

Neo-liberalism and Changing Customary Land Tenure Systems in Northern Ghana

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Abstract

The paper examined the changing trend of customary land tenure systems in Northern Ghana and ascertained how neo-liberal policies have contributed to this trend. The data for the paper was derived from the Land Tenure and Policy Research Project (LPRP) of the Institute of Statistical, Social and Economic Research (ISSER) and from supplementary field data collected by the researcher using qualitative methods. The study finds that customary land tenure systems in northern Ghana have been evolving in accordance with the evolutionary thesis of land tenure reforms in Africa. Neo-liberal policies, demographic pressures, urbanization and the resultant competition for land are some of the underlying factors accounting for the evolution of the systems in general. In Northern Ghana, neo-liberal policies dictate the pace of the evolution through the hardships that it has created for northern poor peasants, which have necessitated the distress sale of land for survival. The paper thus advocates decentralised land administration in order to give legal recognition to customary land rights at all levels. It supports the institution of customary land tenure secretariats in Ghana and calls for the state to intervene, as matter of urgency, with poverty targeting and social protection policies in education, health, employment and nutrition, to reduce the cash needs of the poor land owners so as to stem the tide of indiscriminate land sales among the poor peasants in Northern Ghana.

Keywords: Neo-liberalism, Customary Land Tenure Systems, Northern Ghana.

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Land Tenure Systems in Ghana

Land tenure may be defined as the terms and conditions on which land is held, used and transacted (Adams, Sibanda et al. 1999). These terms may be defined by statutory or customary norms of the society. In most African societies, the two (Statutory and Customary Systems) co-exist and operate side by side and in some cases together. The customary land tenure, which is the subject of this paper, is the dominant institution that regulates land relations in most African societies.

In Africa, 'Land is viewed as a gift of God to communities for their subsistence' (Kishindo 2004). As is reputed to have been said by one of the most prominent Ghanaian Chiefs, Nana Sir Ofori Atta, *I conceived that land belongs to a vast family of whom many are dead, a few are living and countless hosts are still unborn* (quoted in Benneh 1990: 1). In Ghana land ownership can broadly be divided into four main categories. These are customary ownership, state ownership, private ownership and vested ownership. Customary lands form about 78% of the total land area in Ghana and consist of both stool and family lands. Family lands together with individual lands form about 35% of the total lands in customary ownership (MLFG, 2003).

The customary land tenure system in Ghana, as in many African states, is characterised by its unwritten nature, based on local practices, flexible, negotiable and location specific. It is usually managed by a traditional ruler, land or earth priest, council of elders, family or lineage head, as the case may be. In this system the principle of first clearance or conquest is applied to establish rights of ownership. On the basis of allodial ownership, rights and administration, two main types of customary land tenure systems may be distinguished in Ghana: stool and skin land, where the stool and paramount chiefs are the allodial owners and tendana (or land priest) land, where the allodial owner is a titular head.

In recent times Land policy in developing countries tends to emphasise the importance of recognising and building on customary tenure systems in order to achieve equitable land management in the context of poverty reduction (Deininger and Binswanger 1999; Toulmin and Quan 2000; Whitehead and Tsikata 2003). Against this background, the government of Ghana, after decades of piecemeal legislative and state management measures, formulated its first comprehensive National Land Policy in 1999 (Ministry of Lands and Forestry 1999) and has embarked upon a Land Administration Project (LAP). This project is intended to reform land institutions so as to

provide greater certainty of land rights for ordinary land users and enable greater efficiency and fairness in the land market (Ministry of Lands and Forestry 2003; World Bank 2003).

Under the LAP, there is an ongoing institutional reform involving both land sector agencies and customary land tenure institutions. All land sector agencies have come under one umbrella under a one-stop-shop concept, and Customary Land Secretariats (CLSs), with appropriate governance structures, are being established as part of the government's initiative to improve land management and administration in the country for local communities. This is to ensure institutionalised community-level participation and accountability in the use of communal land and the revenue it generates. Government, by establishing these structures, is divesting itself of the responsibility for the management of communal land and transferring it to Customary Land Secretariats (CLSs). The transfer of responsibility for the management of stool lands from Land sector Agencies (LSAs) to CLSs is in tune with recent emphasis on recognising and building on customary tenure systems to ensure tenure security, equity in land access and reduction in land conflicts in Ghana. The CLSs are manned by a team of local people who adopt simple land management procedures and keep land records that are made available to all members of the community.

Evolution of Customary Land Tenure Systems in West Africa

Studies have shown that as population has grown, and as access to infrastructure, markets and services has increased, the tenure of lands has changed in many areas of sub-Saharan Africa from the traditional system of communal access through customary tenure to more individualised forms of tenure, and in some cases, to full-fledged private tenure. An IIED study in West Africa found that in Benin, Burkina Faso, Ivory Coast and Mali, there have been ongoing changes in the institutional arrangements used to transfer land rights between individuals and groups. Customary arrangements such as the *tutorat* are being reinterpreted and renegotiated, and have acquired a monetary dimension as land sales are emerging in many parts of West Africa, bringing about new practices such as the use of witnesses and of written contracts (IIED 2007). In The old agricultural colonisation zone in western Burkina Faso the older forms of access to land such as settlement and open-ended loans are increasingly replaced by monetarised rentals (Zongo, 2001).

In the Inner Niger Delta, customary rules and institutions for natural resource management have been profoundly affected by a century of change in the ecological, socio-economic and politico-institutional context. The

authority and legitimacy of many *jowro* have been eroded, within the broader context of a power shift from herding to farming interests. Resource access relations have become monetarised, and the spiraling values involved have fostered tensions over fees and their utilization' (Cotula and Cissé 2007. P. 101).'

Land ownership in the Western Region of Ghana has evolved towards individualised ownership and investment in tree planting and management (Kasanga and Kotey 2001). In Tamale, an emerging city in the northern Region of Ghana, chiefs are selling lands without consulting the council of elders or the broader community and using the revenues from land sales for their own personal benefit.

These changes are more pronounced in the urban and peri-urban areas of Kumasi, Accra and other Regional Capitals than in rural Ghana. In the urban areas, a robust urban and agricultural land market has emerged as outsiders from these centres acquire land for residential and commercial use. This land market is characterised by purchases and rapidly rising real land prices (Kasanga et al 1996). This point was supported by an observation made by Abudulai (2002) that where cities emerge or grow, land suddenly becomes much more valuable than it used to be, and the peri-urban zone is an area where things change very quickly (Abudulai 2002 quoted in Toulmin, Delville & Traore ed 2002).

In Ghana, legislative interventions, the introduction of commercial agriculture, population growth and pressure in some localities and urbanisation have been cited as being responsible for changes in customary land tenure systems (Benneh 1975; Delville, Toulmin et al. 2001; Kasanga and Kotey 2001; Deininger, Zegarra 2003). Overall, these changes have been attributed to the increasing commercialisation and commoditisation of land in many parts of Sub-Saharan Africa (Bruce and Migot Adholla 1994). Clearly, there is no gainsaying that across West Africa, customary land tenure systems are changing and that these changes are attributable to varied factors, including demographic pressures, commodification of land and neoliberal policies as a whole. However, the processes through which neoliberal policies trigger these changes may differ from locality to locality. Thus in the particular case of northern Ghana, how have neo-liberal policies affected customary land institutions, land transfer and intra family land relations?

The objective of this paper is to examine the changing trend of customary land tenure systems in Northern Ghana and ascertain how neo-liberalism has contributed to these changes.

Northern Ghana and Customary Land Tenure Systems

Northern Ghana refers to the geographical area covered by the three Northern Regions, namely the Northern, Upper East and Upper West Regions, which were administered as part of the Northern Territories in the Colonial era. The area occupies 41% of the total land area of Ghana and has only 20% of the country's total population. It is still an agricultural society, with land being the most important asset from which livestock graze, crops are grown, wild animals are hunted and wild fruits and other natural resources harvested. The region is a relatively flat stretch of savannah-woodland interspersed with tropical continental or interior savannah grass and drained by the White Volta, Red Volta and Black Volta rivers and their tributaries (Dickson and Benneh 1970). It has a single rainy season of about 6 to 7 months which is erratic and unevenly distributed over the region.

About 90 per cent of the region's population are engaged in agriculture and allied services devoted to food crops, including millet, guinea corn, maize, yams, beans and groundnuts, and to the rearing of livestock such as cattle, sheep, goats, pigs and poultry (Kasanga 1999 p. 10). These products are highly undervalued and under priced in the national markets of Ghana and this is partly the result of northern under development since colonial times (Songsore (1989). In such a rural and agriculturally based economy, land tenure forms the basis not only of agriculture production but also of the social and economic system (Kasanga 1999 P. 11).

In northern Ghana, two broad types of customary land tenure institutions may be found. Firstly, the allodial title to land is vested in the communities, which are represented by the various paramount skins as found in the centralized states such as Dagbon, Manprugu, Nanumba and Gonja, with the exception of the Waala Kingdom. The second type is found in the politically less centralized states among the Tallensi, Kusasi, Sissala and Lobi-Dagaba in the Upper East and Upper West Regions, where the allodial title to the land is vested in the Tendana or earth priest. Generally, in northern Ghana inheritance and succession to property are determined by patrilineal systems. Women do not inherit land under the systems and thus do not own land, but they can access land through their male counterparts, that is, their husbands, brothers or fathers. Thus women's rights to land are secondary (whitehead and Tsikata 2003).

Data Sources

The data for the article was derived from two main sources. The first source is the Land Tenure and Policy Research Project (LPRP) of the Institute of

Statistical, Social and Economic Research (ISSER), which was sponsored by the United State Agency for International Development (USAID). The LPRP data as a whole consisted of commissioned papers, data from a national survey, focus group discussion reports, in-depth interview reports and institutional survey reports. The commissioned papers reviewed literature on five thematic areas of the study. These themes are customary and statutory land tenure, legal and institutional issues, the politics of land tenure, land markets and production, the land tenure and environmental nexus, and efficient and equitable land tenure reforms. The national survey data, focus group discussion reports, key informant study reports and institutional study reports constitute part of the primary data for the project. The LPRP data was collected from Salaga, Kpanshegu, Bole-Benyekwa, Karaga, Tamale, and Bagabaga in the Northern Region. In the Upper East Region, the communities involved were Bolga-Benkute, Blembisi and Bawku, while in the Upper West Region the communities involved included Koro Bogno, Jirapa-New Town, Wa-Kpaguri, Wa-Sokpayiri, Wa Sombo and Wa-Mangu.

The second source of the primary data was information gathered from the field by the researcher to supplement the LPRP data. Case studies of nine (9) communities located in Northern Ghana were conducted to generate contextual data and gain a deeper understanding of processes, institutions and mechanisms from the perspectives of land users and affected parties. The nine communities include: Bamaahu, Kpaguri and Tabiesi in the Upper West Region, Jisonayili, Kpilo and Malshegu in the Northern Region, and Kajelo, Chiana, and Navrongo in the Upper East Region. Basically qualitative data was collected in each community using in-depth village level investigations, focus group discussions and individual interviews with household heads, clan leaders, women, and the destitute/ultra-poor. One (1) focus group discussion was conducted in each community with a group consisting of 12 to 14 members. This was done both as a research tool for exploring the community's thoughts and for a delineation of the nature of land tenure systems. For the in-depth study, six (6) people in each community were interviewed, comprising two land owners, two male occupants with usufruct rights and two women. The researcher spent two days in each community conducting focus group discussions in the morning, followed by in-depth interviews later in the day.

The Evolutionary Theory of Land Reforms

The evolutionary theory, which gained currency in the 1990s in debates over tenure reform in Africa, is derived from the Boserupian thesis (Yngströme

2002 p. 22). This thesis explains how the shift from “traditional” systems of landholding towards “modern”, “individualised” systems begins spontaneously under conditions of growing land scarcity associated with “increases in population density, advances in farming technology, and the emergence of agricultural markets” (Boserup, 1965; Feder & Noronha, 1987, p. 143). The theory’s perspective of land reforms is based on the assumption that the combined pressure of population growth and increasing commercialization of agriculture somehow works out an institutional solution to the problem of population pressure. Accordingly, land rights spontaneously evolve towards individualization and eventually lead rights holders to press for the creation of duly formalised private property rights, a demand to which the state will have an incentive to respond (Platteau 1996). African tenure systems evolve in an economically efficient manner if unimpeded by government policy (Ault and Rutman 1979).

Neo-liberalism and Land Tenure Systems

Neo-liberalism is simply defined as a political philosophy or world view of free markets and less government. The mainstream argument in favour of neo-liberalism is framed in terms of the efficiency of the market in contrast to the inefficiencies and high costs of government interventions. Neo-liberalism, as it informs the framing of orthodox development theory, can be characterized by “the combined significance attached to privatization, market relations, open economies, commodification, and possessive individualism” (Slater 2003, 53).

Since the early 1980s, international financial institutions (IFIs), including the World Bank and the International Monetary Fund, have imposed a neo-liberal economic agenda on developing countries, and this has had a profound effect on the entire African continent and its economies, including that of Ghana. These neo-liberal policies were characterised by trade liberalisation, the privatisation of public utilities and the reduction of welfare provisions, as was the case in many African countries.

The influence of neo-liberalism in Africa has led to (a) the signing of regional and hemispheric free trade agreements; (b) cuts in public expenditure that include the elimination of subsidies, the sale of public utilities and job layoffs in the public sector; (c) the titling and privatisation of property rights in land, water, forests, fisheries and other resources that had previously been commonly or state owned; and (d) the rolling back of environmental and labour regulations (Liverman, D.M.S. Vilas 2006).

In Latin America, the liberals came to power in the nineteenth century, pushing for export-oriented economies and foreign investment with a concentration on land, production and wealth within a few families or international firms (Liverman, D.M.S. Vilas 2006 p.2.3). In Ghana, Amanor (2006) noted that land is increasingly becoming commodified as a result of scarcity and the commodification of agriculture, and this leads to accumulation of land in the hands of a wealthier stratum of middle income farmers to the neglect of the poor. He observed that this accumulation process is promoted by neo-liberal policies (Amanor 2006).

Generally, neo-liberal policies introduced in Africa may be responsible for the transformation of the customary land tenure systems observed in West Africa. This is because such policies engendered the commodification of land, titling and privatisation of property rights to land and urbanisation. However, in the particular case of northern Ghana, the process by which neo-liberal policies generate these changes in the customary land tenure system may differ because of the peculiar nature of the region (high poverty rates, vast land, food crops and few export crops).

Changes in Customary Land Tenure Systems in Northern Ghana

Studies have shown that customary land tenure relations in Northern Ghana are undergoing rapid transformation even in the remotest of villages (Abdulai 2002). The commodification of land in urban and peri-urban areas, the increase in token values for farm land, the recall of lands by land owners, the increasing inaccessibility of land to some social groups and the conflict-ridden growing land markets are some of the features of contemporary tenure relations in Ghana (Yaro & Zackaria 2007).

As shown in Table 1, many residents in rural and urban areas of the three northern Regions who deal in land are aware that the systems under which they acquire land for their livelihoods are changing, though the level of awareness varies from location to location. As shown in Table 1, 97% of respondents in the Upper East Region indicated their awareness of the changes. This is followed by 81% and 66% of respondents in the Northern and Upper West Regions, respectively. In the Northern Region, 64% of rural residents, as against 98% of their urban counterparts, acknowledged awareness of changes in the land tenure systems. A similar pattern pertains to the Upper East Region. However, in the Upper West Region 90% of rural respondents were not aware of the changes, while 82% and 90% of the urban and peri-urban areas, respectively, were aware of changes in the system.

Table 1: Awareness of Changes in Customary Land Tenure Systems in Northern Ghana.

Region		Has the customary Land tenure system undergone major changes in the last 10yrs in this community?			Total
		Yes	No	Don't know	
Northern	Rural	72	35	6	113
		63.7%	31.0%	5.3%	100.0%
	Urban	114	2	0	116
		98.3%	1.7%	.0%	100.0%
	Total	186	37	6	229
		81.2%	16.2%	2.6%	100.0%
Upper East	Rural	125	5		130
		96.2%	3.8%		100.0%
	Urban	75	1		76
		98.7%	1.3%		100.0%
	Total	200	6		206
		97.1%	2.9%		100.0%
Upper West	Rural	6	56	0	62
		9.7%	90.3%	.0%	100.0%
	Urban	47	5	5	57
		82.5%	8.8%	8.8%	100.0%
	Peri-Urban	98	7	3	108
		90.7%	6.5%	2.8%	100.0%
Total	151	68	8	227	
	66.5%	30.0%	3.5%	100.0%	

Source: ISSER LPRP Data 2005

Clearly therefore, more urban land users are aware of the changing land tenure systems than rural land users in all three regions. More rural land users in the Northern (64%) and Upper East (96%) regions are aware of the changes compared with rural land users in the Upper West region (10%) who

are almost completely unaware of the changes in the system. This is a reflection of the differential level of penetration of globalising factors into the various regions and different geographical locations. The question then is: what has been the nature and trend of these changes?

Nature of Changes in Customary Land Tenure Systems in Northern Ghana

Having determined the awareness of changing customary land tenure systems in northern Ghana, what is important is the nature and trend of the changes. As indicated in Table 2, respondents in all three regions identified recent high land prices, changes in tenancy arrangements, increased formality in land transactions, changes in inheritance rules and in the interests of certain social groups, and the larger number of people renting land as some of the noticeable changes in the customary land tenure systems in northern Ghana.

Table 2: Nature of Changes in Customary Land Tenure Systems in Northern Ghana

<i>Nature of Changes</i>
<i>Land prices are higher than before</i>
<i>Terms of Tenancy Arrangements have changed</i>
<i>Land Transactions are more formal than they used to be</i>
<i>Land inheritance rules have changed</i>
<i>More people are renting land for farming</i>
<i>Interests of Certain Social groups are weakening</i>
<i>Interests of certain social groups are becoming stronger</i>

Source: ISSER LPRP Data 2005

Overall, the nature of changes in the customary land tenure systems in northern Ghana is evident in the transformation of the land management institutions; changes in intra-family relations; and changes in land transfer mechanisms.

Changes in Land Management Institutions

The customary land management institutions in Northern Ghana are the paramount chiefs in Dagbong, Manprugu, Nanum, and Gonja in the Northern region and the *tendamba* among the tribes in the Upper East and Upper West regions. These authorities enforce the rules binding land acquisition, allocate land rights and arbitrate conflicts arising therein. They derive their legitimacy from ancestral lineages either as the first settler or as rightful heirs of a royal family. However, as a result of state policies, technological and demographic change, penetration of neo-liberal factors, the dominance of these land management institutions has profoundly changed (See Table 3).

Table 3: Land Ownership Institutions in Northern Ghana

Region	Institution								Total
	Chief	A Family	Some Families	Individual	Gov't	Tendancy	Tribal Head	Traditional Council	
Northern	232	5	12	9	3	137	4	1	403
	57.6%	1.2%	3.0%	2.2%	.7%	34.0%	1.0%	.2%	
Upper East	111	3	211	130	1	216	1	0	673
	16.5%	.4%	31.4%	19.3%	.1%	32.1%	0.5%	.0%	
Upper West	1	0	228	196	1	132	0	1	559
	.2%	.0%	40.8%	35.1%	.1%	23.6%	.0%	.2%	
Total	344	8	451	335	5	485	5	2	1635
<i>Percentages and totals are based on responses.</i>									

Source: ISSER LPRP Data 2005

Specifically in northern Ghana, the institutional role of allocating land to both members of the community and strangers has not altered much, except that in the urban areas, land allocated by traditional institutions is given statutory recognition through documentation to make the transaction formal. As shown in Table 3, the customary institutions still dominate in the allocation of land, though the degree of dominance varies from region to region. In the Northern Region, the chieftaincy institution still holds sway, as 57% of responses indicated that chiefs still own land, as against 16% and less

than 1% in the Upper East and Upper West Regions, respectively. The *tendana* (32%) and particular families or lineage (31%) constitute the land management institutions that administer lands in the Upper East Region. In the Upper West Region, however, particular families (41%) and Tendana (24%) are the dominant institutions of land administration. Individual ownership is more dominant in the Upper West Region (35%) than in the Upper East (20%) and Northern regions (2%). This is an indication that in the Upper West Region there is a gradual shifting of power from the traditional institutions to families and individuals as far as decisions on land administration are concerned.

The traditional rules regulating the use of land in northern Ghana have been pressurised into extinction (See Box 1 & 2). This situation has been attributed to religion, the cosmopolitan nature of urban areas, the increasing complexity of land conflicts and education. Thus most of the rules concerning environmental preservation, the maintenance of the fertility of the land, the resolution of conflicts and land alienation have been eroded. This was evidenced in focus group discussions across Northern Ghana.

Box 1. Focus Group Discussions (FGD) in Kpaguri, a suburb of Wa

In the past, we used to have rules which included not farming on Fridays, not farming close to the river or shrine and not cutting down economic trees. But now with urbanization, these rules are no longer respected. Some of our shrines have been encroached upon by residential developments, including the location of the current Wa market. In the past, these rules were always enforced by the chiefs and the *tendana*' (FGDs Wa-Suuriyiri, UWR, July 30, 2005).

Source: ISSER LPRP Data 2005

This case pertains to a peri-urban area where the group was lamenting the speed at which the customary processes are being eroded by neo-liberal policies and urbanisation. The encroachment on shrines by farms and buildings indicates that the customary institutions are too weak to enforce the rules and even to protect their culture. After selling all the available lands, the land owners resorted to the selling of hitherto shrine lands to individuals and government agencies for money and compensation, respectively.

The dominance of chiefs as land managers in Dabgon represents a shift of power over land from *tendamba* to chiefs, since history has it that in Dagbon, the *tendamba* were the original land owners till the chiefs usurped their powers and eliminated them (Bening 1996). The dominance of family heads and individuals in land management in the Upper West and Upper East

regions is a testimony of the gradual loss of power of the tendamba to individuals and families.

Box 2. FGD, in Suuriyiri, of a Group of Tendamba in Wa

For instance, in the past when there was conflict over land, the tendana could easily settle it. Today he has lost that power. The power to determine the owner of land is in the court, whose operators do not know much about the origins of people here. The government's laws have usurped the power of customary laws in determining rightful owners of land, boundaries and sizes of lands belonging to various clans and individuals. This is responsible for all the conflicts over land ownership in Wa here. Presently, land conflicts resolution starts with the chiefs and tendana, but end up in the courts. This is because aggrieved parties, after the rulings of the customary institutions, prefer going to the court. This makes the customary institutions unpopular these days. [*Group of tendamba at Wa-Suuriyigi, Upper West Region*]

Source: ISSER LPRP Data 2005

The story in Box 2 is an indication of how customary institutions have lost their arbitration role completely to the modern state apparatus of adjudication such as the courts. Many people have lost confidence in the customary systems when it comes to settling disputes resulting from land litigation, and therefore prefer referring their cases to the courts because they find the courts more effective in enforcing their rulings (see Box 2).

In short, both structures and processes have been profoundly altered by neo-liberal policies in northern Ghana. The local authorities have lost their potency in land management regulation and their institutional role of adjudicating conflicts, but they maintain in part their land allocation roles. Thus customary land tenure management institutions are giving way to modern and state institutions and the existence of legal pluralism in Ghana.

Intra-family Land Relations in Northern Ghana

Though traditionally, tendamba and chiefs are the sole authorities responsible for land administration, the practical management of land is done by family heads. The latter ensure that every member of the family has access to land and that disputes are settled. They are usually the most senior male members of the family, who acquire their position through patrilineal inheritance. Therefore, they are also custodians of the land at the family level. However, the content, scope and size of individual members' rights to land within the family groups are determined by age, gender and proximity to family heads. In their allocation of land to various members of the family,

certain factors are considered. These include group income generation, moral responsibility to younger family members once they begin farm work; precautionary aversion to irreversible transactions; community demands and levels of control ceded to derived rights holders (Quan in Cotula ed 2007). However, in recent times, these intra family relations have changed in diverse ways. Family heads no longer appear responsible for the allocation of land to family members, and age, gender and other traditional attributes no longer play a role in land access within the family.

Box 3: FGD among the Youth of Kpaguri in Wa

The inheritance system is the root cause of conflicts over land within families. The elder child of the family has inherited the ownership of land and the rest of you have usufruct right. He has absolute control over the land and the rest of you cannot challenge his authority once he is still alive. The wisdom behind this system was that he the elder used to shoulder the family's responsibilities. Today he no longer shoulders the family's responsibilities but continues to wield power over the family's resources. Some even go to the extent of documenting the land in the names of their children so that when they die their children will own the land for ever. FGD Youth of Kpaguri Wa.

Source: ISSER LPRP Data 2005

In other instances, because land has acquired monetary value family heads are found selling land indiscriminately without consulting other members of the family. *They are able to go this far because they threaten the youth with juju any time they complain, and the fact that the custom stipulates that it is not the head alone that owns the land but the entire family. Little did the custom know that, a time would come when heads of families would become corrupt* (In-depth study with a youth in Kpaguri 2006).

In the current situation in northern Ghana, in some cases fathers are bequeathing land to their daughters because of the growing individualization of ownership in the urban centres of the region. Women now access land easily if they have the means. Thus the issue of women not accessing family land is becoming a thing of the past, since most family lands are becoming individual lands and are increasingly being administered outside the domain of the traditional systems.

It is clear that family solidarity and social capital are being eroded as a result of individualization of ownership and the increasing use of cash as the dominant mode of accessing land in the urban and peri-urban areas. Families no longer come together to protect their interest, individuals have become vulnerable to land seizures by government and wealthy individuals in the

society. The community life of 'each one his brother's keeper' is gone and has been replaced by 'every one for himself and God for us all'. This is manifested in the apathy shown by community members when one of them loses his land through litigation, compulsory acquisition or sales. People no longer come to the aid of members of the community when they are in trouble (See Box 4).

Box 4: In-depth interview with Mumuni Saaka of Kpaguri

"In the past property such as animals, cloths, foodstuff and land and farm were collectively owned. But today's devilish world is not like that. If you develop your hernia it is for you alone; if you are throwing it away or keeping it, that is your own matter"

Source: ISSER LPRP Data 2005

These changes at the family level, though influenced by neo-liberal policies, are facilitated by the inheritance systems which give unfettered powers to the eldest son of the family as the sole heir to family property.

Changes in Land Transfer Mechanisms

In northern Ghana land is transferred traditionally through inheritance, gifts and customary leases to strangers and other community members. While in Northern Ghana patrilineal inheritance patterns remain dominant across the three regions, the requirements for transferring land vary across the region and among the different cultures and depends on the receiver of the land. Among the Dagaaba in Jirapa in the Upper West Region, the traditional items provided in exchange for the use of land include 3 fowls, 1 goat or sheep and some pieces of kola, though this may vary from family to family and depending on the relationship with the land acquirer. At Kajelo, a rural settlement of Kasem speakers in the Kasena Nankana District, land is acquired simply by approaching a land owning family with the traditional gifts of kola nuts and drinks. For residential plots, the protocol greeting with tobacco, kola nuts, guinea fowls and fowls needs to be repeated two to three times before the land is given out.

However, with the high demand for land in the urban and peri-urban areas resulting from the emergence of diverse needs for land and the need for cash to purchase non-farm products, the mechanisms for transferring land either within or across families has changed. The changes in institutional mechanisms for managing land have led to multiple access routes to land. One can now access land through individuals, family heads and clan heads

and even through government agencies such as the Lands Commission. Secondly, accessing land through the customary system has to be complemented by the statutory system through the concurrence of the Lands Commissions. There is increasing recognition, in the urban and peri-urban areas in the region, of the need for demarcation of land during transfer, of the rise in the registration of urban land after transaction and of the dominance of cash payment as a mode of land exchange. Contrary to the customary systems where land was usually transferred without concrete demarcations, the use of government officials in demarcating land even where land sector agencies do not exist is becoming common in most urban and peri-urban areas (see Box 5).

Box 5: FGD with Women Group in Karaga

"Now in karaga here, the *tangaasi man* (Sanitary officer) assists the chief to divide the land for people who wants to buy land. After that, the chief gives the buyer receipt to be sent to the Assembly, and the Assembly also gives a receipt to the buyer, after collecting money from the land buyer.

Source: Supplementary Data 2006

Cash payment for exchange of land is increasing in recent times. The customary practice of using items such as kola and fowls for temporary transfer of land has given way to cash payment for both temporary and permanent transfer of land in urban areas (See Box 6 & 7). This is because in northern Ghana the purpose of land transfer in the past (i.e., to provide land for livelihoods), has changed to that of accessing cash to meet emergency education or health needs in recent times. In some cases, the growing registration of land title in the urban areas is linked to the cash payment that constitutes the dominant mode of land exchange in the region.

Box 6: FGD youth, Karaga District, NR

It is becoming increasingly difficult to acquire land in our present day. Gone are the days when one could just go to the chief's palace with some kola nuts for a large portion of land to build. Today in Karaga, kola nut is not enough to enable you to acquire a plot of land. Most of us sitting here cannot acquire housing land because of the price tag on it. The size of housing plots has decreased while the price has increased.

Source: ISSER LPRP Data 2005

Box 7: Head of Land Owning Group, Sombo, a Suburb of Wa

Today we don't give land by word of mouth. People now believe in town and country planning and documents for signature, that is why the mode of acquisition has changed. If I need to sign out my right to the land and you will no longer regard me as your *tendana*, then I have to charge you any amount for the use of the land, even though that is against the custom.

Source: ISSER LPRP Data 2005

In addition to the dominance of cash payment as against the use of customary items such as kola nuts and fowls, the use of other non-customary material in exchange for land was on the increase. In northern Ghana, it was found that instead of the traditional provision of drinks and cola, people were buying fertilizer for land owners in order to use their lands. In the Jirapa area in the Upper West Region, cash payment and the use of building materials such as zinc and cement as payment for land was on the increase. Also, registration of title to land, especially for housing and commercial use in the urban and peri-urban areas, is increasing in northern Ghana. This, however, varies across regions and locations depending on the level of penetration of neo-liberal elements such as urbanisation and commoditisation of land.

Table 4: Registration of Land Title in Northern Ghana

Region		Is the Land Registered?			Total
		Yes	No	Don't know	
Northern	Farming	15	125	29	169
		8.9%	74.0%	17.2%	
	Housing	36	100	6	142
		25.4%	70.4%	4.2%	
	Not in use (plot)	1	0	0	1
		100.0%	.0%	.0%	
Trading/shop	1	0	0	1	
	100.0%	.0%	.0%		
Upper East	Farming	44	327	29	400
		11.0%	81.8%	7.2%	
	Housing	51	174	18	243
		21.0%	71.6%	7.4%	
	Trading/shop	0	5	0	5
		.0%	100.0%	.0%	
Upper West	Farming	93	370	18	481
		19.3%	76.9%	3.7%	
	Housing	169	321	12	502
		33.7%	63.9%	2.4%	
	Not in use (plot)	2	2	1	5
		40.0%	40.0%	20.0%	

Source: LPRP Data 2005

In all the three regions, transactions in farm lands, whether rural or urban, are not registered. In the same vein, in all three regions rural housing lands are not registered. It can thus be concluded that in the rural areas, transactions in

both farm lands and housing lands are not registered. However, in the urban areas, housing land is mostly registered in all regions. This is basically due to the uncertainty and insecurity associated with land transaction in the urban areas, especially for housing and other commercial purposes. It is also due to the inability of the customary institutions to manage land in the urban environment because of the external actors in land acquisition. Many land purchasers thus insist on the registration of their titles, since they can no longer rely on the customary systems for security. Thus, the high demand for land in the urban areas is the result of urbanisation.

Neo-liberalism as the Driving Force for Changes in Customary Land tenure Systems in Northern Ghana

The literature on the evolution and mutations of customary land tenure systems identifies various factors responsible for the changing trend. Generally, in Sub-Saharan Africa, demographic factors, scarcity of land, commoditisation of land, greater integration in the global economy and livelihood diversification have been the driving forces behind the evolution of customary land tenure systems (Cotula ed 2007). In recent times, however, neo-liberalism, with its attendant privatisation and the domination of capitalist modes of transaction, has played a critical role in transforming the customary land tenure systems in most location in Africa in various ways. In most cases, the assertion has been that these neo-liberal policies have created a market for export products and this has introduced new comers into the land market who want to invest in commercial crops. This increases the competition for land, leading to land holders asserting more individualised rights to land beyond the capacity of customary land tenure system. The opportunity is therefore created for state institutions to annex the roles of the customary institutions.

The contribution of neo-liberalism to changing land relations has a historical antecedent in Ghana. The Traditional communal tenures, the establishment of the initial access routes and the nature of these routes did not remain pre-capitalist, pre-market, pre-literate and pre-state (Ofori 1973 p.95). During the second half of the nineteenth century, when Ghana, then the Gold Coast, was swept into the mainstream of legitimate world trade and commerce, a flood of new ideas burst. The first legitimate commercial activities involving the selling of palm oil and rubber did not alter the initial access routes to land,

because these products were grown wild and community members had equal rights to them. However, the introduction of cocoa as a commercial crop, the cultivation of which needed to be spatially defined, had a profound impact on the initial access routes by way of moving the economy towards the direction of capitalist and market orientation (Ofori 1973).

In the same vein, 'with the development of cash crop farming, land has acquired economic value and it is no longer given free to stranger-farmers, especially around Ejura where there is a great demand for agricultural land both by indigenous and immigrant farmers' (Benneh 1973, P.109). This was confirmed in Benneh's study of the land tenure systems of the forest-savannah contact zone in Ghana, where he concluded that,

'The development of cash crop farming has triggered off changes in the customary tenure systems similar to what occurred in the tenure system in the forest region when cocoa was introduced in the country. It is important that these changes are studied by specialists since they may indicate what may happen in the northern savannah belt when the region becomes fully integrated into the cash-crop economy of the country' (Benneh 1973).

It has been noted in recent times that in parts of southern Ghana, especially in the cocoa frontier zone, the commodification of land has been associated with the expansion of migrant capitalist farmers (Amanor 2006).

These revelations underscore the fact that, the role of neoliberal policies in creating a market for local products and the effect of this course of action on land tenure relations did not start today. It is thus clear that Ghana's pursuit of the structural adjustment policies of the World Bank and the International Monetary Fund in the early 1980s, with their attendant commercialisation of traditional practices in land administration, only sped up the process of customary land tenure mutation in Ghana. It is however worthy of note that the effects of neo-liberalism in Ghana, epitomised by structural adjustment policies, have not been even across the country. "The 'Distant' rural poor in Northern Ghana are those who have had little to gain from SAP and the most to lose as a result of structural adjustment" (Songsore 1989 P. 162). The marginalisation of northern Ghana under SAP can be explained in three major directions: (1) absence of resource flows directed at stimulating regional economic recovery; (2) further pauperisation arising from a

worsening of the inter-regional terms of trade; and (3) the effect of high user charges on the utilisation of social service—especially with regard to health and potable water use (Songsore 1989).

High user charges especially have had a considerable impact on land relations in northern Ghana. In the first instance, the transition of the Ghanaian economy towards a free market system, exacerbated by the IMF and World Bank austerity measures, has drawn rural communities, including northern Ghana, more deeply into the cash economy. These communities are therefore confronted with rising food prices, the imposition of user fee cost-recovery measures in education and health care and the elimination of government subsidies in agriculture, all of which imply mounting cash needs for households' reproduction (Razevi 2003, 19).

It is thus worthy of note that the role of neo-liberalism in transforming the land tenure system in Northern Ghana differed markedly from that in the southern forest zone of Ghana. In the southern forest zone, these policies created an export market for its products and hence competition for land. As a result of general high poverty rates, poor infrastructure, food crop production and lower educational levels in northern Ghana, the region is disadvantaged in trading in industrial products and export commodities. Therefore northern Ghana benefited little from neo-liberal policies in this respect. Thus while the explanatory factors underlying the impact of neo-liberal policies on changes in customary land tenure may be urbanisation, monetarisation and the integration of the global economy in many parts of Africa, in the particular case of northern Ghana the explanatory factors are the tenets of privatisation of public services provision, such as cost recovery, the withdrawal of farm and health subsidies, the introduction of cash and carry in the health sector and fee paying for most public services which are associated with neo-liberal systems. These factors put pressure on the pocket of the already impoverished northern peasants as they are called upon to provide cash for these services. In an agrarian and rural society such as northern Ghana, where land is the most important resource, agriculture is basically subsistence and products are dominated by food crops, the only way to access money quickly to meet emergency needs such as hospital and school fees is the sale of land (the hen that lays the golden egg), despite the devastating consequences.

Implications of Changes in Customary Land Tenure Systems for Livelihoods and Policy

In short, customary land tenure is gradually evolving into a full-fledged Western style property right system as depicted by the evolution school. There are varied implications of these changes for the land owners and users as well as for the policy making processes. There is imminent landlessness among the already poor farmers, as most are selling their lands for cash because of the high demand for land and the need for cash to meet other nonfarm needs. Since most of them do not have other skills, assets and resources, poverty is likely to increase among peri-urban dwellers in northern Ghana since land which is the only resource they possess is being transferred to rich and powerful members of the society in exchange for cash. Secondary right holders such as women, the youth and migrant tenants are the most likely to be affected, as their main livelihood source is being sold in the market at a price that is not within their reach. The youth either migrate out or adapt to non-farm activities to eke out a living, with further urbanisation as the logical consequence. The powerful within the community redefine community interests to meet their own narrow interests or to assert what they claim are historically defined rights (Amanor 2006).

The state institutions which are increasingly taking over the administration of land from customary systems are likely to face the challenge of delivering efficient services as they are most likely to be overwhelmed by increase in demand for their services. Their efficiency and effectiveness are most likely to be compromised, especially when their procedures are cumbersome and are not accessible to many land owners. However, under the Land Administration Project (LAP) of Ghana's recent institutional reforms, which seeks to bring the land sector agencies under a one-stop-shop and to establish customary land secretariats at the local level, the effects of these changes are likely to be nipped in the bud. In addition, policy direction with respect to institutional reforms should further decentralise the state land sector agencies to the community level, so that the customary land secretariats form the base of the one-stop-shop land institutions to ensure smooth progress from traditional systems of land management to modern ones. Furthermore, the state needs to intervene, as a matter of urgency, with poverty targeting and social protection policies in education, health, employment and nutrition, to reduce the cash needs of the poor land owners. This would in the short term

stem the tide of indiscriminate land sales among the poor peasants in Northern Ghana.

Conclusion

It is evident that customary land tenure systems in northern Ghana are evolving towards greater individualisation of ownership in accordance with the Boserupian thesis. This evolving trend is seen in the changes observed in the customary institutions, land transfer mechanisms and intra-family land relations. The study has observed that the structures and processes of customary land tenure institutions are changing; the institutions have lost their potency in land management regulation and conflict adjudication and part of their land allocation roles, and are thus gradually giving way to modern and state institutions. Family heads are no longer responsible for the allocation of land to family members; age, gender and other social factors no longer play a role in land access within the family, family heads are now selling land and bequeathing land to their children against customary rules, and social capital within families is eroding fast. There are multiple access routes to land. Accessing land through the customary system has to be concurred by the Lands Commission and demarcation and registration of land has become an important part of land transfers in urban and peri-urban northern Ghana.

The main underlying force for this evolution is neo-liberal policies of the 1980s and 1990s. However, though it is generally agreed that neo-liberalism has created demand for land for investment, leading to transformation in the mode of land transfer, in the particular case of northern Ghana, neoliberal policies do not only create demand for land, but also demand for cash by poor farmers and land owners. This has led to distress sales of land by the poor peri-urban land owners. These (increased demand for land and distress sale of land) have combined to give rise to changes in the mode of land transfer (cash purchases, increase in customary items etc), intra-household land relations and land management institutions.

The impact of these changes is the imminent landlessness it creates among land owners and the loss of livelihoods for secondary right holders, albeit with the possibility of livelihood adaptation. To accommodate these changes in an amicable manner, the state's intervention should be geared towards integrating customary and statutory land tenure systems through greater

decentralisation of administration to the community level. Fortunately, the introduction of Customary Land Secretariats (CLS)² in Ghana is deemed to be appropriate in providing solutions to most of the problems of land administration in Ghana. Efforts should however be made to hasten the spread of these reforms to all communities as early as possible, and traditional leaders and their subjects should be educated adequately to make the new system a success.

² Customary Land Secretariat (CLS) a Secretariat manned by a team of local people, who will adopt simple land management procedures and keep land records which will be available to all community members

Acknowledgement

The author is grateful to the Institute of Statistical, Social and Economic Research (ISSER) and the United State Agency for International Development (USAID). The data for the paper was based on a Land Tenure Policy Reform Research by ISSER, sponsored by USAID.

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