ghana's agriculture sector in fostering economic development and reducing poverty.

Figure 3.3: GDP Growth rate by sectors
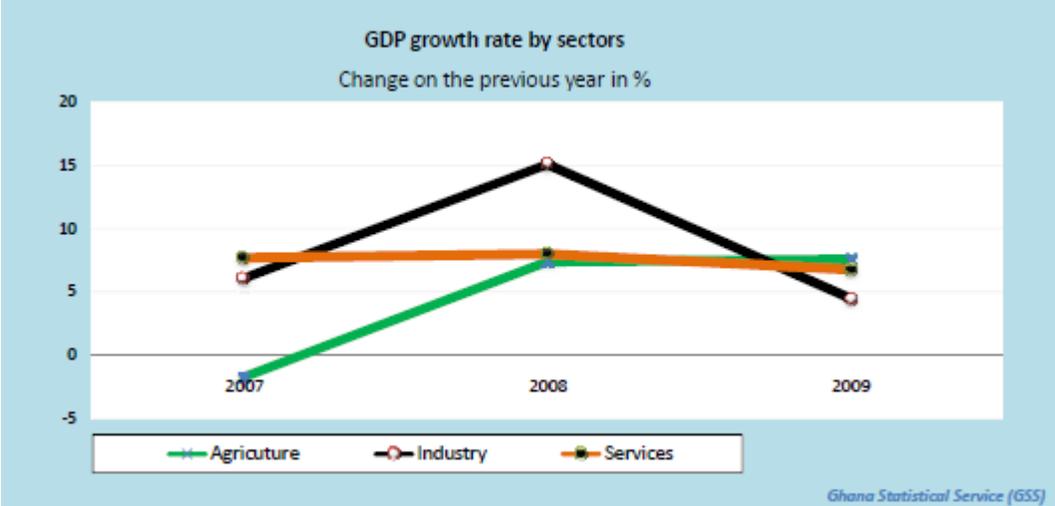
Data Source: Ghana Statistical Services (2009)

However, with the increased conversion of farmlands into non-agricultural use by various actors including chiefs, this source of livelihood is being threatened. This may result into shrinking of the agricultural sector and associated benefits that trickle down through other industries. The agricultural sector of Ghana comprises the fisheries, livestock, cocoa, and food crops sub-sectors. The Ministry of Food and Agriculture, in charge of the sector has the responsibility of creating an environment conducive for sustainable growth and development in the agricultural sector. The ministry among others things, ensures that adequate food and raw materials for industries are provided, generates high rates of employment, sustainable incomes and ensures that reduction in

poverty and wealth creation strategies are well grounded. While the Ministry of Lands and Forestry takes responsibilities related to land issues, the Finance Ministry handles the financing aspect of the agricultural sector and its activities but land allocation is typically under local or community chief management and administration. Land in southern Ghana is largely controlled by stools, clans and family heads that are empowered by the local customary laws of the traditional area to allocate and manage lands within their communities (Adjei-Nsiah et al, 2008). Ghana operates an unequal bimodal agricultural system. The agricultural sector is almost exclusively dominated by smallholder producers (95%) who rely mainly on labour-intensive and capital-extensive technologies such as hoe, cutlass and other simple and rudimentary farm implements and tools and mostly cultivate family lands. Large scale farming which prefers capital-using and labour-saving techniques constitutes the last 5 percent of the population of the sector (Chamberlins, 2008). On the average, more than 60 percent of smallholders cultivate less than the national average (2.27 ha of land). Statistics however, indicate that despite their small land holdings, the bulk of food (80-90%) of the country is produced by smallholder producers (Seini and Nyanteng, 2003).

3.2.2 General Land Distribution and Size of holding

Statistics indicate that Ghana has a total of about 57.1 percent land suitable for agriculture. As of 2006 only 26.5 percent of the total agricultural land including 0.05 percent under irrigation had been put under cultivation (MoFA 2007). Although land availability may not yet be a major problem, in terms of land-man ratio, access to land is challenging particularly for the resource poor. In many peri-urban farming communities, access to agricultural land is gradually becoming difficult due to increasing farmland conversions, and leads to many conflicts in the country. Land access is enmeshed in a complex institutional framework of power relations often with overlapping institutional responsibilities (Larbi, 2005). This messy situation is partly due to the processes and poor interpretation of norms and laws that govern the act of land right transfer.

Customary land inheritance has created a lot of problems for agricultural development in farming communities. Land holdings have continued to decrease in size due to population increases and ownership rights. Some analysts claim that, the highly fragmented nature of agricultural land in Ghana is among the major factors that hinder economic development (Kraus, 1989) through agricultural development. It is argued that land fragmentation in Ghana restricts commercial

agricultural investment, limits capital flow within the sector, constraints access to credit and results in low productivity (Lele and Adu-Nyako, 1992). Others claim that rules on land allocation are purported to have created large scale inequality among farmers. In Ghana, land inequality is both regional and ecological phenomenon (Seini and Tsikata, 2004; Chamberlins, 2008). The land inequality and therefore insecurity, within the regions and ethnic communities is largely due to the 'traditionality' of agriculture. In other cases it's the authority over land where the allodia is vested in the hands of the chiefs and elders of the traditional area while in other areas it is in the heads of families. The decision to allocate land rests with the 'stools' (in the south) and 'skins' (in the north) (Kotey and Kasanga, 2001). Generally, average land size per household increases as one travels from the south to the north of Ghana. This distribution is partly explained by the farming systems and type of crop cultivated in a particular area in the country where in the south-eastern region is the hub for cocoa production.

3.3 Land Access, Tenure Practices and Policies in Ghana.

Successful agricultural development could be attributed to several factors including access to land, secure tenurial practices and sound land policy. The absence of these and other factors in the farm sector could have serious repercussions on any economy, which is largely dependent on the agricultural sector. In view of this, some authors have attributed the land question of Africa to the emergence of colonization which is believed to have created inconsistencies in tenurial systems of Africa, particularly in sub Saharan Africa (Berry, 2008). Colonization and the land availability are therefore considered as the two major contributors to the acceleration of agriculture development, poverty reduction and economic growth and development on the continent of Africa (Goldstein, 2006; Amanor, 2010).

Addressing poverty on a continent where the majority of the population depends on land and land-based activities will require a systematic attempt to adequately look at the nuances of the land question on locality by locality basis. This is significant since every community or locality presents a different interpretation of the situation. To this effect, the international community, supported by the World Bank and others, are seeking improved ways by which the customary land tenure, which is the most widely employed by the resource poor, to access land, can be strengthened in order to ensure a more effective, efficient and equitable management, distribution and administration of

secure land access and tenure as a vehicle for accelerated poverty reduction (Whitehead and Tsikata, 2003; World Bank, 2003) in developing countries.

Ghana operates a legal pluralistic land tenure system, with customary and statutory law coexisting and interacting with each other. Two main forms of land - public and private (NLP, 1999) or customary and statutory lands (Larbi, 2006) - can be distinguished. Customary land constitutes about 80% of the total land size of Ghana (Kasanga and Kotey, 2001:13) while the remaining 20% belongs to the State. While the customary land was acquired through diverse mechanisms; gifts, settlements, purchase and conquest, the state lands were acquired by a government fiat, the State Land Act, 1962 (Act 125), which permits the state to compulsorily take over customary land for purposes of national development. Ghana thus operates a heterogeneous tenure and land management system but this varies from locality to locality within the country. Land acquired by the state can be leased to statutory bodies and some private individuals or organizations for the purposes of developing projects of national interest. Traditionally, in Ghana, like in some other countries in West Africa, the allodial rights to customary lands are vested in the local leaders (chief, heads of families or clans)(Kasanga, 1993). Customary lands are entrusted in the hands of family, clan head or chief who holds the allodial and by convention has depositional rights to the lands under his control. The other members of the land owning group (family, clan or community) have user rights only to such lands. Despite the power vested in the head of the land owning group, decisions on disposition and allocation rights are usually based on collective decisions of the head and other principal elders of the group (Kasanga, 1993; Amanor, 2002). Based on principles, laws and norms of respective communities, the allodia which is vested in the traditional leaders confers upon the local political leaders the right and responsibility to manage, administer and distribute lands under their jurisdictions. Although under the customary, state laws may play little or no role in land acquisition and transfer, any piece of land, transferred even under the customary still requires to be registered under statutory laws in order to gain state recognition (Amanor, 2002). This becomes relevant especially in the event that a court action is raised against any of the contesting party. That notwithstanding land acquisition is mainly enmeshed in complex social relations of power at the local level.

Under the 1992 constitution of Ghana, no individual or even the state has the right to sell off land to any other person. Sale of land of any kind is prohibited by the constitution of the land of Ghana. Land is rather allocated on lease terms for many years as so determined by the parties involved but

not exceeding 99 years (Odame, 2005). This implies that land in Ghana, is mainly transferred on the basis of usufructuary rights to the various land users. Producers or other land users therefore said to own the piece or plot of land from which they cultivate their crops or receive some other benefits and not the actual *solum* (land) (Ogendo-Okoth, 1989). The *solum* or actual land is owned by the chief, lineage or clan or family head to dispose-off[26] or allocate the land (Ubink, 2008).

Although the rules or norms of access to land under the customary have structurally remained the same, it is now being contested in many farming communities throughout the country. In the midst of this contestation over land, a potential source of a massive conflict in the nation, no or still little state action seems to have been taken to solve the issue. We look at these elements of land questions in detail in the next section by focusing on the evolution of land tenure practices, institutions, management and administration of land. It also focuses on existing modes of access to agricultural land and tenure arrangements in Ghana and explores how these processes and activities are changing, shaped and shaping resource access in general, ensuing conflicts over land and poverty outcomes among diverse people in agricultural communities of southern Ghana in particular.

3.3.1 Land Access, Tenure and Politics before Independence in Ghana

Since contemporary land issues are often a spillover from the past, they need to be understood from the perspective of their historical roots in socio-economic and political terms. To understand how land tenure arrangements have been constructed requires an exploration of the history and development of tenure and the politics involved in access and control over land.

Before the advent of colonial rule and the cocoa boom in south eastern Ghana and subsequent migration to the cocoa growing areas, land for agriculture was almost free in Ghana (Hill, 1963). The common form of access to land then was mainly based on first right. Those who first settled on a particular piece of land had prior claim over the land and the right to such lands automatically conferred unto settlers, the right to live on the land and produce. Thus access to land was generally acquired through both social and political processes. Through social relations amongst clan members and between clans they acquired land while in other instances through legislative instruments that's how they acquired land. By the mid of the 19th century, land acquisition then was mainly organized by chiefs and family or clan heads through adherence to a less stringent nature of

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[26] According to the current constitution of Ghana, no piece of land is supposed to be sold to anybody. The use of the words dispose-off here signifies what actually happens or is happening in the country, regarding land sales. This word is missing in the document of deed or title deed to land, which shows transfer of rights. Rather the word allocation is used to indicate that the said land has not been sold out but allocated to someone or a group.

the tenure system. The processes involved in the acquisition of land for agriculture was relatively simple and less cumbersome as compared to current conditions. In general, one needed to present drinks (schnapps) to land owners in return for the land. In addition to the drinks, some farmers arranged to give the former land owners a thanksgiving offering (*aseda*) for accepting to provide land for the tenant.

The system and processes of acquiring land however, changed when the colonial administration decided to intervene in land matters in the then Gold Coast. Land reforms in Ghana started with the colonial administration, when in 1883 under the Queen's advocate, the first land reform (deed of registration) came into force (Kuntu-Mensah, 2006). One of the reasons for the enactment of this deed was the rampant large scale land sales, granting of concessions, and exploitation of minerals as well as the lack of accountability by the chiefs (Amanor, 1999; Aryeetey et al, 2007). To be able to gain control over local peoples' land and other natural resources, the colonial government within the space of three years passed two land ordinances, the Crown Land ordinance of 1894 and Lands Bill in 1897, both of which aimed at bringing native or customary lands under the British Crown (Aryeetey et. al, 2007). These ordinances and other laws (proposed and enacted) were opposed (Aryeetey et al, 2007) by the chiefs, local people and elite groups, when it was found to be seizure rather than protecting the local people (Ranger, 1983, cited in Amanor, 1999:70). In a bid to gain control over community lands and have effective control over the people, the colonial government employed several strategies. The colonial government through legislatives such as codification of land rights, managed to create a form of acknowledged land tenure rights (Berry, 1993) which is now known as customary (Amanor, 1999). The customary land tenure laws were formalized until the colonial administration attempted to concern itself with land matters in the country.

Thus the customary law originated from the colonial periods, when in their selfish and parochial interest, the then government of the Gold Coast made several attempts to alienate land from the local people. This was carried out in order that the government could have complete access and power over lands and through that be able to control the people and resources including land in the local communities (Gyasi, 1994). This attempt resulted in what has become known in the history of Ghana as 'indirect rule'. The colonial government through such systems and rules based on the Native Authorities Act, (Amanor, 2008) attempted to control the local people by alienating their lands through the system of indirect rule. This is a system government where the state political hierarchy organized traditional communities into the Native Authorities. Through this policy, the British administration was able to rule the local people and control their lands through forming an

alliance with local chiefs. It aimed at placing all customary lands within 'traditional areas' under the management of paramount chiefs, who were made accountable to District Commissioners (DC), a person elected by the colonial government. Although the new law helped to reduce the sale of land by local chiefs, it also gave the paramount chiefs, in collusion with the local elites opportunity to sell community lands, the proceeds of which were divided among the state, district and the chiefly office. Such lands and concessions were mostly sold or given out to foreigners and not local people (Amanor, 2010: 102). Since the chiefs were involved in the sale and sharing of the proceeds from land, they became satisfied and never complained because the new law favoured them. As Boni (2005) points out, this however, did not go down well with the ruled (subjects). The policy met with a great opposition, leading to a series of feuds between landholders and migrants, among tenants and between land lords and tenants.

In 1948 the Watson Commission set up to resolve the conflicts recommended the replacement of the Native Authority Act (Amanor, 2008). This culminated into the establishment of the 1952 State Council law, which brought into force representatives of the various identified groups to for the council. The council which was constituted by representations of all chiefs in the district was presided over by the paramount chief. By this time, large tracts of land had already been sold out to wealthy people or groups of landholders, who kept the land mainly for the purposes of speculation and also for the extraction of higher land rents from poor farmers. With the high production costs and rent fees, many farmers could not invest any longer in land improvement practices, production kept dwindling and many of these farmers became indebted and sued in courts. Since communal lands were treated under state court or laws as 'customary freehold', majority of the less powerful people lost their lands and some of them dropped out of farming. With high rates of tenure insecurity, rising land prices (Field, 1943), high land rents (Amanor, 2010) and disincentives to invest in land improvements (Goldstein, 2006), many poor people lost the incentive to farm. This continued until independence in 1957.

This system or framework of land administration gave the government the opportunity to establish the District Commission (DC), a local arm of the colonial administration to supervise all land related activities including land sales and transfer. Thus through this system, the community land under local and village chiefs, transactions and transfers all came under the control of paramount chiefs in the various traditional areas (Berry, 2008). Chiefs could only be allowed to transact in land with the consent of the DC's office. The government used this system to usurp power in order to control the

people and suppress the chiefs. This law or system at the local level almost banned any other person, apart from traditional chiefs to conduct any land transaction in a community or a locality (Gyasi, 1994; Amanor, 2008). In so many ways, this system limited the powers of chiefs over land, indiscriminate sale of land and in a way helped to control conflicts and disputes which were fuming all over the region, especially the Gold and Diamond areas of *Akyem*, Ashanti and *Akwatia* areas of Ghana (Grischow, 2008).

The quest to migrate to south eastern Ghana, in order to take advantage of the booming cocoa and oil palm industry, also created increased opportunities for local chiefs to sell larger portions of their lands. The Krobo people who earlier on had acquired lands from their neighbours (mainly the *Akyems*) through what Fields (1954) calls 'bloodless conquest' (Hill, 1963; Wilson, 1994), entered into a peace accord with their neighbors and agreed to pay for all the lands they had previously seized or dishonestly taken away from their neighbors. This was executed in order to enable them to acquire more lands for agriculture. The *Krobo* soldiers (*asafo group*), used during the wars, were therefore disarmed and constituted into local land scouting and buying clubs (*huza group*). Land was peacefully thereafter acquired by the *Krobo* and *Akwamu fie* people from the land owners, the Akyems in the region, through several processes of cash payment, pouring of libation and other symbolic rituals signifying transfer of land rights from one group or individual to another of different tribes or ethnic. This act or process of cash payment by the buyers demonstrates the tendency of the local people towards the commoditization of land even at an early stage. This did not serve the interest of the colonialists as local people started selling land.

3.3.2 Land Access, Tenure Arrangements after Independence

Following independence in 1957, the first post-colonial government led by Dr. Kwame Nkrumah, attempted to reduce the powers and control of powerful chiefs (Ubink, 2008) who Nkrumah, saw as threats to his government and socialist state-led development policies. Within two to three years of becoming the president of the country, Dr. Nkrumah and his government enacted several laws as strategies to suppress chiefly powers over community lands[27]. The then government passed laws which restricted local chiefs to take any decisions concerning land transfers without the consent of local or district assemblies, institutions very similar to the district commission offices established by colonial government.

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[27] Nkrumah's Convention Peoples' Party (CPP) was actually created out of the United Party (UP) to give a political challenge to the Gold Coast Conventions (UGCC), to which prominent people like J.B. Danquah an Akyem royal was a founding member.

The Administration of land Acts of 1962, virtually brought all community lands under the control of the national state government, neglecting the customary system. Chiefly management of local (stool or skin) land was side stepped by Dr. Nkrumah's government (Ninson, 1989). Revenues from stool lands were collected and paid into government coffers without compensations for the stool or chiefs (Hill, 1963; Amanor, 2010). Under such land laws, chiefs were prevented by legislation, to take any decision concerning land management and administration as well as allocation of land within their community without the consent of the government through the local government. Acquisition and use of local or community land became the sole responsibility of government. Land was therefore acquired under these laws both for public and private purposes, even though some town chiefs later defied the law and started selling the lands under their jurisdictions without the consent of the paramount chiefs (Amanor, 2008). All these are indication that sale of land in the country is not a recent activity.

Dr. Nkrumah's attempts to suppress the chiefs were unsuccessful as he was vehemently resisted by the chiefs and the people hence his policies were partially implemented. In the same 1962, Dr. Nkrumah and his CPP government passed another law, the land rent stabilization law (Act: 109, 1962), which was meant to reduce the powers of local chiefs from unduly taxing 'stranger' or migrant farmers, a problem that created a lot of tension within farming communities. This law could however, not be enforced strictly in every community as the government sought to play politics with the law. Those chiefs and their communities who supported Nkrumah's election had the rule relaxed on their behalf. Government used this opportunity to punish those chiefs and people who did not support his party to power. The government also used this legislation to acquire large tracts of land from chiefs (Gyasi, 1993; Kotey, 2002) for large scale plantations.

The Government of Ghana (GOG) used its political powers to expropriate large tracts of land for political elites for the development of modern large scale agriculture (Amanor, 1999: 10). As a result of this a lot of small holders (peasants) , lost their lands and this created massive social tensions in the land rich areas like Akyem, Akwamu, Krobo and Akwatia (Gyasi, 1994). Again the new law could not survive the tide as it was immediately repealed after the over throw of Dr. Nkrumah in 1966. The 1969 constitution made provision for the establishment of the Lands Commission under Article 163 and a Lands Commission Act was passed in 1971. Article 189 of the 1979 Constitution also provided for the Lands Commission (Act 401) and an Office of the Administrator of Stool Lands (OASL). During this time the Lands Commission had overall supervision of OASL. After the 1979 Constitution amendment the result was that of the change in the functions of the Lands

Commission where under section 48 of the PNDCL 42 it established an Administrator of Stool Lands in the Secretariat of the Lands Commission. For the first time in the annals of the country stool land revenue collection and disbursement was taken away from traditional authorities. Later on the 1992 constitution gave powers again to the traditional authorities on land matters. According to Boni (2006), chiefs in other traditional areas for example in Sefwi, negotiate land transactions through a written memorandum which is often created by the local chief. This gives the chief opportunity to put in the documents or memoranda issues that will often favor him (chief) and hence enable him have or exercise enormous power to renegotiate terms and conditions at his interest.

3.3.3 Land Management and Administration systems of Ghana

Ghana currently operates a pluralistic form of land administration and management, with not less than six formal institutions such as Lands Commission, OASL (see chapter 6.3), often with overlapping mandates (Larbi, 2005) at various levels. These state institutions function alongside a tenacious customary system of land holding practices, involving chiefly management and allocation of communal[28] lands (Larbi, 2005). In other words land administration in Ghana is governed by both customary practices and enacted legislations. With some variations, in the processes of acquiring land, (usually based on the traditional community in question), the customary system of land holding is generally the preferred and most used channel for accessing rights to land (Gyasi, 1994).

The customary tenure is largely exploited rather than the private tenure because, it tends to be more accessible and it is also relatively cheaper for the local resource poor people (Toulmins, 2008), who might not have the kind of resources required to compete with outsiders or natives who live in the big cities and work in the formal employment. Public or statutory lands are managed by the President through the Ministry of Lands and Forestry (MLF). Statutory land is allocated through the state government machinery usually for the development of public projects which among others aim at benefiting the general public. Land for agriculture by large scale private entrepreneurs and other local smallholder farmers are mainly acquired through the customary (Kasanga, 1996; 2002). The state may sometimes help to facilitate the processes of access to land by smallholders or

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[28] Communal here refers to the system of landholding whereby land is collectively owned by a family, clan, or community of a common ancestral descent (Gyasi, 1994)

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entrepreneurs (local and foreign). This is done with the hope that such (private or non-governmental) projects will benefit the entire community where such projects are sited.

The efficiency of land use under the various forms of acquisition has also become debatable within the policy and research communities. While some authors are not adequately sure whether land tenure under customary systems for example retards agricultural development when a farmer would like to grow long term crops, and productivity (Kasanga, 2002: 28), a thorough review of the land systems in Ghana, by Lavigne Delville, et al, (2002) reveals that none of the two systems- the customary or legislative, can really be said to be efficient (cf. Toulmins, 2008). Both systems are said to be characterized by a state of chaos, inequality and insecurity. The many disputes and conflicts in Ghana have been attributed to the purportedly dubious deals among political and local elites such as chiefs and family heads in the sale and transfer of rights of community lands (Amanor, 1999; Botchie, 2006). Additionally, the putatively open nature of the customary system permits the land question to be subjected to different interpretations and definitions. It opens up opportunity for local elites and politicians to maneuver and displace the resource poor from their lands (Ubink and Amanor, 2008). This indicates that the customary law is never independent of government manipulations and hence cannot be completely divulged from state land policies and influences (Ibid: 56).

3.3.4 Changing Land Tenure Rights; Conflicts and Agriculture

It is an undeniable fact that, land tenure practices in Ghana have and are still undergoing several processes of transformation and change from the purely communal and family landholding system to individual landholding (Kasanga, 1996). Three major factors which seem to have contributed to this transformation are population increase, rapid urbanization, commercialization of agriculture (Kraus, 1989) and commoditization of agricultural services and resources, particularly land. Since the population is increasing in cities which is contributing to shortage of houses and also lead to increased housing rent as well as many people venturing in commercial farming, it is worth knowing that these factors play crucial roles in increasing demand for land and thereby causing land prices to increase. They trigger competition and struggle over land especially in a country where formal and informal systems of accessing land are conflicting or function in opposition (Baye, 2008: 137). The situation often creates opportunity for the non-poor and more powerful in the society to accumulate land at the expense of the poor and less powerful who may not have the necessary resources to

compete in the resource (land) market. As a result of the unequal playing field for the parties involved in access and allocation, inequality, conflicts and disputes have become part and parcel of the daily activities in many farming communities of Ghana (Amanor, 2001; Tonah, 2008). The resulting land disputes, litigation and conflicts have created opportunities for legal experts and traditional court members to cash in on the poor and 'fighting' groups and thereby halting general development in those areas. These land conflicts have also contributed to retardation or slowing down of development in the areas.

In a study conducted in 2003 the Centre for Democratic Development (CDD), (CDD, 2003) in Ghana, reports that 16 percent of the respondents cited boundary or land disputes resulting from various forms of inequalities and social identity classification, while 13 percent pointed to struggles for traditional leadership and 10 percent political rivalries, leadership contests and exclusion as the most common causes of violent conflicts in the country. Cases of conflicts over land abound in Ghana. Typical among these are the conflicts between the Kokomba people and Nanumba which claimed a large number of lives spanning over a period of two years (Lund, 2002). Others include that in Buem-Kator in the Volta regions, Akyem Abuakwa in the Eastern region and Sefwi-Wiaso in the Western region (Fred-Mensah, 1996).

Several factors have been attributed to these numerous communal conflicts in Ghana. This includes colonial policies of indirect rule, the practice of favouring some chiefs without considering the multi-ethnic character of various colonial territories and struggle over land and its control (Seini and Tsikata, 2004). This suggests that conflicts in Ghana are in many ways linked with national politics as well as local or community polity. A cursory analysis of the situation in many farming communities in Ghana and news from the regions indicate brewing of various land conflicts at various stages in the country (see Seini and Tsikata, 2004). In the midst of these conflicts, some have argued that traditional leaders, the original custodians and trustees of community lands have lost control of the management of such lands (Amanor, 1999; Aryeetey et al, 2007). Others are of the view that the conflicts over land are mainly the results of unnecessary state political interventions (Kasanga 1993; Boni, 2005). The state is accused of intervening in land matters only to expropriate land to cronies and transactional corporations

The general consensus however is that the land tenure system and administration in Ghana are subject to serious problems that have exacerbated land tenure insecurity with negative implications for national economic development and poverty reduction (Seini and Tsikata, 2004). The continuing

negotiation, manoeuvring and re-definition of rights to land are blamed for these conflicts (Berry, 1993). The causes of conflict over land have been attributed to several factors including the general non-adherence to legal standards and uncertainty in land markets, indeterminate boundaries of customarily-held lands, a weak land administration system, the problematic articulation of statutory and customary land tenure systems, and confusion over the status of derived interests and customary tenancies. Conflicts range from the now-regular demands of disaffected urban youth for a voice in decisions about land sales in Accra and other peri-urban areas such as Kasoa, and a proportion of proceeds, to the chaos and violence in the urban land markets arising from multiple sales of the same piece of land.

The regular demands of chiefs for more royalties or total control of natural resources such as gold and timber within their jurisdiction and their agitation for the return of land acquired by the state for development and administration also reflect these increased conflicts. Others are the regular reports of the activities of Fulani herdsmen and hunters pointing to land competition between sedentary farmers and pastoralists on the one hand and farmers and hunters on the other hand (Tonah, 2006). In addition, there are intractable conflicts and tensions between tenant farmers and their landlords, between migrants and autochthons and between mining companies and disaffected local populations (Amanor, 1999; 2001).

3.3.5 The National Land Policy (NLP) and Legal Framework in Ghana

A dynamic, sound and comprehensive land policy is an indispensable component of national economic development policy. Land plays a major role and serves an important resource in economic development of the country such that it cannot be ignored in economic policy. As indicated above, the land question cannot therefore be treated without looking at the role of the state in land issues and administration. Ghana's agricultural and land policies have been influenced by both history and legalities mainly based on colonial laws since the 19th century (Lavigne Delville, 2000). Since then, the state has always played a major role in land acquisition for agricultural development (Amanor, 1999). Like many other countries in the sub region, the globalization processes and its associated neo-liberal policies as well as the creation of international markets have led to the design and adoption of various land policies to match current changes in land use such as commercial farming. Most of these are aimed at finding solutions to the many land disputes scattered all over the country. A careful look at the Ghana's land policy of 1999 (NLP-1999) and the

administration of stool lands in Ghana clearly reveal a repetition of history. The policy is primarily aimed at addressing the many land litigations, disputes and struggle which have always been part of Ghana's development challenges.

Statistics indicate that as of 2004, over 66,000 cases on land disputes were pending in courts in Ghana (LAP, 2007). This does not include those land cases sitting in the traditional courts and/or the Alternative Dispute Resolution (ADR) centers. The delay of cases in courts, particularly state courts has been attributed mainly to the high cost of hiring the services of competent lawyers on land issues. Apart from the high cost of employing the services of lawyers, cost of frequent traveling to the formal courts which are usually situated in the urban communities and unfair judgment in some local chief courts often discourage victims, the majority of whom are resource poor (Crook, 2003:5). Money and time that should have been invested in farm work are often spent going around trying to solve litigations over land. The effects of these challenges on agricultural and economic development in farming communities and the nation as a whole cannot be overemphasized.

In view of all these challenges, government took steps to enact its first ever land policy about a decade ago. In 1999, the Government of Ghana, under the auspices of the Ministry of Lands and Forestry mooted the idea of developing a National Land Policy that is aimed at correcting all the anomalies that have been found to be associated with land. The initiative was informed by several factors including the mounting land litigation cases standing in many Ghanaian law courts (Ubink, 2008: 175), still unresolved. The number of land cases to be tried in the courts has always been the dilemma for many people, including the immediate past Chief Justice. In her own words, Chief Justice, Georgina Theodora Wood (2002) describes the land litigation issue in Ghana's courts as a 'nightmare'. Matters concerning chieftaincy, communal land disputes and dethronement related to land problems have been very difficult to settle in the state courts. State courts have no or little jurisdiction of such matters, particularly if it relates to chieftaincy or chiefly role in 'unlawful' land transaction. The next alternative to settling such land issue is out of courts or in traditional homes. However, these local courts have their own challenges as would be shown later.

Generally, the current land policy of Ghana is aimed at reviewing the legal situation of land, regarding an endorsement of pluralism, privatization of government lands that are not been used for the purposes for which they were acquired, ensuring security of tenure through registration and titling of individual or group lands, ensuring access to land by relaxing the laws on compulsory acquisition of land by government, restructuring of land institutions and increasing community involvement in land distribution (World Bank, 2003). Specifically, the national land policy is

therefore aimed at correcting the high increases in land prices, uncertainty in land delivery systems, lack of transparency and distortions in the land markets, general non-adherence to legal standards in the land market characterized by the current state of land encroachments, multiple sales of residential parcels, unapproved schemes and haphazard development, corruption and failure of the public land agencies to develop and implement policies and regulations to improve the land economy. The policy is hoped to increase security of land tenure by means of land registration and titling in order to reduce and eliminate long standing land boundary disputes, conflicts and lawsuits. Security of tenure and the protection of land rights are to be undertaken with the full participation of traditional and customary landowners through a process of tenure reform that documents and recognizes the registration and classification of land titles of various types of landholders (Larbi, 2005)

Following the launch of the National Land Policy (NLP) in 1999, and the criticisms received thereafter, the Government of Ghana (GOG) in 2000, under the auspices of the Ministry of Land and Forestry (MLF), and supported by the World Bank, initiated a project, the Land Administration Project (LAP) which among others aimed at implementing some of the policies and programmes in a bid to correct the deficiencies in the National Land Policy. Among others, the LAP is aimed at addressing some outstanding land related issues including the compulsory acquisition of large tracts of land by government, lack of consultation with landowners, co-ordination and co-operation among public sector land agencies, inadequate security of tenure, difficult accessibility to land, and loss of livelihoods in order to reduce poverty. Others include an enhanced social and economic growth through, improving security of tenure, simplifying processes of land acquisition, fostering prudent land management practices, developing the land market, establishing an efficient and sustainable system of land administration, both state and customary based on clear, coherent, and consistent polices and laws supported by appropriate institutional structures. In general, the project in the long term aimed at reducing poverty and enhancing socio economic growth and development, in both rural and urban communities.

3.4 Land Acquisition and Agricultural Policies in Ghana

In relation to agricultural development, immediate post independence government adopted a strategy of cultivating perennial crops, mainly oil palm and rubber for export, while smallholder individuals focused mainly on cocoa cultivation in addition to oil palm and other food crops for local consumption (Gyasi, 1994, Wilson, 1990). Cocoa growers at the time, primarily employed

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social relations in the acquisition of land, while government by a legislative instrument acquired large tracts of land for the state owned enterprises and state farm corporations (Hill, 1963; Gyasi, 1993; 1994). A decade after independence, state farms were found to be seriously under-performing. Successive governments therefore decided to transfer land rights to limited liability corporations and land control to chiefs. As a result of the governments' land acquisition policy, accumulation of large tracts of lands and the sale of lands by some chiefs to some multi-national corporations, many smallholder family farm households lost their rights to land and became completely displaced from their sources of livelihoods with or without compensation (Gyasi, 1993). This and other state policies enacted during the past have created a lot of social tensions and disputes in various farming communities, which have been increased today owing to the commercialization and commoditization of land and other agricultural resources (Gyasi, 1993).

Enacting a comprehensive land policy has become crucial for economic development of countries particularly with such agro based resources. Ghana did not have deep-seated land tenure reform or policy until 1999 (Amanor, 2008: 68). Mckay and Areetey (2004) attribute the poor state of the economy to lack of structural changes in the agriculture sector, the back bone of the country's economy. The absence of sound policy on land often limits governments' ability to take practical decision on land reforms that may lead to secure rights and poverty reduction (Deininger, 2003). Those with secure access to land are able to avoid total dependence of the farm population on farm wage labour, a situation which can easily lead to landlessness; a situation which many people thought will never materialize in Africa (Toulins, 2008:11) but today it is becoming a reality on the continent (Bracking, 2003) as many people are becoming landless.

Since agriculture is the mainstay of the economy, land and therefore land policy has always been part of Ghana's economic development policies. State policies play and have always played critical roles in land access and therefore alienation and exclusion. According to Amanor (1999) 'the alienation of land by the state for agribusiness and large-scale capitalist agriculture cannot be separated from developments at the community level' and, in particular, that 'the alienation of this land usually occurs in collaboration with political leaders at the community level' (pg 19).

Ghana's agricultural development policy and planning dates back to 1919, when Governor Gordon Guggisberg of the colonial government, initiated a Ten-Year Development Plan (Asuming-Brempong, 2003) to foster economic development. Guggisburg focused his agricultural development policies on crops such as coffee and cocoa for export. Large tracts of land were

expropriated through a legislative instrument enacted to serve the interest of the state. However, over concentration of attention on the cash crops lead to the neglect of the food crop sub sector. Food crop development was somehow left in the hands of the smallholder farmers and their families. The colonial government's agenda was to develop the cash crop sector in order to attract foreign exchange for the development of physical and social infrastructures in the country. While the colonial government was more interested in developing agricultural exports, most Ghanaians farmers were engaged in subsistence agriculture, using traditional farming techniques and simple tools or implements to produce cereals, roots, tubers, plantain, fruits, and vegetables on subsistence basis.

As a result of the rigorous way in which the export policy was pursued, cocoa production in the country went up from nowhere to around 250 metric tonnes between 1950 and 1959. Cocoa alone contributed about 60 to 65 percent foreign exchange to the economy (Kraus, 1989) during the 1950's. When Dr. Nkrumahs' government, the first post colonial government, took over the reigns of the country, they did very little to change policies of the agricultural sector. Thus with the introduction of socialist ideologies, the structure and policies of the agriculture sector inherited from the colonial government remained significantly unchanged. Nkrumah's idea was to keep local culture and traditions in existence. His focus was to keep traditional communal institutions such as chieftaincy as arms of government to further his socialist political agenda but not directly involved in land matters. The African socialism did not however work. It deprived a large number of poor people, who needed land to grow food for their families whom were never compensated. Some authors still purport that the failure to change or modify the structure of the sector has not helped the nation in any way (Mckay and Aryeetey, 2004). Without hindsight, governments have continued to implement the old policy objectives and instruments which never worked for the economy in the past. Mckay and Aryeetey (2004) therefore attribute the current state of poverty in the country to the absence of any effort to change the structure of the economy including land related issues. The Conventional People's Party (CPP) government led by Dr. Nkrumah made attempts to regulate customary land tenure. Its aim was to make sure that all land revenues were paid to appropriate government institutions so that such moneys or revenues could be used for local and national development. Although a good policy, its design and implementation were hampered by political agendas. Nkrumah wanted to take over lands belonging to chiefs whom he had accused of not supporting his CPP during the electioneering campaign and of using moneys accrued from land sales

and concessions, to fund the opposition United Party (UP). He charged the chiefs for misappropriating funds meant for local community development and therefore asked that all stool lands, belonging to local chiefs, particularly in the Ashanti and Akyem area be brought under the control of the presidency. The administration of all confiscated lands was put under the supervision of the Office of the Administrator of Stool Lands (OASL) (Amanor, 2010). The CPP government enacted some more laws which gave the president and the state power to alienate land for national development. This policy however, was not able to achieve its aim, because it was only partially implemented. It targeted a few powerful chiefs (Ninson, 1989). Some chiefs' flouted the policy directives; they continued to grant more lands to foreign investors. They also refused to pay taxes generated from land sales or revenues to government on the basis that the land they lived on and cultivated was acquired by their ancestors and cannot just be given away to government.

The government of Dr. Nkrumah relaxed the previous law and later enacted new laws that allowed state and traditional leaders to share the revenue that accrued from sale, rent and concessions just as the colonial administration. The law also permitted the state to continue expropriating portions of customary land in the name of national development. Such laws allowed lands belonging to the poor also to be confiscated, particularly if ones land falls within the zone earmarked for government projects. This permitted lands of small farmers or land holders who did not have the money to register their lands to be expropriated as well (Amanor, 2010). Farmers who lost their lands during the period were only compensated for the crops on the land and not the land. The rights of the small holder farmer and other land users were eroded or undermined by such arrangements (ibid: 109). A few local commercial farmers were aware of the registration processes then and because they had money and the networks, managed to register their lands and titles to the land. In this case the poor farmers lost as most of them could not afford to register their land.

Alongside his industrial development policies Nkrumah pursued an agenda of large scale farming. Government became involved in the production and marketing of the export crop by heavily investing in the agricultural export sector (Mckay and Aryeetey, 2004). Food and agriculture became heavily mechanised, operated and controlled by the state. The idea of government was to increase agricultural production through agricultural mechanisation and to encourage the diversification of the export base of the economy. To promote sustainable agricultural development through the large scale capital intensive technologies, Nkrumah through the state farm policy, established the Agricultural Development Corporation (ADC), with the mandate to expand government's import-

substitution industrialisation, mechanised agriculture and direct public intervention in production. Through this policy, government was able to expropriate lands from local people (Akoto, 1987). In view of this several agricultural projects like the ADC were cited in several places including the Gonja land to cultivate cereals, Cocoa in the forest region of Ghana and rubber and plantain plantations in the south western Ghana (ibid).

Unlike the colonial government, small-scale independent farmers under Nkrumah's regime were organised alongside the large state farms, farmers were put into groups for mechanised agriculture through cooperative efforts (Ninson, 1989). Whiles the progressive farmers focused on cocoa, oil palm and sugar mainly, smallholders cultivated crops such as maize, and rice as the major crops for subsistence. The nature of land fragmentation in the country could not help much. Small scale agriculture was therefore found to be unsustainable. Reports claim that apart from lack of suitable lands (quality and quantity) to cultivate the crops, most farmers were unskilled and could not use the heavy equipments or adopt the improved technologies that were introduced (Mckay and Aryeetey, 2004). Agriculture, particularly the cocoa sub sector's economic surpluses came under heavy taxation (Kraus, 1989). The falling prices of the crop coupled with the heavy taxes 'crippled' the economy in several ways causing a shift of private investment in cocoa to some other selected food crops. Many marginal farmers abondoned cultivation and very few people were interested in cultivation of new crops (ibid).

After Nkrumah's overthrow came a period of mixed governments; civilian governments rotating with military governments. The 15 years of political instability saw Ghana, implementing a mix of agricultural policies mainly based on the capitalist development ideologies (Amanor, 2010). This included massive infrastructural development projects in rural farming communities. First was the National Liberation Council (NLC), which came into power in 1966, pursued market-oriented economy, and replaced the state farm system with private sector capitalist development of agriculture policies. The Progress Party (PP) took over from the NLC, in 1972 and focused on import and price controls restoration. Smallholder could still not find their footings as the private sector again crowded them out (Ninson, 1989).

The Acheampong regime, Supreme Military Council I, took office in 1972, through a coup (Woodman, 1996). The late Acheampong and his government saw agriculture as an important sector of the economy and realised that if it was provided with the right atmosphere, the agricultural sector

could play a dynamically positive role in fostering economic development in all sectors of the economy. Hence his focus to develop Ghana was through the development of the agricultural sector and not so much with changing the existing land tenure arrangements (Amanor, 2010). Local land which was under the government was returned to the local chiefs. Access to land for agriculture became relatively cheaper, although monetized. Acheampong resorted to increase agricultural production through what was known as Operation Feed Yourself (OFY) and Operation Feed Your Industries (OFYI). Colonel Acheampong and his National Liberation Council (NLC) regime performed well to ensure that Ghana attained a high percentage of food self-sufficiency in cereals, particularly maize. While a lot was achieved with the NLC's Agricultural Programme of OFY, it failed to lift people from poverty as the resource which supported their incomes came under siege. Military decrees were enacted under the NLC to help protect farmers from land ejections and alienation, which had become common in those days. However, this did nothing to change the customary land tenure systems. Ghana's Operation Feed Yourself (OFY), created more spaces for politicians, elites and other business people to engage in serious internal land grabbling (Woodman, 1996).Land access became so easy that every piece of land was put under cultivation. However, over concentration on food self-sufficiency made cocoa, Ghana's agricultural life blood to suffer. After 1975, the general economy became worse, less availability in staple crops and high and widespread food insecurity characterised the country. The third republic under the leadership of Dr. Limann, with his 'action programmes for agricultural production' was short lived as a military government led by Flight Lieutenant Rawlings over-threw the civilian government (Kasanga, 1993; Woodman, 1996).

In 1981 the Provisional National Defence Council (PNDC), under the chairmanship of Flight Lieutnant Rawlings took over the affairs of Ghana through a military takeover (Kasanga, 1993). Looking at the worsening situation of economy, the government of the PNDC, in 1983 negotiated with the Breton Woods institutions (WB and IMF) to help restructure the deteriorating economy. The process of economic adjustment took place in phases. The first phase started with the economic recovery programme (ERP) from 1983-1986, with an objective to restore price distortions and eliminate trade imbalances within the economy in a bid to clear the image of Ghana in the international circle (Kraus, 1989). With the ERP, emphasis was towards an export-oriented economy because Ghana wanted to redeem its international image. Due to the macroeconomic focus of the programme, attention was put on export oriented commodities such as cocoa and other non-

traditional export (NTE) crops. Smallholder food crop farmers again suffered during the ERP because of the overemphasis on cash crop production for export.

To sustain the gains made during the ERP era, the second phase of the restructuring programme, the structural adjustment programme (SAP) was introduced in 1986 (Kasanga 1993). The adjustment programme actually aimed at liberalizing the market system through removal of price controls, reducing government expenditure, rolling away state government participation in the economy among others. Generally because these policies were based on neo-liberal ideologies and concepts, prices became the central tenet in the allocation of resources including land for agriculture (McKay and Aryeetey, 2004). Under the SAP, subsidies on commodities including agricultural inputs (such as fertiliser and agro-chemicals) were all removed, increasing the cost of production, decreasing the use of fertilizer and agro-chemicals, particularly on horticultural crops and thereby reducing farmers' profit margin (Amanor 2010).

As a result of the liberalization of the foreign exchange markets, the cedi became devalued, encouraging exports. The market liberalization policy failed to stimulate increased use of fertilizer and agro-chemicals (Assuming-Brempong, 2003) and thereby negatively affected poverty reduction particularly among food crops farmers. This assertion has been confirmed by McKay and Aryeetey (2004). The poor performance of the SAP was also due to the intention of government to supply the urban populace with cheaper foods. While poverty among food crop farmers dropped from 68 percent in 1992 to 59 percent in 1998, cocoa producers experienced a decline in poverty from 64 to 38.7 percent over the same period. The reduction in government expenditure seriously affected development projects in farming communities and hence worsened the poverty situation in many farming communities. Access to irrigation, storage and processing facilities became a challenge to farmers hence resulting in massive post harvest losses and a decline in farmers' income (Assumeng-Brempong, 1997).

4 The Socio-political-economical Profile of Respondents, Chieftaincy Institution and Land Management of the Research Area

4.1 Introduction

In this chapter, I present socio-economic background of respondents in the communities of the research area Kasoa[29], which is located in the Awutu-Senya district. Further, in order to understand land governance issues, the social organization of the communities especially the family membership, governance and management structures is discussed. This is so because heads of families are also part and parcel of the chieftaincy institution and somewhat linked with conversion of agricultural land alongside chiefs. Furthermore, the chieftaincy institution' hierarchy and involvement in governance in Ghana and particularly their past and present roles in the study area will be discussed. Beyond their involvement in governance, the chapter will elaborate their role and extent in the conversion of agricultural land into non agricultural land, which is the core problem and objective of this study. This description allows us to situate landholding patterns, as well as reveal potential sources of land conflicts, duration of tenure, and local perception of responsibility of accountability of custodian of customary land.

4.2 Background of Respondents: Social, Culture and Religion

The general area of interview is Kasoa and specifically in five constituent localities namely: Ofaakor, Bentum, Gada, Oklu Nkwanta and Kovo Torgah in the Central region of Ghana. Kasoa located on the outskirts of Accra (nation's capital), is an important site comprising different communities with high degree of residential and commercial importance communities visited. The study took place between the months of May 2009 to March 2010. Structured questionnaires were administered to 225 household representatives over the same period. Table 4.1 below presents the basic statistics and characteristics of the respondents.

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[29] Kasoa means ''market' in the Hausa language which is the lingua franca of Northern yam sellers who founded the town. It started as a small yam farm.

Table 4.1: Socio-economic characteristics

Number of households

Location	Number of households	Percentage
Ofaakor	124	55.1
Gada	21	9.3
Bentum	40	17.8
Oklu Nkwanta	25	11.1
Kovor Torgah	15	6.7
Number of Households		
	225	100.0
Household Characteristics		
Household size		
2-6	157	69.8
7+	68	30.2
Sex		
Male	157	69.8
Female	68	30.2
Community Status		
Indigene	83	36.9
In-migrant/settler	142	63.1
Ethnicity		
Guan	83	36.9
Asante	22	9.8
Ewe	93	41.3
Krobo/Adangbe	16	7.1
Ga	9	4.0
Other	2	0.9
Marital Status		
Married	168	74.7
Single	11	4.9
Disrupted	46	20.4
Occupation		
Farmer	107	47.6
Civil Servant	10	4.4
Trading/Business	92	40.9
Student	5	2.2
Unemployed	11	4.9
Households owning Land		
	219	97.3

Data Source: Field data in Ghana April 2009-March 2010

More than half of respondents interviewed reside in the peri-urban[30] Ofaakor community. Ofaakor

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[30] Areas situated on the periphery or borders with large towns and cities (city fringe). Normally locations with 250-1000 persons per square kilometre

is a large trading community situated about 30 kilometers away from the capital city Accra; it also serves as a residential area for those who work in Accra. The smallest proportion of residents is located in Kovor Torgah which is situated in the Central region, adjacent to Ofaakor. It is at the periphery of Accra. With regard to household size, about 70% of the respondents have family size ranging from as small as two to as large as six-person per household with an average of 4 persons. About 30.2% of the respondents have household sizes of 7 and above. Slightly more than three-fifths of respondents profess Christianity, one-fifth are Muslims, while the rest belong to the Traditional religion. Community dwellers believe that there is a universal God (*Onyame*) but this does not exclude gods associated with a particular region or spirits (*obosum*) by whom a priest may be possessed (Kasanga 1993). In fact the chieftaincy institution in the area has a high priest who is responsible for the spiritual welfare of the chiefs and pouring libation during ceremonies, festivals and taking care of the shrines. The high priest comes from a loyal family too, he happens to be a sub divisional chief. Traditional religion does not require regular attendance at particular buildings. According to community members, religion is not something that is remembered for one hour a week as most Christians do. To them the god and the spirits of the ancestors are always present. This religious explanation and belief in God is very important to be understood within this study as it also has a bearing when people struggle with land conversion and not holding chiefs accountable as they trust in god to solve their land issues other than confronting the chiefs. This belief in spirits is highlighted by one female respondent who practices traditional religion who explained that:

> '' I believe in our ancestors who dwell and live amongst us. The dead have lived this life and in their present dwelling they are able to see and tell us who is in the wrong or right even when it comes to land matters. That's the reason why I approach our high priest for cases related to land for answers and protection instead of fighting with the one who is eying my land" (Interview, 14th October 2009)

Also it's because of the magic power that the high priest is believed to possess. The percentage of Christians in the community coincides with the proportion of Christians recorded in the 2002 Ghana housing and population census (GSS 2002). According to some Christians most especially the Pentecostal ones believed in the supernatural God for their land-related problems as demonstrated by one Christian male respondent:

> ''I am a born again Christian who believes in *nyame* (the supernatural being) who fights for me on earthly matters. I do not need to go to the chiefs because they are also human beings just like me. They are answerable to Jesus Christ. I trust in my Jesus Christ. Whenever I have problems including land matters I go to my pastor for prayers with whom we fast and pray until the problem is solved" (Interview, 23rd October 2009)

According to this community survey, a skewed sex distribution was observed in the communities, where nearly 70% of household respondents are males. This is slightly higher from the 72,244 total males in the Efutu-Ewutu-Senya district as compared to the females who were 82,001 (GSS, 2000). This gives a possibility that there might be many male in-migrants in the area. However it must be noted that the survey I conducted was not covering the whole district which in fact excludes Efutu part which is another district now. It was not surprising that more than 60% of all respondents are in-migrants (or settlers).

These communities studied are located in the Central region which traditionally is home to the Guan and Fante ethnic groups. However, we observe that 41.3% of all respondents are *Ewe* who originated from the Volta Region; while the indigenous Guans represent 36.9% of the sample. This also supports the information that many of the respondents are in-migrants. The Ewe sample was larger because three communities out of the five studied were home to Ewe migrants only. In this district the Awutu and the Senya are the indigenous people in the District. Distinctively, the Awutu and the Senya constitutes the largest proportion of the ethnic groups who are not the Fante and the Akans in the Region. There are other settlers of different ethnic backgrounds; these include the Ga, Akan, Wala/Dagarti, Moshie, Basare and other numerous smaller tribes (Awutu Senya District profile, 2008). The main language spoken by the people in the area is *Twi*[31] but there are other dialects which are spoken by the settler groups. In addition approximately 75% of the respondents are married, less than 5% are single, while those whose marriages have been disrupted by death, divorce, or separation constitute 20% of all respondents.

There is a beautiful festival known as Awubia that is celebrated by the people of the district every year (see photograph 4.1 and 4.2).

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[31]Other languages spoken are Fanti, and English as the official language.

Photograph 4.1: Food preparation by women during the Awubia Festival

Data Source: Fieldwork April 2009-March 2010

Photograph 4.2 Carrying of a paramount chief on a palanquin during the festival

Data Source: Fieldwork April 2009-March 2010

This festival dramatizes the tradition myths and legends of the people, and commemorates a period of remembrance and thanksgiving to the gods for their mercies in the past year, and renewal of family and societies. A durbar of chiefs crowns the celebration amidst drumming, dancing and firing of musketry. There is uniqueness in the attire. It is celebrated yearly in the month of September that is first week in September.

4.3   Awutu-Senya District (ASD): Constituent Communities' Characteristics

The Awutu-Senya District is one of the newly created districts in the Central Region. The district was carved out of the former Awutu-Efutu-Senya District in 2007, based on Legislative Instrument 1847. The rationale was to facilitate government's decentralization programmes and the local governance system. The Awutu Senya District is situated between latitudes 5o20' north and 5 ^{o} 42'north and longitudes 0 ^{o} 25' west and 0 ^{o} 37' west on the eastern part of the Central Region of Ghana (Awutu Senya District Profile, 2007). It is bordered on the north by West Akim District, north-west by Birim South, east by Ga South District, west by Agona West District, and south by Effutu Municipal and Gulf of Guinea. The district has two paramountcies (See chapter 3.5.2 for a detailed explanation) namely Awutu and Senya with the paramount seats located at Awutu, and Senya respectively (ibid). The people of the district are mainly Guan. The district covers an estimated area of 511.75 square kilometres (see map 1.1 in chapter 1).

The two main occupation found in the study area are trading and farming. The district experiences a five-month dry season starting from November to March during which period the dry North-East Trade winds dominate the area. The dry season is followed by a seven-month rainy season from April to October during which time the moist south-west monsoon winds dominate the area. The rainfall figures of the district are quite low (40cm-50cm) along the coast but are higher in the inland with the mean annual rainfall ranging between 50cm and 70cm (Awutu Senya District Profile, 2007). The district experiences a mean annual minimum and maximum temperature of 22^0C and 28^0C. It is coupled with the rainfall pattern which favours cultivation of many crops such as Pineapples, cassava, plantain, maize, yam, pawpaw, cocoa and palm trees, particularly, in the semi-deciduous forest areas. The vegetation of the district is made up of semi-deciduous forest and coastal savannah grassland. The coastal savannah is suitable for the cultivation of vegetables such as tomatoes, Okra, pepper, cabbage, garden eggs, onions, etc. In addition, the high temperatures and dry conditions along the coast favour salt mining from the ocean.

About 70% of the district is of semi-deciduous forest with cocoa and palm trees constituting the major crops cultivated. The types of vegetation, to a large extent, influence the kinds of economic activities of the people. For example, the types of crops grown are akin to the vegetation type found in the area; vegetables in the grassland area and cereals, roots and tree crops in the forest areas. This may explain the reason why the Presidential Special Initiative on Cassava for the production of industrial starch is located in the Bawjiase area; where cassava thrives very well in the semi-deciduous forest. However, the semi-deciduous forest and coastal savannah grassland vegetation in this zone supports grazing for animals such as cattle, sheep and goats. This zone therefore is conducive for animals and dairy products.

The total population of the Awutu Senya District as of the year 2000 was 154,904 living in 197 communities (GSS, 2000). The District is made up of five (5) major urban centres namely; Kasoa, Senya Beraku, Bawjiase, Bontrase and Awutu Beraku. There are two urban councils and five Area councils, one of which is Oduponkpehe (Kasoa) Urban Council, the focus of this study.

The district exhibits the characteristics of both urban and rural settlements, with reference to population and functionality. Presently Oduponkpehe (Kasoa) township is exhibiting some characteristics of a rapidly urbanizing community in the country like that of increased migration, rapid population growth and haphazard building of houses.

Photograph 4.3: View of a congested Kasoa on Accra border

Data Source: Fieldwork April 2009-March 2010

In the Awutu-Senya district, most of the government departments that provide social services and amenities are situated in Kasoa, which serves as the business centre for four other constituent centres namely Senya Beraku, Bawjiase, Bontrase and Awutu Beraku. The district can be accessed through the main Accra-Mallam-Winneba to Takoradi highway (ECOWAS Trans National highway) which passes through the district. The road corridor being an international corridor attracts vehicular movements from neighbouring countries like Togo and Cote d'Ivoire for business trips, travels and tourism visits. There are other major roads within the district which include the Kasoa-Bawjiase road through which the studied communities can be easily accessed, Kasoa-Nyanyano road, Akoti junction-Senya road, and Oboum road to Asabaham village to Nsawam road. Within the District there are some urban roads that link to the main Accra-Mallam-Kasoa road. The studied communities are reached by these roads and are served by government transport. Privately owned *trotro*[32] and shared taxis provide the link with the towns and carry goods and animals as well as passengers. These *trotro* and shared taxis are the creation of private enterprise and initiative, designed to meet the pressing need for peri-urban transport.

With the increased in-migrants and the population growth, the district, faces challenges in the education sector. According to the 2000 population and housing census the district registered a total of 61,945 people who have never gone to school out of the 154,904 population with 38,233 being females (GSS, 2000) in the district, the sector strives to increase access to quality education through the provision of infrastructure and quality teaching and learning material. The sector presently has its objective to increase general enrolment levels at the JHS and SHS by 25% and 30% respectively by the end of 2009 (Education Services, 2006). During the planned period under review, general school enrolment increased by 41%. The enrolment level at the JHS level increased to 33% which exceeded the projected target of 25% which was partly due to the Ghana School Feeding Programme. The enrolment level at the SHS was 20%, which is below the 30% target set for the period under review; this was partly due to the low performance rate at the JHS level during the planned period. In this regard the education sector is increasing its efforts in the field of supervision; thus the district set out to improve the accommodation situation in a couple of schools to improve enrollment. There are two public Senior High School (Senya and Obrachire SHS) and five private Senior High School (Awutu Senya District profile, 2007).

With regards to the health sector, there are five public health centres located at Bawjiase, Senya, Awutu, Kasoa and Bontrase (district Health Services, 2006). Four (4) Community-Based Health

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[32] A trotro is a general term for any public transportation vehicle other than a bus or taxi that is designed to carry many people

Planning Services (CHPS) zones exist in the district and they are located at Bawjiase, Awutu and Bontrase. Below is a table showing CHPS zones and their locations.

Table 4.2: CHPS Zones in the district

Name of CHPS	Community	Sub-District
1. Akrabong Chps Zone	Akrabong	Awutu-Bontrase
2. Tawiakwaa Chps Zone	Tawiakwaa	Bawjiase
3. Okwampa Chps zone	Okwampa	Bawjiase
4. Mayenda Chp zone	Mayenda	Bawjiase

Source: District Health Services 2006

4.3.1 The Local Economy: Economic Activities, Agriculture and Commerce

The main economic activities in the district include agriculture such as fishing and farming wholesale or retail trade, agro-processing, informal sector service and commerce. Agriculture and its related work is the leading economic activity and it employs about 45.5% of the working population in the district (Awutu Senya District Profile, 2007). The fishing industry is also very prominent in Senya, a coastal community in the district; this sector employs 10.5% of the working population in the district (GSS, 2000). Though there is a growing demand for fresh water fish especially Tilapia, inland fishing is not yet developed.

About 16.0% (Awutu Senya District Profile 2007) of the active population is engaged in wholesale and or retail trade sector and the district has some of its prominent markets in Kasoa at the new market which opens to larger sales and attracts sellers and buyers from different areas on Tuesdays and Fridays every week. The private informal sector employs about 28.0% (ibid) of the working population which include local banking agents, land sale agents, estate developers, internet browsing, shops and agro processing mainly cassava dough, gari[33] and corn dough.

Also in the area are large and medium scale farmers who produce pineapple for export. Bawjiase is noted for its cassava cultivation, hence the Ayensu Starch Factory which was established there. Cocoa is cultivated in Bawjiase and beyond, while the study area has a large-scale pineapple farm (Jei River Farms). Most of these large-scale farmers use irrigation systems powered with pumps along

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[33]Gari is made from fresh cassava, which is grated and the excess liquid is then squeezed out. The remaining cassava is then fried with over an open fire, on a broad metal pan that has been greased with a little oil, could be palm oil or other vegetable fat. The result product is crisp and crunchy to taste, and is stored easily and can be eaten with stew or soup and fish. A truly versatile food and affordable. Also used as a side dish at many parties in Ghana.

river banks, dams and dug-outs. Livestock production is also practiced in the district but on a smaller scale.

4.3.2   Social Organization: Family Membership, Governance and Land Management

There is a clear and strong understanding of who is an indigene and is in-migrant, mostly referred to as strangers. This is of great importance to understand the role the community status plays in relating to holding chiefs accountable in land related issues. As land is held by chiefs as well as families, it is important to understand family structures. The kinship system in the study area is matrilineal. Family members comprise adult males, adult females, married males, married females, widowers, widows, children, step-children locally known as *'enaba'* – a step-child belongs to the maternal family, adopted children (could even enjoy inheritance rights), persons whose paternity is unknown or disputed or rejected, descendants of adopted persons if the adopted parent was a female, descendants of former captives and descendants of founders. The inheritance system is strictly matrilineal in the Awutu traditional area where Ofaakor community is situated. However foster children, step-children, and descendants of in-migrants who have integrated into the traditional area, long and short-term visitors are not considered as members of the local matrilineal system.

The extended family is the main type of family identified in Kasoa, and not the nuclear family, which is seen as a foreign and adopted family system. Every family belongs to a matrilineal clan (*'nɔn'*). There are several clans that can be identified in the area including *'Asona', 'Anona'* and *Dode Ojobi'*. There are no instances where a person belongs to more than one clan, for instance, one cannot belong to both *'Anona'* and *'Asona'* clans. Blood line is usually traced along matrilineal clan lines.

According to key informants, there are some hereditary offices that members can occupy within the family. The hereditary offices in the family are of the *'abusuapanin'* (head of family), the *'obaapanin'* who is a senior woman in a family, and in families where there is a chieftaincy stool, the *'ohene'* (chief) and the *'ohemaa'* (queen mother) in addition to the above positions. Other hereditary offices within a family are: *'efie panin'* or *'nana panin'* (eldest grandparent), *'abusuakyeame'* (family linguist[34])*,

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[34]The linguist (okyeame) has no corresponding role in western society. A man wishing to consult the fetish priest or the Chief addresses his remarks to the Linguist, who then passes them on and returns the reply (even though all three people are present together). The linguist is an intermediary, acting as a buffer to reduce the severity of utterances and so save delicate situations. If the Chief should make a harsh pronouncement, it is the duty of the linguist to euphemise and clothe the statement in proverbs.

and *Nanakyeame'* (a chief's linguist, if that family produces the lines of linguists to the chief). The head of family in Ofaakor indicated that:

> "Not everybody qualifies to be an *abusuapanin* as one must be a family member; a person of good behaviour and character; must be respectful even if he is relatively younger than other family members. Importantly he is somebody with the ability to settle disputes and unite the family, and is not selective; person of sound mind with good intentions." (Interview, 2nd August 2009)

It was indicated that the person must be someone who knows the history of the family; a person who seeks the welfare of family members; an eloquent and wise person; caring and considerate, easily offering support to family members. Furthermore, he must be a person who does not live abroad and can easily be contacted by the family; one who does not have the potential to sell family property; and must have organizational skills. According to the head of family he indicated that:

> "Sometimes a female with demonstrated capacity can become an *abusuapanin*. However, the siblings of the late *abusuapanin* are usually considered before considering *'wofa asi'* (nephews) unlike in the case of selecting a chief, where a relatively younger person could be selected while the older candidates are still alive". (Interview, 2nd August 2009)

However, the Ofaakor chief added that:

> "If the previous *abusuapanin* nominated anyone, that person is given due consideration. Also, the son of the eldest woman in the family is considered for the position. Another criterion is someone who is wealthy so that he is not easily corrupted whenever disputes arise".(Interview, 3rd August 2009)

According to the head of family he explained that in the past, one may be disqualified from being an *Abusaapanin* particularly if the person marries a person from the Northern part of Ghana. For about thirty (30) years, this factor has been less of a consideration, a person who is insane, one with impairment or disability such as goitre, or any strange disease like fits cannot inherit. However, in the case of an *abusuapanin* other than the *omanhene's abusuapanin*, a person with disability but of good conduct may be allowed to occupy the position; but not with a bad past record (e.g. stealing and drinking excessive alcohol); a former captive and a long-term slave; a drunkard; and a quarrelsome person.

The rights of the *Abusuapanin* in the family and community are that he has the final say in all matters within the family and his decision must be respected by all he has the right to accept and formalize marriages. In fact he has the power to refuse the marriage of family members if he considers it to be unproductive. In terms of disputes, he has the right to settle disputes within the family and make

rules governing the use of family property. In general the *Abusuapanin* has the right of sending people to represent at functions such as funerals and also leads in every family activity. In terms of land, he has the right to restrict the development of family land and to challenge the disposal of family land which means he also has the right to take care of property of family. In relation to the roles and responsibilities, the *Abusuapanin* is responsible amongst many things to unite the family, organizing funeral rites of deceased family members, receive the bride price, protect and taking care of family property. He is also responsible in using family resources or proceeds from family farm to maintain family property (e.g. painting family house).

To qualify as *ohemaa* (queen mother), one must be a mature person; must be a family member; respectful and humble; be knowledgeable in the customs and traditions of the traditional area and Guans in general; and one with a pleasant and approachable personality. Traditionally they help in installing chiefs and in contemporary times are involved in community development projects. She is involved in selecting the chief in the family at clan level. After the elders of the family have screened and short listed the potential candidates they present them to the *Ohemaa* to choose the one who is most suitable for the chieftancy office, who she can conveniently work with. However, as it will be shown later in the coming chapter, they are less important in issues of land management.

It must be noted that the positions in a family are not related to the community governance structures, except those of the *ohene*, *ohemaa* and *okyeame*[35]. The various family heads are sometimes called upon by the *omanhene* for their support especially in cases which require financial contributions towards projects for the common good.

For a person to become an *Abusuapanin* or *Ɔbaapanin* the procedure is that on the fortieth (40th) day after the death of the previous office holder, the elders in the family meet in caucus and decide on a suitable candidate when they nominate after conferring with '*aberewa*' (the eldest woman). If they are able to agree on a suitable candidate, they then inform the entire family at a meeting. Final approval of the candidate is sought at that meeting and if it is granted, the office holder is expected to present drinks, money and sheep as a sign of appreciation for the honour done by making him or her *abusuapanin* or *obaapanin* as the case may be.

When installing an *ohemaa*, the family head would make the vacancy of the stool known for interested persons to state their desire to be chosen for the position. The previous *ohemaa* could have nominated someone while alive in which case upon her death, the nominee automatically

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[35] *Obaapanin* for instance is not involved in community governance

becomes the next *ohemaa* after swearing her oath. Where the *Ohemaa* did not nominate one the *abusuapanin* nominates a person, the nominee's suitability is considered by the entire body of chiefs. If they agree on a nominee, a gong-gong is beaten to call for a community gathering at which the nominee is introduced to the people. If he also receives approval from the community members when a gong gong is beaten to invite community members to express their views on the selection done, she is carried shoulder high amidst jubilation. Drinks are also to be presented by the nominee to the family. As for Ofaakor community their current *ohemaa* is a school-going young lady who replaced her predecessor who could not execute her duties due to old age (see picture 4.3).

Photograph 4.4: The young Odupongkpehe queen mother

Data Source: Fieldwork April 2009-March 2010

The process of inheriting the office of the *ohene* starts with the *abusuapanin* announcing the vacancy and asking interested family members to make their intentions known as explained by one elder of the council that:

> '' The elders of the family then screen and short list the candidates if need be, and present them to the *ohemaa*. Her role is to choose the one who is most suitable for the office and who she can conveniently work with, for the nominee to be installed. If however the late office holder nominated a family member and prepared the person for the position, that

person is also considered and if found suitable, is introduced to the *ohemaa*. Adult males of a stool owning family are given much consideration in selecting a person for the position of *ohene*. Sometimes, male family members from a particular line of the family from where many chiefs have come from as previous office holders will have to give way to other lines and their members. This is done to ensure fairness. If there are possible candidates from another line, then one line cannot continually provide the office holders". (Interview, Ofaakor, 1ˢᵗ November, 2009).

On the level of seniority, the elder of the council indicated that a brother of the late or past *ohene* is considered before a nephew or a grandson. The decision of elderly female family members (the proverbial *abrewa*) is critical and given due consideration during the selection of an *ohene or ohemaa*. They are asked to consider those nominated and decide on the best candidate based on their character. The *omanhene's* family head is somehow related to the community governance structure in that he accompanies the paramount chief to traditional council meetings (Interview, Ofaakor, 1ˢᵗ November, 2009).

4.3.3   Governance and Management Structures of the Family

Family governance is the responsibility of the abusuapanin, abusua naanofoo36 and the elderly family members. According to Ofaakor' *Obaapanin* explanation, the *obaapanin* is involved during funeral rites and enstooling a chief. These persons govern the family by holding meetings and consultations. If the *abusua naanofoo* finds anything wrong in the family, they inform the *abusuapanin* who tries to settle the matter. If he is unsuccessful in settling the matter, then other members of the family are called in for settlement. The *abusuapanin* has the ultimate decision-making authority in the family because he has been selected by the entire family to occupy that high family office. In cases where there is a stool, the ultimate decision making rests with the *obusuapanin* and *ohene*. The *ohemaa* is consulted in critical situations. Therefore, the composition of the authority of the main family governance and management is the *abusuapanin*, a chief and *ohemaa* if any are in the family. The *abusuapanin* and *obaapanin* meet to decide on days for organizing funerals of dead family members. On other festive occasions like Awubia and Christmas, the *abusuapanin* pours libation and calls family members to discuss issues affecting the family.

The family governance structure operates in the way that the a*busuapanin* calls family members to meetings to discuss issues affecting the family. According to Ofaakor *Abusuapanin* during an interview on 27 October 2009, he explained that he takes care of all family land and protects it

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[36] There may be gates with leaders ('*abusua naanofoɔ')*; and succession to a stool in the family usually rotates among the various gates

against invasion and intrusion and he knows all boundaries to family lands; takes care of family property like money and land. He delineates family land when development catches up with farm land and uses some of the proceeds from the sale of family land to take care of children and the sick family members. He also has the ultimate authority but if it relates to an issue at the community level, the chief and queen-mother have the ultimate authority.

4.4   Local Governance: Chiefs and Local System of Land Management

4.4.1   Semi-Traditional Political Institutions and Governance

The current traditional political institutions in Ghanaian society and in many Africa countries are "semi-traditional" political institutions. This is due to the fact that the institution that existed before colonization has been influenced and transformed by modern colonial administration. Spear (2003) states that the 'invention of tradition', the 'making of customary law' and the 'creation of tribalism', we have come to see 'traditional' African institutions as inventions of colonial authorities and missionaries colluding with African elders to establish colonial hegemony. He explains that;

> "Colonial chiefs were inventions in two senses: first, the men colonial authorities appointed
> often lacked traditional legitimacy, and second, the positions to which they were appointed
> were either created by the colonial administration or had been so corrupted by its demands
> to collect tax, raise labor and regulate agriculture that they no longer represented legitimate
> patterns of authority".(Spear 2003:1)

In order to fully understand the nature of legitimacy and accountability issues related to land in Kasoa, it is important to have a thorough knowledge about the semi-traditional political institutions that govern life in Guan communities in particular and Ghanaian society in general.

The "semi-traditional" political organization of the traditional area could be described as a centralized system. Centralized political system used here could be understood, to some degree, in the sense of Fortes and Evans-Prichard's definition of centralized society (Nukunya, 1992:67, 68; Arhin, 2002:4). They used it to refer to a society with rulers or a society with a chief or king whose authority was recognized by all those who fell within clearly demarcated boundaries over which he exercised his authority. The territory over which the chief or king exercised his authority also had administrative machinery and judicial institutions that were defined and well developed. Kasoa, the area under this study in the same sense have their various chiefs who exercised jurisdiction over wide areas and have clear-cut boundaries. It is however important to point out that the political organization of the communities under this study and of the Ghanaian society in general is not

exactly the same as those societies described by Fortes and Evans-Prichard in the 1940s and 50s. There are considerable differences between the two societies in terms of the size of territory, attitudes of the subjects to, and respect for, the chief and the chief's influence over his subjects and sub-chiefs. For example, the territories of many of the traditional states in Ghana are smaller than those territories in Fortes and Evans-Prichard's society. That is, the territories over which many of the Ghanaian chiefs wield their authority are relatively smaller. The well-defined and developed administrative and judicial institutions have also undergone tremendous changes due to the influence of the colonial and modern state institutions.

4.4.2   Chieftaincy System and Hierarchy of Chiefs

The traditional political institution of Kasoa, in Ghana, as in African society in general, is usually referred to as chieftaincy. The institution revolves around traditional authorities generally referred to as Chiefs. In Ghana, according to the 1992 Constitution under article 277 a chief is defined as

> "a person, who, hailing from the appropriate family and lineage, has been validly nominated, elected or selected and enstooled, enskinned or installed as a chief or queen-mother in accordance with the relevant customary law and usage".

Traditional authorities derived their legitimacy from customs sanctioned by religious, cultural and historical rights. At the top of the hierarchy of the chieftaincy institution, is a Paramount Chief who is the traditional and political head and the president of the Traditional Council. According to the 1992 constitution the Paramount Chief is also the Commander In-Chief of the Traditional Council and a direct representative of the State. The clearly demarcated geographical area over which the chiefs exercised political power as rulers in the pre-colonial, colonial, and post-colonial periods is referred to as the Traditional State. Others use Indigenous Authorities, Customary Rulers and also referred to as Native Authorities by the British colonial administration. Below the Paramount Chief is the queen mother called *Ohemaa*. According to the local chiefs in Kasoa, each town normally has a queen mother. In other words, wherever there is a chief there is also a queen mother according to the Akan tradition from which other tribes have copied this tradition. It was indicated that:

> "The Paramount queen mother is the traditional head of all the queen mothers. She is responsible for issues concerning social affairs, social conduct and women issues. She and other queen mothers are responsible for rituals concerning women. They also settle petty disputes among women to ensure that all women live in peace and harmony". (Interview, Ofaakor chief, 16th October 2009)

In the Awutu traditional area, Awutu stool is for the paramount chief[37]. The stool succession is matrilineal in the royal house '*Aduana*' (one of the clans). There are three main divisions with their divisional heads which are referred to as Senior Divisions. There are twelve sub divisional chiefs; five linguists, and three *Odikros* who happen to be care taker chiefs of the communities in the paramountancy that assist the three Senior Divisional Chiefs. At Ofaakor, the Chief of Odupongkpehe Division, is Nai Odupong Awushie Tetteh II who has a *Sanaahene* who has twelve Asafoatseme (Clans) under him. He occupies the Odupongkpehe Stool[38] of Odupong Anona Clan and acts as the president in the absence of the Paramount Chief. It must be emphasized that the study was conducted within this divisional chiefdom. The hierarchy of chiefs is presented in diagram 4.1

Diagram 4.1: Hierarchy of Chiefs in the Awutu Traditional Area
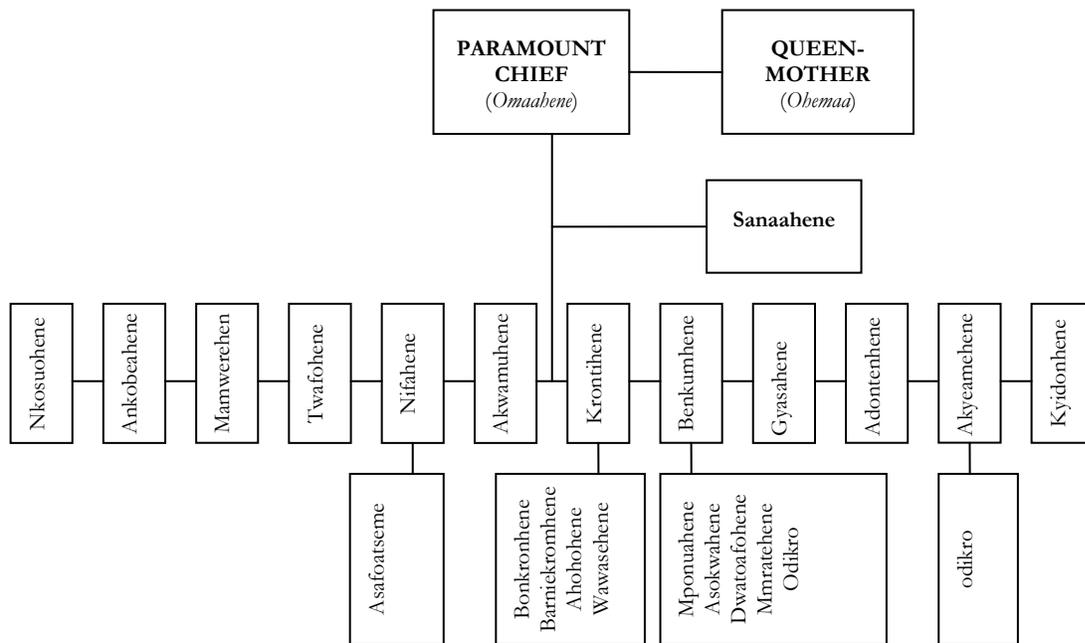
Data Source: Fieldwork April 2009-March 2010

Nifa (Right Wing) Division is headed by *Nifahene*. The *Nifahene* is responsible for the protection of the stool from enemies. Such roles are fulfilled by the *Asafoatseme* as he organizes the young men in the communities to always defend their communities. *Benkum* (Left Wing) Division is headed by

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[37] The paramount chief of the area is Abokuade Wyetey Agyemang Otabi III who is also by law (Chieftaincy Act 2008, Act 759), the President of the Traditional Council. The paramount Queen-mother is Naakye Ama Dode Akaabi xiii

[38] In Southern Ghana chiefs as traditional rulers sit in state on specially designed stools/chairs whilst in Northern Ghana, they sit on specially prepared skin of an animal. Where land is vested in chiefs it is called skin land or stool land. The process of making one a chief is called enstoolment or enskinment and when removing him or her from authority is called destoolment or deskinment respectively

Benkumhene. There are various other sub divisional chiefs that perform special functions such as caring for the youth, children and aged, for the orderly functioning of a traditional area. Within each division there are clans and sub-clans. In every clan there is a lineage and family head (*abusuapaanin*) usually the senior male member of the clan or lineage. The clan leader organizes the members of the clan, helps to settle disputes among the members within the clan, serves as a custodian of the property of the clan including land and therefore performs rituals on behalf of the clan.

4.4.3 Traditional Authorities Involvement in Governance: Their Past and Current Roles

It is instructive to note that like the semi-traditional institutions mentioned earlier, the role of traditional authorities in Ghana and Africa as a whole has obviously never been static (Owusu, 2006). During the pre-colonial days traditional authorities performed the executive, legislative, and the judicial functions of the state through well-established structures. The constitutional executive authority and an administrative machine provided by the political system comprised the Paramount Chief, War Leader, the Right Wing, Left Wing and the Central Wing (see Murdock, 1959; Fortes and Evans-Pritchard, 1940; Mair, 1974 for a survey of pre-colonial African systems). The central traditional authority was involved in serious cases such as war, judicial matters and cleansing of the Stool. The judicial institution was referred to and still remains as such as the Council of Elders which comprises the Clan Heads and Divisional Chiefs. This Council exercised judicial powers in matters concerning chieftaincy such as enstoolment, destoolment, stool disputes and land cases between clans and tribes. This prestige and sovereignty enjoyed by the traditional authorities was however re-shaped by the imposition of colonial rule which had been legitimized by Orders-in-Councils and Ordinances such as the Crown Lands ordinance which was replaced by the Lands Bill (Kimble, 1963: Amanor, 2010). Chieftaincy transformed and became only a sub-unit of the colonial administration and judicial system, adjudicating breaches of by-laws, tax collection, organizing of labour and materials, which had been sanctioned by the British. In this way the colonialists ruled the people indirectly through these chiefs. Some of the policies and activities of the traditional authorities such as collection of tax for development had been instituted by the colonial government as extortionate and instruments of oppression and therefore regarded as despotic acts leading to a serious loss of legitimacy (Brempong, 2006:28). The role of the traditional authorities in governance was therefore seriously curtailed. This diminished role attracted the displeasure of the traditional authorities and their reactions were reflected in their support and active role in the nationalist and independence movements in Ghana in the 1940s (Amanor, 2010).

However the Order-in-Council of 1951 following the recommendations of Watson 1948 and Coussey 1949 reports recognized the traditional authorities, though in a diminished role, in the Legislative Assembly and in the Local Government (Hill, 1963). Additionally, the 1957 Independence Constitution later provided for the establishment of Regional Assemblies which were mainly given local government functions and House of Chiefs in the regions who were to resolve chieftaincy disputes involving traditional areas. The formal legislative, judicial and local government functions were however taken from the traditional authorities when the Local Council Act (1958) under Nkrumah abolished the Native Authority Tribunals. The Nkrumah-led government thus reduced the role of the traditional authorities to customary and social leadership, thereby making them public agents of the government (Amanor, 1993 and Amanor, 2010).

Interestingly, the 1969 Constitution that ushered in the second Republic revived the institution by affirming the formal role of the National House of Chiefs. The chiefs were assigned specific functions within the regional and local government structures. Their participation in local government was however subject to the will of the elected members of the council. In the District Councils, the traditional authorities were given the power to choose one-third of the membership in accordance with traditional customary usage. Provisions were also made for the inclusion of two chiefs from the Regional House of Chiefs in the Regional Councils (Amanor, 2010). The 1979 Constitution also retained the Regional and National House of Chiefs as provided for in the 1969 Constitution. There was also no significant change in its provision on local government as contained in the 1969 Constitution (Rathbone, 1993). This however changed under the 1992 Constitution of the Fourth Republic, which rather assigned more specific and limited roles to traditional authorities in the executive branch of government at all levels (Amanor, 1994; Rathbone, 1993). Though the Constitution made provision for two chiefs for the Regional House of Chiefs to serve on the respective Regional Co-coordinating Councils, it did not make any provision for automatic membership of chiefs in the District Assemblies. Thirty per cent of the total membership is to be appointed by the president in consultation with traditional authorities and the so-called Watson commission was set up to investigate disturbances in the Gold Coast in 1948 (Amanor, 2010). The Coussey committee was set up to study and make recommendations on the reports of the Watson Committee. The committees recommended that chiefs should have a place in the governance of the country (Aryee 1992, Crook and Manor, 1998). Other interest groups in the district but chiefs can only serve if they are included in this thirty per cent. Chiefs are also excluded by the constitution from taking part in "active" party politics. Though the 1992 Constitution prescribed specific roles to

the chiefs, the facts on the ground presently do not completely reflect that diminished role. Although the leaders and officials of the state including the District Chief Executives (DCE), which is the hub around which the present decentralized system of administration revolves, who work at the grass root level, the traditional authorities still exercise great influence in the local communities. They regard themselves as the legitimate authorities. This usually leads them into conflict with the DCEs, who also consider themselves as the rightful authorities in the local communities as reported by Ubink (2008) during her research in Ejisu-Juaben district.

Traditional authorities also serve as agents of socioeconomic development and maintain law and order in their areas of authority. Culturally, they make their own laws sometimes without regard to the District Assemblies. The 1992 constitution allows chiefs to arbitrate disputes outside the regular court involving traditional leaders and also serve as advisors to the central government on customary laws and practices in the Traditional Councils, Regional and National House of Chiefs as stipulates in article 277 that:

> '' (2) notwithstanding clause (1) of this article and paragraph (c) of clause (3) of article 94 of this Constitution, a chief may be appointed to any public office for which he is otherwise qualified".

The Constitution also provided for the appointment of chiefs to serve on important government agencies such as state statutory boards, the District Assemblies and all other public positions which are not deemed as partisan politics. This is because the 1992 Constitution bars chiefs in engaging in active politics where it states that:

> (1) A chief shall not take part in active party politics; and any chief wishing to do so and seeking election to Parliament shall abdicate his stool or skin (Ghanaian 1992 Constitution Article 276)

This portrays them as joint-guardians with the government of the day, which is very crucial for the interest of the state (Brempong, 2006:27) as chiefs help in mobilizing community members during developmental activities. Customary law is recognized in the Ghanaian statute books. Therefore anyone who violates "lawful" decisions of the chiefs can be penalized under these laws. This is lawful because the customary laws should not be in contravention of the supreme law of the land, the 1992 Constitution of Ghana.

In fact, as already suggested, the chiefs in the present Ghanaian society exercise more power and influence than the 1992 Constitution envisaged. Indeed, Ghana is perceived as a unitary state in international relations, but it could be seen as a state of divided sovereignty – the modern Ghanaian

State and the semi-traditional State (See for example Ray, 1996). This is due to the dual nature of state making, a kind of colonial legacy. In Africa, the restructured traditional state was allowed by the colonial administrators to exist alongside the modern state (Mamdani, 1996) while in Europe, the traditional institutions were dismantled and the traditional state subjugated to the modern state (Tilly, 1990)

4.5   Landholding Management in Kasoa: A break or continuum?

Land is seen by chiefs as an important and precious property acquired through wars by forefathers. It also represents a group of people hence land is referred to as a 'common-property resource' (Schlager and Ostrom, 1992). According to Schlager and Ostrom, (1992:1) common- property resource is referred to as a property owned by 'either government, by no one or a property owned and defended by common property users'. Largely, people in this area see land as a God-given property which families depend on. It may be used for the cultivation of crops, building of houses and for sustenance. Almost everyone depends on land for survival in terms of agriculture. It is an important resource that everybody requires. Large proportions of land in the Ofaakor communities are owned by traditional authorities while some portions are owned by various families. All land in the Ofaakor area belongs to the *'Omanhene[39]'* because his ancestors first came to settle here, fought for and captured the land. However, the chiefs are just custodians for the land for the community members. Survey respondents indicate that about 48% of lands which are acquired by variety of buyers in the traditional area are acquired through the chiefs. Farmers do access land through local sharecropping arrangements (30%) of the *'abunu'* and *'abusa'* and (60%) being purchased and only with about 10% of land holdings being leaseholds. All those who hold land in trust, be they caretakers, chiefs or families, do so on behalf of the *'Omanhene'*. The lands are held in trust for the families by local chiefs. In spite of the fact that land is stool-owned, individuals and families also possess lands which have been given to them for farming and other activities. These individuals and families got their lands by making requests to the Paramount Chief. The O*manhene* and his sub-chiefs hold allodial titles in land. They can do whatever they like with it and are free to transfer ownership of such lands. The divisional and sub-chiefs also transfer lands, on behalf of the Paramount Chief (See chapter 5.2 and 5.2.1)

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[39] A paramount chief of a traditional area like in Awutu is called as such

4.5.1 Land Ownership in Awutu Traditional Area

Land ownership in the area is complex. An 'owner' might have paid for his or her portion of land, which according to the purchaser is supposed to automatically confer transfer and sense of ownership. However, land sellers (chiefs, family heads) indicate that purchase of land does not automatically confer ownership but payment for land only guarantees access to use the land or lease the land as care taker. In principle, payment confers user rights depending on the negotiations: 25 years tenure for buildings with commercial enterprise such as gas stations, shops etc ; 99 years for residence, after which the land reverts back to the seller (stool land - chief, family and – head of family). It was observed that once a piece of land has been paid for, there have not been cases where land-ownership has been reverted to previous owner, for example, lapse in the tenure under which it was originally purchased. This will be discussed in details concerning the property rights which various actors hold and what they are entitled to do under chapter 5.2 and 5.2.1

4.5.2 Chiefs' involvement in Land-Use Conversion: Control, Safeguards, Trust, Conflicts, Potential and Actual Solutions

Besides the typical use of land for farming and housing, it is also seen as a source of livelihood, as support for subsistence, a source of pride and security, a symbol of social status, and continuous wealth for both present and future generations. Analyses of data from the household questionnaires coupled with qualitative data indicate that in the study areas, land is increasingly converted from agricultural use to residential use (See Map 4.1 and Map 4.2). While there is no quantitative evidence on size of agricultural land lost to residential lands, there is the widespread opinion that farmlands are being increasingly lost to developers who use them now as residential plots.

Map 4.1: GIS aerial assessment of the past 15 years land use in the studied communities

Awutu Senya Land Use

Legend:
- Residential high density
- Residential low density
- Residential scattered
- Industry
- Roads
- Agriculture
- Agriculture, intensive
- Forest
- Flood area, riverine forest
- Water body

LUPMIS @ TCPD
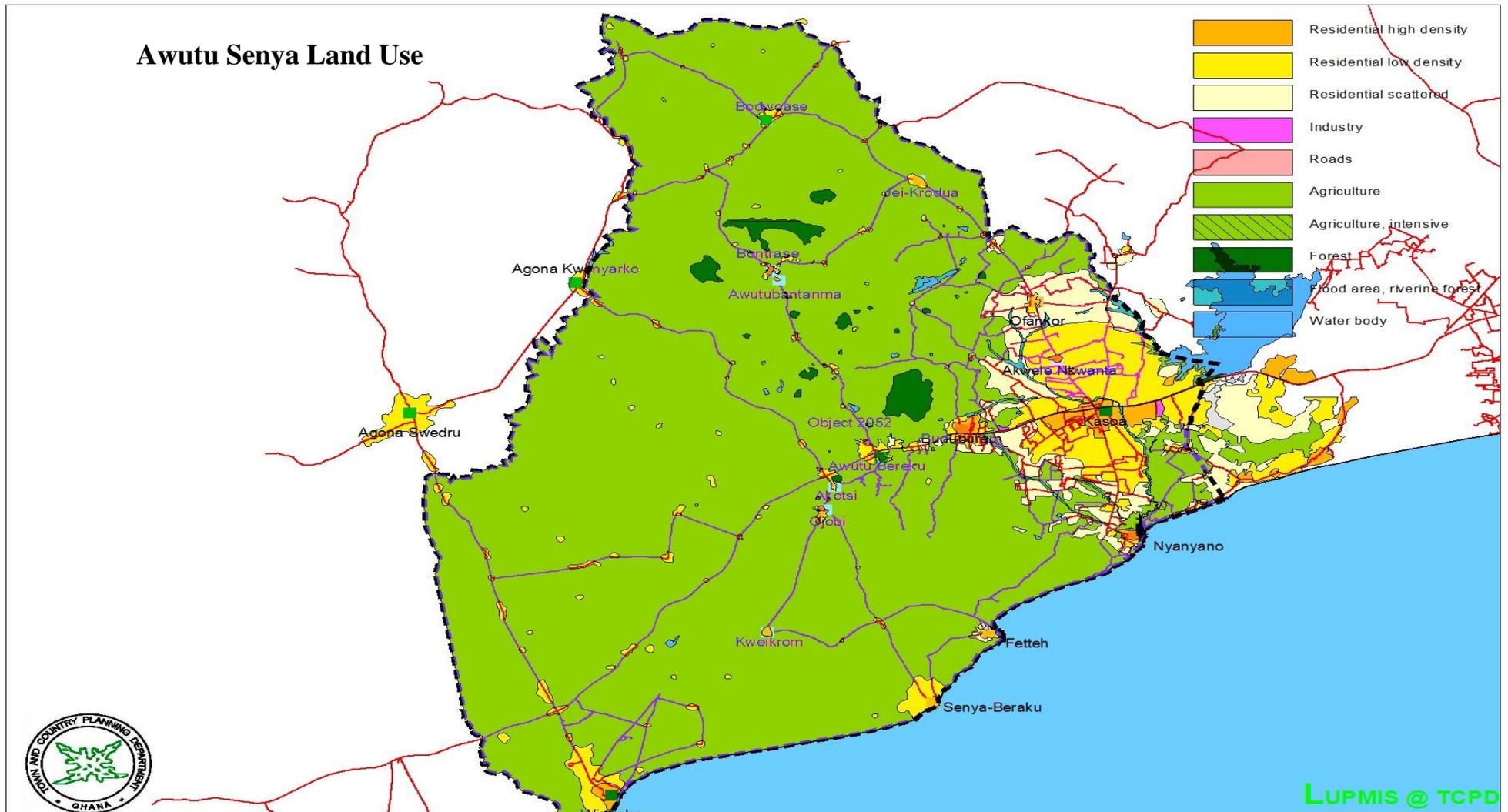
Data Source: Awutu Senya District' Town and Planning Department, Fieldwork, 2009

Map 4.2: GIS aerial up-to-date assessment of current land (2009) use in the studied communities
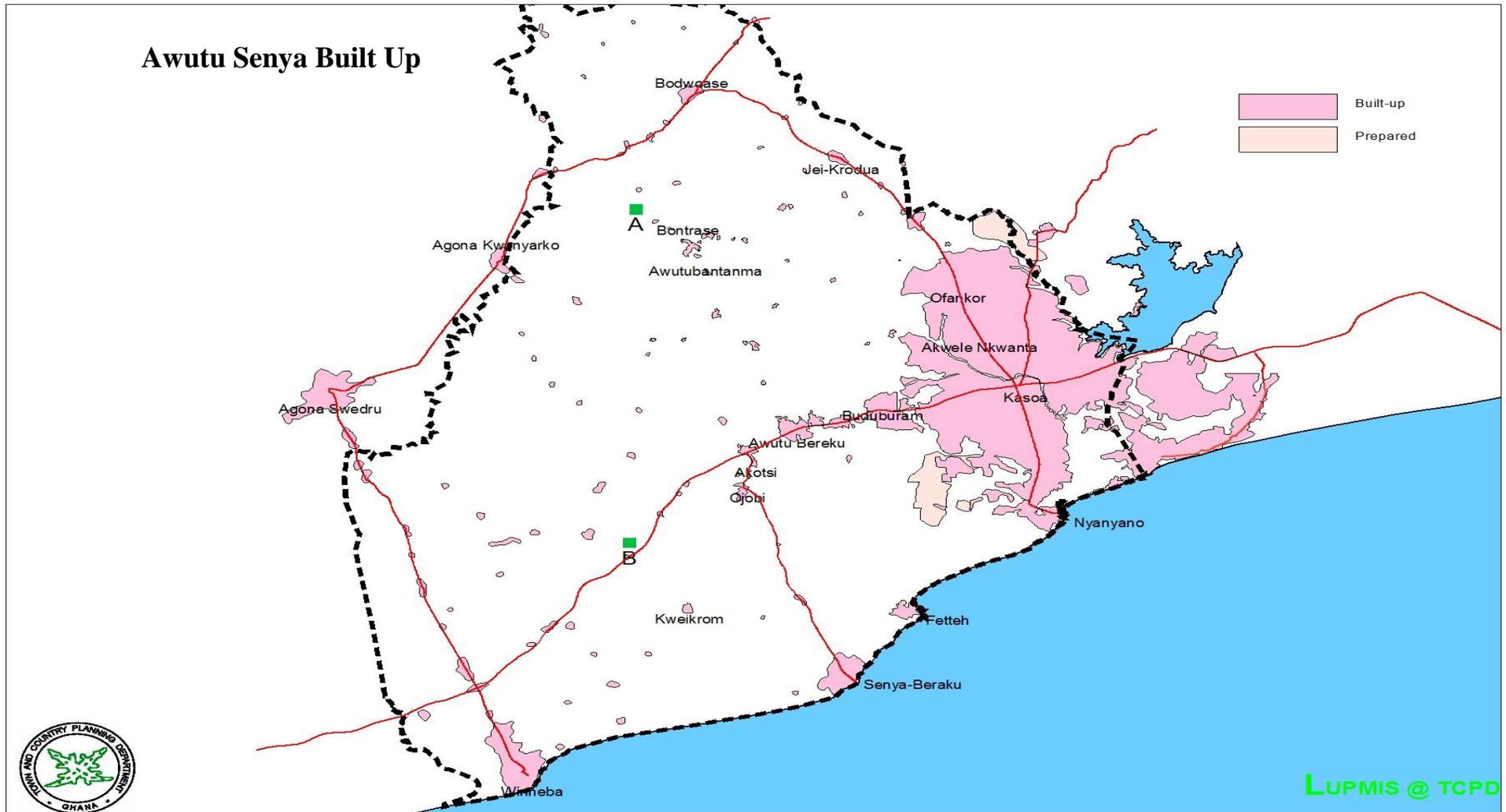
Data Source: Awutu Senya District' Town and Planning Department, Fieldwork, 2009

Land in these studied communities is intensely converted. Farmers are losing farm land which chiefs and family heads re-allocate them. Some individuals are responsible for their own farmlands turning them into other usages more especially for housing purposes. Table 4.3 below depicts respondents' knowledge of land conversion practices.

Table 4.3: Respondents' knowledge of farm land conversions

Variable	Community Status (%)		Total
	Indigenous	**In-migrant**	
Who allocates farmlands to strangers for residential			
Government official	1.2	4.2	3.1
Chiefs	34.9	59.2	50.2
Head of family	37.3	23.2	28.4
Individuals	26.5	13.4	18.2
Household farmland converted			
Yes	86.7	32.4	52.4
Persons responsible for farmland conversions			
Chiefs	45.8	63.4	55.4
Family heads	33.7	26.7	29.9
Individuals	20.5	9.9	14.7
Proportion of farmlands converted			
All converted	8.4	8.9	8.7
About half	59	58.4	58.7
About one-quarter	14.5	17.8	16.3
Just a little converted	18.1	14.9	16.3
Duration when conversions started			
About 5 years ago	2.4	10.9	7.1
About 10 years ago	18.1	28.7	23.9
More than 20 years ago	79.5	60.4	69
Current uses of converted land			
Housing development	61.2	59.4	60.3
Social services provision	15.7	17.8	16.8
Commercial buildings	22.9	22.8	22.8
Total			(225)

Data Source: Field data Ghana April 2009 – March 2010

According to the survey which I conducted in all the communities, the majority of the indigeneous respondents claimed that parts of their household farmland has been converted for non-agricultural purposes. About 50% of the 225 respondents in the area perceive that the village chiefs are the ones allocating farm land to strangers followed by 28% who claim allocations are made by head of families, and 3% blamed it on government officials. Chiefs are also the ones who are in the forefront of re-allocating these farm lands to strangers who in turn convert them into non-residential usages with a total of 55% of the respondents indicating that this is the case. This view is supported by both indigenes and migrant respondents. In this community nearly 60% of the total respondents

indicate that about half of the land has been converted, while 70% of respondents stated that these conversions started in the area about more than 20 years ago.

The unprecedented expansion of Ghana's large cities like Accra which borders with the study site has induced rapid growth and high demand for residential houses in the peri urban areas including Kasoa. This impression of change of land use from agriculture to housing is also well observed in the FGDs conducted. Respondents expressed a general feeling that land is increasingly becoming important for housing and commercial purposes which is a significant shift from the primary use of land for farming purposes in the past in these communities. Associated with the changing land use pattern in the area is the increasing land value which according to respondents during the survey they indicated that it has increased from GH500.00 to GH5, 000 per plot from 30 years ago (see Chapter 5.3.1 for detailed land prices). This is a major contributor to the changes in land from agriculture to housing usage.

In conditions of intense competition and operation of a market approach as a means of allocating scarce resources, land tends to be allocated to its highest bidder and best use. It is believed by local chiefs that land left uncultivated for a year is an indication that it is not put to better usage unlike if a building is put up where it will be used on a daily basis. In these conditions, agricultural land does not compete with residential or industrial land. Therefore this has led to opportunities for peri-urban agriculture becoming less as land markets become characterized by speculation and spiraling prices.

4.6 Institutions for Land Allocation in the Communities

Ideally the *Omanhene* and family heads are the appropriate authorities to make valid transfers of land in consultation with family members. Family members who want to transfer land must do so with the knowledge and concern of the family head. Customarily the roles of the Paramount Chief in land management include the allocation of land for various uses through the traditional council while a divisional chief informs a family owning land about intentions to take the land and settles disputes on land; and no one can bypass the Paramount Chief in all land transaction as he is vested with authority to sign all leases. However, what is happening in these communities is that the family heads and some chiefs together with some elders are re-allocating lands to other settlers without proper consultation with the people. Such cases are explained in detail in chapter 5.

4.6.1 Procedure for Land Sale

The specific formalities to be followed in the sale of land to both indigenes and in-migrant subjects are similar, but drink money paid by in-migrants may be higher as compared to an indigene. Drink money is money that is given to the chief in the village by any person who would like to meet the chief be it for land allocation or visitation. In case of land, drink money is a sign of token of appreciation to the chief. In the past one could only bring a bottle of schnapps. However, in recent days drink money has changed from material things to hard cash. For building purposes, anyone who wants land will have to inform the Traditional Council which is headed by the *Omaahene*. The Traditional Council then decides if there is land available for transfer. If there is land available, an allocation is made by the Lands Committee and an allocation paper issued by the Traditional Council Registrar. Afterwards, the person proceeds to the District Assembly documentation (see Chapter 6 for a detailed explanation).

Several institutions and personalities are involved in the allocation and management of land in the Traditional Area. The *Omaahene* has a Traditional Council Committee which deals with issues concerning land. There is also a Traditional Council Plot Allocation Committee which allocates land to people who want to acquire them. The Town and Country Planning Department prepares layouts for the Paramount Chief to cover the various communities in the Traditional Area. The Office of the Administrator of Stool Lands (OASL) is consulted for clarification when there are conflicts over portions of land. The OASL is also responsible for revenue mobilization. Different portions of land used for different activities are managed by different institutions. Protected and reserved areas like forest reserves are managed by the Forestry Commission. More to do with these institutions and their roles in relation to land accountability will be discussed in chapter 6. However, the chiefs in the traditional area are responsible for sacred areas such as one shown in Photograph 4.5.

Photograph 4.5: A shrine near the palace managed by a high priest in Ofaakor community

Data Source: Fieldwork April 2009-March 2010

There is a clear demarcation of duties assigned to the OASL and the District Assembly when it comes to revenue collection. The OASL collects ground rents on farmland while the District Assembly collects property rates on properties in the traditional area. The rent collected by the OASL is divided according to the OASL Act (see chapter 6) which is channelled to the appropriate stool and the district assembly too. Residential areas are managed by the Town and Country Planning Department. Places for economic activities like markets are also managed by the District Assembly which collects tolls from people who conduct commercial activities on such land. Customarily, the appropriate authority which has the capacity to make valid transfers of land in the traditional area is the *omanhene*. For farm lands, potential needs to find a person who has such land and agreements are made. When a person is looking for farm land, the person approaches the person who owns that farm land for negotiations. The person refers him or her to the *odikro* of the area who informs the chief about the request. The *Omanhene* may or may not be involved even though by custom his attention has to be drawn. However these formalities followed in the acquisition of land in the traditional area is undergoing some changes.

Chiefs, claim that land is not sold in the area but only drink money is often taken[40]. The amount collected is determined by the individual landowner. A buyer can also first contact the *'Odikro'* and proceed to the *omanhene*. The amount collected is divided into 3 and shared among the *'Odikro'*, *omanhene* and the family owning the land. On the other hand if a buyer needs a large tract of land (e.g. 5 acres) for a project, he must contact the *omanhene* for such land. In the case of farm lands the head of the family must be contacted and the necessary agreements made. The agreements that are usually made during this process amongst others are that the farmer is not allowed to grow crops other than agreed upon more especially the long term crops that take years to mature. Further, the farmer is not allowed to sell or re-allocate that land to another buyer by any means because all stool land belongs to the chief and he is the only one responsible to do so. Documents are prepared and witnesses brought in.

4.7 Land Use in the Communities

4.7.1 Development (Residential) Land

The *Omanhene* and his divisional and sub-chiefs, acting on his behalf, also allocate land for development in the area. Development according to the community members means having infrastructure such as residential and commercial buildings alongside public roads. If however a parcel of land has been allocated to a family, the *omanhene* contacts that family and compensates them before allocating that land for development projects. According to the head of family in Ofaakor, this is to ensure that the occupying families are not deprived of their livelihood. The affected family is expected to be compensated with about half (½) or one-third portion of the land since most family members depend on such farm land for their sustenance. This is in line with the customary rules in the studied community as explained by the chiefs and elders of the council during the interviews. The final decision is made by the chief. This however is generally not the case in the study area as discussed in the subsequent chapters where the chiefs do not compensate the effected individuals and families.

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[40] The *omanhene* can therefore take away lands when an owner does something wrong.

4.7.2   Peri-Urban or Outskirt (Farm) Land

Outskirt land, according to the *odikros* of Bentum and Ofaakor, refers to land near the town and which the town is developing towards, but has not yet caught up with. In this studied communities, Gada, Kovo Torgah and Oklu Kwanta villages are outskirt lands since they are at the periphery of Kasoa Township. In other cases outskirt lands may also be at the tail end of the town, where '*nsamanpom'* (cemetery), school lands or the lorry station may be located. It also refers to lands at the end of the community and which may share boundaries with another chief's land such as at Kovo Torgah which shares a boundary with a Ga chief which has led to constant fighting between these two communities. These lands are usually used for farming. When housing development catches up with outskirt land, the land is divided into three parts with the *omanhene* taking two parts and giving one part to the occupying family. While the *omanhene* can use his share of the outskirt land for community development, a family owning a portion of outskirt land can also transfer it for building purposes. The council of the elders indicated that with the permission of the *omanhene,* anybody whether indigene, migrant, disabled or able-bodied, can access outskirt lands. According to them, outskirt land is usually used for residential purposes, commercial activities like hotels and health facilities such as a clinic.

4.7.3   Commercial Land

Lands with commercial value include plots of land for residential use, farmlands, lorry parks and market stalls. The District Assembly and the Traditional Council play roles in the re-allocation and management of these lands. While the Traditional Council headed by the Paramount Chief makes allocation of commercial land, the District Assembly is charged with its management and maintenance. In the case where at a commercial land a factory or a farm has been built up like at Jei River farms in Kasoa along the Bentum road, it is the responsibility of the district assembly to maintain the roads. For housing estate purposes, a Plot Allocation Committee together with the District Assembly's Town and Country Planning Department ensure that lands are properly laid out. The Town and Country Planning Department of the District Assembly also issues building permits while the Office of the Administrator of Stool Lands collects ground rent. The Plot Allocation committee sees to it that the various communities are well taken care of. They help grow grasses in erosion-prone areas, organize communal labour to clean community and plant trees to serve as wind breaks and check erosion. With respect to land for economic purposes, the District Assembly

collects revenue especially in markets and uses it to develop those areas. People can use land for commercial activities after the *omanhene* has given his consent. Areas like market places have been designated for economic and commercial activities, where the District Assembly collects tolls from the use of such land to maintain it. The Town and Country Planning Department helps to control the use of such land by drawing lay-outs for land for commercial uses. Land meant for social activities, the District Assembly generate and collects revenue and is responsible for the development and maintenance of that area. Schools and other social services have been secured with boundaries to protect such institutions from losing land through encroachment. Further, agricultural land is managed by the family heads, clans and in other instances it's the divisional chiefs who are in charge of all lands. Individuals and farm caretakers ensure that lands are not encroached. When there is a problem, the *Odikro*, and subsequently the *omanhene* are informed. In this area the protected land such as open spaces, children's playgrounds are managed by the Traditional Council's Lands Committee, while the forest areas are managed by the Forestry Commission.

5 Communities, Land Transfers and Accountability

5.1 Introduction

This chapter presents the empirical findings on accountability and land transfers at community level. More especially by answering the two objectives of analyzing the formal and informal accountability mechanisms instituted within the localities in customary land management. The other objective that is also being tackled in the chapter is that of critically analysing the assumptions, understandings and expectations of accountability within chieftaincy institutions by community members. This is with specific reference to land conflicts by examining ways and strategies that local people use to hold chiefs accountable in land disputes. These objectives were answered by such questions as what local accountability mechanisms are in place to facilitate chiefs' accountable in land matters and how effective are they? As well as to what extent is the chieftaincy institution accountable in land administration and how legitimate are their actions? What are ordinary people' understanding and perception of accountability? Empirically, the chapter makes extensive use of primary data from personal interviews and employs secondary data to support findings. Case studies are presented and a general overview of community struggles and loss of land to traditional authorities is given along with a more detailed description of their knowledge and expectations they have towards chiefs on land administration. It explains in context localized popular knowledge and perception of the chief's accountability on land and the actual local control or mechanisms of holding chiefs accountable. It contains discussion that reveal the complexities within the communities the different accountability mechanisms they try to employ thus giving a better understanding of another dimension of frustration faced by local community members in Ghana. Examples of conflicts in relation to holding traditional authorities accountable are also presented to depict the frustration felt by the community members in Ghana. The theoretical concepts of power relations and the political economy approach are very reflective in the struggles of chiefs land accountability. The concluding section summarises the discussions by highlighting the important issues in the chapter.

5.2 The Structure of Land Ownership and Struggles of different Land User Groups in the Studied Communities

The status of land ownership in Kasoa is puzzling and is characterized by improper documentation of land transactions and boundaries, encroachment on public lands, multiple sale of lands and intractable land disputes. Customary ownership of land was predominant in the studied communities. These lands were exclusively vested in the stool with the subjects enjoying rights to beneficial users or usufruct, to right to occupy, fill or otherwise enjoy any un-appropriated parties of the stool land. However, rapid urbanization occurring in the study area and the increase in demand for land had resulted in the sale of lands to private individuals by both individual owners and traditional authorities.

Land ownership in Kasoa can broadly be divided into three categories as customary ownership, state ownership and a partnership between the state and the customary owners (split ownership). The fundamental principle upon which ownership of land is based in these traditional communities is on collective ownership by a community or group. Customary ownership occurs where "the right to use or to dispose of use- rights over land rest neither on the exercise of brute force, nor on the evidence of rights guaranteed by government statute, but on the fact that they are recognized as legitimate by the community, the rules governing the acquisition and transmission of these rights being usually explicitly and generally known, though not normally recorded in writing" (Bower, 1993). In the past acquisition of land in these communities has been usually through a group activity while these days have been individualized. By communal ownership there exists the allodial interest, which is the highest proprietary interest known to exist in customary land. It is equivalent to the concept of freeholds in the English conveyancing system. Such interest resides in a stool (chieftaincy), a clan, a family, or a private person, depending on the mode of acquisition of the land. However the majority of interest in these communities is in the chiefs. Other lesser interests that flow out of the allodial interest are the usufructuary interest, tenancies, and licenses which individuals can have. Although the allodial interest is usually vested in the community, the right is exercised by the head of the community who are chiefs or a head of family who "holds the land in trust for the entire community and who manages the land together with the principal members of the community" as described by a head of family in Ofaakor community.

Table 5.1: Summary of trends in primary rights to land in Kasoa Township

Community	Nature of primary rights to land in the past		Nature of primary rights to land today	
	Farmland	Building land	Farmland	Building land
Ofaakor	Automatic access to family land within one's own community or through the *odikro* of another community	Access through family/clan head	No change/same as previously	Access through family/clan head but with high amount of drink money particularly by migrants. Some indigenes also pay for it to chiefs
Gada, Bentum, Kovor Torgah and Oklu Nkwanta	Have access to clan/family land within one's own community or through *odikro* of another community	Access through family/clan heads for indigenes and through landlords to chief for migrants and payment of drink money	Same as before	For majority of indigenes, it remains the same while for others are paying drink money or in kind e.g. supply of building materials. For migrants same route but migrants pay high drink money

Source: Field data Ghana April 2009 – March 2010

Members of the land owning community enjoy the usufructuary right in the land. This includes the right to occupy any portion of the communal land which has not been occupied by another member either for farming or for settlement. It also includes the right to enjoy all the natural products of the land such as the right to collect firewood and fetch water. They are also entitled to a share of the economic rent of the land. The members of the community may transfer land among themselves but they cannot transfer it to a stranger. Only the person in whom the allodial title is vested can transfer land to a stranger, but he must act with the concurrence of the principal elders of the community.

5.2.1   Shifting Customary Norms: Polarizing Interests

In these communities lack of registered title does not constitute the only or even major constraint upon land security of the poor. The hierarchy of rights currently considered fit for registration jeopardizes a host of land interests, when their holders wish or are able to register interests. A more pervasive cause of insecurity is the way in which customary norms are shifting to support an elite capture of majority interests. The four major ways in which these norms are changing are outlined in table 5.2 below. Land shortage and the rapidly rising value of land as a tradable commodity have been central to this trend. Whilst this began long ago, it has seen pronounced development in recent decades. The result of this, particularly in Kasoa, demonstrates quite marked departures from what is 'traditional' in the customary land sector as chiefs are in the forefront converting agricultural land into residential areas. Evidently and predictably, the poor and the institutionally weaker in society more especially those with least status or voice have been the most adversely affected.

Table 5.2: Changing power relations over time with respect to land rights

Sphere of relations	Past	Present
Chiefs-subjects	Chief as custodian Subject had secure rights	Chief as landlord Subject rights are overturned at will
Communities-individuals	Unallocated lands considered co-owned	Benefits of communal properties reaped by individuals i.e chiefs
Settlers- natives Tenants-landlords	Settler/tenants could secure stable rights	Unstable rights
Men-women	Women with secure access rights	Insecure access

Source: Field data Ghana April 2009 – March 2010

In these communities the person's use of the land (subject usufruct) is guaranteed with caveats that the beneficiary/user should always acknowledge the sovereignty of the stool, the land should not be abandoned; and the subject's family should not become extinct. So long as these caveats are met the subject's use of the land is guaranteed. According to custom, the chief cannot alienate a portion of the stool land occupied by a subject to another person without the prior consent of the subject. Neither does the chief control the subject usufruct in any other way in terms of the use to which the land can be put. The implication is that so long as a portion of the stool land is in the occupation of the subject it is effectively out of the domain of the stool land properly so called. Thus the interest of the community in the land occupied by a usufruct is that of a reversion in the rare cases of abandonment or extinction. The interest of the subject in the land is therefore secure and can run in perpetuity. The stool however, continues to exercise jurisdiction over the land. However, evidently in the communities is that this secured practice of land has been changed as many chiefs alienate land to other people without the consent of the current users.

Strangers, in customary parlance, are those who are not members of the land owning group. Strangers cannot occupy a land owning community's land as rightfully, but require an express grant from the head of the community. A grant from a community subject to a non-community subject requires the consent of the community authority. It has been pointed out that so long as it is understood that the community's allodial interest in such land does not pass with a transfer, the community subject may deal with his interest in the land as he pleases (Bentsi-Enchill, 1964). Strangers occupy only the land they have been allocated and may use the land for a specified use as shown in table 5.3 below.

Table 5.3: Land Rights Arrangements and Conditions of Usage in Kasao

Category of person	LAND RIGHTS ARRANGEMENTS AND CONDITIONS OF USAGE			
	Type of land	Mode of acquisition	Conditions of usage/Don'ts	Length of usage
Indigenes	Housing land	Inheritance From chief	Only for personal dwelling Cannot sell out to others without chiefs permission	Life time user and ownership rights
	Farm land	Inheritance From others	Only use rights No transfer rights Food crops only	Life time user and ownership rights
Migrants	Housing land	Purchase or drink money	Permission before resale Can be sacked for bad behaviour affecting the community; witchcraft, adultery	Life time transfer Only for 99 years
	Farm land	Lease Borrow Purchase Gift	Cannot sub-let commercially No perennial crops allowed Ownership rights contingent on continuous use	Based on agreement Contingent on good behaviour and circumstance of landowner
Women	Housing land Farm land	Purchase/free Borrow or share of family land	Permission before resale Continuous subject to marital status Married women lose family lands	Life time transfer Only for 99 years Before marriage
Youth	Housing land Farm land	Purchase/free Share of family land Borrow	Personal property User rights only but no limitations Land fragmentation affect size of allocations	Life time transfer Before the conversion to non-farm uses

Source: Field data Ghana April 2009 – March 2010

The rights of a stranger usufruct in land can devolve upon his heirs who can continue exercising such rights so long as they recognize the sovereignty of the community. Strangers cannot transfer the land to another stranger without the prior approval of the community authority, neither are they entitled to any of the economic rent of the land that accrue to the benefit of the land owning community. They pay for land use, either in cash or in kind.

Land ownership varies along different strata in the community. Family lands are in the care of family heads. Individual family members can only own the property (such as food crops) on such lands but not the land. At the community level family lands are still owned by the paramount chief and for that reason individuals and families cannot give out such lands without the knowledge of the *Omanhene*. Land ownership responsibility is generating conflict of opinion, which can later serve as reference point for bigger conflicts or instability of tenure of ownership. Some family members are not happy with the idea that family lands have only been entrusted in their care; yet most of the land has and is being converted into residential lands by chiefs, who believe such lands belong to them and therefore they think that they can transfer ownership or dispose of it without the *Omanhene's* consent. As a result of this, at next higher level, they do not understand or agree when the *Omanhene* wants to take away land from them.

As indicated in the previous paragraph, land owning families hold the usufructuary right in land. The family members can use family lands by virtue of being family members, for whatever purposes. The *Abusuapanin*[41], acting on behalf of the entire family, can make valid transfers of land. Non land-owning individuals such as in-migrants can also acquire the right to use land through various agreements such as the lease, hiring and other customary land tenancies such as *abunu* and *abusa* among others as indicated in figure 5.1 below. *Abunu* is mean sharecropping which involves sharing equally a farm between a farmer and the land owner. This refers to a system where a land owner gives out his land to a farmer for the farmer to cultivate crops such as maize and other cereals. The farm produce are shared into two equal parts with the farmer taking one and the land owner also taking the other half. The duration is for as long as the parties may agree and anybody can enter into such an agreement. As for *abusa* it is mean sharecropping which involves the division of farm or produce into three. This is similar to *abunu*, except that for the *abusa* system, farm produce are divided into three parts. The land owner takes one; the farmer takes one and the last portion caters for the cost of production usually farm inputs. Thus, if the land owner bore the cost of production, then he gets two parts. If it was the farmer who bore the cost, then he gets two parts

Figure 5.1: Respondents' perception on land allocation
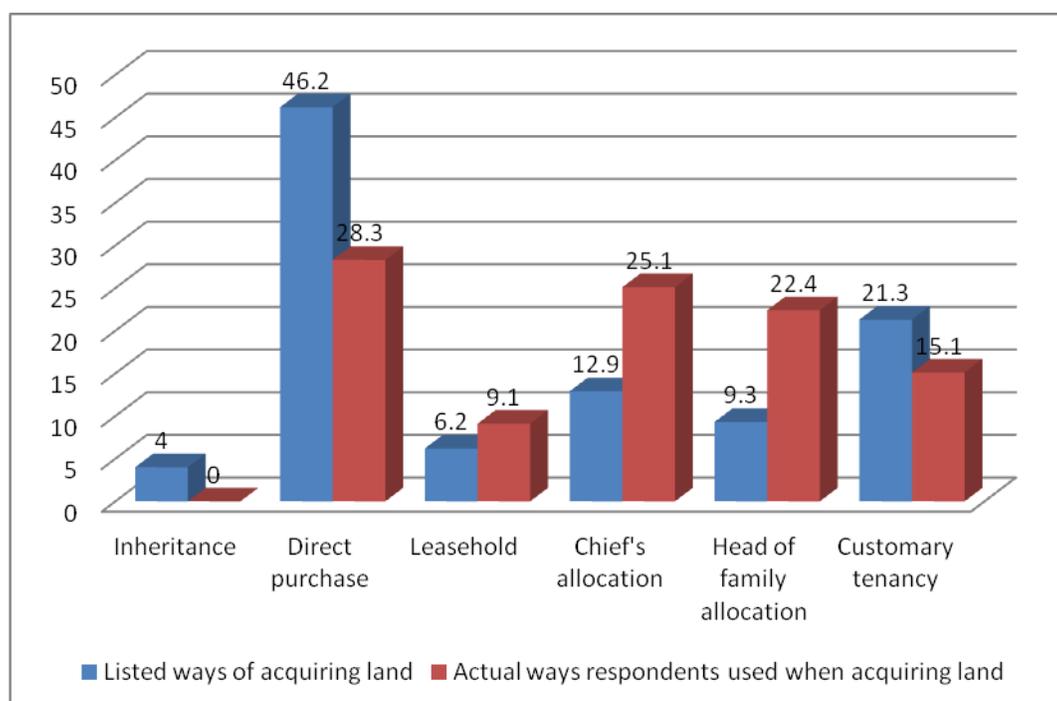
Source: Field data Ghana April 2009 – March 2010

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[41] A head of royal families as discussed in Chapter 4

From figure 5.1, respondents were asked to describe ways in which land can be acquired in the locality. Nearly half of the respondents indicated that land can be acquired through direct purchase, followed by 21% who got it through customary tenancies of *Abunu* or *Abusa*. The customary means of acquiring land is more common amongst the migrant farmers. The least proportion (4%) indicated that land can be acquired through inheritance. However when we analyze those who actually have land, none of the respondents got it through inheritance. Amongst the respondents who owned or had access to land in the community, 28% acquired theirs by direct purchase, followed by 25% through chiefs' allocation, and the least being 9% by leasehold. However, amongst the indigenes about 35% of the respondents mentioned that they acquired their land by head of family allocation, followed by 33% through direct purchase, and the least being customary tenancies of 3% by the indigenes. Larger proportion of in-migrants got land through chief's allocation.

Many institutions are present in the communities responsible for land allocation. Members indicated that chiefs, head of families, land agency, land committee and customary land secretariat allocate land with chiefs having a larger proportion as indicated in Figure 5.2 below.

Figure 5.2 Respondents" knowledge on institutions responsible for land allocation
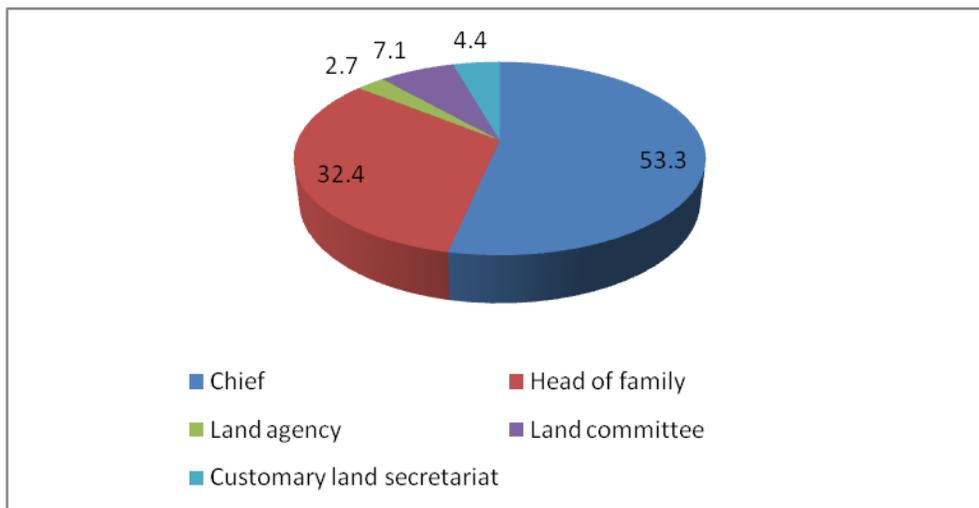
Source: Field data Ghana April 2009 – March 2010

A total of 53% of the respondents stated that chiefs are an institution responsible for land allocation, followed by head of family (32 %), and the least being land agency (3%). In-migrants follow the proportional pattern, but more indigenes stated that heads of families are responsible for land allocation.

However, land acquisition and accessibility has become very difficult in the communities over the last two decades. Many respondents indicated various problems they encountered when attempted to acquire land (see table 5.4).

Table 5.4: Respondents' attempts to acquire land

Variable	Community Status (%)		Total
	Indigene	**In-migrant**	
Nature of changes in land tenure system			
High land prices	62.7	43.0	50.2
Change in terms tenancy agreement	10.8	18.3	15.6
Increased formal land transactions	6.0	5.6	5.8
Changed land inheritance rules	6.0	5.6	5.8
High increase in farm/housing land payment	6.0	21.8	16.0
Others benefitting more	8.4	5.6	6.7
Difficulty in acquiring land			
Very difficult	14.5	23.9	20.4
Fairly difficult	36.1	31.0	32.9
Somewhat difficult	30.1	27.5	28.4
Not difficult	19.3	17.6	18.2
Major problems of land acquisition			
Illegal land sales	53.0	27.5	36.9
High prices	6.0	31.0	21.8
Uncertainty of ownership	26.5	15.5	19.6
Land disputes/conflicts	14.5	19.7	17.8
Insecurity of tenure	0.0	6.3	4.0
Total			**225**

Source: Field data Ghana April 2009 – March 2010

Both migrants and indigenes in the studied areas have attempted to acquire farm and housing land in the communities. Nearly all respondents have attempted to acquire land for farming and for housing. About one-third of respondents mentioned that it is fairly difficult to acquire land in the area compared to 18% that said that it was not difficult. Focusing on migrant respondents 31% claimed that is was fairly difficult and 17% of them mentioned that it was not difficult at all. Among the indigene respondents 36% said that it was also fairly difficult while 14% of them said it was very difficult.

One major problem associated with land acquisition in the area is illegal land sales as indicated by a total of 40% of the total sample population and the least being insecurity of tenure with 4% of the total respondents. Half of respondents say changes in land tenure system resulted in high land prices and illegal land sales. Opinions of indigenes and in-migrants follow the general pattern observed.

Opinions differ as to what constitutes sale of land; many chiefs insisted that land is not being sold in the traditional area. However, further probing indicated otherwise, that land is actually being sold

out by both chiefs and family heads. In the study area anyone who wants to acquire land must see the *Omanhene* and pay *'nsa sika'* (drink money) for his approval to give out the land. With the final hand-over of the land, the person also presents "schnapps[42]" and drink money to the chief. An annual ground rent is also paid to the Office of The Administrator of Stool Lands. Land can and is also being bought outright from the *Omanhene*. Land required especially for residential use can be acquired from the *Omanhene*, who is represented in the communities by chiefs such as *'Gyaasehene'* (a divisional chief) *'Okyeame'* (linguist) and *'Odikros'* (caretaker chiefs) of the various communities. Such people pay *'nti[43]'* and obtain documents and a site plan signed by the *Omanhene*. It should however be emphasized that lands are being sold in the area.

5.3 Complexities in Accessing Land: Gender Factor and Vulnerable Groups

Land tenure is the relationship, whether legally or customarily defined, among people, as individuals or groups, with respect to land. Access to land is governed through land tenure systems. Throughout history, land has been recognized as a primary source of wealth, social status, and power. Access to land is a central issue because it is crucial asset for food production, economic activities and a key factor for shelter and community development. How transparent and accountable is the process of land allocation by chiefs and acquisition or access of land by community members has a direct impact on the livelihood and security of people not only in rural areas, but in urban and peri urban settings as well such as Kasoa. Failure to address the tenure interests of all stakeholders in land administration has so far caused problems and inequalities. These problems have unintentionally fallen on the most vulnerable and disadvantaged members of the community. Some of these people are women, the elderly, youths and in-migrants who are at a constant risk in land acquisition processes in the area. In the next section I will describe and discuss different categories or groups of vulnerable people in Kasoa in accessing land and the different means they use to try to hold their chiefs accountable in land administration.

5.3.1 Chiefs and Their Subjects

The framework for customary norms and interests shifts in the communities is based on the current formulation upon which land rights are defined in state law which is the *Land Titles Registration Law*

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[42] An alcoholic spirit
[43] A form of land tribute

1986. This expresses a customary distinction between the radical ownership of the land itself and rights or interests in the land. In most countries ownership of the land is held by the Head of State in trust for all members of the nation. In Ghana this radical title is referred to as allodial title and in stool and skin areas it is generally vested in Chiefs on behalf of their subjects. The main effective interest which is the ability to actually occupy and use the land is that may be held in customary lands in Ghana is termed as customary freehold. This is similar to a common law freehold.

The current difficulty is that the benefits are being attributed to land owners also known as allodial owners as compared to those who are acknowledged as owning customary rights of occupancy and use who are customary freeholders. Also it's because of the implication of stool ownership as *communal* ownership that is, ownership of property in which all members of the stool community rightfully share; and lastly the meaning of customary trusteeship where land is held by the chief, often being re-made in ways that are unfavourable to the beneficiaries of the trust who are ordinary occupiers. In Kasoa communities these shifting norms are particularly marked**.** The catalyst to the disadvantageous interpretation of norms referred to is the rising value of land and its establishment as a transferable commodity. This gives rise to questions as to who is capturing these cash values and on what basis? Expectedly, this is most visible in the identified growing and larger number of cases in Kasoa where peri urban lands are being transformed into urban settlements and where accordingly land occupancy is being dramatically reconstructed to maximize income benefit by chiefs. In Kasoa the rights and values normally attributed to a customary freehold and upon which transfer of values would expect to be normally based, are being lost in favour of the rights and benefits due the 'owners of the soil[44]'. If the 'owner of the soil' was understood as meaning 'the community as a whole' then this would not matter as customary freeholders would eventually receive the benefits of sale of what is, at the end of the day, the right to occupy and use land. In Kasoa where such transfers have been undertaken on this basis, the main question confronting the trustee is how best and most fairly deliver the benefits to the owners? However, to say that this act by the chiefs is unfair somehow is exaggerated. First, is by dismissing the value of the crucial right to occupy and use land including even the primary freehold right and placing all the value in the sale of the allodial title. Secondly, it is easily forgotten that the real holders of the allodial title are not Chiefs but their communities. In this way, some Chiefs abuse the trust they hold for the owners or occupants.

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[44] Also commonly referred to as indigene. More especially the chiefs or traditional authorities

The *Land Titles Registration Law 1986* aids and abets this transition from communal trust vested in the chief, into an individualized and material interest by defining allodial title as an interest in land and arguably endowing it with virtually the attributes of freehold itself. The combined effect is that chiefs are given the freedom to reap undue benefit from the sale of the central asset of the land, the right to occupy and use the land for a potentially unlimited period (customary freehold). Predictably, poorer persons and those with low status or voice are particularly adversely affected as it will be discussed in detail in chapter seven. In Kasoa, when agricultural lands come under development as urban residential plots, their interest in the land is sometimes only compensated with payment of the value of the crops they have lost, and/or they may sometimes receive only one house plot whilst wealthier or better connected persons may receive two or more plots. Being poor already, and having lost some land which makes growing enough to feed the family more difficult, they are often unable to sustain the one plot they have received. In times of economic stress they sell this, becoming landless and even poorer. However, with the increase of chiefs selling land, even indigenes are losing land to them. Most of the community members have developed a strategy of restraining the buyer from entering the land. This can be better understood through the case study described below:

Kwame, 53 years old, works in Kumasi in one manufacturing factory. He holds a university degree in economics. He was born and raised in Kasoa to Guan parents. He is an indigene. His other family members plus his old mother aged 87 lives in Ofaakor with her younger son Kojo aged 40. They own their land which was left by their father who died in 1999. Since Kwame works far and his job meant being transferred from one district to the other, he stopped farming on his land some years back. Since his mother was getting sick more frequently due to old age, the land was left fallow for some time. He is the eldest in his family. One day, his mother woke up to the rude awakening of some laborers clearing the bush in about 5 plots of their land. Upon confronting the laborers she was told that their boss Mr Boateng who works at one of the government departments in Accra sent them to start the foundation. She then asked for his contact details and a mobile number was provided. Upon calling My Boateng he confirmed that he bought the land from the chief. He claimed that a local person had identified this piece of land which is close to the main road and told him to approach the chief. The man was acting as an intermediary between the chief and buyers. Immediately Kwame was informed about what was happening and he immediately came to sort the

issue by employing some land guards to watch over the place. One afternoon, Mr Boateng and his labourers came to continue their work but they were chased by the angry land guards. Kwame states that this is a family owned land and that the chief who sold this land did not belong to his family or clan. Since Mr Boateng was restrained by the land-owning family from developing it he went back to the chief to demand his money. To save his face from such a shameful act, the chief went to Kwame' family for discussion, but he nearly got beaten up by angry land-guards. This incident like many others brought a lot of dissatisfaction amongst the people, but no concrete actions were taken against the chief as the elders negotiated with Kwame' family for forgiveness. Kwame then reported the case to his head of family who presented the case to the elders of the council. This lower ranked chief was summoned to the palace. When he was asked why he sold the land the chief indicated that the land had been laying fallow for some years now and that many buyers were looking for land to develop. This in his turn would mean good development in the area and reduce security issues as this land was being used by thieves. Putting up structures would lessen crimes. He also claimed that this land was catching up with the town expansion and leaving it fallow meant bringing uneven development to his area. When he was asked how much he had collected from Mr Boateng the chief indicated about GH20, 000 (approximately €8,143). He was asked to return the money to the buyer which he could not as he had already used it on other things. When Mr Boateng was approached he indicated that he had paid more than the stated amount as he paid drink money totaling to GH2, 000 and at another occasion he paid an extra GH1, 000 and then the Gh10, 000 for the land price tag totaling GH13, 000. Due to this Mr Boateng sued the chief at Swedru High Court where the case is still pending. In this case the buyer cannot develop the land as well as having difficulties to get back his money from the chief.

The case above demonstrates clearly that because of lack of success in negotiations with the chief, many people do not aim their anger at the selling chief, but at the buyer. Therefore it shows the uncertainty of ownership of land through the traditional framework through the appropriation and attempts to convert land away from collective ownership to private ownership and to internalize benefit. The case study also touches on the issue of how subjects try to maneuver within the system of chieftaincy institution more especially the hierarchy of chiefs. This was not just about the ability to restrain the buyer from using the land but it was also about the hierarchy of the chief who sold the land in this case in the resolution of this case. It is clearly that Kwame initiated the process of holding the chief accountable because he belonged to a different clan. Somehow it remains unclear

whether the results would have been different if the chief had come from the same clan as the owners of the land

Legal pluralism becomes obvious in this case which leads to more confusion, abuse and contestation of the institutional framework for the administration of customary land just like the previous case study illustrated. The case moved from a traditional justice system to a civil or formal one in a matter that looks to be complimentary at the same time showing signs of being substitutive. The buyer used traditional means of acquiring the land but when the owner started to bar him from developing it and upon realizing that the chief made a mistake he decided to use the formal system for justice. In the first place he could have used the formal channels in trying to inquire if the land was secure through government agencies before buying the land.

Another point to be considered in this case study is the fact of governance at local-family and clan level. With Kwame indicating that the chief who sold the land does not belong to his clan, it implies that all land is allocated to clan members and that chiefs of other clans cannot sell off or reallocate land of other clans. This shows that accountability and legitimacy has to be at clan level as well and yet this is not the case. The practice has changed so drastically. The question then is why are chiefs left to deal in matters of land outside their clans even when there is a hierarchy of chiefs? As a matter of fact the chiefs are engaging in appropriation of land on the presumptions of common property rights. Some of them are doing so for personal economic benefits. This is clearly illustrated when the chief was asked to why he sold the land the chief. He indicated that the land had been lying fallow for some years now and that many buyers were looking for land to develop. He only considered the aspect of development and not what the owner had decided to do with his land.

The act of payment of about GH13, 000 by the buyer illustrates the fact that drink money has changed over time when now it is much more expensive and that even though the indigenes deny the fact that it's not selling land but its only drink money, the reality on the ground is that chiefs are accumulating wealth through this act. The fact that the buyer is suing the chief in court proves the act of selling because traditionally drink money is supposed to be a token of appreciation.

5.3.1 Women and Shifts in Access to Land Rights for Women and Men

Conventional wisdom holds that Ghanaian women enjoy greater tenure security than their sisters elsewhere in the region and beyond. To an extent this is correct. Many agricultural systems allow for women to cultivate independently, some permit daughters to inherit land and there are few constraints in principle against women purchasing their own farms or house plots - if they have the means. However, the fact that women as a whole have been identified as a generally poorer sector in the population than their male counterparts, gives pause for thought, and links directly to the lesser right and role the majority of women play in controlling what still remains in Ghana the primary means of production which is land. Any pretense that customary permissions to women constitute equity is being steadily swept away as the realities of the generally weaker position of women in productive relations manifests is clear disadvantage, notwithstanding the important social roles of queen-mothers. Naturally, the adverse effects, as always, are mostly upon poorer women. The change in land rights has occurred slowly and is integral to changing land relations overall in which all rights to land have seen reconstruction. Most directly affecting women has been the emerging polarization between rights of ownership and rights of access. This is both driven and supported by acute individualization in the holding of rights, which has seen household heads (generally male) being perceived as the owners and women as only users of that right. In this way the family context of owning the right to occupy and use land has been eroded. The result is that access to land has become more of a benefit than a right. As land becomes scarcer and more valuable, even this benefit becomes less easy to secure.

The upsurge of declining security to women has not gone unnoticed in Kasoa communities. Manifestations of female land insecurity are evident. Lands previously reserved for women's access in Ofaakor community now being reallocated by chiefs and family heads to buyers for residential plots. It is becoming increasingly rare for daughters to inherit at least small plots of land as often meeting sons' needs is seen as more important. Where a daughter does receive land, she is rarely able to sell this but is holds it as a family reserve to be eventually given to brothers or other male relatives in need. Even where land is available for females in migrant areas, demands upon their labour for the main (male) farm, limits their capacity to take up this opportunity. And, as both cause and effect of the above trends, few women exert equal control with their husbands over the ownership of a house. Widows and divorcees find it less easy to hold onto any part of the land they helped develop. Nonetheless women remain in Kasoa today a main source of land-based productivity.

In Ofaakor community a matrilineal system of inheritance is practiced and is guiding the inheritance of land. Women do gain access to land through various means. It was found out that women access land in this community mainly through outright purchase (35 %) and through customary tenancies (28%) as shown in table 5.5 below and discussed afterwards. It was noted that in both cases amongst indigenes and migrants that land was no longer being accessed as a gift.

Table 5.5: Respondents' knowledge on gender and access to land

Variable	Community Status (%)		Total
	Indigene	**In-migrant**	
Most common ways women access land			
Matrilineal inheritance	27.7	1.4	11.1
Gift	3.6	12.0	8.9
Inheritance from husband	33.7	2.1	10.7
Outright purchase	33.7	36.6	35.6
Tenancy agreement (*Abusua/Abunu*)	9.6	47.9	33.8
Women's difficulties in accessing land			
Yes	26.5	59.9	47.6
Reasons for difficulties faced by women			
Lack of money	81.8	71.1	73.3
Divorces	9.1	10.8	10.5
Women not valued culturally	9.1	18.1	16.2
Type of women affected by land access			
Divorced	54.5	40.0	44.2
Single	13.6	1.8	5.2
Illiterate	31.8	58.2	50.6
Total			(225)

Source: Field data Ghana April 2009 – March 2010

Generally women in this area do face difficulties when accessing land. They attributed this to lack of money (73%). However there is a particular group of women who was identified to be the most affected. These were illiterate women (51%) and divorced ones (44%). The main reason being that land is sold at a high price as shown in Figure 5.3 where about half of the respondents said people bought land 30 years ago between GH[45]500-Gh1, 000 and while 31% of the people indicated that 15 years ago people bought land between GH5, 000-Gh10, 000. About half of the respondents mentioned that land is being bought currently between GH5, 000-GH10, 000 with a slight increase of 9% of respondents between GH10, 000-GH15, 000.

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[45] Ghana Cedi currency exchange rate at the time when the survey was conducted in August 2009 was 1GH= 0.44 Euro

However, some chiefs in the area do not see this high cost of land as a problem. According to them land can be easily accessed as long as one has money as evidenced in this interview with one of the Ofaakor chiefs:

"Both sexes have equal rights to acquire land in this area provided he or she follows the right channel and has money to pay for the price of the land. There's no discrimination. It used to be the case in the olden days. But it is no more the case now. In the olden days, females were discriminated against. Lately, all is about money". (Ofaakor chief, 29th July 2009)

Figure 5.3: Respondents knowledge on cost of land between 1979 and 2009 in Kasoa
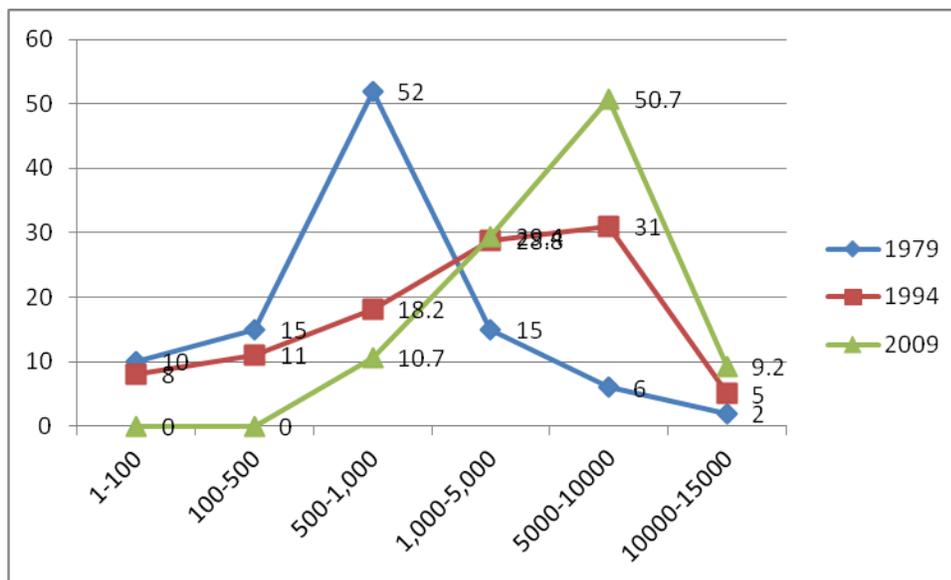
Source: Field data Ghana April 2009 – March 2010

In fact, in the community, it is evident that discrimination against women in land transactions is on the decline as the ability to pay supersedes all other considerations. Women may require using intermediaries in land transactions just as strangers do. It means that indigenous women are equated to migrants in this regard. In the past consideration was however given to indigenous women with regard to price and choice of plots with the argument that:

"the property shall be the pride of the community of indigenes" (Interview with a family head in Ofaakor, on 16th August 2009).

This line of argument has changed as both indigenes and migrant women buy land according to their choice of plots and use. Inheritance systems are still awesomely against women in the area as male heads inherit all land property with oversight responsibility to make sure female siblings can make a living with their allocations if the need arises. Women are not part of the equation of allocating land unless they express the need and interest and outline their plans before the head of

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family. Male counterparts are automatically entitled to both family and community lands with wider breadth of rights than women. It is a commonly held belief amongst males that:

>''According to our tradition women assist their husbands on family farms for the collective good of the family; therefore there is no need for them to be accorded special priorities. Their fundamental roles are both in production and reproduction'' (Male focus group discussion, Oklu Nkwanta, 10th October 2009).

Women venturing outside this structure are few in response to the general macroeconomic context of Kasoa community demanding more cash income to meet contingencies and improve wellbeing. Most of the women argued during the focus group discussions that lack of capital prevents them from engaging in farming rather than land constraints because land can be licensed if their own families denied them. The ease with which land is licensed in the community, in addition to the emerging leasing system which is gender blind to a greater extent, guarantees the modern woman access to land with better security than in the past.

Women generally pass through their husbands or other men to access land. Farming land is used by all, but males are given prerogative. For commercial cultivation, women must follow some procedures as visitors to access it from the *odikro*. Women are only temporary users and not permanent users. They only have user rights and never acquire permanent rights to land in the traditional tenure system because of the argument that they shall get married and transfer the land to an 'alien' family or tribe to the detriment of the original family.

It should be noted that in this era of changing land tenure, one's gender is not an impedance to land acquisition and ownership in the Awutu traditional area, in so far as the person has the means to acquire land and follow the rules and procedures of acquisition in the area. However, the biggest challenge is that most of these women are poor hence cannot afford these exorbitant and prohibiting land prices. Should the woman acquire it, then that woman has the right to use land for whatever purpose she chooses. However, it must not deviate from the use indicated on the allocation paper issued to her. A woman therefore can transfer her acquired land to her children or any person if she so desires, even as a gift, though it must be brought to the notice of the *omanhene* to prevent future litigation, but cannot transfer family lands to non-family members. It is only when a woman had no children and did not state who should inherit her land that her sister can take over the land upon her death. However, if a married woman wants to acquire land, she will be asked to

inform her husband and seek his consent before the land may be granted. The reason being that a married woman cannot single-handedly deal in land matters as this may be misinterpreted as having an affair with the land owner which is customarily unacceptable.

The rights of men and women in the inheritance of land differ under certain circumstances in the traditional area. In the case of self-acquired property women can inherit from men but men cannot inherit from their wives according to Guan tradition. Men and women have equal inheritance rights in land when inheriting a deceased spouse' land if the couple acquired the land together. If the man acquired land personally and dies, his nephew will most likely inherit it but if a property was put up on the woman's land, the wife and children have the right of inheritance. Only children and sisters of a woman can inherit her property. In the case of settlers of patrilineal lineage, men and women have equal rights of inheritance to a deceased spouse's property. However if the couple has a good mutual relation, they can decide to inherit each other's property in case of death without any interference from family members. In this case, the property goes to the surviving spouse and children. Despite matrilineal inheritance Queen-mothers (see chapter 4) do not play important roles in land issues.

Just like migrants women loose land to chiefs and conventionally most women do not challenge them for their actions. However a few of them, more especially the literate and rich ones have tried to take them to task. The most famous way is by suing the concerned chief or chiefs in court. Below is the case that highlights the complexity faced by women:

In the 1970s when land was still in abundance and most of it fallow, chiefs sold large tracts of land to migrants and business people. It was during this period that one businesswoman Hilda Nettey bought about 4,500 acres of land from the Chief of Odopong family, Nii Awushie Tetteh II. She registered it for an agricultural project. The indigenes in Ofaakor claim that this decision was solely made by the chief and his elders and that they did not have any idea how the money was used afterwards. However, this agricultural project did not take off immediately so that in the 1980s, the other neighboring chiefs Nii Kwashie Glorlor II and Ngleshie Amanfrom started re-allocating this land to other buyers who immediately started developing the land. Consequently, six chiefs[46] in the community started to contest the land in question. The landlord association[47] upon realizing the forthcoming trouble, took the two chiefs to task to explain the position and status of the land who assured them that it belonged to them while the other chiefs also claimed the same with Nii Awushie

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[46] Ngleshie Amanfro, Papaase, Odukpong Ofankor, Gomoa Fetteh, Awutu and Senya Bereku
[47] An association of people or community membere who have bought land in these communities whose role is to ensure that basic amenities are provided in their localities.

Tetteh II claiming that he sold the land. When this development came to the attention of Hilda Nettey she sued these two chiefs for her land. It must be stated that as years have gone by the place has developed to a greater extent such that the farmlands have paved way to residential and commercial buildings and was described by residents as peaceful. However, this peaceful area turned into a mourning ground when fifteen bulldozers backed by scores of armed policemen on a morning of August 27 2008 pulled down more than 100 houses around the area. The demolition exercise was carried out with the aid of 50 young men. The area witnessed a large crowd which had gathered with some of those whose houses were affected. They had all their belongings, ranging from clothes, beds, television sets and other personal effects outside their demolished buildings. As the bulldozers rumbled through the structures, with hundreds of stranded residents wailing and weeping, one person collapsed while a 74-year-old visually impaired woman screamed out curses. It was evident that all of them were left stranded in the process. These people claimed that they did not receive any notice to vacate their buildings. Therefore no prior notice was given to the residents before the commencement of the exercise. This demolition exercise caused the death of 4 people and destruction of many properties. The Kasoa Police officers were in the community to carry out a court order. The police did not carry out the demolition but the police were only there to provide security to carry out the Swedru High Court ruling in favour of Hilda Nettey against Ngleshie Amanfro and Nii Kwashie Glorlor II. It was believed that on February 6, 2008 a letter signed by Justice of the High Court, was received by the police in which it confirmed that the plaintiff, having obtained judgement for recovery of possession of land lying and situated at Odukpong Ofankor, and also an order to go into execution granted and dated May 4, 2005. The court requested a reasonable number of police personnel to assist the bailiff to execute the writ of possession. Then a portion of a reminder to the regional commander dated August 20, 2008 and signed by the Registrar of the Court, said "this court wishes to remind you of its readiness to carry out with the said execution from 27th day of August". The Central Regional Commander was asked by the court to assist the plaintiff, Hilda Nettey, to recover "possession of her land" because armed land guards had encroached on the land. Then the police headquarters was duly informed after which checks were made at the court to see whether or not there was a stay of execution. The checks showed that there was none. Therefore 100 police personnel were dispatched to the area to help the bailiff effect the court order. The police officers claimed that announcements of the demolition were made in some newspapers and on some radio stations in the country. However an executive member of the Landlords Association, Alliaji Salifu Demsu, argued that the case was pending at the Appeals Court

and the Stool Land Boundary Settlement Commission.

In trying to resolve the issue the landlords association sent petitions to the office of the Presidency, Ministry of Lands and Natural Resources, Interior Ministry, office of the Member of Parliament for Weija Constituency, and other governmental agencies to assist in investigating the rightful owners of the land. The Landlords Association, claimed that they have received little support and that their pleas have gone unheard. In fact they vowed to blatantly oppose any attempt by Mrs Nettey and her cohorts in government to carry out a second demolition exercise in the area after the earlier one rendered several residents homeless. Their plan was in connection with a publication in newspapers which gave them a one-month ultimatum to vacate their lands or face enforced eviction. The landlords tried to raise the awareness through the media who indicated that they did not have any land litigation with Mrs Nettey and that there was no need for her to use the police, land guards and other government officials to rule the issue to her favour. They claimed to have learnt that Mrs Nettey is very powerful to the extent that she can use any government institution, departments to achieve her personal interest. However Mrs Nettey declined the allegations that she is just a businesswoman without government connections who was following the laws of the country in trying to reclaim her possession. As this study took place Mrs Nettey was planning a second demolition exercise.

The case above illustrates a number of interesting features of the local land administration regime. It bears witness to the prevalence and working traditional institutions and leadership and shed light on the rather arbitrary ways in which the chiefs' deal with land sales and on the other hand having residents being caught up in the process and also the powerful and rich acquire land. It also gives some orientation with respect to the peculiar patterns in which local political decisions clash with institutional prescriptions with regard to the allocation and management of land. Nee Awushie Tettey's initial sale of land to Mrs Nettey proves the prevalence of the traditional resource regime and land administration with the council of the elders without the full knowledge of the people.

It also highlights the interface between tradition and modernity and how this relates to governance matters of land administration. Ubink and Quan (2007:198) state that the importance of recognizing and building on customary tenure systems in order to achieve equitable land management in the trend of customary transactions as they have become increasingly monetized, the equity of customary systems under the control of traditional chiefs is being questioned. This interface hinges

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upon informal and formal institutions way of dealing with land matters. The formal institution, in this case the court is seen to be substitutive of the traditional way of land administration managed by the chiefs. This raises the question whether modernity is substituting the informal or it is actually accommodative? In this case the formal seems to be accommodating the rich who are easily substituting the chiefs for the courts.

Legal pluralism in this case is leading to more confusion, abuse and contestation of the institutional framework for the administration of customary land. Since, there are a lot of grey areas to be explored such as the fact that the land was bought through and from customary and traditional leaders and that the land was under contestation, the courts ruled in favour of the buyer, the dispute is bound to continue. Sara Berry (2000:30) argues that contests over land involve contests over authority as well as resources which they draw on and reshape relations of power as well as property. Where land is subject to multiple claims, based on contested historical precedents, protracted land disputes serve as forums for on-going debates over the legitimacy of claims of public office. With legal pluralism, the case clearly demonstrates the challenges faced in terms of the rules for converting stool land to private land. It appears that privatization of customary land is governed by a set of rules enforceable by courts of law but the administration of land is governed by informal traditional rules. This in a way raises questions whether these rules enforced by the courts of law are accommodative or substitutive

The uncertainty and lack of clarity of property rights over land in the area is confirmed. Chiefs assume the role of ownership or landlords of land and disregard the fact that they are simply custodians of communal rights over land. Both the first chief from whom the business lady bought the land years ago and the other 2 chiefs who sold the land for the second time portrayed a landlordship tendency and disregarded the communal ownership rights.

Another point to be acknowledged is the power asymmetries, politics and private interests, connections and elitism at play. Using state institutions for personal ends over and above customary rules over land can be seen to be substitutive. This raises a question: is the state system trying to supplant the traditional one by using legitimate violence when young men were allowed to destruct and destroy personal household effects of helpless tenants with heavily armed police officers around? It highlights the complex processes of social differentiation underway in Kasoa where according to Pauline Peters (2004:271), exclusion and unequal appropriation are signs of class formation in local micro-politics. She explains that the phenomenon of unequal accumulation and

expropriation is a reflection of generalized 'rent-seeking' elites. This widespread appropriation by elites is situated within broader processes of social inequality and class formation as well as within what commentators call new forms of governing. The point of demolition that took place highlights the fact that it took place without proper notice to the affected residents. The point that the police states that the notice was carried out through newspapers is a very unconventional way of delivering such notices where several people are involved and not all might be in a position to know about it. It is an unconventional way how such court orders are given without involving other parties to the conflict. As it transpired it's only the business woman who knew about it and had appealed the case to higher court. This also raises concerns in the manner the demolition was carried out. The police showed impartiality with the lady while the rest had their properties not protected by the same institution. This therefore questions the role of the police institution in the matter. The police are siding with the civil courts in determining land matters that are under traditional authorities.

Concerning accountability and transparency, it can be argued that ordinary people regard both the state and traditional institutions as inherently unaccountable and that both are illegitimate. The Landlords Association accuses the buyer to be well connected and that she can use as she has done before government machinery to attain favours. According to them, they do not see justice coming their way and being illegitimate institutions for determining justice even though she denies the allegation. This applies to their concern that the police allowed the demolition to go on when the case was still in the courts for appeal.

Lastly, this case illustrates practices of appropriation where property rights are weak. There is lack of effective rules defining property rights. No entity has successfully laid claim to legitimate ownership as having land registered does not necessarily mean the land seizes to be stool land which is under customary administration. A property right is an enforceable authority to undertake particular actions in a specific domain (Commons, 1968). Property rights define actions that individuals can take in relation to other individuals regarding some 'thing'. If one individual has a right, someone else has a commensurate duty to observe that right. Schlager and Ostrom (1992) identify five property rights that are most relevant for the use of common-pool resources, including access, withdrawal, management, exclusion, and alienation (Ostrom 2000:339). Private property of land in a market economy means private and individualized ownership. The concept of ownership of land, as opposed to custodianship or user rights evolved out of the economy system based on individualized

private property, while in customary tenure societies, the relationship between people and land is not generally one of ownership but of use and stewardship (Lastarria, -Cornhiel, 2002 as quoted in Sam Moyo 2003:18).

However, the situation with poor women in the area is not the same like Mrs Netty, the businesswoman.

Ama Owusu, is 69 years old, who has never attended formal schooling and is widowed. Her husband, Mr Owusu died in 2000 and was left with 5 children of which 3 are dead. Ama and her late husband used to cultivate on 3 plots of land and grew cassava and vegetable for consumption. This was and still is her main source of livelihood. Upon the death of her husband Ama could not afford to cultivate on the whole piece of land since she did not have enough money to do so. She only managed to plant on half of it. This happened for 5 years. One day in 2006, Ama was surprised that there was a vehicle on her farm which was offloading sand and cemented blocks. Upon enquiring she was told that the piece of land had been sold to their boss one called Annan who is based in Accra. She immediately informed her in-laws for their assistance who apparently did not show any interests to the case. Her two elderly children find out through their neighbours that their uncles (brothers to their late father) in collaboration with the chief sold the land. They then went to the palace to complain about the case but at the time this study was being conducted Ama had not been granted an audience with the chief to present her case while construction on her farm continued.

5.3.2   Migrants Farmers: Landlords and Tenants

It is not only customary freeholders who have been affected by changing conditions and shifting norms. Secondary or 'derivative' rights especially those of settlers and tenants have also seen declining security and sharply rising costs in Kasoa. Agricultural migration has a long history in Ghana and has played a crucial role in extending production, not least because a common objective of migrants is to farm as much as they can. Although figures are not known, migrant or settlers often represent the majority of farmers especially in forested zones. In Kasoa, there are migrant farmers communities which are Gada, Bentum and Kovor Torgah and Oklu Nkwanta. As land has become scarcer, migrants are less welcome and their land access has become less secure, with consequent effects upon productivity. Most of them are losing their farm land through chiefs' led agricultural land conversion. Custom in many parts of Ghana just like Kasoa has long dictated a

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distinction between those who are historically members of the social group (natives) and those who come to settle in the area (strangers). In the past, it was relatively easy for migrant settlers to secure a 'virtual' customary freehold over land they were allocated, had paid 'fees' for, and had since farmed for several or more generations. This was less than a customary freehold in that migrants continued to pay an annual tribute to the chief as acknowledgement that they were not native to the area or society. Nor did they gain the benefits received by freeholders who were members of the body of communal allodial owners. These benefits include the right to help themselves to more of the shared resource without permission (i.e. unallocated lands) or to harvest large amounts of timber or other products from those communal properties. Today, new migrants in Kasoa find it difficult to access land and do so on severe conditional terms, for shorter periods and for payments which are often equivalent to having purchased the land outright but which do not yield those results. The operating relationship is one of tenancy with the Chiefs acting more as landlords collecting 'rent' than allocators with the act of collecting fees or exacting only customary tribute. This may be so even where the land acquired derives from a local owner, so that a settler may have two landlords in effect, and be required to pay two sets of premia to access the right to be a tenant, and then pay two sets of rent annually and in addition, annual tribute to the Chief. To add to difficulties, the agreement may itself be curtailed, either to allow the owner to make more money from another tenant or to extract higher fees. Even tenants who derive from the local community (subjects) find the terms of their tenancy increasingly less stable and more expensive. Some who begin their farming enterprise as sharecroppers have more difficulty securing the share of land they were originally promised. Land they were allocated but have placed under fallow runs a particular risk of being retrieved once cleared. Changes in crops such as from maize to pineapples by commercial pineapple farmers constitute an excuse for the landlord to retake the land or extract more shares or rent (More on this is discussed in the same chapter under the theme of reasons constituting to loss of land section). Most tenants have had their lands taken back by chiefs and saw it allocated as residential plots or for commercial use.

In-migrants or settlers-as they are commonly referred to in the communities- who want to acquire land contact the paramount chief's *linguist* who leads them to the paramount chief. Nobody can use land without the consent of the paramount chief otherwise he or she will be summoned to the palace to explain how he acquired the land without the knowledge of the leaders. People acquire land by either going for a lease from the paramount chief, hiring it for a period of time, buying it for

good- thus freehold land or by making a plea to use land without a fee. People also use land for commercial activities after the *Omanhene* has granted them such lands.

With the changing land tenure in the communities one's status as a migrant or settler is not an issue in land acquisition and ownership. It usually depends on the landowner's discretion but the person must be of good behaviour and be led, by a familiar person from the area, who will be able to give a good testimony of the person's character and ability to use land. A migrant or settler can use his or her land for any purpose and can transfer the land to anyone of her or his choice and can exercise any rights over land in so far as such rights fall within the terms and conditions of acquisition. Where a migrant wants to make any changes to the land use, the land owner and District Assembly's Town and Country Planning Department must be informed. If land was properly acquired by a migrant or settler he or she can give it out to any person upon death. This must be done with the consent of the o*manhene* because the o*manhene* in his capacity as the land owner reserves the right to take over all lands from occupiers he does not know. If a settler dies without an '*nsamanseɛ'*, his family can inherit the property after seeing the Paramount Chief or the *Abusuapanin* who gave out that land to the settler. If the *Abusuapanin* or the o*manhene* knows the family of the migrant he will agree and give out the property or land but if there is nothing to prove any relation to the deceased migrant, it may be difficult to transfer his land as the o*manhene* will take back his land.

The only difficulty a migrant or settler faces in land acquisition is that migrants pay more drink money compared to indigenes. For example if an indigene has to pay GH¢1, 000.00 for a piece of land, a migrant may have to pay about GH¢2, 000.00 for the same size of land. Also there are rigid rules on payment of *nto*; and that if a migrant acquires a large tract of land without putting it to use, he normally could lose it to the *omanhene*. However, chiefs are acting as landlords and have grabbed back land from migrants since they are strangers in the community.

Some migrants have come up with a way of ensuring that their chiefs do not grab the land unnecessarily by resisting the chief's actions through circumventing them. A case study below will help to understand the process.

Abraham[48], a 90 year old farmer from the Volta region who arrived in the area in 1955, lives in Korvo Torgah with 7 of his children and many grandchildren. At the time he arrived he came with the sole purpose of farming. He was given about 50 acres of land for free by the chief upon giving the traditional drink money and followed the other procedures. He used to cultivate maize, cassava, pepper, beans and groundnuts, and tomatoes. However, between 1995 to 1996 the indigenes encroached onto his land such that around two-third of the land was taken back at the pretense that the chief wanted to farm on it. This decision was believed to have been taken with the agreement of the council of the elders as they represented the entire clan. Then a conveyance agreement was made for the remaining land. This taking back of the land proved to be costly on his family as they struggled to have enough yield to feed the family for the whole year as they used to. His two sons who were at the University of Ghana and Cape Coast respectively could not continue with their studies that year as he could not sell enough from the farm produce. However, this decision of taking back the land was seen to be a day break robbery by Abraham as he saw that new housing structures were put up within less than a year. Upon enquiring from the new neighbours, he was told that the chief had sold the land to them. Considering the severe effects on their livelihoods, Abraham developed a strategy to prevent further reallocation of their farmlands to other people. This forced Abraham to organize amongst his children the administration of their land by entrusting the authority of selling part of their remaining land in his last but one son named George. This decision arose after seeing persistent harassment by the chief and the indigene youths forcing the family to consider giving up the remaining land to them as witnessed by 2 forceful visits between January and April 2009 of a group of 100 youths manned up with machete or cutlasses with their heads tied in red bands signifying and proclaiming war against the family. George, with the agreement of his family had managed to find buyers and sold off some acres to them so that the family could also benefit while the chief sold the first ones. So before the chief could sell more of their land the family had sold it first. Apparently when the chief heard about what had happened he summoned Abraham to his palace for questioning. With the elders present Abraham accompanied by his son George explained to the chief why he had done so after seeing that the land that the chief took back was sold to other buyers who had started building on them. The chief and his elders demanded that he handed the money to them so that it could be used for the maintenance of the stool. The old man stood his ground by accusing the chief that he himself did not share with him

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[48] Names in this case study are pseudonyms due to the sensitivity of the case as the migrant is still being harassed by different stakeholders. The act of changing name was considered also when the migrant was determined to have his case held to the public while protecting his identity and property.

what he had gotten from the first sales. Since Abraham was defiant, the elders then asked him for how much he sold the land; Abraham claims that he told them half the amount so that if they decide that they should share equally he could have gotten some. In fact he was asked to give the money to them for some share which he obediently did. After the discussion and sharing of the money after two days of the initial discussion, Abraham's house was stormed by some angry youths who had heard what had happened and demanded that he leaves the place. Since one of his sons was in town he rushed to the police when his wife called him on his mobile about what was happening in the village. Since the young son is an active member of a ruling National Democratic Congress (NDC) party at district level, he claimed that he easily managed to convince the police to rescue and pacify the situation. He claimed that

> "Since government institutions and officials are supposed to serve the government of the day, I tried through my own means by calling our MP whom I know personally, who then called the police in-charge at Kasoa police station who came on time and managed to disperse the irate youths. If it were not for my role and active nature in our party It could have been difficult to ask the police officers to help as they ask for money most of the time in such situations" (Young son, Interview, 17 June, 2009)

This scenario baffled Abraham who tried to claim that these youths were sent by the chief and elders to stifle him up by going behind their back and selling the land. However this looks unrealistic as these youths have been against the sale of land by the chief therefore would not side with their leaders for their cause but rather it was pure anger that the chief and his elders shared the money, which they directed at this old man.

After seeking support and advice from the local politician (MP) and upon noticing that this scenario of behind the back selling of the land by the chief might continue and also after hearing that the youth had tried to come up with their own committee to start selling the same land Abraham looked for help with the Lands Commission services in Cape Coast in 2007. However, this same act was not beneficial to the family as when the Lands Commission did provide the services, they cornered the old man to allocate them 6 plots of land for free for them to build their houses too or continue struggling with the chief and the youths. The Land Commission officials withheld the title deed papers up until the old man did indeed succumb to their demands which he bitterly detested but at the same time he was happy that he got the papers he was looking for.

The case study demonstrates the systemic corruption arising from interaction or conflation of

traditional informal institutions or rules and formal government ones. The actions of the Lands Commission officials clearly illustrate this where Abraham sought help from them but he was forced to give them some parcels of land. Therefore, this act shows the effect of informal rules on formal ones and vice versa and how they affect accountability and legitimacy of customary land administration. The gaps of accountability and illegitimacy are preserved by state and bureaucratic elites and the traditional ones in order to use them for extorting money and plots of land from ordinary people. Another point to be emphasized is the case of how the elites such as politicians are used in land struggles in the area. With Abraham's son asking help from the MP, it shows that those who are able to benefit are those who are politically connected to the structures of the ruling party or powerful political elites. It also shows the formal instruments of state power subdued to the traditional ones and yet overall, the formal set of rules is unable to supplant the traditional or informal one.

The chiefs are constantly justifying their action of claiming or repossessing land for development more especially when the city is expanding. This case at hand is a typical one. Chiefs legitimize their land repossession through the fact that land is needed for development in the area. Much as the intention seems to be good by the chiefs they end up selling the same land to other buyers for private and personal reasons which are not communal purposes. However, chiefs tend to benefit from these land grabbing. The facilities built on these reclaimed land are not beneficial to the whole community members as most of them are residential and personal houses or commercial buildings which benefit the sole owners who might have bought the land from the chiefs. It therefore questions the challenges of spelling out the rules for repossession of such lands in the community.

The council of elders is self-serving and effectively predatory as demonstrated in this case. In the first place, the council of elders in the olden days when Abraham was acquiring land agreed with the chiefs then to allocate this land to him. As much as some of the elders and chiefs involved them passed away it's the same institution which is now involved in taking the land back. Therefore one wonders about the legitimate reason for the same institution in giving away and taking back the land? The elders also have shown that they are benefiting with the chiefs when they demanded the money from Abraham upon selling the land. Instead of rebuking and holding their chief to account for his actions when he found it convenient to give away land singularly but had to involve the council in taking the money back from his subject. In fact the sharing of money shows that chiefs derive financial benefits (often illegitimate) from the uncertainty of property rights over land. The

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system affords them numerous advantages. This being the common practice in the area, it explains why chiefs together put up a formidable resistance to changing the system

It should also be noted that in Kasoa there are several ways how chiefs try to make their actions legitimate and enforce them. One of them is through harassment as the chiefs did through the youths. This chief is the same one who had given land to this old man at the beginning and now is trying to repossess it. Overall, this act of resistant by Abraham and his family demonstrates an act of rebellion from an institutionalism point of view, as this kind of land sales is not permissible within customary law over land. The land which was given out still remained as stool land. However, since money changed hands, the old man feels that the chief does not have rights to reclaim the land

5.3.3   The Youths

Polarizing shifts within domestic relations do not only re-align the rights of men and women. Generational distinctions to the disadvantage of especially the youth have also been noted. Broadly, the upshot is that young men as well as young women are finding customary rights to a share of the communal resource un-rewarded or at least a good deal more costly to secure from their elders. Even fathers are unwilling to allocate a share of land to their sons where they may gain an income from leasing this land instead to tenants. In succession, nephews who in the past could expect land are now competing with their cousins. Being young and mobile tends however to lessen the impact upon livelihood. Young men in particular travel to find land of their own to rent although this presents costs which defeat those from poor families. Even sharecropping in Kasoa increasingly requires a down or upfront payment to be activated.

The distribution of cultivation and housing land rights is strongly associated with age. Community indigenes indicate that in the early twentieth century, Kasoa people backed their chiefs when they gave cultivation and housing rights to immigrants. The compliance of the villagers suggests that chiefs used at least part of their money for communal purposes and that some revenue was usually redistributed within communities. When the farming land began to grow scarce, and most land being converted to non-agricultural use; demands for chiefs and head of families' accountability started to grow which has resulted in conflicts. The most sensitive political issue is a dispute between indigenes youths, chiefs and immigrant farmers. Since the immigrants were granted rights at the beginning, the current youths are questioning that and demanding the immigrants to return the land.

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Since the youth cannot have a guarantee that their demands will be met with the chiefs and that they have managed very little influence on chiefly administration of stool lands, they are constantly intimidating and grabbing land from the immigrants who do not have the support of the current chiefs. This was observed in Kovor Torgah where I as a researcher had to run away on 17th July 2009 during an interview when a mob of youths attacked the village in demanding the land:

> "This has been our problem for the past decade. These youths who even though they claim that they are not sent by the community chiefs have been harassing me and my entire family members in demand of the land. I did sign a contract with their forefathers which some of them did not see as they were yet born. I paid what I was expected to pay and years later I am being harassed as a wanted criminal in Kasoa, all because of this land that is closer to the city". (Interview, Kovorvoh Torgah odikro, 17th July 2009)

In the mix of this struggle is also the explanation of the youths that they see their future being robbed by this practice of selling land.

> "Our great grandparents made a mistake by giving these migrant farmers land. They did so during the time when land was in abundance. They did not foresee that Kasoa will be important in future which it is now. The fact that this land belongs to our forefathers we are entitled to reclaim our land. These migrants took advantage of our illiterate forefathers by giving those gifts and signing those illegal contracts with. It's just because the migrants had money to entice them' (Youths Focus group discussion, Ofaaokr, 2nd November 2009)

However, their main explanation as to why "they are taking things in their own hands" as lamented by most of them is the fact that:

> "We are worried with the prospects of our future at the speed how these chiefs are selling this land. They distribute the money amongst themselves together with the elders. They do not share with us neither with the community at large. Even if we were to ask them to do so they would not account for it as they have never done so before". (Youths Focus group discussion, Ofaaokr, 2nd November 2009)

The question raised by these young farmers concerning the legitimacy of chiefs who are supposed and claimed to be custodians of rights on behalf of the community, selling the agricultural land without accounting for the profits, has still remained unanswered. The basic problem identified is that the youth do have limited means of influencing the decision-making processes. Chiefs in the area label youth concerns as illegitimate, arguing that the management of land was not their prerogative and this diverse view had become a cause of outright confrontations. This was affirmed by one of the chiefs:

> "These youths are just troublesome in the community. They are well represented in the council through the head of the youths (Asafo) who reports to the council of the youth's concerns. By the way, land issues are meant for elderly people. They are taken care of by their parents" (Interview, Ofaakor Chief, 9th December 2009)

In the community, however, it was noted that one's age is not an issue of consideration in land acquisition and ownership in the area. It is like this because the determining factor is if the person has the means to acquire land which is largely money and the ability to work on it and goes through the right procedure. This notwithstanding, how the money was acquired may be investigated to establish the genuineness of the child who wants to acquire the land. Anyone who is below the age of 18 is regarded as a minor and cannot acquire land since he or she cannot vote and in cases where the fellow is extremely young, then he or she has to be led by his uncle or father, who will testify about the person's ability to use land and to also serve as a witness and defend that person in case of any land related problem. Apart from this, younger persons do not face any other difficulties with respect to land ownership and acquisition. Children and adults have equal inheritance rights in land when inheriting from a deceased parent because both contribute and pay equal amounts of money when it comes to financing the funeral of the deceased parent.

5.4 The Hegemony of Chiefs over their Subjects: Circumstances that lead to loss of Land by both Indigenes and Migrants

Under the Native Authority system, land was placed under the jurisdiction of the paramount chief (Amanor, 2008:63). Land relations were determined by what was considered customary practice and by the proclamations of bye-laws by paramount chiefs defining these relations. Much as land tenure system has changed over time from the colonial authority to the post-colonial era, chiefs control the majority of land in administration which is being reflected in what is going on in Kasoa.

It was evident (see figure 5.4) that about half of respondents in the area perceive that the village chiefs are the ones allocating these farm lands to strangers to build residential houses; followed by 28% of respondents who blamed land allocation to head of families, while 3.2% felt government officials being responsible for selling agricultural land that have been converted to residential land. Individual owners are also taking part in doing so.

Figure 5.4: Institutions responsible for allocating farmland to strangers

3.2

18.2

28.4

50.2

■ Government officials ■ Village chief ■ Head of family ■ Individuals
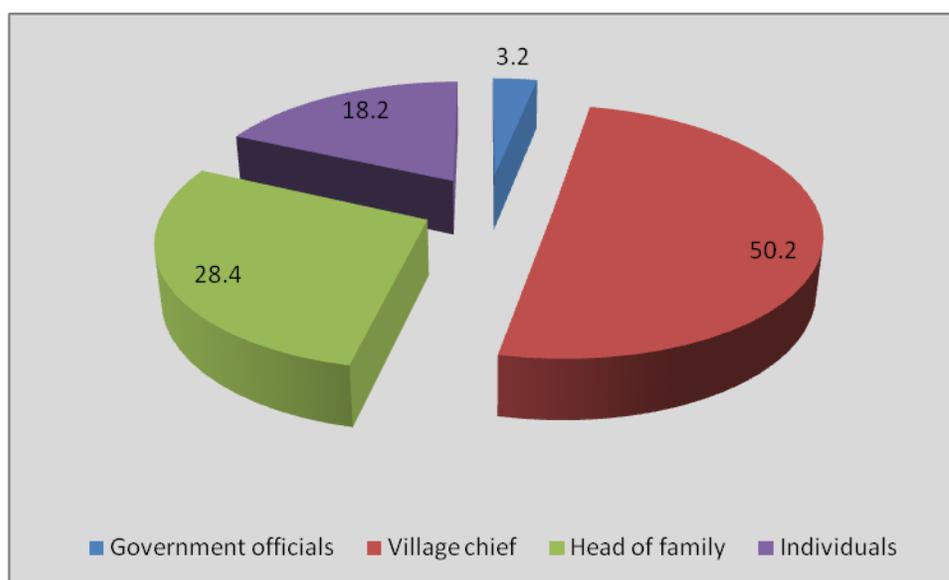
Source: Field data Ghana April 2009 – March 2010

As indicated in earlier sections of this chapter, land is being bought by both indigenes and migrants. However, payment does not guarantee final ownership. In actual fact, such lands are often being lost by these buyers and re-sold. Below, in table 5.6 we describe a variety of conditions where land ownership can revert back to the chiefs, families and community leaders. These are the most important concerns for migrants and indigenes which are very much similar. Loosing land to the chiefs is the most common concern for all respondents.

Table 5.6: Respondents' knowledge about loss of ownership

Variable	Community Status (%)		Total
	Indigene	**In-migrant**	
Circumstances for loss of ownership			
Lack of proper documentation	15.7	46.5	35.7
No development	28.9	9.9	16.9
Divorce	12.0	9.9	10.7
Disrespecting the Chief	39.8	12.7	22.7
Quarreling with Landowner	3.6	21.1	14.1
Do Migrants face land difficulties			
Yes	63.9	73.9	70.2
Total			**(225)**

Source: Field data Ghana April 2009 – March 2010

In these communities 70% of migrants do face land difficulties and are more likely to lose land. This was admitted by both migrant and indigene respondents. It was therefore observed that there were a number of reasons leading to this problem. As land is mostly acquired through chiefs, 36% of respondents indicated that one can lose ownership of land when an individual lacks proper land

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documentation and that when an individual happens to have disrespected the chief in the area (23%). Land can be lost in several circumstances in this area. If a person refuses to pay ground rent, he could lose his land to the *Omanhene*. Further, if a person acquires land but neglects it for a long time without using or maintaining it and it develops into '*nfofoo*' (weeds), he could lose a part or the entire land to a neighbour. It was found out that a rebellious subject can also lose his land to the *Omanhene* because of his 'bad' character. A period as to when to develop land is also crucial as the community members indicated that when a person does not develop his or her land two (2) years after acquiring that land, the *Omanhene* has the right of re-entry as indicated on the allocation paper. For some unfortunate community members, if a person is expelled from the community, he could lose his land. The common situation has been in cases where a community in the traditional area expands and catches up with farm lands or a farm land is required for the public good, the *Omanhene* takes two-thirds of the land and is expected to give one-third as compensation to the family. But, most affected respondents stated that they never get the compensation. In other cases one can lose land in the area if a successor to a person puts up a form of bad conduct such as murder, rape or defilement, extreme womanizing or being quarrelsome. The '*Odikro*' could inform the *Omanhene* to take away any land from the person even if a property has been put on the land. This only applies when the person fails to heed to warnings to desist from such behaviour. Other reasons appeared specifically in a situation where if a settler farmer fails to protect the land and allows encroachment then he or she may lose the land to the owner; and also if tenants do not respect landowners they may take away the land from the occupier.

These conditions are also exacerbated by the fact that even though there are some governments land agencies that can be used in order to acquire land title certificates; the process itself takes long and is expensive for some poor migrants. Since the process takes long, more especially for those who tried to do so some chiefs takes advantage by selling this land to other people who can afford the procedure. Poor or total lack of land documentation as indicated above and land transactions had been the source of several land litigations and disputes among traditional authorities and individual land owners in the area. In a discussion with selected land owners and those who lost their land it was observed that the majority of the respondents only had registered deeds. They did not have land title certificates. They attributed their inability to acquire land title certificates to the long and tortuous bureaucratic nature of the procedure for acquiring land title certificates. Most of the land

owners interviewed did not appreciate the need to acquire land title certificates. The procedure for acquiring land title certificates is enumerated hereunder in Box 5.1

Box 5.1 Summary of land title certificate procedure in Ghana

• Applicant obtains appropriate registration forms from the Land Title Registry, completes and submits them to the Registry together with copies of all relevant documents and the required registration fees;
• Upon submission of application, an applicant is issued with:
(i) a receipt of acknowledgment ("yellow card") and
(ii) a letter of request addressed to the Survey Department for the preparation of parcel plans;
• Applicant pays for and collects parcel plans from the Survey Department whenever they are ready and submits them to the Land Title Registry to assist in the processing of the application;
• From the Land Title Registry, the applicant is issued a photocopy of the parcel plan together with a Request Form to be sent to the Lands Commission for a search report;
• Upon receipt of the search report by the Land Title Registry, and satisfying itself that there are no objections or adverse findings in the report, the Registry then proceeds to publish the application in the dailies to notify the general public of such application.
• After publication, a period of fourteen days is allowed to receive objections from interested parties who may wish to challenge the application. If no objections are received within the fourteen-day period, the Land Title Registry then continues with the process of registration;
• The Land Title Registry prints and signs certificates, records particulars on sectional plans and notifies the applicant of the completion of registration exercise. The Land Title Certificate is finally issued to the applicant upon submission of his/her "yellow card".

Source: Field data Ghana April 2009 – March 2010

According to the Survey Department, the preparation of parcel plans and cadastral plans takes about 12 to 18 months to complete resulting in undue delay in the land title registration process. The Land Title Registry has no control over this vital input as the Survey Department is the only legally mandated institution to undertake this activity. Similarly, request for search reports from the Lands Commission by the Land Title Registry often delays thus making the entire registration process cumbersome. It is in fact during these processes that for those people who try to go through the process sometimes find themselves in the situation that they lose land.

5.5 Chiefs' Land Administration vs Local People' Knowledge and Expectations

Although traditional authorities such as chiefs and heads of families continue to convert agricultural land in the area, many people have their own and different expectations on land administration by these authorities. With the aim of trying to understand the communities' ideas on accountability of chiefs in land management and allocation, it was observed that overall the people expected their chiefs to be more accountable. Table 5.7 shows the percentage distribution of respondents according to the perception of land administration by chiefs.

Table 5.7: Respondents' knowledge and expectations from chief' land administration

Variable	Community Status (%)		Total
	Indigene	**In-migrant**	
Expectations on Chief's land administration			
Not corrupt	38.6	31.7	34.2
Not favoring the rich	25.3	10.6	16.0
Not favoring migrants	14.5	0.0	5.3
Not favoring indigenes	2.4	16.9	11.6
Responsive to community needs	3.6	18.3	12.9
Accountable to the community	15.7	22.5	20.0
Who should be accountable in land allocation			
Government agencies	10.8	9.9	10.2
Chiefs	45.8	51.4	49.3
Family heads	33.7	26.1	28.9
Individual landowners	9.6	12.7	11.6
Use of revenues of land sales			
Cultural functions	0.0	28.9	18.2
Community development	13.3	4.2	7.6
For chiefs/individuals	73.5	56.3	62.7
Stool maintenance, solving land disputes	12.0	8.5	9.8
Don't know	1.2	2.1	1.8
Total			(225)

Source: Field data Ghana April 2009 – March 2010

There were quite a number of expectations from the community members with regard a chief's land administration. The majority of the respondents of 34% expected their chiefs not to be corrupt during the land administration process and also for the chief not to be favouring migrants. Both the indigenes and migrants had high expectations from their chiefs not to be corrupt. One outstanding thing for the indigenes was that they expected their chiefs not to be favouring the rich people in society (25%) while the migrant respondents (22%) expected their chief to be accountable to the community.

It was interesting to note within the scope of the respondents knowledge of who has to be accountable during land administration amongst the land custodians that 49% categorically stated that chiefs were to be accountable followed by family heads (30%). It is worth noting that when it came to how chiefs use the money accruing from the sale of land by chiefs, close to 63% of respondents indicated that chiefs used the money for personal use, and only about 2% did not know how the money is used. Little money is being channeled into community development as stated by 13% and 45% of indigenes and migrants respectively. One indigene lamented that:

> '' Our chiefs and heads of families in our community are only concerned with the welfare of their families and the royal family. We the commoners are second class citizens to them. We have been watching them sell our land and none of the money is used even just to help us have our houses connected with light (electricity) or help in digging wells for water. These chiefs receive money from

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real estate developers now and again, where does that money go to?" (Interview with an indigene, 10 Sept 2009)

Due to these land conversions, it was not surprising to see that chiefs and heads of families' performance in land administration was regarded to be bad when respondents were asked to assess the performance of local chiefs with respect to their accountability on land issues. This is illustrated below in figure 5.5

Figure 5.5: Respondents' knowledge on how chiefs administer land
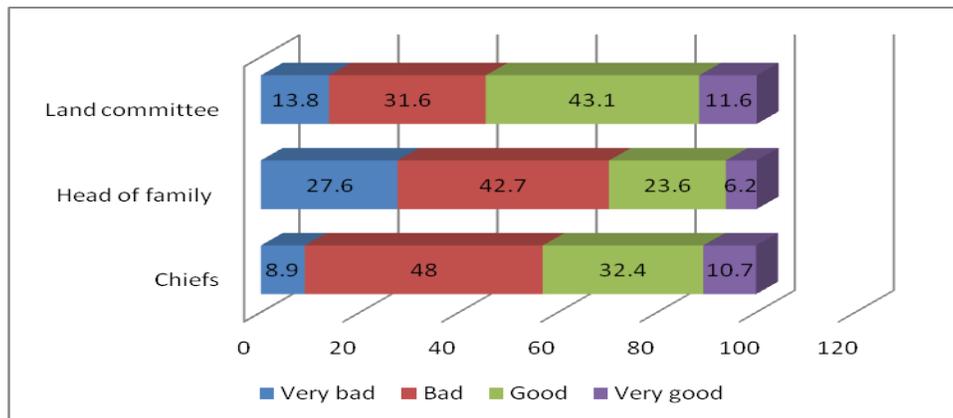
Source: Field data Ghana April 2009 – March 2010

When respondents were asked to rate the performance and accountability of chiefs, about half of the respondents rated chiefs poorly (48% bad; 9% very bad). This pattern of negative perception pervades both migrants and indigenes, with the latter having a more negative opinion.

Family heads were also rated poorly, in a similar manner when it comes to their accountability on land issues. However, land committees received more positive appraisal; this seems to indicate that where decision making is entrusted to groups rather than to individuals, bias and partiality may be more easily avoided. When the respondents were asked to rate the performance of the land committee which is part of the customary land committee it was surprising to observe that 43% of the total respondents indicated that they are good.

The high percentage of people not accepting the power of the chief to allocate their farmland can perhaps be understood in the context of the reality of daily life and struggles that these traditional authorities pose to them. The chiefs in these communities not only claimed the right to allocate their farmland to strangers, but have also effectuated this right. This has actually contributed to land

insecurity amongst the indigenes that are now themselves highly involved in land allocations. For instance, some local farmers who have seen their neighbours land sold are converting and selling their own land, after which they direct the buyer to the chief who will sign the allocation papers for a moderate signing fee. One indigene confirms the developing practice here:

> "In 2006 I sold 3 plots of my land when I saw that my neighbour's land had been sold by the chief and he never got any share from it. Since I had a registered deed, I decided with my wife to sell some to some people who work in Accra. I got some money out of it which I cannot disclose to you because if the chief knows he will come and demand his share. I directed this Accra man to the chief to have the papers signed. He is the one who now paid the signing fee. If I had waited like my neighbor, for sure I wouldn't have gotten any single Cedi from it" Interview with a male indigene, 23rd October 2009

5.6   Chiefs' Land Accountability vs Local People' Knowledge and Perception

Understanding what accountability means at a local level poses one of the first and sometimes the most formidable obstacles to achieving it. This was the case the study faced in Ghana. In Ghana and Kasoa area in particular, there is no separate word for accountability (*akontabuo*), and its meaning is either subsumed within that of responsibility (*asedie*) or circumscribed by use of the term public finance accountability. In English a distinction is made between responsibility and accountability. According to Clearly and MacConville (2006:61) responsibility refers to the duties or tasks that one undertakes and to be responsible implies that the individual has some control or authority over the performance of those duties. Accountability advances the concept of responsibility and infers that an individual should be able to explain and answer for their actions and may be legally obliged to do so.

The problem of land administration by traditional authorities in relation to accountability within the community proved to be very problematic. Within the traditional area of Awutu, people perceive stools and family heads as not trustworthy institutions when it comes to dealing in land matters. Accountability and transparency structures are often times docile and seem not to be enforced well. In Ofaakor and its surrounding villages, security guards have been engaged to help protect property which some chiefs have employed some of the land guards to seize land from people. However, some of these land guards have formed their own associations such that they are in the forefront of ceasing undeveloped or unfarmed land and selling it to people without the knowledge of the owners of the stool lands. People have poor perception about stools or chiefs and family heads because of tensions and conflicts of authority between government agencies and chiefs. With regards to conflict

resolution, people find the interventions of chiefs and family heads unsatisfactory primarily because of the self-interest of chiefs and family heads. People also find it unsatisfactory to deal with chiefs and family heads due to the ad hoc nature and undue delays of procedures of land management.

Table 5.8: Respondents' perception about chiefs' accountability

Variable	Community Status (%)		Total
	Indigene	In-migrant	
Chiefs expected to be accountable			
Yes	60.2	69.7	66.2
How Chiefs can be accountable			
Council of Elders	24.1	33.1	29.8
Through individual landowners	21.7	23.2	22.7
Through customary land secretariat	54.2	43.7	47.6
Is your Chief accountable in land allocation			
Yes	8.4	15.5	12.9
Factors influencing Chiefs' accountability			
Land scarcity	1.2	9.2	6.2
Rapid urbanization	41.0	39.4	40.0
Globalization	18.1	16.9	17.3
Demographic shifts	2.4	7.7	5.8
Increased land value	37.3	26.8	30.7
Existing accountability mechanisms			
Council of Elders	47.0	44.4	45.3
Traditional courts	30.1	23.2	25.8
State courts	13.3	9.9	11.1
CLS[49]	4.8	7.7	6.7
None	4.8	14.8	11.1
Effective accountability mechanisms			
Council of Elders	27.7	25.4	26.2
Traditional courts	15.7	21.8	19.6
State courts	42.2	45.1	44.0
CLS	9.6	6.3	7.6
Police	4.8	1.4	2.7
Total			(225)

Source: Field data Ghana April 2009 – March 2010

When asked a question as to whether the chief is or was accountable in the area when it came to land allocation a small proportion of 12.9% of total respondents stated that they were accountable. When the respondents were asked whether chiefs were supposed to be accountable in land management 66% of the total population indicated that chiefs are supposed to be accountable which was highly favoured by migrants respondents (70%). There were quite a number of accountability mechanisms that were known to the respondents in the area. A total of 45% knew that council of elders was an institution and mechanism to hold chiefs accountable. It was also discovered that only a total of 11% did not know any accountability mechanism instituted to hold chiefs accountable in land allocation. However, a total of about 47% stated that chiefs must be accountable through the

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[49] CLS stands for Customary Land Secretariat

customary land secretariat followed by council of elders with about 30%. For the aspect of these accountability mechanisms being effective, respondents mentioned that state courts were the most effective ones with a total of 44% of the total respondents. This also proves the fact that most people have never held a chief accountable in these communities with a total of 96% with the unique case being migrants with 100% while a small fraction of about 11% of the indigenes stated that they ever held their chief accountable. For the few respondents who ever held the chief accountable gave the reasons that they just felt to do so while another one said that because he was an indigene and felt he had a right to do so while the other one indicated that it was easier as he was from the royal family.

The respondents had various factors that have influenced the chieftaincy institution accountability in the area with regards to land management. Respondents attributed rapid urbanization as the factor affecting chieftaincy accountability as compared to the least factor being demographic shifts.

5.7   Accountability Challenges: Revenues from sale of Land and Expenditure by Chiefs and Family Heads

Land in Kasoa was plentiful when the chiefs welcomed the first migrants to the area 100 years ago. It was still plentiful when the Ewe farmers and Hausa people from the North started to come and trade in the area in the 50s and 70s respectively.   It is, in fact, only since about 90s, that a shortage of land for farming in the communities has arisen as a serious concern. Up until the late 1980s, virtually all the land outside the immediate area was used for farming. The agriculture was typical of the low-input, rain fed bush-fallow system found elsewhere in the district. Maize had always been the main staple food crop, but cassava, beans, and groundnuts were also grown. Some small-scale cash crop production was common--pepper and tomatoes in particular.

Beginning in about 1990, plots of land, averaging about one-sixth of an acre, were sold off to prospective house builders. The exact amounts of land sold are not known. The area appeared to be 1.5 square miles in 1996 (See map in chapter 4) that had been built on, or had pillars marking the land (indicating that it had been sold). In 1997, the area that had been built up or demarcated extended another half to three quarters of a mile. Most of that land had been sold off since about 1992. In 1996, many farmers had not lost their land, but virtually everyone was worried. As one of the Ewe elders put it, "it is really…the lack of alternatives that made us vulnerable..." By 1997, his fears had been confirmed.

It is believed that the revenues from land sales go to the Stool, where the same body that approves of the land sales determines how proceeds will be used. Given the size and price of the plots being sold, it is clear that a tremendous source of revenue is being generated through the conversion of agricultural land into land for housing by chiefs (see Figure 5.6). Even deducting the transaction costs, this revenue is potentially a tremendous asset in diversifying the economic base of the stool. To date, however, there is little evidence that revenues generated from land sales are being used in this manner. There is also no particular provision for planned development of the housing plots. The Landlord's Association, for example, had to build its own road, although they subsequently brought pressure on the Chief to help recover some costs.

In order to determine the amount of money being accrued by both chiefs and heads of families, it was difficult to get these figures as these authorities do not keep the records. As such, the estimates were made through the survey that I conducted by asking the respondents how much they paid. It was discovered that actually large sums of money are derived from the sale of land either through payment or drink money (See figure 5.6) and discussed thereafter.

Figure 5.6: Purchasing and drink money paid during land acquisition
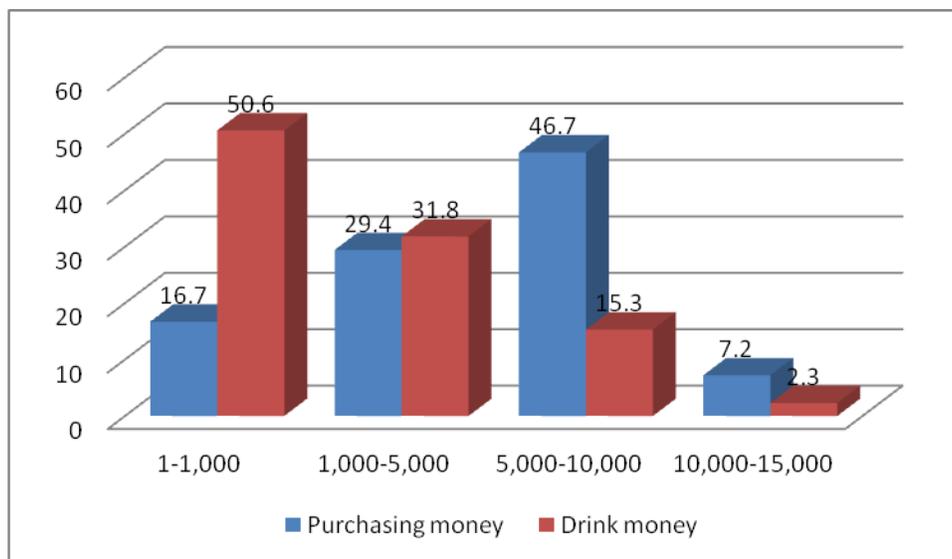
Source: Field data Ghana April 2009 – March 2010

About 47% of the total respondents purchased their piece of land between GH5, 000-GH10, 000 and the least being 7% who bought land between GH10, 000-15,000. Respondents also paid drink money to the chiefs and heads of family with the majority of them being migrants or settlers. According to these respondents 50% of them mentioned that they paid between Gh1-1,000 as drink money while 31% of them paid between Gh1, 000-Gh5, 000.

In these communities it was often mentioned by chiefs and family heads that customarily, land is not supposed to be sold. However, reality on the ground proved otherwise. One can only make a request to use land for any purpose but must not make the request with 'empty hands.' Some amount of money must be paid to secure the land be it for farming, housing or commercial purpose, the chief of the town must be contacted through the '*Okyeame'* (linguist) who leads you to the *Mponuahene*. All these leaders get some money from the buyer. The formalities for acquiring land are the same for both stool subjects and non-stool subjects and have not undergone any changes. The specific formalities to be followed in the sale of land to both a stool and non-stool subjects is similar but drink money paid by non-stool subjects is higher as compared to a stool subject. However, it is difficult to put a definite figure on proceeds from land sales due to the informal nature of many of the land transactions as well as multiplicity of individuals and groups involved in the sales. A widely held view among informants especially indigenes are that proceeds from the sale of land are not used for the common good of the communities

> "We know that chiefs do not give part of the revenues accruing from the sale of lands to the communities. Our communities needs many facilities like water, street lighting etc. we can use part of the revenue we get from the land sales to address some of these problems" (FGD, Settlers, Kovo Torgah, 29th August 2009)

The proceeds from the sale of land are apportioned among the principal members of the land owning community especially chiefs, usually among the council of elders who in turn distribute their share among kinfolk. The irony is that if the land belongs to generations unborn, then it is expected that proceeds from the sale of land should be put to such use as will benefit posterity, for instance, to finance development projects such as schools, clinics, markets or public toilets. But the evidence points to the contrary. The proceeds are shared among the living and are often squandered. According to Maxwell (1998):

> "Another paradoxical situation under Ghanaian customary law is that the stool occupant (chief) is not accountable to the living beneficiaries with regard to the trust property. He is rather accountable to the ancestral owners. Neither the chief nor head of family could be sued for specific performance of his fiduciary duties-an action for account is unknown to native law. In other words, members of the community cannot call the head of the community to account. The only remedy available to the subject of the stool in the event of a ´breach of trust´ is to depose the chief and install another one- a recipe for chieftaincy disputes. Asante (1975) sums up the situation in these words that: ´´The courts of Ghana have squarely addressed themselves to the extent of the head´s obligation to members and have unequivocally and repeatedly proclaimed a policy diametrically opposed to that of equity´´. Immunity from accountability has been one of the major causes of continual land disputes in the country. The Head of Family Accountability Law (PNDC Law 112) seeks to address this problem. But the law is applicable to only heads of families and not occupants of stools or chiefs"

However a counter argument regarding the need to use proceeds from the sale of the land for community development is the view that many of the land title deeds in the area are held by families (or even individuals) rather than stools. In other words land is not owned by the community, but rather by families or even individuals. As such incomes accruing from the sale of family land cannot be used for the common good of all community members. The revenue is therefore used to seek the welfare of the members of the land owning families.

5.8 Traditional Mechanisms on Land Accountability in Ofaakor Communities

It is without doubt to say that traditional authorities in the communities are and continue to play a crucial role in the peoples' livelihoods. Much of it is because of their relevance to land allocation. Due to the fact that chieftaincy is a hereditary institution, and that subjects are expected to follow their rulers, most people find it difficult to hold their chiefs accountable. With this increased land conversions and sales, I tried to understand and gauge the knowledge and general feelings towards the institution in relation to land (See table 5.9)

Table 5.9: Respondents' knowledge about chieftaincy institution and its roles

Variable	Community Status (%)		Total
	Indigene	**In-migrant**	
Relevance of Chiefs			
Arbitration	6.0	4.9	5.3
Land management/allocation	60.2	43.0	49.3
Conflict management	9.6	8.5	8.9
Maintenance of law and order	0.0	2.8	1.8
Making customary laws	1.2	6.3	4.4
Embodiment of culture	7.2	5.6	6.2
Community development	15.7	28.9	24.0
Public rating of Chiefs			
Good	47.0	66.2	59.1
Bad	53.0	33.4	40.9
Total			(225)

Source: Field data Ghana April 2009 – March 2010

Indeed the chieftaincy institution and the queen mother institution play major roles in the Ghanaian society but opinion of community members differs on the relevance of these two traditional institutions with respect to land administration. For instance, 49% of the total respondents mentioned that land allocation and management is a very relevant role for chiefs while the least relevant one was that of maintaining law and order with 2%. However, local chiefs have better public rating among in-migrants than among indigenes.

With the above stated reasons as to why the members still view the institution as relevant in land administration in spite of the fact that their leaders continue to take land from them, it prompted me to understand and discuss the accountability mechanisms in place within the institution. It is interesting to note that there exist traditional and local means of holding chiefs accountable in land matters. However with the demonstration of chiefs converting land without considering the subjects source of livelihood, it can be said that it's because there are minimal accountability mechanisms to provide checks and balances on chiefs' administration on the one hand and a lack of accountability on the other.

During the pre-colonial and colonial era, most African societies had their leaders rule by consulting with the elders. The elders were there representing the views of their people. A chief could not do anything without consulting his elders. This structure has been maintained ever since and happens to be within the structure of the Awutu traditional authority. However, with the increasing cases of land conversion and selling of land by chiefs while community members are complaining about this situation, one wonders whether there are mechanisms to control the chief's behavior in land administration? This prompted me to investigate into the situation. There are two main checks on the administrative powers of chiefs as mentioned by community members. First is the one where the chiefs take decisions in council with their elders or sub chiefs. The second one is the possibilities of removing from position a chief that is not functioning according to demands of his office. This process is known as destoolment. However these seem not to be functioning effectively in the increased demand of land for residential purposes in Ofaakor communities since community members initiated none of them.

According to customary law and tradition, a chief can only govern the community, if he acts with the consent of the whole community represented by the principal councillors from all major families of the community which is called as council of the elders or the chief's council. The chief's council is traditionally supposed to be the real governing body of the town and its surrounding villages. The members of this governing council are usually the heads of the various clans. The council is presided over by the chief. The councilors are the representatives of the people, and, as such, have to confer with them on any issue that is to be discussed in the council. The chief is obliged to act on the advice and with consent of his councilors, whom he has to summon regularly. The councilors are assumed and expected to freely discuss all matters affecting the town or state. And, in any such atmosphere of free and frank expression of opinions, disagreements are inevitable. But in the event

of such disagreements the council would continue to listen to arguments until a consensus was achieved with the reconciliation of opposed views. And so it is assumed that every command and every move that is adopted by the chief has been discussed and agreed upon by his councilors.

It was constantly argued by the elders that, no important decision was passed by the councilors without first consulting their people. The councilors and the people are in daily life expected to have a symbiotic relationship. However, most people in the community feel and expressed dismay by this process. One indigene in Ofaakor expressed his frustration that

> "These elders do not consult us. They operate the same way like politicians or current parliamentarians who think they know best what we the locals want, as is the case now in most, if not all, Ghanaian towns where you have land issues. The decisions they make in many cases are far from what we want concerning land. What we want is that they must stop selling our land. But if they still insist to continue selling land then, the least they can do is that they must help in building more school blocks, clinics, construct roads and bring clean tap water to our community" (Interview, 1st December 2009).

It was also a bemoaning situation that I found out in Ofaakor communities as most of the elders of the council were those that were selected from the royal family only and not from all major families of the community. It was also observed that in Bentum, Oklu Nkwanta, Gada and Kovor Torgah as they were migrant farmer communities their elders did not form part of the council of elders. In this area the high priest is part and parcel of the council. In such situations due to his traditional authority based on religious, spiritual and ritual power, it made it difficult for the council members to openly criticize him. Besides, even when they do, the chiefs often are not bound to respond to the criticisms. It was observed by community members that their council of elders have been so far been co-opted by their chiefs by either sharing the benefits from land administration with them so as to indirectly, removing their incentives to effectively check the use of power and if necessary stand up against the chief.

Regarding the destoolment of a chief, in this community, the basic principles guarding the selection or rejection of a chief and the workings of the chieftaincy institution is similar to the Akan tradition and chieftaincy set up which is also basically the same across Ghana. As indicated in Chapter 4, in Ghanaian society, the chief is the head of the community. The community is also the traditional area of his jurisdiction. A chief is selected for unique qualities that make him an excellent representative of the community. Traditionally, chiefs are ranked. At the summit of the institution is the king, whose title may differ from one ethnic group to another, followed by the paramount chiefs and their subordinate chiefs. The chief makes decisions on behalf of the community, but only after consulting

with his council. The social and political power of a chief may depend on the ethnic composition and wealth of the community. As chiefs obtain their position through enstoolment (coronation) so they can lose it through destoolment. The enstoolment process begins when the families contending for the position have agreed or decided upon the person to be appointed. The decision becomes final when the Queen Mother approves the selected person as capable of leading and representing the community. The role of the Queen Mother in the process is important as her consent is essential for enstoolment. Once approved, he undergoes secret rituals performed by the Queen Mother, supported by the elders of the community. The public aspect of the enstoolment process is activated by the introduction of the chief to the community at a traditional durbar. The chief pledges his oath of allegiance to the community, to respect and protect it at all times and above all to uphold its traditions.

According to tradition, a chief can be destooled for breaking the oath of allegiance to the community. When the people of a community want to press de-stoolment charges against their chief, a case can be brought for arbitration to another higher chief or for adjudication to the traditional council. Removing a chief thus always requires the involvement of other chiefs who in most cases are not of the same rank but higher. This can be complicated because paramount chiefs often have a direct interest in who occupies the village stools, mainly because of their claims to a share of the villages' land revenues partially thus bias or partiality is already introduced; and it is chiefs judging their fellow chiefs. Often the charges against the chief on trial, such as not using enough stool land revenue for community development are also an item of contestation. Obviously, the personal interest of higher chiefs in such cases could stand in the way of objective and impartial judgments. Besides the fact that fellow chiefs always have to be involved, an additional obstacle to destoolment is that, according to customary law charges cannot be brought by commoners, but only by the 'kingmakers', that is those sub-chiefs and members of the royal family who are in charge of selection and enthronement of a chief. As discussed above, these sub-chiefs are often restrained by their proximity to the chief or co-opted and therefore not likely to take the lead in actions against the chief. The main customary checks and balances on chiefs which are ruling in council with the sub-chiefs and the possibility of destoolment are thus not effective. One can add to this the fact that chiefly accountability is extremely low. In this community to ask a chief to account is often considered a vote of no confidence and most people will not dare to do that unless there are incontrovertible evidence of serious misrule by the chief. In fact most people are afraid that should

they initiate the move they might end up being chased away from the communities since most of the studied community members are a good proportion are in-migrants.

6 Power Dynamics in Land Administration: Chiefs vis-à-vis Government Institutions

6.1 Introduction

The previous chapter shed more light onto the complexity of holding chiefs accountable at the local level. More especially with the community members' own means of resisting the pressure of the chiefs selling their land. In this chapter, an examination of some mechanisms put in place at the national level is made, in order to meet the objective of analyzing the formal accountability mechanisms that exist at the national level through their various land agencies. This objective tries to answer the question, 'what formal accountability mechanisms are in place to facilitate chiefs' accountable in land matters and how effective are they?' This chapter, therefore, tries to demonstrate government initiatives that have been deployed over time to enhance accountability mechanisms in customary land management. This stems from the colonial antecedents such as the District Assembly (DA) through the Town and Country Planning Department (TCDC), the Office of the Administrator of Stool Lands (OASL) and the donor supported programme of the Customary Land Secretariat (CLS). In this chapter the focus is on the expected functions of these land agencies (DA, TCDC, OASL and CLS) in the communities in relation to traditional authorities and their actual efficiency which is aimed to provide checks and balance in the customary land administration. In order to provide a deeper explanation, a case study approach of the CLS is undertaken by assessing the execution, its roles and responsibilities which is aimed at providing checks and balances of the customary land administration by combining tradition and modernity. The case study analysis, demonstrates the threats, challenges and power relations within the land administration. It concludes with a summary of potential means of strengthening this initiative.

6.2 Initiatives to Enhance Accountability Mechanisms in Customary Land Management and Stool Land Revenue Administration

This section will discuss the initiatives, legal instruments and land agencies that both the colonial and the post-independence governments tried to institute in order to ensure accountable land administration as well as stool land revenue administration. During the colonial era attention is given to the stool land revenue administration initiatives.

6.2.1 Stool Land Revenue Administration during the Colonial era

The stool land revenue administration has gone through many phases since the arrival of the colonialists especially the Europeans and the subsequent introduction of large scale agriculture, commercial exploitation of timber and mineral resources (Alhassan, 2004). In the post-independence era urbanization and politics have equally influenced stool land revenue administration. Before the arrival of the Europeans, Agbosu (2005) argues that traditional authorities did not play prominent roles in land administration because land was abundant. The need to allocate land among subjects or users did not rise and the only significant role played by traditional rulers was to settle land disputes between developers or users of land resources. It stands to reason that land was not a commercial commodity and therefore traditional authorities did not receive any financial package from the use of land resources in their care.

With the arrival of Europeans the situation described above about stool land administration changed significantly. The advent of the Europeans brought in its wake new opportunities as large scale agriculture, timber, mining activities coupled with improvement in the transportation network increased land values. So suddenly the demand for land resources increased and this also meant that traditional authorities as custodians of land now had prominent roles to play in stool land administration. However, according to Agbosu (2005) most of the chiefs were uneducated in European ways and as a result were not up to the challenge. This made them vulnerable to the few educated, merchants and lawyers who took advantage of their ignorance and acquired large tracts of land for almost no or inadequate remuneration. According to Howard (1978) and Kimble (1963) as quoted by Amanor (2008), the situation became so alarming at the coastal areas of the country, that the secretary of state for the colonies was once asked by the British Parliament to comment on a claim by Equatorial rubber and Mahogany Concessions Limited on acquiring a concession of 50 square miles in the Axim district of the Gold Coast for a paltry total annual rent of £52 (equivalent to 155 Ghana Cedi). Other examples include the claims by Panni Lands and Rubber Estates Limited claim on the acquisition of a lease of 64 acres for 99 years at an annual rent of £21 from the chiefs of Axim. It is reported that the revenue generated was not used judiciously on behalf of the communities in question. Due to ignorance on the part of traditional authorities and that the well laid down customary checks and balances in stool land disposition were thrown overboard. This assertion stems from the size of the lands involved in the transactions and the amount of money supposedly paid by the companies. As Agbosu (2005) puts it:

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"Such phenomena became so rampant that the colonial administration was alarmed. One of the measures it considered necessary to solve the problem was a legislative measure, which would bring all unoccupied lands under the control of the British. Thus between 1891 and 1897, two unsuccessful attempts were made to vest administration of unoccupied land in the colonial authority. Those measures failed because the chiefs and traditional elders, the native lawyers, the nascent middle class, the educated elite and the European firms successfully opposed the measures. Two legislative measures were withdrawn on account of pressure from the Aborigines Rights Protection Society, representing the interest of the traditional authorities, the lawyers, middlemen and the merchant class. They received active support from pressure groups of influential business concerns such as the Liverpool Chamber of Commerce and the West African traders Association. The interest groups who stood to gain from the chaotic system prevailing at the time won the day"

If these reforms had taken place, stool land revenue administration as we know today may have been different or perhaps better streamlined. Ownership of land resources could have been taken away from the traditional authorities like the Germans did in Tanganyika, now Tanzania (Kasanga, 1991). The same situation applies to northern Nigeria and Ghana where, until recently, similar enactments vested the colonial administration with the control land resources. It also demonstrates the lack of political will on the part of the colonialist to put into operation vital land administration laws for the fear of offending traditional authorities who were more or less represented the colonialists at the local level.

In the view of the fact that the earlier legal attempts to regulate stool land revenue administration failed, a plethora of laws was introduced for the same purpose but to no avail. The reasons for the failure are enormous. Some of these laws are the Concessions Ordinance which was passed to create a Concession Court to supervise land transactions. A Forest Bill was also introduced in 1910 to supplement the provisions of the Concession ordinance but like they did in the passage of the Public Lands Ordinance (1894) and the Land Bill (1897), traditional authorities and their allies opposed the regulatory measures (Amanor, 2008). The Bills were seen as an attempt to take away their rights of traditional authorities over land administration and a delegation was sent to London to appeal to the British authorities to withdraw the Bill. Due to the policy of *Indirect Rule* and failure by colonialists to formulate a land policy framework for the colony, the British government could not enact the bills and therefore postponed the implementation. The above scenario suggests that, traditional authorities wielded a lot of jurisdictional power in the colonial days and though unsuccessful, some legislative attempts were made by the colonialists to control stool revenue administration. However, this study is of the view that the legislative effort alone on the part of the colonialist was insufficient

and the reason may be that the virtual exploitation of the land resources greatly benefitted their kinsmen.

In the quest to fill the lacuna created by lack of a regulatory framework, a Commission of Enquiry was set up in 1921. The entire commission was only comprised of one person, the then Secretary of State for the Colonies- Sir Conway Belfield. The Commissioner was asked to investigate and report on the land problems in the Gold Coast and Ashanti especially on the prevailing system of land administration. The report to the enquiry presented details on the incompetence, greed and inefficiency of the chiefs and their elders regarding their roles in the management of community resources. The report provides ample evidence of subordination of the interest of the community to those of their own. For instance, among other things, the chiefs of Akim Abuakwa indirectly drained the state council's treasury through progressive salary increases for themselves. In the case of Kumasi state and the Asanteman Councils, there was no record of revenue received, in respect of Kumasi stools, for fifteen years.

In his report, Sir Belfield advocated for a system where the disposition of interests in communal lands would be supervised by government appointed officials who would supervise the demarcation of boundaries of lands subject to transfer and insist on adequate consideration. Sir Belfield suggested that one-fourth of the proceeds from concession grants be retained by the District Commissioner for such services as schools, roads and wells. Sadly this recommendation never saw the light of the day as new governor, Sir Hugh Clifford took over. He did not implement the recommendation because he considered that it conflicted with Indirect Rule. In addition, he turned a blind eye to the misuse of stool land revenue. Public outcry, however, continued and this led to the passing of some statutes to control land revenue administration. For example, firstly, the Native Administration (Colony) Ordinance conferred power on every Paramount Chief of every state, with the concurrence of the divisional chief, linguists, headmen, elders and councilors of the state to make by-laws to first establish and constitute stool treasures; secondly, specify what stool revenues were to be paid into the stool treasury; thirdly control and regulate expenditure from stool treasuries and revenue, and provide for such control and regulation; and finally, provide for the matters incidental to the forgoing. The ordinance did not place any compulsion on the stools so they did not implement these requirements voluntarily.

The report of Sir Belfield and the Native Administration (colony) ordinance marked the beginning of a concrete attempt to regulate stool land revenue administration. As indicated, the ordinance did

not legally oblige the traditional rulers to adhere strictly to its provisions so like other attempts it also failed.

In the light of the above challenges, it became necessary to promulgate new laws to regulate stool land revenue administration. To this end, a new ordinance, the Native Administration (Treasuries) Ordinance (CAP.96) was enacted to help solve the situation. This was followed by the Native Administration treasuries Regulation (No. 29 of 1940) to supplement and give a bite to the main ordinance. The regulation indicated the sources of revenue of the Native Authorities as:

All monies payable to the Native Authority or Stool or agents or representatives either in respect of rents, royalties, profits, and other revenue derived from land and property of the Native Authority or Stool and all profits derived from the cultivation of farms belonging to or under the control of the Native Authority or Stool. Besides, the Stool Property Protection Ordinance was enacted and made specifically applicable to Ashanti (Ordinance No. 22 of 1940). It was intended to make provision for the protection of stool property. The provision was aimed at controlling the alienation of stool lands by chiefs by placing some limitation on the disposition rights of the chiefs and their elders or family heads to alienate communal property. However, the chiefs needed prior approval of the Commissioner to validate their disposition rights. Other enactment passed to regulate stool land administration included the Kumasi Lands ordinance of 1943 (Cap 145) 1951 and Native Authority (Colony) Ordinance 1944. Additionally, the Local Government Ordinance of 1951 made the administration of stool lands the responsibility of the urban and local council as the case may be for the areas concerned. The administration was taken over by those statutory bodies but the ordinance carefully provided that except specifically stipulated nothing in the statute should be deemed to affect the ownership of stool lands. It must be stated that, the Local Government ordinance of 1951 was sequel to several ordinances the provisions of which dealt more specifically with the question of stool land revenue administration. They include the State Council (Ashanti) ordinance, No. 4 of 1952; State Councils (Northern Territories) Ordinance, No. 5 of 1952; and the State Councils (Colony and Southern Togo Land) Ordinance, No. 8 of 1952. The principles, upon which such ordinances were based, recognized the communal basis of enjoyment of rights in land under the indigenous systems. The provisions were intended to provide in concrete terms, the means by which just and fair proportion of the proceeds from the community resources could have been applied to the benefit of the whole body politic of the traditional states from which those resources were to be found.

Despite the attempts, the manner in which the Kumasi State Council and Akim Abuakwa State Council performed their duties relating to stool lands and revenue administration under the reform ordinance failed to have any impact on their accountability and performance. This underlines the fact that legislative measures per se cannot be a panacea for problems of this nature. To a very large degree, all these measures failed because traditional authorities were still in-charge of the disposition of stool land, collection and utilization of all kinds of stool land revenue. This also presents a lack of checks and balances. The person who administers and regulates should not be in charge of revenue collection. None of the legal instruments sought to take away at least the duty of collecting stool land revenue and disbursement from the traditional authorities even though that could have been the major step towards solving the problem.

6.2.2 Post Colonial-Pre 1992 Constitution Stool Land Revenue Administration

Stool land administration statutes discussed above laid down the foundation of dealings with stool land revenue in the post-colonial era. Following two Commission of Inquiry, the Ashanti Stool Land Act 1958 and the Akim Abuakwa (stool revenue Act No. 78 of 1958) were passed to vest these stool lands in the president. By this arrangement the legal interest in the land went to the government whilst the beneficial interest went to the community. The vesting powers were subsequently extended to the rest of the country by the Stool Lands (Validation of Legislation) Act No. 30 of 1959, Stool Lands Act, 1960 (Act 27) and the Administration of Lands Act 1962, Act 123. Section 32 of that Act repealed most of the previous enactments. Act 123 reproduced with minor amendments the relevant provisions of the Local Government Ordinance of 1951. Section 1 of the Act vested the management of stool lands in the President as a trustee in respect of the stool land concerned. Any monies accruing out of any such vested land was to be paid into the appropriate stool account. The provision in section 18 to 23 set out the modalities for the collection, use and proportion of such revenue to be paid to the beneficiaries. In the north, Executive Instrument 87 and 109 of 11 July 1963 vested all Northern lands in the president.

The establishment of these laws in the early 60s helped to stem the tide even though at a later stage despite the laws some traditional authorities managed to abuse the system like in the case of Kumawu stool with the Digya-Kogyae lands as an example. In this case, Digya-Kigyae lands under the jurisdiction of Kumawu stool were taken over by government in 1977 for forest reserves and c 1.5 million was paid as compensation. The traditional authorities connived with some officials in the Lands Department collected the compensation secretly as if lands belonged to them in ''their own

rights' and shared it. Some vigilant subjects of the Kumawu stool had to resort to an expensive and prolonged court action to defend the rights of the stool subjects. This means that, as recent as the 1970s some traditional authorities still misused stool land revenue though by now it was clear that the revenue generated were communal assets.

6.3   Current Government Land Agencies

This section will discuss the post-independence government initiatives with regards to land administration and how they have evolved over time. All the land agencies involved will be briefly explained and then two land agencies, the District Assembly and the OASL, in the district where the research was conducted have been singled out for a more elaborate and detailed description.

In Ghana, there is a plethora of government land agencies (see box 6.1) aimed at improving land accountability, often with overlapping powers. While this proliferation was intended to introduce greater checks and balances into the land allocation system, the effect has arguably been the reverse. Rather than strengthening the single official route to land registration, numerous competing channels have been created. Any one of these may be considered a sufficient step to gain a form of title, which, if not fully legal, has enough authority to defend an interest. However, opportunities for rent-seeking behaviour have multiplied, as have the numbers of cases before the courts. While some would see the resulting confusion as a deterrence to speculation, the overall effect may well have been to promote the interests of capital over social concerns, and to create a system which works in favour of the powerful and against the majority. On the positive side, there is wide recognition, within the system, that changes need to be made at the earliest opportunity

Box 6.1: Land sector formal and informal agencies

Formal Agencies
i) Ministry of Lands and Forestry
ii) Lands Commission
iii) Survey Department
iv) Land Title Registry
v) Department of Town and Country Planning
vi) Stool Land Administrator
vii) Land Valuation Board
viii) Land Administration Project Unit
ix) Forestry Commission
x) Regional Coordinating Councils
xi) District Assemblies
xii) Regional Lands Commission
xiii) Stool Land Boundary Settlement Commission
xiv) Joint Border Commissions and Minerals Commission

Informal agencies
xv) National House of Chiefs/Regional House of Chiefs/Traditional
Councils/Individual Chiefs
xvi) Ghana Institute of Surveyors
xvii) Ghana Real Estate Developers Association
xviii) The Judiciary
xix) Ghana Bar Association
xx) Environmental Protection Agency
xxi) National Association of Farmers and Fishermen
xxii) Ministry of Food and Agriculture
xiii) Commission for Human Rights and Administrative Justice

Source: Aryeetey et.al. 2007:67

The *Lands Commission* (LC) was set up in 1969, and its original mandate was to manage both public lands acquired by the state, and particular stool lands 'vested' in the state. The Commission's revenue collection and distribution functions were later given to a special agency, *the Office of the Administrator of Stool Lands*, which came into existence in its present form in 1996 under the 1994 Act[50]. The functions of the Lands Commission were then further extended to cover all Stool lands. These functions now included not just classical land registration functions (searches, etc.) but also verification functions related to physical land use planning, and are distilled in the concept of Land Commission 'concurrence'. According to the 1980 Act, 'an assurance [ie. disposition] of stool land' cannot operate to 'pass any interest in or right over stool land unless executed with the consent and concurrence of the Commission'. The 1992 Constitution provides that any 'disposition or development' of stool land requires the Regional Lands Commission of the relevant Region to

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[50] It should be noted that stool land revenue has not been directly collected by chiefs since the 1951 Local Governance Ordinance, where responsibility for collection was given to the new elected local councils. Under the 1962 Administration of Lands Act (Act 123), revenue collection was given to the Minister for Lands, and the department set up to perform this function is the origin of the present OASL.

certify that the disposition is consistent with any development plan drawn up by the planning authority (now the District Assembly). This new planning provision was also embodied in the Lands Commission Act 1994 [s. 4 (1)].

Since 1982 (PNDCL 42), the Administrator of Stool Lands has taken on the following responsibilities:

- Management of all existing funds held on account of stools by the Government
- Establishment of a land account for each stool into which all revenues are paid (in practice, all such funds have been channeled through the appropriate paramountcy);
- Collection of rents, dues, royalties, revenues and other payments to the Stool and accounting for them to the appropriate beneficiaries.

The 1992 Constitution decrees the following benefit shares to the beneficiaries, net of a 10% administration fee to be retained by the OASL:

- Stool (25%)
- Traditional Authority (20%)
- District Assembly (55%)

The high revenue share of the District Assembly is resented by the customary authorities. However, the complaint registered during field work that the Assemblies are unaccountable for their expenditure and need to be made more responsive to the interests of the customary authorities, is difficult to support. Not only do the DAs have clearly defined statutory responsibilities (including for 95% of local development planning), but they are also subject to a much higher degree of public accountability than are the stools. There is also much resentment of the 10% share accruing to the OASL. While this may be justified to the extent that a 55% share is inappropriate to an agency with finite needs, though this discounts the incentive effect on revenue collection, the underlying problem is more the principle of state supervision than the precise level of the share.

A number of other state agencies are also involved in land administration. The *Land Valuation Board* was split off from the Lands Commission in 1986 (PNDC L42/43), and charged with valuation on behalf of the State, including advise on forestry royalty levels. The Board still has no enabling legislation and functions under the Constitutional provisions setting up the Lands Commission. The Lands Title Registry, also established in 1986, is charged with registering title deeds in limited areas of the country which presently the only designated lands title registration areas are Accra, Tema and Kumasi. A *Deeds Registry* also exists in each region. While the Lands Title Registry is meant to replace

the Deeds Registry in the designated areas, the tendency has been for both systems to be contemporaneously operational resulting in a duplication of functions and many buyers have preferred to register with both bodies. For historical reasons, the body of documentary evidence is stronger in the Deeds Registry than the Lands Title Registry, and this accounts for the reluctance of buyers to abandon this route. Of the 12,000 lands titles issued in the registration areas since 1986, about half have re-emerged in the courts, and there is currently a backlog of 47,000 cases yet to be processed. The *Survey Department* has existed since 1908, and plays a crucial role in development planning both locally and nationally. Since 1988, it has also been required to produce the maps and plans on which land title registration is to be based. Under-capacity of the Department has caused numerous problems, and registration of lands has often either been blocked for want of maps, or alternatively, gone ahead in disregard of the lack of them.

The *Town and Country Planning Department,* now decentralized to the Metropolitan and District authorities also has responsibilities for development planning, and for creating maps and layout plans as part of their routine functions and also at the request of stool or other owners when land is converted to residential, commercial or industrial use. Only about half the authorities have resident and qualified planning staff. There has been a plan to cover the shortfall through the creation of mobile planning squads, but these are not yet in place.

6.3.1   Locally based Government Land Agencies in Kasoa

In the aspect that there is improved and equitable land management in Ghana, quite a number of institutions and instruments have been set up by the government to monitor the customary land systems which are also locally based. These were found to be amongst the formal land agencies working in Kasoa Township and its surrounding villages namely; the District Assembly (DA), Office of the Administrator of Stool Lands (OASL) and Customary Land Secretariat (CLS). As much as there are these mentioned institutions in the study area, civil society organizations (CSOs) dealing in land issues are non-existent in the area. In fact CSOs demand for accountability is totally in existent. Many of them are involved in natural resource conservation. The 1992 Constitution vests all customary lands which constitute approximately 80% of the land in Ghana (Larbi et al., 1998, p. 1) in the appropriate stool, skin or land owning family on behalf of and in trust for their people. This confirms that such lands be managed according to the fiduciary duty of the traditional authorities towards their people on the basis of customary law, which is recognized as a source of Ghanaian law (articles 267(1), 36(8) and 11, 1992 Constitution). The Constitution does not however make more

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specific provision on how customary lands should be managed by traditional authorities, and in practice increasing value of land lead to widespread disputes over powers to allocate rights in customary land and entitlements to the proceeds of these land allocations.

6.3.1.1 District Assembly

The Awutu Senya District is one of the newly created districts in the Central Region. The district was carved out of the former Awutu-Efutu-Senya District in 2007 and established as a district by Legislative Instrument 1847. The rationale was to facilitate government's decentralization programmes and local governance system. The Local Government Act, 1993 (Act 462) designates District Assemblies (DAs), which have been created since 1986 but only received constitutional backing in 1992, as the main planning authority, charged with the overall development of the district. With regard to land administration, they have legislative powers to make by-laws in respect of building, sanitation and the environment. The preparation and approval of planning schemes, the granting of building permits and the enforcement of regulations and sanctions for non-compliance all rest with the DA. District level government is dominated by the District Chief Executive (DCE), who is the single most powerful local government official. Villages and towns are supposed to draw up a land use planning scheme, with help of the Town and Country Planning Department (TCPD) of the DA. Such a planning scheme designates the uses of the various areas, and shows the boundaries of the individual plots. When a prospective developer applies for a building permit, the TCPD is to check whether the site plan conforms to the planning scheme, and whether the allocation note is signed by the local chief.

However, daily life realities point to a different way in that since the main aim of the chiefs is to maximize financial returns within the shortest possible time, important land uses such as open spaces, playgrounds, schools, markets, refuse dumps and roads are sold to developers, in order to increase the supply of building plots. During my field-work, I witnessed a high increase of building demolitions by the DA supported by the police on a weekly basis (details in Chapter 7). These demolitions arose due to haphazard and unauthorized development in all statutory planning areas. By means of the land use planning process, the DA could provide some checks on the land administration by chiefs, preventing double allocations and reserving land for public purposes or even for agriculture. However the DA officials complained that chiefs prevented the drawing up of a

planning scheme by withholding their cooperation during the land demarcation, and drawing land use schemes. Further, the TCPD in the district indicated that there is low cooperation from the chiefs as they have unapproved layout plans which leave open the possibility of later changes in the plan by chiefs. Therefore, even though the land use planning system provided by the DA could in theory provide a check on chiefly land administration it also provides chiefs with additional powers in local struggles over land. The formalization of the land allocation process, with the signature of the chief as a key element, gives chiefs an extra official card to play, especially those higher up in the hierarchy of traditional authorities.

With regards to the utilization of stool land revenue in the district, from 1999-2006 the DA received a little above hundred and fifty thousand Ghana cedis (GH 250,000) as its share of stool land revenue and invested it in infrastructure meant to improve safety and justice. These facilities are necessary for peace and order, and for that matter development. Also a means of transport has been purchased to enhance administrative work. Considering the share of the assembly, it needs to do more by investing in social infrastructure like water, education, health that have the direct bearing on the life of the people. Besides, the facilities provided are all located at Kasoa centre perhaps due to the nature and function while in communities like Bentum, Gada and Kovor Torgah many migrant farmers lack such social amenities.

However, a general problem that community members vehemently stated was that of dissatisfaction when taking decisions regarding the utilization of stool land revenue. As it stands the assembly selects and locates projects based on needs of the various towns and villages under its jurisdiction. A committee reviews applications received from towns and villages and recommend projects based on the availability of funds. Community members argued that as much as the procedure for selection of projects seem democratic it is not reflective of the location of projects embarked upon by the Assembly using stool land revenue. This is because as stated above that all known stool land revenue projects are sited at Kasoa centre and not the peripheral villages.

On the issue of how the revenue generated from land use is utilized by the beneficiaries through the DA, 70% of the respondents did not know how while only 30% of the respondents indicated that the DA used it for projects in the district. This means that a majority of the people of community members are not part of the decision making process so far as utilization of stool land revenue is concerned in the studied community. In reaction, the chiefs mentioned that decisions as to how the stools' share of the stool land revenue is used are taken in consultations of the traditional councils

and the Assembly person who is elected by the people themselves therefore people are duly represented in that process. To them, once the chiefs and the DA consult these people who represent them, it presupposes that they are also indirectly involved in the utilization of stool land revenue. However, I am of the opinion that this situation is not good because it can trigger communal upheavals as many community members still believe that stool land revenue is underutilized as well as sometimes not utilized in an effective manner to benefit all community members. There is a level of dissatisfaction by most community members who showed signs of not fully informed and involved in matters involving stool land revenue administration since this is communal resource. One member in a male FGD in Oklu Nkwanta stated that:

> "The district assembly officials should consider having quarterly public forums where chiefs and us the members of the community to be involved in these matters and priorities projects together since some of our communities are not benefiting at all" (FGD, 3rd September 2009, Oklu Nkwanta)

This dissatisfaction from community members can be understood in the manner that even the 1992 constitution or OASL Act (Act 481) does not provide regulations or guidelines on how revenue generated from stool land should be used by beneficiaries or stakeholders.

The DA does not directly account to the OASL for use of its share of stool land revenue received annually. However both internal and external auditors ensure financial prudence at the district level. For instance, local government (that is internal) auditors audit financial practices of the Assembly regularly whilst the district auditors and special auditors from the Auditor General's Office audit the district's finances every two years. Notwithstanding the above mentioned checks, the OASL as the constitutional organ charged with the collection and disbursement of stool land revenue should also be legally empowered to monitor the use of such revenue.

On the part of the chiefs, they intimated that stools rather account to the *Omahene* because he is the allodial title holder. This accountability arrangement is reasonable in the sense that according to customary law the *Omahene* is the overall land owner but this is not satisfactory and adequate because neither the *Omahene* nor his chiefs discloses the stool land revenue. Another problem forseable is that neither the *Omahene* nor his chiefs and even the Odupongkpehe Customary Land Secretariat possess the requisite personnel in terms of expertise and numbers to regularly and meticulously audit the stool land accounts of all the stools under the Awutu Traditional Council.

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This is one area that the OASL needs to assert its authority to ensure judicious use of stool land revenue for the benefit of the entire stool land community members.

Notwithstanding the projects undertaken by the DA, the community members in the studied areas more especially Bentum, Ganda and Oklu Nkwanta were not satisfied with the performance of the DA as regards to the utilization of stool land revenue. Ironically, the chiefs who seem not to account their judiciary share of stool revenue believed that considering the share of the DA, it should have done more in the communities by providing the requisite infrastructure such as good drinking water, educational facilities and public places of conveniences. However, more than 60% of the respondents interviewed in a survey praised the district assembly for a good work done as compared to the chiefs' stool land revenue usage. The Assembly woman for instance stated that:

> " I think that the Assembly has done well considering the fact that it has so many competing demands from every part of the district that are equally important and that Rome was not built in a day" (Interview, Kasoa, 14th September 2009)

6.3.1.2 Constitutional Arrangements: Office of the Administrator of Stool Lands

The 1969 constitution made provision for the establishment of the Lands Commission under Article 163 and a Lands Commission Act was passed in 1971. Article 189 of the 1979 Constitution also provided for the Lands Commission (Act 401) and an Office of the Administrator of Stool Lands (OASL). During this time the Lands Commission had overall supervision of OASL. After the 1979 Constitution amendment the result was that of the change in the functions of the Lands Commission where under section 48 of the PNDCL 42 it established an Administrator of Stool Lands in the Secretariat of the Lands Commission. For the first time in the annals of the country stool land revenue collection and disbursement was taken away from traditional authorities.

Within the Ofaakor community there is the Office of the Administrator of Stool Lands which through their regional office in Cape Coast is responsible for the establishment of a stool land account, and for the collection of all "rents, dues, royalties, revenue or other payments whether in the nature of income or capital from the stool lands" to be paid into this stool land account (article 267(2), 1992 Constitution and section 2, OASL Act, 1994 (Act 481)). Of the revenue accruing from stool lands 10% shall be paid to the OASL to cover administrative expenses. The other 90% is to be

disbursed in the following proportions: 25% to the stool for its maintenance; 20% to the traditional authority; and 55% to the District Assembly (Sections 3 and 8, OASL Act, 1994 (Act 481)). It must be stated here that there is no basis for the disbursement formula since it tends to deposit more stool land revenue in the hands of the stool and the traditional council put together. For example, supposing in a particular year, stool land revenue derived from a particular authority area amounts to one hundred Ghana cedis, twenty five percent which is twenty five Ghana cedis goes to the stool through the traditional council. This status has not been explicitly explained by the 1992 constitution. Additionally, 20% goes to the traditional authorities making it 45%. That is after the OASL has deducted its 10%. But the bigger question still lies as how the revenue is used? However there is no legal requirement that the 25% of the revenue received by stools is reinvested in the community. The Act did not establish a procedure for directing the use of stool land revenue by beneficiaries to ensure communal benefit. Neither is the provision that requires the respective stools to actually account for the revenues. Rather, the provisions encourage chiefs to retain the revenue for the maintenance of the stool in keeping with its status. The use of the 20% share to the Traditional Council is also not specified. In this situation it can be stated that the government in this way endorses the perception of chiefs of themselves that they are the owners, not merely trustees acting on behalf of the real owners, the community at large.

The other challenge is that the OASL does not go beyond asking each stool to account for the money disbursed to them. So mainly the office is there to collect land revenue and rents on behalf of the stools. Many chiefs, therefore, are resisting in handing over 'their' income to the OASL. They claim that the money they receive for the allocation of land is not purchase money but drink money. They refer to the custom to bring some drinks to the chief when acquiring land from him as an acknowledgement of the ownership of the land, to show allegiance towards the chief, and for the customary pouring of libations on the ground to seek local gods' blessings for the transaction. Where a bottle of Schnapps was sufficient in times of land abundance, when land became more valuable a small amount of cash money was added to the Schnapps. However this drink money represents the 'cost' of plots of land which could also serve to increase the amount of stool land revenue collected in these communities if properly accounted for. As discussed and illustrated in figure 5.6 in Chapter 5 drink money ranges from GH100 to GH10, 000 to acquire a piece of plot or plots in the communities. In Ofaakor and its surrounding areas where the study was carried out where land is highly valued and demand is increasing, the amount of cash demanded has gradually risen and now effectively constitutes a market price for the purchase of land leases. If one compares

this drink money to ground rent collected annually by the OASL the chiefs are cashing in more in these land transactions (see table 6.1). In this regard, steps must be taken by government through the OASL to rope in this drink money as one of the principal revenue resources of stool lands. This would call for an amendment of the OASL Law (Act 481). Alternatively, considering the sensitive nature of the matter as it hinges upon tradition as well as power relations, mechanisms should be put in place to subject drink money to tax where necessary. The number of plots of land sold by stool land occupants and chiefs could be retrieved from land sectors agencies like the land Commission or the Land Title Registry where lessees register titles to these lands.

The management of information relating to land transactions by the chiefs is problematic. The traditional rulers failed to disclose their share of stool land revenue received from the OASL. From this background it is fair to say that the chiefs have even lost track of some of the lessees who are farming or using land resources under their care. This could potentially reduce revenue that would be collected by OASL for onward disbursement to the beneficiaries. This is because it would be difficult if not impossible for the OASL to identify all land users in the study area for the purpose of billing as echoed by the Kasoa OASL office representative:

> "We do have problems with the chiefs as they cannot disclose the amount of land they have sold out to commercial farmers, business people and residents for residential plots. As such we are conducting a door to door registration but we do meet residents and tenants not willing to register with us or provide any documents related to their land. Some of them get angry and chase us" (interview, 19th July 2009, Kasoa OASL Office).

Indeed the collection of revenue without adequate information on land users in the study area as a result of lack of clearly marked out boundaries or documented tenancies or lessees was cited by the OASL as one of their operational problems.

As indicated below, the Regional Office of OASL is doing its part to mobilize stool land revenue for disbursement to beneficiaries and community members argued that all stakeholders including their chiefs must make initiatives to make efforts to support this exercise. The overall performance in terms of the Internally Generated Revenue (IGR) collected is illustrated in table 6.1. From the table one realizes that in year 2003 the total revenue collected decreased a bit as compared to the year before 2002. However the total revenue collected in 2004 and 2005 was an increase over the previous years. Even though the rate of increase between 2004 and 2005 is slight, thus only five percent (5%) it is still significant. The 2006 figure is fifty-nine percent (59%) higher than the previous year. This is considerable change and it shows efficiency on the part of the regional office.

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Table 6.1: Annual Revenue Performance (IGF): 2002-2006

Year	Total IGR Collected (in Ghana Cedis)
2002	179,406.55 ($186,881)
2003	160,757.64 ($167,455)
2004	227,346.44 ($236,819)
2005	239,527.76 ($249,508)
2006	380,809.15 ($396,676

Source: OASL Annual Report (2006)

Based on the examples of these figures above, one would argue that as a result of the non-existence of a formal legislation and guidelines on the use of stool land revenue its impact in the communities is negligible. Therefore the formal or legal mechanisms should be put in place for the strict monitoring of disbursed monies by the OASL. This would empower the OASL to be effective in the prosecuting of defaulters and then ensuring that beneficiaries especially the District Assembly and stools utilize the revenue for developmental projects that would benefit the entire community. In this respect Act 481 would have to be amended and a supporting legislative Instrument enacted to facilitate the operations of the OASL to ensure the judicious use of stool land revenue by the beneficiaries for the befit of the entire community.

6.4 Donor Supported Land Accountability Initiatives

This section will discuss the donor supported government initiative that aims at contributing to the accountability of the customary land administration at community level. The case of Odupongkpehe Customary Land Secretariat (CLS) which is within the study area was investigated to see the prospect of this project in the area whether it will have a positive impact in the people' lives and improving the local accountability on land administration.

6.4.1 Odupongkpehe Customary Land Secretariat (CLS): A Case Study

After conducting field-work for some months in Kasoa, I came across some notices in a form of posters plastered on peoples' houses which had been defaced. These notices were being displayed by the CLS who are the stool land-owners in the area informing landlords over registration of lands in the area. The well-read message was about demanding that landlords regularize their acquisition of

lands in the area. The exercise was to begin in September and expected to end by the end of December 2009. The custodians of the stool land were demanding that landlords submit their indentures, site plans, land payment receipts, witnesses to the land acquisition and other relevant documents. The notice further carried the message that:

> "All properties on which documents are not produced within this exercise period will be considered as lands not properly acquired and that subsequently legal action would be instituted against defaulters".

Through some random interviews with the houses which had these defaced posters, it prompted me to investigate the actual nature of the sensitization and awareness campaign. This was the case because while the Odupongkpehe customary land secretariat said that the exercise was being carried out in good faith, some landlords alleged that it was meant to extort money from them.

A number of landlords expressed misgivings about the exercise. In fact, some landlords at Ash-Town, a suburb of Odupongkpehe, expressed during an FGD that:

> "I acquired my land from the Odupongkpehe stool over 30 years ago and I was given documents by the chiefs then. Therefore I do not understand why I must re-register. This exercise is just a ploy by the stool land owners to extort money from us landlords. The stool land owners had sold most of their lands and were now looking for avenues to make money. This exercise is diabolic and if need be we would go to court to seek redress if this exercise continues. My fear is that this could become chaotic if it is not properly handled "(FGD member, Landlords Association, Ash-Town Junction, 19th October 2010).

While all these sentiments were being made, it prompted me to investigate the CLS office. The CLS in line with the objective of the LAP project believe that:

> "This exercise is meant to change old indentures and introduce new ones to regularize land acquisition in the area. So far only 119 landlords have come to the secretariat to regularize their documents since the exercise started. This exercise is aimed at minimizing land related disputes and conflicts because it's well documented that about 80 per cent of cases at the courts from Kasoa Odupongkpehe were land related. The cost of change of documentation is only GH¢500.00 which is better for land users than being involved in fights with other people due to lack of documentation. In fact landowners who had already regularized their documents would not pay any fee". (Michael Wellington, Odupongkpehe CLS Public Relations Officer, 1st November 2010, Ash-Town Junction)

The sentiments about land related conflicts in Kasoa which the CLS public relations officer mentioned was also highlighted by the Kasoa District Police Commander who expressed concern about the increasing land cases in the area and appealed to chiefs and landowners to help reverse the situation. In his own words he expressed that:

> "Between January and October, 107 land disputes were reported to the Kasoa Police and some of them are under investigation while other has been referred to the courts In our

investigations we have found out that were multiple sales of land by family heads, individuals and some of them sad to say were sold by chiefs from two different towns around Kasoa". (Interview, Mr Quaye, Kasoa District Police Commander, Kasoa, 15th November, 2011)

Due to the fact that only about 119 landlords had registered their land through the CLS raised some questions in me as to how this exercise was conducted and whether it would help in solving the problems that communities were facing. Therefore, I participated in their sensitization campaign in the studied villages (Photograph 6.1 and 6.2).

The government of Ghana through DFID initiated a project called the Ghana Land Administration Project (LAP) which established the CLS in Ghana. The support to customary land management under LAP was intended to strengthen the accountability of customary authorities in land management, in line with constitutional requirements. The CLS was set up to provide effective land management harmonized with government land agencies and DAs, so as to establish a unified, decentralized public record of land availability, use and transactions. This was to be achieved through intensive sensitization campaigns in communities.

Photograph 6.1: Sensitization exercise of CLS at Bentum

Source: Field data Ghana April 2009 – March 2010

Photograph 6.2: Sensitization exercise of CLS at Oklu Nkwanta

Source: Field data Ghana April 2009 – March 2010

It is government anticipation through these CLS to lead to increased land market transactions and generate additional land revenues for community use. The principal beneficiaries of these campaings were expected to be the majority of people for whom the current land administration system is effectively inoperable, due to the lack of transparency in the land allocation process, uncertain tenure rights, high costs, and slow and complex bureaucratic procedures. According to government, guaranteeing security of title of small land owners in peri-urban Ghana against powerful chiefs and elders requires a clarification of the nature of usufructuary rights and a protection of these rights against the chiefs' conversion drive. CLS exist to provide effective and accountable local structures towards the improvement of land management and administration in Ghana. The ultimate goal of CLS offices was the provision of database on landownership which has multiple benefits in terms of eliminating conflicts, enhancing security, broadening rights to land via formal transactions and generally encouraging both national and international investments in land. The office was to go through mapping and recording exercise of all land allocations from 2003 onwards by establishing a systematic record of all land holdings throughout the customary area through a lands right registration process, village by village, and setting up a complete archive of all existing land records for the Community Land Administration (CLA).

The Odupongkpehe CLS area was established in 2007 to improve land management and administration within the area. It is still in its embryonic stage. Its major focus has been the sensitization of the public on its assigned roles and responsibilities and the actual land documentation- to sell the idea of the Secretariat land users and enumerating the benefits to be achieved with an efficient land management system that is characterized by the extensive documentation that is underway in the area. This CLS is to initiate a flexible approach for establishing land holding records. Due to its early point of existence, it was necessary to investigate the present conditions underlying the operations of the CLS with a view to analyze the potential it has in realizing the objective of land accountability. In order to achieve this, interviews were conducted with both indigenes and migrant farmers with the aim of assessing the level of awareness of CLS and the degree of its acceptability by different socio-economic groups; and identifying barriers that people face in accessing the services provided by CLS.

In terms of awareness of the role of the CLS, few respondents could provide appropriate responses. It became clear that very little is known about the Secretariat beyond the Ash Town junction where the current offices are located which gives an indication that the ongoing sensitization programme needed serious enhancement. However, most people understood the functions of the office. This was evidenced during the focus group discussions at Ofaakor where one participant described his understanding of the role of the CLS as;

> "I know that the CLS can help to avoid frequent land disputes. I know that if you bought a piece of land it is a good investment because it can help you to obtain loans from the bank. However, before then, you need to have good documents on the land. So the CLS can help in this direction" (Interview, 30th October, 2009, Ofaakor)

During the interview with the chiefs, one of them explained that the role of the Secretariat is to take responsibility for the documentation of landownership papers for future reference. These very well-conceived responses emanate from Ofaakor and Ash Town and its immediate environment which is home to the Secretariat. Beyond these areas, interactions with people in the other studied areas of Bentum, Gada and Oklu Nkwanta did not provide much evidence of any appreciable knowledge about the functions and roles of the Secretariat.

Community members highlighted potential benefits and areas of interest of different stakeholders and land users in the area that are likely to be accrued to them following the establishment and strengthening of the CLS office. A majority of respondents were of the opinion that the CLS would

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lead to the protection and security of land. Other potential benefits cited include resolution of land disputes, strengthening the relationship between landowners and migrant, revenue generation and mobilization and enhanced planned settlements and buildings. Among the various stakeholders operating within the land market, the expected benefits did not vary from the general picture mentioned above since all the stakeholders cited land protection and security, resolution of disputes and revenue generation and mobilization in that order of importance. These views were further corroborated by participants at the FGDs conducted at various locations in the study area;

> "CLS will help to avoid future land disputes and outright sale of our lands so that future generations will also come to enjoy something from the land. In fact once our lands are documented; it will continue to serve as reference for anyone who wants a proof of its ownership in the future when most of us will be dead and gone. It will also avoid the numerous conflicts associated with land" (Participant of a female FGD, Ofaakor, 30th November 2009)

In trying to project the foreseeable impact of this donor supported project in Kasoa as a mechanism of improving land accountability, potential threats and main challenges to the smooth functioning of this CLS which is basically embryonic were enumerated. Many respondents in Bentum community cited major threats like the difficulty that people might face in dealing with formal procedures associated with such an office due to illiteracy or lack of education, inadequate CLS offices and less commitment by the people towards the CLS because lands to be registered are owned by the various stools. Others mentioned threats such as lack of knowledge about the existence of the office, difficulties associated with solving land disputes, especially financial and time requirements and people's perception that the office is a tax collecting outfit. Other potential threats mentioned during the interviews and FGDs were that:

> "Here the land is our priority. So we do not want anything like contract with migrants for fear that one day, a migrant may forge some documents and use them as a proof to claim the lands." (FGD, Elders of the council, 15th January 2010).

This was said in connection with land registration especially by migrants in the community. However some respondents had great fears of the roles and responsibilities of the office as some of them displayed apprehension and discomfort and linked the office with government taxation on land. One lady in an interview stated that:

> "Under the CLS, it is said that the government will want landowners to pay about 2000 cedis (old cedis) for every acre of land, to start with. This is an indirect way of government to collect levy taxes"

However, a major potential threat to the office that surfaced during the FGD interaction at Ofaakor was connected to the cost that is being incurred on the documentation exercise. One participant intimated his concerns that;

> "Our fear is that with the introduction of land registration and computerization, rich people will come for our lands and register them since they have enough money to do that. After that, we will never have our lands back."

Clearly, suspicions between the rich and the poor as well as between migrants and indigenous people abound and the Secretariat needs to work systematically and expeditiously towards addressing them.

Besides the interviews conducted in the area, there were a couple of problems that were observed and also after interviewing the CLS officials at Kasoa. In general, the CLS office does not in any way record or disclose payments of 'drink money' to the family head or chiefs, as initial down payments on land leases, which, as noted earlier when discussing the OASL functions, constitutes the greater part of all land revenues. It was also evident that some chiefs and elders in the area have become interested groups in trying to benefit from the consolidated CLS activities in land rights transactions to enable them to appropriate community members' interests for purely economic motives. The CLS officials echoed this. The CLS objectives of enhancing transparency of land transactions and ensuring accountable and equitable land administration thus run counter to those of this interest group.

While in the field it was noted that there has been a rapid increase of the farm-lands conversions after the establishment of the CLS in the area as people can now register or document their land with them. In a way practically chiefs have had increased revenue generation, with increased sales revenues. Generally, where there is market demand for land access, customary authorities are displaying tendencies to maximize revenues through leasehold disposals to outsiders by generating both "drink money" as sales revenue, and regular rental incomes and through redefining land relations with strangers. The risks are that they are able to use CLSs to facilitate both of these processes.

6.5   CLS and Chiefs' authority: While building on Tradition for Modernity

The notions that tradition is embodied in the land and customary authority in the chief are well accepted in Ghana and are cultural emblems with considerable emotive power. However, this is not taken to imply that customary authorities enjoy blanket legitimacy, nor that the chiefs' interests

necessarily coincide absolutely with those of their subject populations. Neither has the notion of 'customary law' been a static one in the Ghana context, and present concepts in this domain have emerged out of a process of negotiation spanning pre-colonial, colonial and post-colonial times. The colonial encounter was particularly influential, and the present power and authority of the chiefs owes much to the ways in which the contradictions inherent in colonial rule were played out on the ground (Crook, 1986). At the same time, the great diversity in the span and depth of chiefly authority in different parts of the country offers ample scope for various interest groups to attempt to extend their authority by invoking (quasi) 'traditional' powers. Local level relationships are also crucially influenced by politics at the centre. Ghana's history warns against the acceptance of any Arcadian image of traditional rule, or simplistic notion of the community. The authority and interests of the chieftaincies continue in a process of negotiation and evolution up to the present day. It is essential that the programme works only within existing norms, with established political legitimacy, and does find itself influencing these relationships inadvertently.

In relation to this, two issues are crucial: first, the nature of the chief's authority; and second, the interface between traditional authority and elective local government. The nature of 'stool lands' and extent of the chief's authority over them, are matters of heated debate in Ghana, and central to the success of CLS. One area of concern is the balance of authority between the chief, as an individual, and the chief as representative of the collectivity. The 1992 Constitution makes several pronouncements on this, though these are not entirely consistent. On one view, the definitive statement within the Constitution is Article 36 (8), which states:

> "The State shall recognize that ownership and possession of land carry a social obligation to serve the larger community and, in particular, the State shall recognize 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."

However, this statement unequivocal as it appears is not necessarily entirely consistent with other Articles of the Constitution. For example, while Article 267 states in similar fashion that

> "(1) All stool lands in Ghana shall vest in the appropriate stool on behalf of, and in trust for the subjects of the stool in accordance with customary law and usage."

It continues:

> "(6) … [Stool Lands] revenue shall be disbursed in the following proportions –
> [a] twenty-five per cent to the stool through the traditional authority for the maintenance of the stool in keeping with its status."

For some, this would appear to authorise the disposal of stool lands revenues as being at the personal discretion of the chief.

Other aspects of the Constitution also discourage innovation, such as Article 270 (2), which states that:

> "(2) Parliament shall have no power to enact any law which - ….
> [b] in any way detracts or derogates from the honour and dignity of the institution of chieftaincy."

These are crucial issues for the CLS as there is wide acceptance that there is a significant accountability deficit in the functioning of many chieftaincies. While chiefs often act with commendable public responsibility and selflessness, they do so largely at their personal discretion, and with no statutory obligations as regards to transparency. There is also evidence of a gradual slippage of ownership rights towards the chief as an individual, not as custodian, and with the consequent loss of the essential communal character. This problem is apparent at a number of levels, and is brought into high relief most notably in relation to the failure of many chieftaincies to operate transparent accounts, or even, in cases, to separate stool accounts from their personal accounts. Large sums of money are passed to the stool authorities by the OASL, though the OASL has no jurisdiction over their use, and their fate is rarely disclosed.[51] And also due to the frequent accusations that the chiefs' decisions are based not on the communal interest but rather their personal financial advantage. This applies to areas such as land conversion revenues.

The establishment of an effective, accountable CLS will bring benefits to many land users for whom the current system is effectively inoperable. However, at the same time, others will lose privileges associated with the powers they exercised under this bureaucratic and costly system. The CLS is likely to strengthen the political and economic weight of the CLA, both locally and nationally, by providing formal recognition of their powers to administer and allocate land. As noted by Amanor 2005:

> 'Public accountability of customary authorities is not always satisfactory. Article 36(8) of the 1992 Constitution makes clear that customary land managers are accountable as fiduciaries to the nation and the stool, skin and family land members that they represent. However, in many instances the boundaries between public and private interest are blurred. While allodial titleholders often recognize their public responsibilities (and in some cases to an impressive extent), this is largely a matter of personal discretion. Transparency is low'.

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[51] It was observed during fieldwork that the chiefs who operate their land authorities most successfully tend to do so as individuals, and there is little to separate them from private landlords.

There is need to assess whether increased transparency of information on land transactions and revenue generation by CLS will lead to increased public involvement in decision-making and scrutiny.

To sum up the discussion, both traditional and state accountability mechanisms to hold chiefs accountable in land matters exist but they are not effective. All in all, chieftaincy institution in Ghana involved in land administration show little accountability. Much as the institution allows the communities an opportunity though the council of elders to voice their concerns on land matters as well as initiate de-stoolment of their perceived unaccountable chiefs, there is little room for them to do so as the elders seem to be part and parcel of the chiefs actions. The government institutions that could provide a control have their own inherent weaknesses. It's also known that both the local and national changes reflected in land matters have changed the local expectations towards the accountable performance of chiefs. The lack or non-existence of civil society and non-governmental organizations working in the communities leaves no any other platform for community members to hold their chiefs accountable. However through the CLS, it is envisaged that members could find a platform to hold their chiefs accountable but this can only work if there is a clear demarcation and non influence by chiefs in the affairs of the institution.

7   The Political, Economic and Social Impact of Agricultural Land Conversion

7.1   Introduction

Building from the previous chapters which explored the accountability mechanisms both at local level and national level through government and donor supported initiatives; this chapter collates the effects that the practice of converting agricultural land by chiefs has brought about in the communities. This chapter therefore tries to meet one of the objective of the study and that is of analyzing the impact of lack of and inefficient of accountability mechanisms of chiefs in land administration on peoples' livelihoods. The chapter attempts to predict and identifying losers and winners in the on-going conversation of farmlands into non-agricultural land intensification. It is upon understanding their ills that donors, community leaders and government would understand the importance of improving the customary land administration which should benefit both the users and owners accordingly.

This chapter discusses the impact of these land conversions have had upon the communities from social to economic aspect. The dimensions of outcome and the extent to which these affect society are explained. The focus is on increased land conflicts as fueled by the traditional authorities through violent youths as one means of reinforcing compliance for those their land is deemed to be sold.

7.2   Legitimacy of Conversion of Communal Farmlands to Residential Plots: Are chiefs to blame?

Robert Keohane (2006:3) states that the sources of organizational or institutional legitimacy are conventionally divided into "output" and "input" legitimacy where outputs refer to the achievement of the substantive purposes of the institution or organization, while inputs refer to the processes by which decisions are reached as in whether they have certain attributes regarded as important by the audience. The delegation model of accountability posited by Grant and Keohane (2005) (and in which the indigenous land administration mechanism falls) carries with it notions of legitimacy. It assumes that the use of power is only legitimate when it is used in accordance with the desires of those who delegate it and if it serves the purpose for which it was created (Benzing 2006; Grant and Keohane 2005) and that "The act of delegation distinguishes authority from raw power" (Grant and

Keohane, 2005: 32). Due to the *mala fides* actions, whereby transfers of land are carried out against community interests, the chiefs they have lost legitimacy. The large-scale conversion of communal farmland (as described in chapter 6) by chiefs in the study areas is contrary to what the constitution stipulates as well as being contrary to the customary laws. This poses the question how these chiefs try to legitimize their actions as they are converting these farmlands. Their main argument basically by chiefs is embedded in the developmental discourse. According to them the laws are outdated as they catered for the farming communities when they were involved in subsistence farming in land-abundant areas, when not land, but people were of value to chief and community as it is the case now in Ofaakor communities and its surroundings. Chiefs argue that since Ofaakor is being swarmed up by people seeking land for housing people who work in Accra, coupled with increased land market production have enhanced the economic value of land; these rules are outdated and need to be adjusted to fit modern circumstances. They argue that the conversion of farmland into residential land cannot be avoided and that communal land that can be used in a more productive way should be brought back into chiefly administration. When the village expands and reaches someone's farmland, this land falls back into chiefly administration, giving chiefs the right to allocate it to outsiders for more lucrative residential purposes. It is very clear from the chief's argument that they place emphasis on economic value of land and not agricultural value of it. Invariably they could have sold land to farmers for commercial agricultural purposes if so needed but their trend is leaning towards residential purposes as there are readily available people who are willing and looking to buy land for housing.

These claims have seriously weakened the value and security of the usufructuary interest when there is a demand for change the use of land from agricultural to residential, individual farmers lose the security of their usufructuary rights and the chief claims the power to 'sell' these lands. This argument, however, only convinces when the proceeds of the conversion are used for community development such as infrastructure, investments in education and alternative livelihood projects. That might ensure that the inhabitants of the village would still be able to make a living after the loss of their agricultural land. Although all interviewed chiefs acknowledged that they have at least a *moral* obligation to use part of the stool land revenue for compensation of the farmer and/or for community development, the actual practices differ considerably as evidenced in chapter 5.

Even though the chiefs insist that their actions are legitimate due to the fact that they represent their people and own the land, this was not how most people viewed and felt about this debate. It was therefore not surprising how on average the performance of chiefs with respect to legitimacy of

their decisions and actions on land issues resulted in unsatisfactory appraisal from most respondents (See table 7.1).

Table 7.1: Respondents' perception of chiefs' legitimacy on land conversion

Variable	Community Status (%)		Total
	Indigene	In-migrant	
Legitimacy of land conversion by Chiefs			
Proper	20.4	36.1	26.2
Not proper	79.6	63.9	73.8
How Chiefs legitimize land decisions			
Consult the council of elders	43.4	43.0	43.1
Consult community members	3.6	1.4	2.2
Consulting individual landowners	19.3	8.5	12.4
Involving violent youths	33.7	47.2	42.2
Total			(225)

Source: Field data Ghana April 2009 – March 2010

Conversion of agricultural land to non-agricultural land is the biggest challenge that the communities are facing in the study area. Nearly three-quarters of the respondents said that land conversions sanctioned by the chiefs were not legitimate. A higher level of dissatisfaction was observed among indigene respondents 80% who bemoaned that it was not legitimate.

Field interviews show that chiefs do legitimize their decisions on land issues through various means and ways. A total of 43% stated that chiefs consult the council of elders to decide to sell land while 42% indicated that chiefs engage violent youths and land guards[52] to enforce land decisions in the area. This was quite high amongst the migrants who indicated that it was mainly through violent youths, though the indigenes still believed that chiefs sometimes consult the elders.

Some chiefs, however, take the argument much further and venture to manipulate and shift the meaning of communal landownership. They claim that their rights to administer the land do not derive from their function as caretakers on behalf of the community. Instead they assert that:

> "Land belongs to the royal family, since it was members of the royal family who fought for the land and the chief, as leader of the royal family, has administrative powers over the land" (Ofaakor Chief, Interview, 24th July, 2009)

According to these chiefs, the royal family had only given this land out for farming purposes, to temporary caretakers, and can reclaim it when its use is changed to residential.

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[52] Generally, these are people especially young men who are employed by property owners with a purpose of protecting their properties such as buildings and plots of land amongst other things. In most case this group of people is known to be notoriously violent. This practise is illegal in Ghana.

With this unsatisfactory appraisal regarding how community members felt illegitimate the actions of the chiefs they still felt that the institution has a sound future (See figure 7.1).

Figure 7.1: Respondents' prospects of Chieftaincy Institution future existence
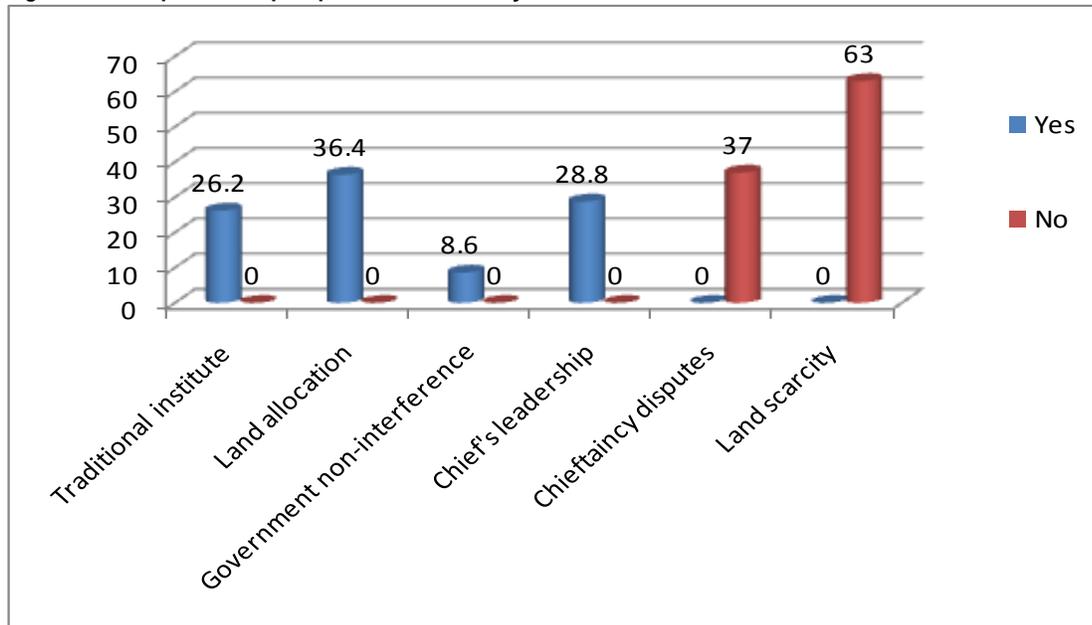
Source: Field data Ghana April 2009 – March 2010

Community members (36%) recognized the fact that since chiefs are in-charge of the land allocation, their system and structure will never ceaze to exist. It is worth pointing out that 29% of the respondents perceive that the institution does have a future because in the area inhabitants have a feeling that due to the African society and their own tradition the communities cannot live or exist without their chiefs or leadership. According to them this cannot be interrupted unless the government of Ghana does interfere with chieftaincy matters. The future of the chieftaincy institution is only threatened by the fact of the numerous chieftaincy disputes (37%) and when land gets scarcer the institution will ceaze to exist as their roles will have become redundant as they will not be able to allocate land any longer.

7.3 Impact of lack of Accountability by Traditional Leaders on Livelihoods

This section discusses the negative and positive effect that land conversion by chiefs, family heads and individuals has had upon community members as summarized in table 7.2 and discussed in details thereafter.

Table 7.2: Respondents' knowledge of associated impact on livelihoods

Variable	Community Status (%)		Total
	Indigene	In-migrant	
Benefits of converted farmlands			
Reduced land prices	22.9	4.9	11.6
Increase in basic amenities provision	28.9	9.9	16.9
Increased business opportunities	31.3	20.4	24.4
Improved chance for all to own land	0.0	28.9	18.2
Reduced housing problem	16.9	35.9	28.9
Problems associated with farmland conversion			
Increased land prices	0.0	28.9	18.2
Loss of source of livelihood	9.6	19.7	16.0
Increased food prices	55.4	37.3	44.0
Increase in violent disputes	13.3	12.0	12.4
Increase in cases of theft	21.7	2.1	9.3
Total			(225)

Source: Field data Ghana April 2009 – March 2010

The community members have varying ideas and experiences how they see these converted lands being beneficial to them at household level as well as at community level. As much as land is being converted to non-agricultural usage, most respondents (30%) appreciated the fact that it has reduced the problem of housing in the area. The in-migrants were the ones who appreciated this fact mostly. However there were quite a number of problems that were identified by the respondents in the area associated with farmland conversions. Most respondents (44%) stated that food prices have increased rampantly in the area as less food is being produced and more people are in search for it. This was supported by both indigenes and migrant respondents.

7.3.1 Loss and Change of Livelihood at Household and Community Level

It is without doubt that the conversion of agricultural land into non-agricultural use has had a negative as well as a positive impact on the community members. However the negative impact has been felt more. Most community members have witnessed a tremendous change in the last 15 years in terms of their sources of livelihood (Figure 7.2).

Figure 7.2: Respondents' source of livelihood between 1990 and 2009

Source: Field data Ghana April 2009 – March 2010

The communities involved in the survey had different sources of income in their households. About 48% of all respondents earned their source of income in the 1990s through farming. This figure reduced to 25% in 2009. There has been an increase in trading from 26 % to 32% in 2009 while most respondents earn their source of living through casual work (36%) in 2009 from 21% in 1990.

Many households and individuals in the communities respond to changing circumstances as a result of conversion of agricultural land. Through observations, interviews and a survey conducted it indicates that the community members who lose out in the struggle over tenure change and land use conversion are those with few options outside agriculture. This is because of low levels of education, lack of vocational skills as well little exposure to other livelihoods in Kasoa.

As for the categories of people who benefits or have benefited from these conversions and from the changing livelihoods shows that chiefs or landowners, men and skilled youths in construction are the main beneficiaries (See figure 7.3).

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Figure 7.3: Community members benefitted from new jobs
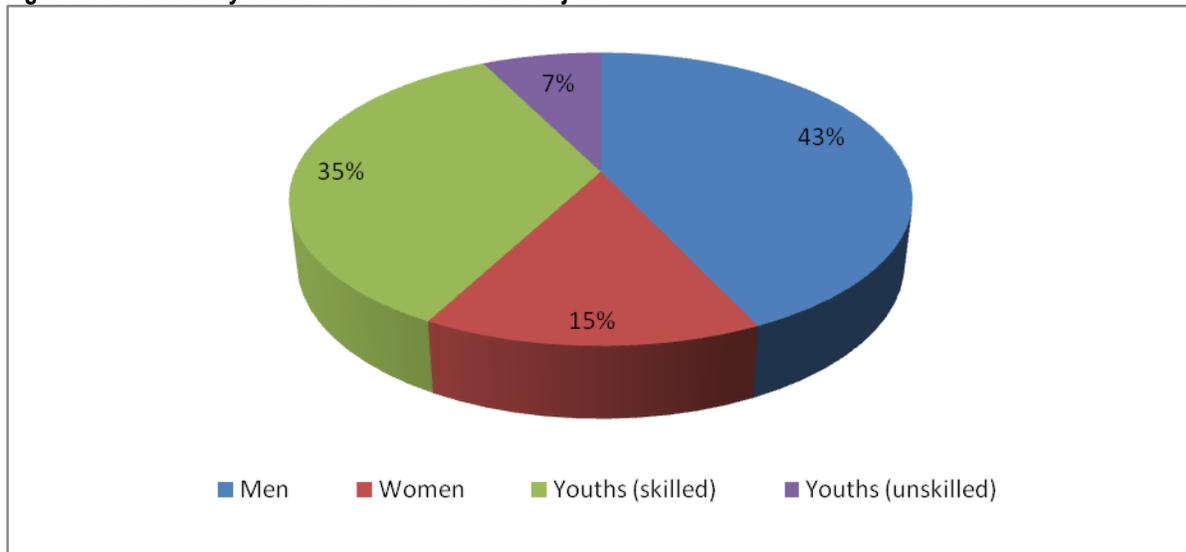
Source: Field data Ghana April 2009 – March 2010

These new job opportunities have benefited mostly the men (43%) and skilled youths (35%) while unskilled youths are at a loss (7%). Interesting to note that women have benefited as well (15%) both at the new job opportunities as well as in acquiring land. For landowners the rapid expansion of Accra has led to escalating demand for land and created an active demand of land market. They have benefited much from the selling of land. As for women due to commercialization of land it has meant that women who might not formerly have had access to land through the customary system could now make a demand for land based on their financial strength. In short, women have been positively affected by the present increasing commercialization of land unlike in the past when they could not access land either through inheritance or purchase. In real terms, it is the poor in society, both male or female who are most negatively affected in accessing land, because it is now all about ability to pay. The majority of informants said that women have also benefited from the changes in livelihoods in the area.

> "The youth and adult men are the most affected with respect to changes in livelihoods. Women are able to sell cooked food, drinking water, fruits etc to other residents. Apart from the construction work, men do not get work to do so here. Women have benefited from the influx of other people. Hairdressing, dressmaking and fruits are flourishing business in this area. Mainly women undertake all these businesse" (FGD, Ofaakor)

The link between loss of land, livelihood and vulnerability is painfully obvious. One Ewe woman described her loss of farmland to housing plots that:

> "I am in a terrible situation. Now I have no land to farm. I have no one to turn to. My whole living is destroyed."

A year later, she was reduced to selling ice water along the road; her two children had been forced to drop out of school, in part because there was no money for fees, and in part to help supplement her meager income. The impact on livelihoods is devastating. One elder who has commuted to Accra to work for many years noted,

> "We could never live on only one job….you always had to have several. But now the land has been taken away, it is very difficult, even for those of us who have another job."

Particularly in the Ewe community farming has ceased to be the backbone of the economy for the most part. Unemployment is a major problem, and those able to find work had to support a much larger number of relatives than previously. Whereas once virtually every household had been engaged in farming, community members and household survey respondents estimated only about two-third of the households were still earning any portion of their livelihood from farming, and those still farming were doing so on a much reduced scale. And they were still very vulnerable to losing the land they still held.

Women traditionally had mostly farmed with their husbands. When their land was sold, the men were forced to find other work, but it is largely not work that their wives can also do, so unemployment among women is very high. The youth and the men have mostly resorted to casual labour in the construction business, in some cases slowly acquiring a skill such as masonry. Many have gone to other places in search of land for farming, or work, sand winning and quarrying. Some of the women have resorted to working as porters in the market at Kasoa, or even Accra, some 20 kilometers away. A few are reduced to sweeping up the spilled grain or beans in the markets, either to sell or to consume. These are jobs that most people are ashamed to mention, and in fact, some preferred to be perceived as unemployed, rather than admit resorting to this kind of labour.

The market at Kasoa offers alternative opportunities in petty trading, and indeed this trade was one of the magnets that attracted some of the migrants who arrived in the late 1970s. As farming has grown more precarious, more women have entered petty trading, at least on the "market days" at Kasoa, or on a smaller scale within their localities. Other related small-scale service occupations, such as food preparation, tailoring, hairdressing, etc. have opened up with the influx of more people. The housing boom that has accompanied the up-surge in land sales has created employment

opportunities in the construction trades--brick-laying, carpentry, etc. But both the construction industry and the market have created opportunities mostly only in casual labour.

Trade provides a reasonably stable income, depending on the commodities being traded. Construction and casual labour usually offer erratic income, and depends on the owners of the new houses having sufficient surplus cash to keep working on their houses. Few houses are constructed on credit, and some take years to complete. Hence, most of the new employment or income-generating opportunities that have arisen in Kasoa with the influx of new populations make good supplements to an agrarian economy, but not a good replacement. However, in most cases these new opportunities do not represent any improvement in livelihood, income, or food consumption if not supplemented by farming, and leave people worse off, at least in their own perception, if access to land for farming is lost as a result.

7.3.2   Increased Changes in Land Use and Property Rights

The Kasoa chiefs insisted that land is still available, and that farming is still a viable livelihood. Some of it has been allocated for farming. But the kind of farming envisioned is mechanized, large-scale farming, not small-holder, rain fed agriculture. In the 90s, there was little evidence of any land sale or lease being carried out where the purpose of the land acquisition was commercial agriculture. However, there was more discussion about the development of commercial farming of pineapples on stool land. But that discussion was mainly among the leaders of the Odupong stool, and did not involve the "stranger" communities who had been the most reliant on farming previously. The available land is far from the residential communities, and the residents of Ewe communities are not permitted to build houses outside their located areas. Most respondents noted that they had tried to get land beyond the area where the new housing construction is taking place. In some cases, they had been turned down; in others, there had been vague promises about allocation, but given their recent experience in losing not only land, but also the crops growing on the land, they are understandably reluctant to invest money and labour until they are certain they have some kind of rights to the land.

All the land belongs to the Odupong Stool, however, land was set aside for the migrant communities. Land in those areas was granted in perpetuity to the Ewe communities for their residential use, and could not be alienated. Land sales by the stool elsewhere in the community have

privatized land ownership, first in the area settled along the main road by in-migrants in the 1970s, and later in other parts of the community.

Until recently, the Kasoa chief would allocate land to "strangers" for farming for a very small amount of "drink" money. The abundance of land meant that there was plenty of land for farming, indeed until a very few years ago, most people agreed, land was so plentiful that shifting cultivation was practiced. With the influx of land buyers from Accra, the Odupong Stool began selling off plots, usually 70' x 100', for prices in the range of 1 million to 1.5 million Cedis (dated currency estimated $650- $1000 in 1996). A prospective buyer still presents the chief with some "drink" money, and is then told the plots available and terms of sales on a 99-year lease.

Box 7.1. Summary of major changes alongside farmland conversions in Kasoa

✓ In the olden days, land could be acquired through conquests. Such lands became the property of the community;

✓ Formerly documents were not prepared to cover land transactions but this is not the case anymore. The documentation is to ensure peace by minimizing land related conflicts;

✓ Persons leading tenants to seek tenancy agreements charge money payable by the tenant farmer;

✓ The amount of drink money taken by landlords has shot up tremendously. Only a small amount of money was previously taken from anyone seeking land under tenancy agreement, but now a huge amount of money may be demanded for a small parcel of land. Land is now given out at higher prices than before. Only something little was collected in the past. For example, only 10 pesewas was charged but now between 500 and 1000 Ghana cedis can be charged. This is been largely due to the increased demand for land;

✓ These days, money, with or without drinks are taken when land ownership is transferred. Previously, it was only drinks or cola that were collected;

✓ *Yɛmiɛnkyɛ:* In the past the farm was only divided into two and shared. These days, farm is divided into three parts and shared; two parts to the landowner and the remaining part to the farmer;

✓ *'Akyɛdeɛ'/:* Previously, there was no need for the documentation of gifted lands as the presentation of drinks served that purpose. These days such transactions are documented;

✓ *'Asaase twitwa':* In the past, a person seeking to acquire land was only shown a piece of land anywhere that suited the owner or the land developer. These days, lands are not indiscriminately allocated because the community lands are laid out and land use must conform to existing standards set by the Town and Country Planning Department;

✓ When development catches up with one's land, most families lose the land without compensation

Source: Field data Ghana April 2009 – March 2010

7.3.3 Forced Out-Migration

There are a number of reasons why people did and continue to migrate in Ghana. In most cases, people migrate due to trading purposes, as explained by different researchers the migration pattern about people from Northern Ghana to Southern part of the country (Shraven, 2010:60), environmental (Kees van der Geest, 2008:1) and also due to the underdevelopment of the region during the colonial and post-colonial era. This migration varies between seasonal migration and permanent migration (Braimoh, 2004:1). For seasonal ones, they are more involved in farming during the rainy season and also the ones who are involved in trading. The population moved in the olden days due to some macroeconomics reforms which took place since independence. Between 1957 and 1982, the government of Ghana consistently intervened in both input and output markets of the agricultural sector (Laube 2007:63-69). Stiff restrictions were imposed on food imports to encourage domestic production (Abdulai and Huffman, 2000). Another reason was that of during the Stabilization or Economic Recovery Programme Phase 1 (1983-1986), protection of the food sector decreased substantially as a result of change in the fiscal environment. The currency was progressively devalued in normal terms from 2.75 to 90 Ghanaian cedis per US dollar (Tshikata, 1999).

The in-migration pattern in Kasoa can be explained by the strategic importance of Kasoa as an administrative and commercial centre, which puts pressure on available land in peri-urban Kasoa. As with the ongoing influx of more settlers coming in and the chiefs allocating farmland to these settlers for commercial and residential purposes it has led to the displacement of many migrant farmers since the farmlands are increasingly being converted. This has led many farmers to migrate to other communities or outskirts. Therefore due to the increased insecure land tenure and also due to land conflicts and scarcity of land some people have been forced to migrate to other communities in Ghana as demonstrated in Table 7.3 below.

Table 7.3: Respondents' knowledge of coping strategies to land issues

Variable	Community Status (%)		Total
	Indigene	In-migrant	
Out-migration due to land issues			
Yes	95.2	89.4	91.6
No	4.8	10.6	8.4
Out-migrant destination			
Original homes	50.0	46.7	47.4
Same area in outskirts	50.0	53.2	52.6
Total			(225)

Source: Field data Ghana April 2009 – March 2010

It was found to be unique in the area that there is out-migration of people due to land related cases. About 8% of the total respondents indicated that people in the area were not migrating while an overwhelming 91% of the respondents confirmed that people were migrating to other areas due to land related issues. For those mentioned to be migrating, about 53% stated that they are migrating in the same area but in the outskirts where the town is not catching up with them while indigenes felt that it is a 50-50 situation that they are migrating to their original homes while others are being forced to occupy the outskirts within the townships. Of all the type of people category the adult males and some youths are the most people migrating in the area. However it must be stated that, migrant farmers who in the first place migrated into the area when land was abundant for farming are the ones who are a majority moving to other areas.

7.3.4   Increased land Disputes and Conflicts

Disputes and conflicts over land are a common occurrence in these communities. In many cases these disputes have led to the death of people (as illustrated in a case study in chapter 5). Violent conflicts connected to demolition exercises are getting more frequent in the area.

Photograph 7.1: A demolition exercise in Ofaakor Community

Source: Author' field photo, 3rd February 2010

There were quite a number of land disputes and conflicts identified or indicated in the area. The situation in the study area is characterized by a number of land conflicts which are similar to the ones which Ayee and friends discovered in their research conducted in Accra which is presented in Box 7.2

Box 7.2: Summarized types of land conflicts/disputes

i)   Boundary conflicts usually between different stools and/or between individuals;
ii)   Disputes between chiefs and individuals farmers over the rapid conversion of farm land into residential plots, without consultation and adequate compensation;
iii)   Inter-family and intra-family disputes over family land boundaries, the division of plots and proceeds from land sales, and the right to use certain parcels of land;
iv)   Disputes between chiefs and local people over land allocation practices and the lack of transparency and accountability in land transactions;
v)   Conflicts arising from delayed or inadequate payment of compensation payments for government acquisitions;
vi)   Disputes between government institutions and subjects of particular stools/ individuals, for example, sale of lands acquired by government for public purposes to private individual/corporate developers instead of original owners and expired leases (99-year leases in parts of Accra expired between 1989 and 1999 but there has been no notification to the original owners);
vii)   Disputes between private individual developers and stools/families/ individuals;
vi)   Disputes over ownership of resettlement lands.
Source: Ayee, et al 2010: xii

Due to the fact that there are many people involved in the allocation of land such as family heads and chiefs, many people happen to find themselves involved in land disputes and conflicts in the area. The most involved category is that of chiefs (See figure 7.4).

Figure 7.4: Community members involved in land conflicts and disputes
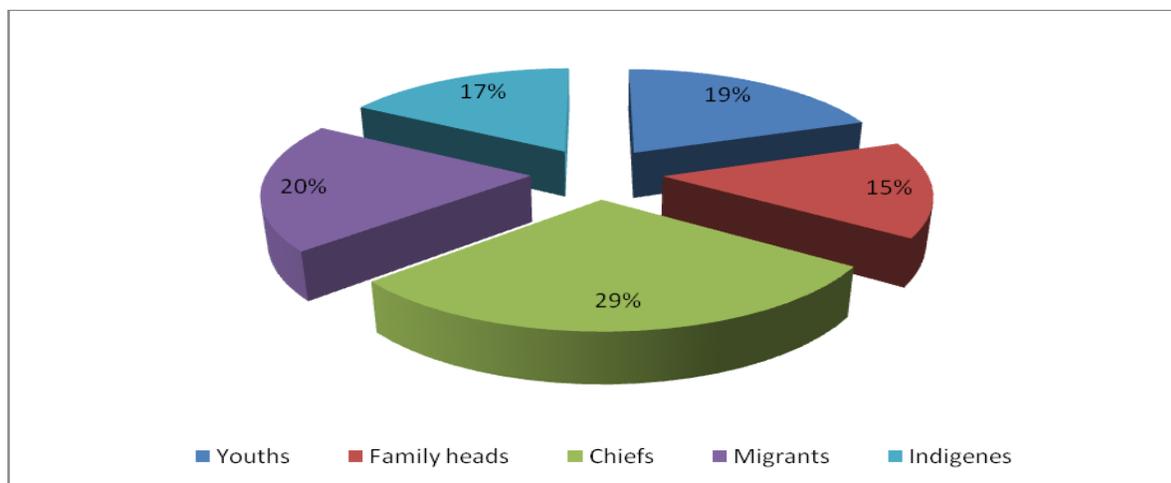
Source: Field data Ghana April 2009 – March 2010

Community members categorically stated different groups of people in the community are involved in these conflicts. Chiefs are the category of people mentioned as the most involved in these land

conflicts (29%). The youths (19%) and migrants (20%) are also often involved in land conflicts. This is the case where the youths target and intimidate migrants in trying to take back the land which the chiefs might have allocated to them.

Multiple incidents were mentioned of two sellers selling the same plot to different buyers, or even a single seller selling the same plot to multiple buyers. There has also been a conflict over who has the power to authorize sales of stool land. But this is a conflict among the elites (land owning families), not between the elites and the common people who benefit very little from the sales of land. Cases were cited where other chiefs from the other (non-Guan) communities "sold" land to newcomers, but in many cases such sales were reversed and even housing demolished if land sales were not approved by the Odupong Stool. These incidents all serve to make rights to newly acquired land tenuous. One new resident whose family bought plots of land in the past explained how their plots were subsequently shown to other prospective buyers. He noted during an interview that:

> "Almost all of us [new settlers] have guns in our houses and have employed land-guards. We are ready to defend our land and our property." (Interview, 2nd December, 2009)

There is clearly more urgency in establishing the legitimacy of ownership through local recognition of ownership than through the legal machinery of land registration in Kasoa. Leases are supposed to be registered with the Regional Land Secretary in Cape Coast, but many leases are not physically present and local recognition of ownership is more important than documentary evidence of title. Upon the sale of a plot, whoever is farming on it is simply told to quit the land and if the new owner is considerate, the farmer is allowed to harvest his or her crops first. The obligations to "strangers" do not require compensation for the loss of use rights of the farmer. A woman farmer in Gada who had learned of the loss of her land said,

> "They just say 'I'm sorry, someone else has bought the land. You have to go. They don't even compensate you a single Cedi." (Woman Farmer, Interview, 7th December 2009)

7.3.4.1 Institutions involved in Solving Conflicts at Local Level: Case of Alternative Dispute Resolution (ADR)

Current debates on land conflicts resolutions in the literature revolve around two main themes. First of all is the debate whether customary and other non-state land regimes should be supported because of their inherent flexibility, social embeddedness and accessibility, or do they in fact facilitate the "legal rightlessness" of the poor as against the state and locally inequitable power structures? (Berry 1993, 1997; Basset and Crummey 1993; Chauveau 1997; Chanock 1991; Ruf 1985; Léonard 1997). It is argued that customary regimes produce a general ambiguity, lack of enforceability and lack of protection for land rights particularly for those who lack power in the urban areas (Farvacque and McAuslan 1992; Kasanga *et al.* 1996; van Leeuwen and van Steekelenburg 1995; Dembele 1997; Stren 1989).

Richard Crook (2005) argues that the authority and enforceability of decisions have a crucial impact on whether the outcomes of dispute resolution do in practice protect land rights. But which authority is most likely to protect the land rights of the poorest and most vulnerable? He argues that the state courts might be the rightful ones as their decisions can override local power structures. However, reality on the ground currently in Kasoa, is that community members prefer the customary regimes for dispute resolution and in fact the ADR is providing another alternative to dispute resolution. This is illustrated in table 7.4 where the survey results indicate the growing preference of the local means.

Table 7.4: Institutions approached during respondents' land disputes and conflicts

Variable	Community Status (%)		Total
	Indigene	In-migrant	
Got help to resolve dispute			
Yes	59.3	67.5	64.2
Institution/individuals help sought from			
Family heads	46.2	0.0	15.0
Traditional courts	7.7	51.9	37.5
ADR	7.7	22.2	17.5
Lands commission	38.5	25.9	30.0
Total			(225)

Source: Field data Ghana April 2009 – March 2010

Those people involved in these disputes embarked on solving the problem locally. Out of the total sample population, only 64% sought help to resolve the land disputes (See table 7.4). The affected

individuals sought help from different institutions and individuals such as traditional courts (37%) and Lands Commission (30%). On the increase is the Alternative Dispute Resolution (ADR) institution (17%) in dispute resolutions in the communities. According to Crook (2008), the essence of the modern ADR concept, as developed by its European and North American advocates, is the idea that a better form of justice can be obtained by focusing on mediation or the search for an agreed settlement, rather than on binding adjudication by an external (usually state) authority. This concept has been introduced in Ghana. At the most informal level, many disputes are settled by mutually respected persons such as an elder, an educated community leader, traditional priest or modern church leaders as well as family heads and elders. These people are members of the ADR team.

Due to the increase in people' preference of approaching the ADR for dispute resolution, I decided to analyze the process of how this institution goes about its daily business for better clarification and trying to understand the people' choices. The Customary Land Secretariats (CLSs) have been established by LAP to streamline and improve land administration in the traditional areas. To help achieve these objectives, Land Management Committees have been established within the CLSs to facilitate land dispute resolution. Traditional authorities, religious bodies, government departments and identified bodies, such as Ghana Private Road Transport Union (GPRTU), Commission on Human Rights and Administrative Justice (CHRAJ) and Domestic Violence and Victim Support Unit (DOVVSU) are all engaged in one form of dispute resolution or another.

Through the survey, interviews and observation, it was discovered that the chiefs and elders are mostly engaged in dispute resolution in the communities. It has been handed down to them from generation to generation. The major issues for resolution determined by the people in the communities which are illustrated in Diagram 7.1, have been arranged in order of importance and include, land cases such as farm boundaries, encroachment, plot sizes, and marital problems such as adultery, violence, elopement, child maintenance, and also chieftaincy, curses, fighting among community members and witchcraft. Other organizations, such as The International Federation of Women Lawyers (IFWL), DOVVSU, religious bodies, GPRTU, trade associations (market women, tailors, etc.) are also engaged in dispute resolution. However, these organizations do not deliberate on land issues. They deal mostly with domestic violence, marriage problems, inheritance, child maintenance and teenage pregnancy.

Diagram 7.1: Hierarchy in the ADR System in the Communities

```
                              Appeal Court
                                   ↑
                              chieftaincy

                         National House of Chiefs
                                   ↑
                              chieftaincy

                         Regional House of Chiefs
                                                           Police, court
                                   ↑                       (other issues)
     chieftaincy                   │────────────────────→
                                   │
        Traditional Council (headed by the Paramount Chief 'Omanhene'
                    (Judicial Committee-deals with chieftaincy)
              (Arbitration Committee: deals with land, marriage, etc.)
         (Traditional Council (main body)-deals with misunderstanding among communities)
                                   ↑

          Queen Mother's Committee (deals with marriage, curses, witchcraft)
                                   ↑

                               Sub-Chief
                                   ↑

                             Family/Clan Head
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Source: Authors construction during field work Ghana April 2009 – March 2010

The processes and procedures put in place by the people and known by most community members can be divided into three areas: before, during and after the dispute resolution (See a summary in Box 7.3). Before the dispute, the complainant pays some money to the linguist to submit his or her case and the defendant is duly informed and pays the same amount as the complainant. A date is then fixed for the hearing. During the proceedings, both parties bring their witnesses and pay hearing fees. The complainant is the first to talk and is cross-examined by the defendant. There is reversal of the process before witnesses are called. The contestants are required to pay the daily wage of their witnesses. The panel goes for consultation after cross-examining both parties. Judgment is then passed after submissions by panel members and summary by the chairman. After the judgment, the loser is made to pay a penalty and forfeit all the money he or she has paid. The winner gets back all the money he or she has paid. A grace period is given for payment of awards. Non-compliance means being sent to a higher chief, the police or to the court. In marriage cases and misunderstanding between two chiefs, the objective is to bring about compromise and parties are

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advised to live peacefully. Community members claim that through this procedure there are no winners or losers in such situations as the chief 'puts-his-feet' on the case.

Box 7.3. Procedure of cases within ADR

Before the Hearing:
Complainant pays 'drink' in form of money (GH¢ 10.00) to present his or her case to the chief and elders
Defendant is summoned to the chief's palace by the linguist or an elder
Defendant pays an amount of money (GH¢ 10.00) to register his intention to contest the case. The same amount paid by the complainant.
Date is set for the hearing
During the Hearing
Panel is constituted and headed by *Kontihene* and 16 other chiefs
Swearing of oath by chief and elders to be fair to all parties
Complainant presents his or her case after swearing.
Defendant cross-examines complainant followed by cross-examination by panel
Defendant also presents his or her case and cross-examined by complainant then panel
Witnesses of complainant are called, made to swear by his or her faith to testify truthfully (Bible, Koran or Deity).
Witness is paid an amount equivalent to his or her daily income by the party who brought him or her.
Witness is requested to testify about the case and then cross-examined by the defendant and the panel.
The defendant also calls his or her witnesses, and follows the same procedure as the complainant's witnesses.
Judgment
Panel retires and meets in conference
Each panel member gives an explanation to declare one party loser or winner. Majority decision is binding.
Both parties are summoned and the chief linguist pronounces the verdict with thorough explanation
After Verdict
The winner is declared and requested to 'thank' the members. As a sign of respect, he begs for reduction of the charges (GH¢ 20.00)
The loser actually pays all charges incurred by the winner. Any money paid by the winner is refunded to him or her but loser forfeits all monies paid in addition to the charges determined by the panel
Land Cases
In boundary disputes, parties pay inspection fees to enable a team from the panel to visit the site to verify boundaries so claimed by parties.
Both parties should demarcate their boundaries before visit by panel sub-committee (3-5 members).
Verdict is not given at the site.
Enforceability of award includes payments immediately after judgment by the losing party.
There is right of appeal to a higher chief
Sanctions may include heavier fines, neglect by community members in times of need

Source: Field data Ghana April 2009 – March 2010

The mediators are mostly educated and are engaged in farming, trading, law, teaching and business. However, most of these mediators lack basic training in ADR and other areas that could enhance their work. Other challenges the ADR face include, minimum or no documentation, the perception of bribery, insult from losing parties who feel cheated, poor attendance at sessions by some panel

members and in-fighting. Comparatively, mediators in the other organizations, apart from the chiefs and elders, are well educated and have had one form of training or another to enhance their work.

It was established that the ADR committee sit on cases as they come. In land cases, it takes an average of 3-5 sittings to solve the problem. This shows the importance attached to land cases, but there are still numerous land cases pending in the court system.

According to the people, there is enough evidence that the use of local mechanisms or ADR in dispute resolution have been in existence for over 100 years in the traditional area and still going on. The chiefs and elders are mostly the people engaged as mediators. However, other committees, such as, Youth Associations, Christian and Muslim Committees, Town Development Committees, Unit Committees and GPRTU have been operating in the traditional area for at least 10 years. The Land Management Committee established by LAP in the CLS also handles land disputes. The various committees are engaged in different issues in ADR in the traditional area. The issues are arranged in order of importance. The Chiefs and Elders resolve disputes related to land in the form of farm boundaries, and building plots. This is followed by matrimonial cases involving divorce, rivalry among married women and irresponsible parenting. Family conflicts including inheritance and misunderstanding between families is closely followed by curses. Youth and Ethnic-based Associations, Christian and Muslim Committees solve similar disputes as indicated for the chiefs and elders. The significant difference is that, they do not usually handle land cases and enforce any awards. Unit Committees which are usually headed by the Assemblymen also solve youth conflicts, trade disputes and loan defaulting in that order. GPRTU is interested in matters related to their work including, misunderstanding between drivers and car owners, fighting among drivers, problems of loading of vehicles. They are guided by their constitution.

The people suggest that some of the advantages derived from using local mechanisms such as ADR in solving most of these issues include the fact that, ADR brings about peace, harmony and good relationships, respect for traditional authority, awareness about some of the functions of chiefs and elders. It is the shortest way to justice, saves time and money, ensures peaceful work environment and facilitates quick decision-making. However, members also mentioned some disadvantages to suggest that, some witnesses refuse to respond to summons, no documentation, allowances paid to committee members during sittings are considered very small and there are sometimes partiality and

threats during deliberations. There are also attempts to bribe panel members and the tendency to favour highly respected members of the society which is not be ruled out.

Community members and ADR members indicated that more than 60% of cases are successfully resolved by the mediators, irrespective of the committee involved, thereby reducing the number of cases pending at the committee level to the barest minimum. Certain measures have been put in place to ensure quick disposal of cases and to prevent the case resurfacing at the committee or in the law courts. The chiefs and elders, ethnic and youth associations, and religious committees, ensure fairness, transparency and strict enforcement of rules. Committee members are expected to live exemplary lives and both parties have their witnesses who are thoroughly cross-examined. Panel members are made to state their opinions individually and the majority opinion forms the basis of judgment. On very limited occasions like in marriage disputes, a panel may decide to 'put-its-feet' on an issue. This means issues cannot be probed further but rather parties are advised to live peacefully. Such a situation occurs, when in the opinion of the panel, further adjudication of the matter may expose the stool or bring the family's name into disrepute. Sometimes, parties are monitored to ensure peaceful co-existence. In land and chieftaincy disputes, however, matters are brought to a logical conclusion to determine the rightful owners.

The local committees, in order to enforce its award, ensure payment on the spot, light fines, use of community members to monitor the individual, elders, and head of family, opinion leaders and youth leaders to take responsibility to ensure payment or pay the fine themselves. Sanctions sometimes include sending the case to the next higher level of traditional authority, not allowed to use facilities in the community and not allowed to perform funeral rites of dead relatives. Religious bodies do not enforce awards and apply sanctions but they often times suspend the individuals.

However, chieftaincy matters that are not resolved at the Traditional Council level, they are referred to the Regional House of Chiefs[53] to the National House of Chiefs[54] then to Appeal Court. On the other hand, other issues rather than chieftaincy are sent to the police or the Circuit Court. Despite these sanctions, some people refuse to pay fines and may send the case to the committee for the second time because they may feel cheated or having new evidence and have suspicion of biases and

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[53] Regional bodies or assembly of all paramount chiefs at regional level which are duly recognized by government and in the constitution
[54] This is a national body of paramount chiefs of the regions in Ghana

threats. Sometimes cases go to the law courts based on the same reasons. On the average, the ADR committees take about 3-4 sittings to settle a land case. However, they face certain challenges including poor attendance by committee members, refusal by witnesses to testify, lack of training and communication skills.

7.3.4.2 Community Perception of ADRs

Community members' perception in Kasoa indicates that people prefer local mechanisms such as ADR to the court system because it is better than being locked up in the police cells, going to court means people become enemies forever, social problems are resolved amicably, and people live in great harmony as community members. Awards are always enforceable because people have accepted the local mechanisms or ADR as the best option for dispute resolution and are ready to comply with the decisions taken. This works well when chiefs are not involved in land cases.

The chiefs and elders indicate they are motivated by the cultural set-up as their responsibility to settle disputes to ensure social harmony and development. However, I must state that cases that involved chiefs in selling land to other people were not highly featured during the proceedings. It has been handed over from generation to generation. Therefore, the main criterion for being a committee member is by being enstooled and recognized as a chief in the community. The chiefs and elders handle several types of cases and may invite other people to help, such as a sub-chief or opinion leader in marital cases and LSAs in land matters.

Community members and ADR officials attest to the fact that documentation of proceedings takes place in most cases and parties have the opportunity to demand copies of the proceedings if they take the case to a higher chief or to court. These procedures and processes are somehow not collaborated by community members who indicate that the chiefs and elders are generally not fair and flexible in their deliberations when it comes to land cases. However, others contend that issues of bribery and personal bias exist and tend to mar an otherwise nice system. A case below is illustrated below to indicate the difficulty of bribery in cases solved by chiefs that most cases involve land.

In 2008, the *Nifahene* and two other chiefs were selected by the Paramount chief and the 40 other committee members, to visit the farm site in dispute during one of the numerous land cases handled by the traditional authority. Visiting sites in dispute is one of the processes and procedures used by

the chiefs and elders to ascertain the veracity of claims by parties in dispute. Verdict cannot be pronounced at the inspection site unless the three chiefs have each presented his or her findings to the committee in session in the presence of the parties in dispute and their witnesses.

Unknown to the committee, the *Nifahene* was related to the defendant by marriage. It was therefore, easy for the *Nifahene* to collect GH¢500.00 from his in-law without blinking an eye. But quite unfortunately for the *Nifahene,* a nephew of the complainant saw the defendant give the money to the chief and he vowed to expose the deal. He therefore informed his uncle, the complainant. The complainant subsequently informed the Chairman, and the entire house of what has transpired between the *Nifahene* and the defendant. The *Nifahene* confessed and the money was taken from him in the presence of all members of the committee. He was threatened with destoolment, but upon pleading through other chiefs he was advised to refrain from doing that again but forfeited the chance to be on any special missions in the house. The defendant lost the case eventually.

This case study indicates that, bribery is a reality in the traditional system of dispute resolution. However, prompt action can be taken and culprits may not be shielded as happened in this case. The resilience of the system is that, it would be difficult to bribe about 40 chiefs and elders to win a case. Moreover, if bribery is suspected, a completely new group is selected to pay another visit to the site. In General community members indicated that the system give enough time for payment of fines to those found guilty. They also indicated that the present system is good but training in ADR and record keeping and management will enhance the system to make it more credible and acceptable to everybody.

7.3.4.3 The Traditional Court

The *Omanhene* and his representatives (divisional and sub-chiefs, Lands Committee) and family heads solve land related conflicts. The Paramount Chief does so because he owns all the land in the Traditional Area and is represented at various levels by his divisional and sub-chiefs, who also have the capacity to do so on his behalf. The town elders and unit committee members settle conflicts at the local level. If the conflict is unresolved at that level, then the Traditional Council made up of the Paramount Chief and his elders come in to settle the dispute. Disputes that arise within a family are resolved by the various *Abusuapanin* (family head) also settles all land related conflicts within the

family, because he is the head of the family. Some major land related conflicts exist in the traditional Area. These are border or boundary conflicts between chiefs. There are also inter and intra-family conflicts, which are usually settled by the *Abusuapanin* of the family; and the conflicts are usually not fatal but are verbally abusive and sometimes curses. Most of the land related conflicts in the traditional Area are as a result of confused boundaries and double sale of lands.

When there is a conflict or dispute, the plaintiff may make a report to the *Odikro,* who summons the defendant. Both appear with witnesses and state their respective cases. Each party is cross-examined. Some people are sent by the chief to verify the boundaries after which the matter is resolved. Judgement is often passed by the *Odikro* and his elders and or the local committee members at the local level. In cases where a boundary cannot be well located, the disputed land may be shared equally among the parties. The processes available for the resolution of conflict at the Traditional Council level is that, a party to a dispute summons the other to the linguist where the other party responds by paying a fee. At a Traditional Council meeting presided over by the *Omanhene,* the parties to the conflict are allowed to present their cases. Witnesses are allowed to testify and if proven satisfactory, judgement is pronounced. If the Council is not satisfied, the *Omanhene* sends a delegation with a video camera to inspect the disputed boundary. The video clip is watched by the Traditional Council after which based on the evidence gathered and deliberations, judgment is passed. Usually all chiefs are involved in the resolution of cases. Some court cases are also referred to the Traditional Council for settlement. Conflict resolution in the traditional area is the responsibility of the Traditional Council, since they are the elders and leaders in the land and also because all lands belong to *Omanhene* and the chiefs who are well vexed in the traditions and customs of the traditional area.

8 Summary, Conclusion and Recommendations

This study set out to investigate the accountability mechanisms and legitimacy of the chiefs with increasing levels of conversion of agricultural land for non-agricultural uses. Answering this broad question required cross-examination of several concurrent and pragmatic issues. The main objective of this study was to gain an understanding and analyze the internal dynamics in customary land management with regards to accountability and, through an academic analysis, make suggestions and recommendations.

Chapters 1 and 2 explained the land system. Ghana operates a pluralistic (statutory and customary) system of land management and administration. This implies that different ways of acquiring land can be employed in order to gain access to land. Although the primary and widely used mode of access to land in most parts of the country is through the customary (Larbi, 2005), secure access to land and tenure is still controversial. The customary system of land access is often embedded in a hierarchical structure of power relations based on gender, age, ethnicity, statuses among others. This has led to some actors based on these categorized being marginalized and excluded from accessing land hence falling into the poverty trap. One concern in the study area is that, rather than promoting land investment, productivity and reducing poverty, chieftaincy institution in Ghana seems to engender unfavorable exclusion, increase inequalities and therefore perpetuates poverty.

Chapter 3 examined land tenure issues in Ghana and how this relates to agricultural development. It observed that customary practices and local land management are dynamic, adaptive and indeed evolving under the pressure of farmland conversions as well as growing land scarcity due to population increases and commercialization of agriculture among others. By exploring the stylized facts about land and agriculture in Ghana, the chapter demonstrates the importance of agriculture and land development in the economy of Ghana since the pre-colonial days. This justified the need to link effective land governance and growth of the agriculture sector to the general economic performance of the country. In spite of the fact that Ghana has for a long time been operating a complex system of land administration and management, there is still no evidence of concrete solutions to the problems that has bedeviled the sector since its creation. Thus after many years of agricultural commercialization and struggles over land in Ghana, the fact still remains that across the political and social spectrum, state government's programme on land reform is in serious difficulties. Politics at both the local and state levels have always been part of the struggles and crises that seems

to confront the country's agriculture sector. While a systematic land recording is required to address a number of problems associated with the customary tenure, the chapter demonstrates that formal land titling and registration are not appropriate interventions to eliminate exclusion of the resource poor from gaining access to land rights that ensures prospects for poverty reduction. The discussions so far, clearly indicate that Ghana's potential to develop economically depend to a large extent on its agriculture development devoid of politics of exclusion and improved land governance system

Further in the thesis chapter 4 discussed the socio-economic background of respondents in the studied communities as well as presenting the social organization that includes the family membership and governance that exists in order to better understand and situate land governance issues. In these communities the *Abusuapanin*, as the head of the family has the responsibility of protecting family property such as land from encroachers. Since land is held and managed by chiefs, the chapter has managed to discuss the chieftaincy hierarchy and their involvement in governance both in the past and current situation. Furthermore, the conversion of agricultural land by chiefs in the area has been explained. Land in these studied communities is under intense conversion. Farmers are losing farm land which chiefs and family heads re-allocate them. Some individuals are responsible for their own farmlands turning them into other usages more especially for housing purposes.

The changing and shifting norms of customary interests of land in relation to the chiefs on land related accountability aspect at community level was demonstrated in chapter 5. This has been achieved through the struggles and negations of different groups of women, youths and migrants case studies. A number of tactics or strategies they have used to hold their chiefs accountable. Also a general picture under various reasons how community members lose their land to traditional authorities. Since the concept of accountability is questioned when referred to traditional chieftaincy institution an picture of how the community members understand and perceive to be chief's accountability on land in their area has been painted. This is not to say, however, that power play follows a linear pattern and rests squarely with the local chiefs. Women, themselves are the primary source of economic growth. Upon this basis alone, it would seem desirable to assist these producers secure equitable interests in the means of production. This presents a critical avenue to growth and one that would at the same time address one of the underpinnings causes of poverty

Chapter 6 has shown government initiatives that have been deployed over time to enhance accountability mechanisms in customary land management. It started during the colonial era, the post-independence era and the current state. The works of the District Assembly (DA) through the Town and Country Planning Department (TCDC) and the Office of the Administrator of Stool Lands (OASL) in Kasoa which covers the study area were investigated and analyzed through the lens of the legal framework and the challenges they counter through that. Another interesting aspect of accountability initiative discussed was that of the donor supported programme of Customary Land Secretariat (CLS). This chapter has delved into the operations of the CLS Office at Kasoa which is still in its embryonic stage of development. Issues investigated included the degree of awareness and acceptability of this office as well as barriers impeding its smooth functioning. Overall was the expected function of these land agencies in the communities in relation to traditional authorities and their actual efficiency which is aimed to provide checks and balance in the customary land administration.

The impact of these land conversions which have had upon the communities from social to economic aspect has been presented in chapter 7. The dimensions of outcome and the extent to which these affect society have been explained. The increased land conflicts as fueled by the traditional authorities as one means of reinforcing compliance through violent youths for those their land is deemed to be at the increase. Apart from the conflicts, the practice has rendered many households without their source of livelihood while others such as women who in the first place could not access land have benefited from this practice. The discussion demonstrates that these conversions have contributed to economic and socio-cultural changes in society. Contextualizing the social consequences within the framework of the theories, it is evident that the processes of wealth or asset accumulation vis-à-vis social structures have a bearing on the social fabric of the society in relation to land. Apart from the conflicts, the practice has rendered many households without their source of livelihood while others such as women who in the first place could not access land have benefited from this practice. The discussions demonstrate that these conversions have contributed to economic and socio-cultural changes in society. Contextualizing the social consequences within the framework of the theories, it is evident that the processes of wealth or asset accumulation vis-à-vis social structures have a bearing on the social fabric of the society in relation to land.

Accountability implies that there exists a person to whom a right is owed, and an ability by this person to impose sanctions on the individual who has been charged with executing a duty (Grant and Keohane, 2005; Edward and Hulme 1995). There is also an implication that the duty to act in good faith is owed to another (Cornwall et al 2000; Grant and Keohane, 2005). Accountability operates where there exists a set of standards accepted by all as legitimate (Grant and Keohane, 2005). The standards in the case of customary land administration are the rules of transfer and land ownership which have been established through custom and the laws of the state. In this case, the chiefs and council of elders have been charged with the duty of administration of customary land as trustees, recognized by both the state and the community. As land trustees, the chiefs have a duty to act in good faith on behalf of the community. This research shows that the community members have not been able to impose sanctions on the chiefs despite the occurrence of land transfer transactions contrary to the interests of the wider community.

Accompanying the concept of accountability is the issue of legitimacy. The delegation model of accountability posited by Grant and Keohane (2005) and in which the indigenous land administration mechanism falls carries with it notions of legitimacy. It assumes that the use of power is only legitimate when it is used in accordance with the desires of those who delegate it and if it serves the purpose for which it was created (Brigitta Benzing 2006; Grant and Keohane 2005) and that "The act of delegation distinguishes authority from raw power" (Grant and Keohane, 2005: 32). Due to the *mala fides* actions, whereby transfers of land are carried out against community interests, the chiefs they have lost legitimacy. The power which had been delegated to them no longer serves the purpose for which it was created and has become detrimental to the community. Treatment of communal land as personal land to accumulate wealth is a personal use of the power not associated with the office to which this power is assigned. In this case there has been a violation of trust resulting from the abuse of power, thus the chiefs have failed to establish the legitimacy of their positions as custodial trustees of the communal land.

On the basis of the findings in Chapter five, we argue that, although the de-stoolment procedure and use of the council of elders for customary land administration constitute an attempt to provide controls, the chiefs and heads of families still demonstrate little accountability. In response to this failing control structure and in an attempt to hold their chiefs accountable, community members have engaged in acts of resistance by barring buyers or developers from entering and developing their land. These acts of resistance and protest against the elders are often accompanied by violence especially amongst the youth. The CLS donor supported project is proving to be a potential solution

where both indigenous and immigrant community members could rally behind the registration of land parcels and recording of revenue from land sales by chiefs.

In this regard, theories on power, exclusion and inclusion are used to explain the complexities of the land sector. Using theory on power, discussed in Chapter 3, we demonstrate how chiefs and family heads exercise control on society by accumulating wealth through land sales at the expense of the entire community. As per Mohlig and Trotha (1994) as well as Grant and Keohane (2005) we classify the chiefs as discretionary authorities who obtain power through delegation. The community and elected authorities delegate the administration of land to the chiefs and they in turn wield the power over transfer and conversion of land. Chiefs and their advisory body, the council of the elders have been shown to be powerful political actors who influence social interactions where the minority and the powerless such as migrant farmers, women and the youth fall short in holding them accountable in land administration. Within the context of the land conversion and grabbing, this exercise of power emanates from the position, knowledge and economic situation of players which enables them to manipulate others or change the course of action. As major players, chiefs are empowered by the fact that they are traditional and non-elected leaders. The chiefs use their positions of influence to manipulate the meaning of customary ownership and trusteeship of land, making themselves owners instead of the custodians on behalf of the people. The chiefs receive strong support from other traditional authorities and official institutions. As a result of this strong support and existence of a social structure that recognizes their role in society as traditional leaders, the chiefs enjoy legitimacy. These sources of power, especially 'authoritative power', have legitimacy within the social structure and are examples of one person's ability to control the behavior of others.

Drawing from empirical findings and the analysis, the thesis concludes that the traditional authorities have used their power and authority to accumulate wealth from the proceeds of farmland conversion and transfers, at the expense of the community members. Also, the informal or local accountability mechanisms such as through the council of the elders as well as the enstoolment and destoolment of the chiefs as demonstrated in the studied communities have proved to be limited in terms of efficiency. State intervention on the aspect of accountability in customary land administration through its land related agencies such as the DA and OASL has inherent shortcomings. However, taking a theoretical perspective, the local understanding of the concept of accountability in relation to traditional authorities has largely contributed to the relative state of the poor accountability amongst the traditional authorities. The problems associated with control by

non-elected leaders in the customary land sector with non-elected leaders shows the challenges of enforcing accountability as a principle of governance within the cultural values and norms in peri-urban societies.

It is without doubt that land conversion is an area of major concern in Kasoa. With urbanization proceeding apace, and increasing capital flows into the country from expatriate Ghanaians and others, chiefs are coming under increasing pressure to sell residential land to the highest bidder, regardless of the social interests involved. This has led to conflict within the community, particularly with the youth who have little purchasing power and few alternative options. Experience in Kasoa warns of the dangers of creating a disenfranchised class of youth with no productive assets and no real prospects of inclusion in the legitimate economy. Indeed, conversion of agricultural lands is very problematic as it has created frequent complaints that people are being driven off their ancestral lands, in arbitrary fashion, to make way for urban development. Fallows and uncultivated lands go entirely unacknowledged and uncompensated.[55] Paradoxically, indigenes have been particularly badly hit, as they tend not to have written title but to rely on recognition of customary 'usufruct' or freehold, which is rarely documented although it is legally recognized in the Land Title Registration Law of 1986. Some chiefs have continued to engage in land transactions, normally outside the purview of the Office of Administrator of Stool Lands, and have been able to appropriate huge sums of money accruing from the sale of land. In monopolizing the decision-making structures pertaining to land transactions, traditional leaders have often benefited from the configuration of power within their domain, the dynamic of local politics and the vagueness of traditional procedures that have survived social change (Booth et. al. 2004). The involvement of traditional authorities in land management has left communities unable to participate in decisions to allocate, sell or demarcate land. As a result of the scramble for land for non-agricultural purposes, traditional authorities have assumed *de facto* ownership of communal land instead of restricting themselves to the exercise of custodial rights over such lands. They have become less transparent and accountable in their handling of land transactions. Consequently, the problems of weak accountability and lack of transparency in land administration have persisted, and account for the escalation of conflict between traditional leaders and their people over land allocation and revenues.

One major problem that the study unveiled is the question of land tenure where poor land transfer documentation has led to multiple sales of land. The introduction of the CLS which is trying to

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[55] A recent study funded by DFID found that out of 364 farms taken for housing development, only 25 owners (7%) received compensation – and most of these were related to the chiefly family (NRSP, quoted in Wiley and Hammond, 2001:50).

ensure proper documentation of all lands at the local level creates a solution to multiple transfers. The dubious involvement of chiefs in land sales puts the chieftaincy institution into disrepute, thus, appropriate guidelines should be put in place to streamline the sale of lands by chiefs. Another problem highlighted in land administration, is that the numerous land agencies currently in existence make land processing cumbersome, sometimes frustrating land owners to the extent that they give up on registering their lands, which provides the chiefs with leeway to sell the land to other buyers who come into the communities. Even though there is no automatic link between land title and security of tenure, this insecurity of tenure affects a greater proportion of society than is generally recognized.

Ensuring security for farmers and other land users is emerging as a fundamental economic and social issue and also as a key issue of citizenship. This raises institutional questions such as the nature of rules and sources of authority which need to be legal and legitimate to ensure regulation in rapidly changing social and economic contexts. Furthermore loss of rights is widely occurring because both customary and statutory mechanisms for securing rights are not sufficiently effective to protect the full range of land interests in modern circumstances.

While there is undoubtedly a case for these problems to be addressed by extending the influence of democratic local authorities into the area of land allocation, as has already happened with town and country planning, this has little support at the upper echelons of government, and has been resisted by some chiefs in Kasoa. The chiefs' argue that councillors are not necessarily indigenes of the areas for which they are elected and thus have no mandate as regards ancestral lands. Another proposal is to request the chiefs to broaden their public representation, in a manner appropriate to their local circumstances more especially to the migrant farmers who often stand-alone even though it could lead to a form of tokenism, in which lines of authority and responsibility become even more opaque. It is true that traditional councils already play such a consultative role, although arguably, this has done little to create accountability as most of the elders have been co-opted by chiefs.

It is against this background of challenges in instituting accountability that the study argues that the ongoing CLS programme is a more promising approach to improving accountability in the area of customary land administration. However, the caution is that this programme only presents a first step of many in improving accountability. The programme advocates for the establishment of an information-based strategy, in which chiefs are encouraged or require to maintain earmarked stool

accounts as well as publish their incomes and expenditure. In addition, the chiefs are required to create an environment of transparency in line with the requirement for accountability as fiduciaries. As an incentive to improvement in transparency and accountability, the CLS promises to strengthen the customary land administration and help in systemizing the revenues. These reforms would progressively engender a demand for more accountability, on the part of the public, once the programme is widely run and embraced by many stakeholders such as landlords and land users. The other alternative is the strengthening of the ADR project which combines some involvement of the elective authorities in matters where democratic authority is likely to contribute positively to the legitimacy of public decisions.

Whatever the approach adopted, there is an urgent need for improvement in standards of governance in relation to customary land authorities. As matters stand, it is arguable that many chieftaincies do not conform to the minimum standards of accountability and transparency of the good governance agenda and land administration. At the same time, the widespread recognition of the need to address the accountability deficit amongst indigenes and migrants offers strong justification for government and donors continued support, with the prospect of real increments to the well-being and security of the poor. Traditional authorities are not necessarily monolithic, and significant differences of opinion already exist on this issue at the local level change for example, within the royal families, which will create their own pressures for change.

The allodial title to land is supposed to be held by indigenous communities through their chiefs. However, in many places, particularly in urban and peri-urban areas which include Kasoa, this has become no more than a romanticized fiction bereft of any practical significance. Indigenous land management institutions have become less and less accountable to their communities, and in many places, management has ceased to be used for the benefit or in the interest of communities. Creation of the position of Head of Family Accountability Law was one attempt at making indigenous land management institutions more responsible but it has limited scope. If a pluralistic system of tenure and management is to be retained, more robust processes must be fashioned to facilitate efficiency, transparency and accountability of indigenous land managers. The National Land Policy includes the development of secretariats which started operating and improved record keeping by traditional authorities who would enhance the efficiency of indigenous management institutions. More importantly, a bottom–up approach should be adopted where even immigrants in the communities are involved in land matters.

Further to this is that steps should be taken to develop, adapt and strengthen local institutions such as the various landlords associations created in these communities, to ensure that they can monitor and hold indigenous land managers to account. Institutions like the land committees and other CSOs should be revitalized and their membership broadened. An increased membership would result in higher awareness of the problems and ultimately enhance advocacy geared to promote accountability of the chiefs to the community. Systematic steps should be taken to train, and equip the land committees and CSOs to work hand in hand with indigenous management institutions to facilitate transparency and ensure that community–held land is managed in the interest of the community. Ultimately, this is a matter of political economy and is inextricably linked with the democratization of all facets of the country's life. But, if the pluralistic land tenure and management system is to retain its legitimacy and continue to have the support of the majority of Ghana's people, management for and on behalf of communities is a critical issue to be solved.

In addition to enhancing accountability in pluralistic land tenure, there is a need to consider whether the current economic conditions and population structure supports the continued existence of pluralistic land tenure. Land is a productive economic resource recognized as capital. It will therefore be necessary, in the long run, to consider whether the current land administration system is compatible with the needs for economic growth and development. In this case the community must consider whether land as a resource is more productive when put towards agricultural use vis a vis industrial use. There needs to be an investment in measuring the long term economic and environmental impacts of conversion of agricultural and it should be clearer whether the changes produce positive or negative effects on the rural communities. The rural poverty gap in Ghana in 2006 stood at 13.5% which is higher than the urban poverty gap which stood at 3.1% in the same year (ISSER 2008). This shows that in there needs to policies which address the higher levels of poverty in the rural areas in Ghana. Land is an important resource and maximizing its potential uses could make a difference in improving the poverty situation in rural areas, in as much as a number of socio-economic as well as cultural aspects are tied to the issue of accountability and effectiveness of the land administration systems.

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Appendix
Key literature sources and respondents

Local level (respondents)	Data from Formal Institutions	
Migrant Farmers	**Institutions**	**Type of Data**
Youths	Institute of Statistical, Social and Economic Research (ISSER), Legon	Reports
Chiefs	Ghana Statistical Services	2009, Ghana's Economic Performance Report
Council of the elders	Awutu Senya District Assembly	Interviews and reports
Landlords Associations	OASL HQ	Interviews and reports
Indigenes	OASL Kasoa revenue Office	Interview and Reports
Unit Committee	Odupongkpehe CLS	Interviews and Reports
Member of Parliament	Ghana National Archives, Accra	Documentations

Method	Data Type	Target groups Interviewed
In- depth interview	Customary land tenure, conflicts and rights	Paramount chief of the traditional area
		Paramount queen mother of the traditional area
		Divisional and or sub chiefs of the traditional area
		Elder-in-charge of land/ land priest in the traditional area
		Head of asafo (youths)
		Head of families
		Head of stool and skin lands
		Head of land commission in the district
		Head of land title registry in the district
		Head of customary land secretariat
		Opinion leaders i.e. Member of parliament, teachers, business community
		Religious leaders

		NGOs involved in land issues in the area
Focus group discussion	Customary land access, tenure and livelihoods	Men and women Youths Committee on culture of the traditional council Migrant or settler farmers Female farmers People with disability Land committee members of the traditional council
Questionnaire Survey	All community members	225 Sampled households out of 450 listed households
Participant Observation	All communities being studied	Events, informal meetings and community festivals

GLOSSARY OF LOCAL WORDS

A

Abunu	Sharecropping, where farm produce is divided into two parts between the land owner and the farmer
Abusa	Sharecropping - division of farm or produce into three
Abusua asaase	Usufructuary interest in land, family lands
Abusua fie	Family house
Abusua naanofɔ	Leaders of gates within the family
Abusuapanin	Family head
Adakaka	Funeral levy
Adamusa	Sacred lands reserved for the gods of on the fringes of the town
Adikrofo	Caretaker chiefs (plural of *Odikro*)
Adonten	One of the divisions in the Traditional Area
Adwera	A type of leaf used in purification
Agyinamu	Collateral (*see* also, *Awowa*)
Ahenkwaa	Messenger in a chief's palace
Akonta (gye) sikan	Money presented to brother(s)-in-law or brothers of a bride
Akwasidɛ	40th Sunday observances in accordance with the Akan traditional calendar
Akyeame	Linguists (plural of *Ɔkyeame*)
Akyɛdeɛ	Gift
Asaase adidie	Inherited land
Asaase han	Hired lands
Asaase kyɛ	Gifted land
Asaase twitwa	Building plots
Asaase	Land
Asantehene	King of the Ashanti kingdom
Aseda	Thanking or showing appreciation
Aware gyae	Dissolution of marriage
Awowa	Security or collateral
Awukudɛ	40th Wednesday observances in accordance with the Akan traditional calendar
Awubia	Festival of the people of the Awutu Traditional Area

B

D

Didiso	Usufructuary interest, land for sustenance farming

Dɔ fa w'aduane / Dɔdidiso na dua kookoo ma me
Dua kookoo ma me na dua w'aduane fa/
Dua kookoo mame ne dua woeduane/
Dua kookoo na fa w'aduane/ Dua ma me

Dɔfa w'aduane na dua kookoo ma me	A land tenure system in which a land owner asks a farmer to cultivate cocoa on his behalf while cultivating some foodstuffs for his sustenance
Dua mmiɛnkyɛ	Sharecropping
Dwan twere	A token amount of money paid for land
Dɔdidiso	Land for sustenance farming
Dɔmiɛnkyɛ	The generic term for customary tenancies which involve sharecropping

E

Efie baapanin	Eldest woman in the family
Efie nsaase a, y'atwitwa	Building plots
Efie panin	Eldest grandparent

G

Gyaasehene	A divisional chief

H

Han asaase	Hired lands
Han	To hire
Hwɛsofoɔ	Caretaker farmer

K

Kroagya	Outskirt lands (*see* also, *Krotia*)
Krotia	Outskirt lands
Kyɛ	To give out

M

Mefɛm	Borrowed land
Mponuahene	Chief in charge of land in the Awutu Traditional Area on behalf of *Omanhene*

N

Nana	Title of a traditional leader
Nana panin	Eldest grandparent
Nananom	Traditional leaders
Nfofoo	Weeds
Nhwɛsoɔ	Caretaking
Nifa	One of the divisions of the Traditional Area – right wing
Nkonnwa nsaase	Allodial title/stool lands

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Nkontabuo	Accountability in land transactions
Nsa sika	Drink money
Nsa	Drinks (usually schnapps)
Nsamanpom	Cemetery
Nsamansɛ	Customary law wills
Ntɔ asaase	Bought land or freehold interests in land (*see* also, *Ntɔ, Tɔn koraa, Taama, W'atɔ, W'atɔ asaase, Wa tɔ no taama, Tɔ*)
Ntɔ	Bought land or freehold interests in land
Ntɔ	Ground rent
Ntɔmɛ	A flowering plant used to demarcate or mark boundaries
Ntɔn	Clan
O	
Odikro	Caretaker chief or community chiefs
Ɔbaapanin	Sub queen-mother or eldest and knowledgeable woman of a family
Ɔde akyɛ	To give out
Ɔhemaa	A female traditional leader, usually the Queen-mother of the Traditional Area
Ɔhene	Chief
Ɔkyeame	Linguist, traditional leader's spokesperson
Ɔmanhene	Paramount Chief
Ɔsrɛ Asaase	Begging to use land
P	
Patraa	Land for vegetable farming or hired land
S	
Srɛ asaase	Begging to use land
T	
Taama	Freehold interests in land, outright sale or purchase of land
Taamubu	Money
Twafoɔ	One of the divisions of the Traditional Area
Tɔ	Bought land or freehold interests in land
Tɔn koraa	Bought land, outright sale of land or freehold interests in land
W	
W'atɔ asaase	Bought land or freehold interests in land
W'atɔ	Freehold or outright purchase

Wa tɔ no taama	Bought land or freehold interests in land
Wawa	A tree species with commercial value
Whɛsofoɔ ba	The child of a caretaker or migrant or settler farmer
Wɔdeakyɛ	To give out (gift)
Wɔfaase adidie	Matrilineal inheritance
Wɔfase	Nephew or niece
Y	
Yɛ na fa woeduane	A land tenure system in which a land owner asks a farmer to cultivate cocoa on his behalf while cultivating some foodstuffs for his sustenance
Yɛkɔsrɛ	Begging to use land
Yɛmayɛnkyɛ	Sharecropping
Yɛmiɛnkyɛ	Sharecropping
Yɔmayɛnkyɛ	Sharecropping
Z	
Zongo	A community of non-Akans, usually dominated by Northerners and Muslims

Classification of Position in Chiefship at Awutu traditional council

Omanhene;	Traditional head-Paramount chief
Obaahemaa;	The queen mother- the mother of the stool
Krontihene;	The governor and the administration of the state
Adontehene;	The commander and leader of the state
Gyasehene;	The chief of the royal household and palace; in charge of the regalia and the royal insignia
Nifahene;	The chief of the right wing of authority
Benkumhene;	The chief of the left wing of authority
Twafohene;	The chief of state vanguard
Ankobeahene;	The chief of the royal body guard
Nkyidomhene;	The chief of the rear guard
Banmuhene;	The custodian of the royal mausoleum
Manwerehene;	The keeper of the king's clothes or personal effects
Sodohene;	Head cook and supervisor of the royal kitchen
Nsafiesohene;	The chief of the cup-bearers and stewards
Sumankwahene;	The king's physician
Daberhene;	The chamberlain
Sanaahene;	The royal treasurer
Adumfohene;	The chief of the executioners
Akyeamehene;	The chief royal spokesman or linguist
Abrafohene;	The master of ceremonies
Nkondwaso Afohene;	Chief of stool bearers and the custodian of the chapel of the stool
Werempehene;	Chief of the commoners composed of selected of the royal lineage and sons and daughters of a king, biers to the Gyase and Kronti stools
Akrafohene;	The priest and the bearer of the king's "*Kra*" (spirits)
Ahenemahene;	The chief of the royal sons
Tufuhene;	Head of Asafo company and supplier of ammunitions and gun powder of the Asafo company

Gumtoahene
Amankorahene
Abontendomhene
Banbohene
Asotwehene

Awutu Traditional Council Membership

NO	Stool name of chief	Status/Rank	Town/village	Clan/Division
1	Abokuade Wyetey Agyemang Otabi III	Paramount chief	Awutu	Dode Ojobi
2	Naakye Ama Dode Akaabi xiii	Queen mother	Awutu	Dode Ojobi
3	Nai Kwao Otuo V	Ankobeahene	Awutu Mankesim	Otuo Twidan
4	Nai Akuful Adu Boabeng III	Bamdihene #1	Akuful Krodua	Odwo Anona
5	Nai Ntow Abosompim IV	Ebanto Odefey	Obrachire	Odinku Asone
6	Nai Kwao Pai Obeng II	Tsupi #1	Awutu Akrabon	Okole Botwe
7	Nai Kojo Tetteh Brang III	Ema Tsupi #2	Anama Wobi	Adae Twidan
8	Nai Odupong Awushie Tetteh II	Ebla Odefe #1	Odupong Ofaakor	Odupong Anona
9	Nai Kweku Bentum II	Obaatan Odefey	Bwajiase	Okole Botwe
10	Nai Naakye sede Amoakwa	Esoyo Odefey # 2	Awutu	Ofuo Twidan
11	Nai Opertey kondem II	Sanaahene	Oshimpo #2	Abunsam Asona
12	Nai Aryikai Armah II	Odikro	Awutu Kokobeng	Odinku asona
13	Nai Ncharkey Okine VII	Adontenhene # 1	Osae Krodua	Ncharkey Anona
14	Nai Adu Osardu Quaye V	Obaatan Odefey # 1	Awutu Bontrase	Yoko
15	Nai Opei Saah V	Kyidomhene #1	Awutu Aberfol	Yoko
16	Nai Kwao Kurabi III (Regent)	Odikro	Awutu kwao Kurabi	Abrade
17	Nai Darko Tettey IV	Kyidomhene # 2	Awutu Okwabina	Abrade
18	Nai Yeboah Afrang IV	Bamdi Odefey # 2	Awutu Nfadwen	Yeboa Afran Twidan
19	Nai Kwashie Korley	Twafohene	Korley Manto	Yoko
20	Nai Kwashie Amoansah (Regent)	Odikro	Awutu Kwaman	Odae Twidan
21	Nai Usufu	Odikro	Awutu Kasoa	Odupong Anona
22	Nai Kwao pobe asamani		Awutu Ayerensu	Kwao Pobe Anona
23	Nai Ashalley Botchway V		Awutu Ofadaa	Kwao Pobe Anona
24	Nai Kofi Baa		Awutu Kemowo	Dode Ojobi
25	Nai kwame Ahene		Awutu Loye	Abondam Nsone
26	Nai Oshimpo III	Ankobeahene # 2	Oshimpo # 1	Yoko
27	Naakye Adjo Osaben III	Mueen mother	Odupong Ofaakor	Odupond Anona
28	Nai Romeo Tetteh	Odikro	Awutu Pobee Aboano	Abondam Nsone
29	Nai Kojo Ashong		Kojo Ashong Akrapong	Odupong Anona
30	Nai Kobina Ogyam		Kwaku Ansah	Adwo Anona
31	Nai Kofi Ashiao		Oshimpo # 1	Yoko
32	Nai Kwame Owodu		Bentum Tetteh Odo	Larbiala Asona
33	Nai Kweku Ahor IV		Ahormanto	Kwanodey Anona
34	Nai Kojo Banafo II		Papase # 2	Asona
35	Nai Abbey Kwao II		Mankomeda	Abhade
36	Nai Kwashie Amankwandor		Adawukwao	Yoko
37	Nai Adawu III		Adawukwao	-
38	Nai Kwao pobe Asamani IV		Ayerensu Opembo	Kwao Pobe Asona
39	Nai Botoku II		Botoku	Asona

40	Nai Kwame weytey III		Kwame Wyetey	Dodi Ojobi
41	Nai Otabil II		Chocho	Anona Yoko
42	Nai Kobina Ashalley		Aberfol	Odinko Anona
43	Nai Kwashi Ashong		Amadua	Odinko Anona
44	Nai Anim Akubrifa IV		Anim Manbrifa	Yoko
45	Nai Kwashie Acheampong		Mfadwen	Adwo Anona
46	Nai Kwame Seshie I	Odikro/Sumank wahene	Nkwadum	Anona
47	Nai Kwao Wyetey I	Odikro	Olotum-Akubrifa	Abundam Asona
48	Nai Bana		Obrachire Owu	Yoko
49	Nai Kobina Abika II		Sasamsu	Asona
50	Nai Kwashie Abbey		Okwabena	Odupong Anona

List of Family Heads

NO	Name	Name of family	Remarks
1	Ag. Abusuapanyin Ampim Darko	Larbiala Asona Family	-
2	Abusuapanyin Kojo Kakra	Yeboah Afrang Twidan	-
3	Abusuapanyin Kojo Banafo	Adwo Anona Family (Bawjiase)	Deceased
4	Abusuapanyin Kofi ashiaw	Yoko	-
5	Abusuapanyin Kwaku Odupong	Ncharkey Nipa Anona	-
6	Abusuapanyin Kojo Awushie	Amavi Asona	-
7	Abusuapanyin Kwashie Amoh	Yalefio Anona	Deceased
8	Abusuapanyin Kwashie Otokunor	Akyeampong Kuma Anona	-
9	Abusuapanyin Kojo Ackaa V	Odupong Anona family (Ofaakor)	-
10	Abusuapanyin Kwaku Quaye	Kokroko Asona	-
11	Abusuapanyin Kwami anku	Abrade	
12	Abusuapanyin Kofi Abbey Quaye	Obo Twidan family (Bawjiase)	
13	Abusuapanyin Kojo Pabi	Odinku Asona	
14	Abusuapanyin Abbey kwao	Darko Tetteh Abrade	
15	Abusuapanyin Odae Amoansah	Odae Twidan	
16	Abusuapanyin Kwashie Quaye	Okole Botwe Anona	
17	Abusuapanyin Kojo Ashalley	Otuo Twidan	
18	Abusuapanyin Kwashie Bortey	Apagyafo kwadjo Yoko	
19	Abusuapanyin Kwami Wyetey	Ashamoa Yoko	
20	Abusuapanyin Kofie Aburam	Pobee Abundam Asona	
21	Abusuapanyin Kwame Obo	Kwao Pobee Asona	
22	Abusuapanyin Kofi Amah	Kofi Oku Asona	
23	Abusuapanyin Kwasi Otang	Kwame Adu Asona	
24	Abusuapanyin E.M.K. Pertey	Korley Anona	
25	Abusuapanyin Kofi Pabi II	Fetteh-Awutu Asona	
26	Abusuapanyin Kwame Wyetey	Gyandodey Anona	
27	Abusuapanyin Kwame Opretsi	Awushie Quansah Anona	
28	AbusuapanyinAbraham Larbie Okine	Ofinam Yoko	
29	Abusuapanyin kobina	Chocho Botwe Anona (Ofaso)	-