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**Peri- Urban Land Tenure in Ghana (Accra):
Case Study of Bortianor**

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by

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Peri-Urban Land Tenure in Ghana (Accra):

Case Study of *Bortianor*

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A THESIS

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ABSTRACT

Ghana's land tenure system, which comprises of a blend of customary and state tenure systems, is viewed as complex networks of interrelationships characterized by social, political and human activity. Land conflicts and tenure insecurity are notable, and mostly experienced in areas transitioning from rural to urban settings. Comaroff's dialectical framework and a case study method involving in-depth interviews and documentations were used to examine the cause of lands problems and the evolving land tenure administration in *Bortianor*, a peri-urban area in Accra, Ghana.

The study revealed that the interaction of customary and statutory tenure systems within weak state and the customary institutional and regulatory frameworks leads to high rate of tenure insecurity, particularly for the vulnerable members of the community. The case also provides insights into observable social change patterns, instructive for land tenure administration where customary tenure rules evolve in a rapidly changing environment.

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“What shall I render unto the LORD for all His goodness toward me?” Psalm 116:12

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LIST OF ABBREVIATIONS

ADR	Alternative Dispute Resolution
CLS	Customary Land Secretariat
COE	Council of Elders
CTI	Customary Tenure Institution
DA	District Assembly
DCE	District Chief Executive
EU	European Union
FAO	Food and Agriculture Organisation
FIG	International Federation of Surveyors
GIS	Geographic Information Systems
GNA	Ghana News Agency
GPS	Global Positioning Systems
GSS	Ghana Statistical Service
IK	Indigenous Knowledge
ISSER	Institute of Social Statistics and Economic Research
LA	Land Administration Land Administration
LAC	Land Allocation Committee
LAP	Land Administration Project
LAPU	Land Administration Project Unit
LAS	Land Administration System
LC	Lands Commission
LI	Legislative Instrument
LPFU	Land and Property Fraud Unit
LSA	Land Sector Agencies
LTR	Land Title Registry
LTRL	Land Title Registration Law (Ghana)
LVB	Land Valuation Board
MLF	Ministry of Lands and Forestry
MMDA	Metropolitan/Municipal/District Assembly

NCD	National Commission for Democracy (Ghana)
NDC	National Democratic Congress
NLP	National Land Policy (Ghana)
NPP	New Patriotic Party
OASL	Office of the Administrator of Stool Lands
PCID	Police Criminal Investigations Department
PNDC	Provisional National Defence Council
UNCHS	United Nations Commission on Human Settlement
UNESCAP	United Nations Economic and Social Commission for Asia and the Pacific

GLOSSARY

Agnatic bond	Relationship, that is, between the family considered as based upon subjection to patriarchal authority (Wordnik.com, Accessed 2012)
Asafoatse	Head of military group
Gbatsu	Shrine
Homowo	Annual feast of the <i>Ga</i>
Mankralo	Second in command to ruler of a town
Mantse	Ruler of a town, chief
Matrilineal kin	One related on the mother's side
Nii	<i>Ga</i> honorific title for the elderly
Nyonmo	God
Shika	Gold/money
We	Family house
Weku (pl. wekui)	Family group
Woleitse	Head of fishermen
Wulomo	Priest of the sea deity
Sorlo	Blacksmith
Stool	Literally, it is the seat of the Chief or traditional head who rules over a particular community. It is an emblem of authority in Southern Ghana.

CHAPTER 1: INTRODUCTION

1.1 INTRODUCTION

This study examines land holdings in *Bortianor*, a peri-urban area of Accra, by exploring how land rights are secured in an area where both registered individual tenure and customary tenure co-exist. In addition, this study examines how individuals and groups gain access to (or lose) land in an area undergoing rapid urbanization, rising population and increased competition for land. These forces have led to significant changes in land tenure practices and are recognized as causes underlying conflicts over land.

Indisputably, land is an asset that serves many fundamental needs such as food, shelter and material wealth, and provides some form of class recognition and spiritual association (Toulmin and Quan 2000a: 1-2). According to Berry (1993), land holdings in many parts of Sub-Saharan Africa are widely based on customary forms of tenure which are mostly undocumented. As such, the landholders' rights are drawn from their social relations with their respective families, lineages and communities who have chiefs, elders and family heads allocating and managing the land (Crook, 2009). Colson (1971) draws on the aphorism assigned to a number of different sources in conceptualising land holding, '*...land belongs to a vast family of which many are dead, few are living and countless members are still unborn.*' This concept thus situates land holding as a system of managed relations, the objects of which belong, ultimately, not to the 'present living' but to the generations to come (Colson, 1971:195). Put another way, it is as if the resource equilibrium brought about by society is by design a work in progress that they pass on as an unfinished public good.

Before colonialism, communal land holding was practiced extensively in Ghana, forbidding anyone from claiming exclusive land holding rights (Ollenu, 1962). British colonialism introduced a second system of land management principles which reflected policies of British conveyancing systems (Larbi, 1995). In other words, colonisation produced a far more complex land management system in British colonies in Sub-Saharan Africa, as it became shaped by both customary laws and the British laws. By the end of the colonial period, indigenous land tenure systems in most parts of Sub-Saharan Africa were functioning in parallel to European-based systems. This dual system developed due to colonial powers renouncing the functioning of a free market land economy for Africans who migrated to the nearby cities (Mabogunje, 1992). For many African countries after independence, and the elites who took positions of responsibility in the new regimes, the major focus of land tenure administration was the extension of state rights (Amanor, 1998). Many States had the power to acquire land either for individual/private investment or for public/state development projects. By the 1960s and 1970s, a major focus of land administration policies in Sub-Saharan Africa involved the implementation of formal land registration and titling by state institutions (Amanor, 1998). Ghana's land administration policies were typical of this pan-African mode of post-independence administrative development.

Traditional land ownership in Ghana is characterised by social and religious beliefs that have profound effects on land tenure norms and practices. In the northern part of Ghana, the holding of rights in land is regarded as a sacred trust of the ancestors, whose labour preserved it for their descendants. Under the traditional system, it is therefore considered sacrilege to sell lands. Similarly, among the *Ga* Mashie tribe, in the southern part of the country, land is considered to be possessed by the lagoon gods. The Akan tribe, also in the south, hold the belief that their land is a supernatural feminine spirit with Thursday being its natal day, in respect of

which the cultivation of land is forbidden on that day (Elias, 1956:62). Thus traditionally land is regarded as a heritage entrusted to the community, which is responsible for ensuring its preservation and enjoyment by future generations. The head of the community (i.e. the chief, family or clan head) enjoy legitimacy among the people and holds the land in trust for the people (Ollennu, 1962:16). In addition, this fiduciary obligation in the customary land tenure system is enshrined in Ghana's constitution, and so chiefs (stool heads), family heads and land priests may be responsible for land allocation and general land administration (1992 Constitution, Article 267(1)).

Ghana is plagued with land tenure and land use planning problems. Across the country we find land ownership disputes, illegal occupation, unplanned development, and ownership insecurity in the urban, peri-urban and rural areas, under sometimes conflicting and contradictory customary and state tenure rules (Amanor, 1998, 2008; Ubink, 2008; Gough and Yankson 2011). The causes are numerous. Customary lands in Ghana's major cities such as Accra and Kumasi are particularly prone to these problems because of high rural-urban migration which has increased demand for housing developments and commercial activities to accommodate the influx into these urban centers (Ubink, 2008).

Increasing population and high demand for land put considerable strain on a cities' land base and infrastructure. Availability of basic services, especially housing, is deteriorating for many poor residents (UNESCAP, 2010). As a result, there is a spill-over effect to the peripheries of the cities (i.e. peri-urban areas). These places serve as an escape from the overcrowded conditions and competition for resources in the urban areas (Arko- Adjei, 2011; Amanor 2008; Ubink, 2008). In effect, tensions are created in peri-urban areas. This land is traditionally used for agriculture and held communally, but is now sold opportunistically by family heads or chiefs to migrants or corporations for registration in the advancement of individual or corporate

interests. As a result, tenure insecurities, power struggles, and the alteration of customary tenure rules themselves cause adaptations to the changing environment (Arko- Adjei, 2011). The vulnerable have their traditional land rights and livelihood opportunities extinguished.

1.2 PROBLEM STATEMENT

Interest in customary tenure and its related problems is growing in academic and policy circles in Ghana and Sub- Saharan Africa. International organisations such as UN-HABITAT, UN-FAO and the World Bank have been the major drivers of these studies and policy schemes (Arko- Adjei, 2011). A key issue is centered on whether land administration in Ghana would improve by the furtherance of customary tenure systems or abandonment in favour of individual titles (Amanor, 1998), and there are tensions about which strategy is best. Simon (1992) and Kasanga et al., (1996) argue that the customary tenure system should be maintained and improved because it has built-in checks in place to control the abuse of landholding positions/authority, whereas state land institutions - which are often operated in the interests of a select minority - are, by nature, unresponsive and overly bureaucratic. On the other hand, Amanor (1998) and Adjei (2005) favour a state run system which they claim would lead to more accountability and efficiency in land management and transactions.

As mentioned, urbanization, high population growth, and increased demand for customary lands have resulted in the economic appreciation of customary lands, especially in the peripheral areas of Accra. This has resulted in an increase of proprietary rights such as lease, sale, and mortgage development in the area (Arko- Adjei, 2005). This lucrative land sale business has resulted in power struggles between farmers, families and chiefs, as they contest the right to convert farmland into residential land use in these peri-urban areas. During the process of land sales/transfers and leases, just and fair procedures are not normally followed. As a result,

rightful land users are left with diminished bargaining power, and vulnerable to lose their land, and their employment (Gough and Yankson, 2011).

1.3 RESEARCH OBJECTIVES AND QUESTIONS

This research looks at the interaction between land tenure and land administration systems of the statutory and customary systems; the adoption of statutory processes in customary land administration; and the technical and legal issues. It also analyses peri-urban problems to fully understand the dialectics that occur in these systems.

The main objective of the research is to develop explanatory theory about evolving or changing land tenure administration in a peri-urban area. Specifically, this study examines how the people on the ground have adapted to the changes in land tenure and administration practices and the strategies they currently employ to secure their land rights.

This research therefore attempts to explain and add to the understanding of peri-urban land tenure issues, and to the development of its theoretical base. The results will serve as an input in policy development, in particular the design and implementation of land administration systems for peri-urban areas in Accra and similar settings.

1.3.1 Research Questions

The following questions were explored to address the above objectives:

1. How is land tenure administered currently in *Bortianor*?
 - What are the current procedures for acquiring and alienating land in *Bortianor*?
 - Who are the key actors involved in the process?
 - How is land secured?

2. What changes can be observed in the administration of customary land in *Bortianor* and what are drivers of these changes?

3. What current land tenure problems in *Bortianor* are a result of the interaction between the state and customary systems and the manifestations of social change?
 - Who are the beneficiaries and losers within this context?

4. Are the land tenure problems being resolved in the area, and if so, how is this achieved?

The underlying intention of these questions is simply to explore people's behaviour and the expression and treatment of their rights relating to land tenure in the study area - the signal characteristic of which is the evolution of the customary system in terms of adopting certain statutory (i.e. state) processes that are seen as useful to key actors.

These research questions will assist in understanding the land tenure and land administration systems in a setting where selected statutory processes have been introduced by the state in the determination of land rights.

1.4 CONCEPTUAL FRAMEWORK

In order to address the research objectives and understand how individuals and groups acquire or lose land in *Bortianor*, Comaroff's conceptual framework has been adopted. Comaroff argues that "the analysis of all local systems begins with the recognition that the construction and transformation of such systems is caused by an ongoing dialectic between internal forms and external forces" (Comaroff, 1982). This study also incorporates Fourie's (1993) theories. Fourie drew on Comaroff's dialectical approach and adapted the social change model to observe and

analyze the social dynamics of informal systems in a peri-urban area of Durban (South Africa). This decision is further supported by Barry's (1999) use of the social change model in researching dynamics of Cape Town's informal and semi-formal settlements.

Key features of the social change model are 1) the dialectical relationships (i.e. the conflicts and tensions inherent in both the lateral and vertical relationships in the local system); 2) the ongoing processes of schism and solidarity; and 3) the transactional behaviour in terms of negotiations and deals related with land and land tenure within the community (Fourie 1993, Barry 1999). The model provides a framework for understanding the behaviour that was observed in the *Bortianor* community. (See Chapter 3 for detailed description).

This in essence is the conceptual framework through which the interactions, problems (Section 1.2) and changes in the customary land tenure system in the face of the statutory tenure system are analysed. In addition, this framework addresses the research objectives by explaining the underlying factors that lead to changes in the customary land tenure system.

1.5 RESEARCH METHODOLOGY

The objectives of this research are achieved through a literature review and the qualitative analysis of the case study.

The study of the literature provides a sound theoretical background on the customary and statutory tenure systems both in general and as specific to Accra, Ghana. It examines the features of the customary land tenure system and how it operates to meet high demand for land.

Case study is the primary strategy of inquiry in this study. This approach, according to Creswell (2007), can be used to explore one or more cases within a bounded system or setting. The methodology uses a number of data collection techniques and information sources, including but not limited to observations, interviews, documents, reports. (See Chapter 4 for details).

1.6 DATA COLLECTION

Unstructured and semi-structured interviews were the primary modes of data collection.

Secondary data collection accessed documentary data, such as court case reports; correspondence between government departments; correspondence between the customary authority and land administration authorities; maps; and newspaper reviews of the area.

In-depth interviews were conducted with three types of participants:

- A. Outsiders: These are people who live outside the research area. It includes families or individuals living outside the community who own land or rent a residential or commercial property in the area and/or who have substantial knowledge of the research area. It also includes those who have family relations / connections to the people living in the research area. In addition, this category includes but is not limited to academics, lawyers, private surveyors, land developers, investors, entrepreneurs, government officials in the various land related organizations (i.e. the Lands Commission Secretariat; Survey Department; Office of the Administrator of Stool Lands; Land Title Registration office; and officials from the Local Government Authority. On the whole, 22 people were interviewed under this category.

- B. Residents of *Bortianor*: This group comprises residents who own or occupy land in the study area. Residents of *Bortianor* consist of both indigenes who have lived in the study area from birth as well as strangers who migrated to the area. ‘Strangers’ in this research are defined as people not born to parents from the established family units in the community. (See Chapter 3 for description of family units in the

community). In total, 119 people were present during 32 individual interviews and group discussions with residents of *Bortianor*.

- C. Community Leaders: This group consists of community leaders such as chiefs, elders, town heads, and government officials in the community, as well as community organization leaders. Ten community leaders were interviewed during the fieldwork; they are not included in the sample of 119 in item B above.

Samples of unstructured interview questions for all three categories described above are attached in Appendix A. (See Table 5.1 in Section 5.2 for detailed breakdown of respondents interviewed during the study)

1.7 SCOPE AND LIMITATIONS

The focus of this study is to explain the land tenure administration, tenure security in *Bortianor* and generate a theory to facilitate understanding. It is biased by the author's education, training and experience in land surveying and GIS. Design and action falls outside the scope of this study. Even though the author provides some recommendations in his analysis, these are peripheral to the research purposes and objectives. The study looks at the phenomenon of land tenure administration at the micro level, employing aspects of social and political perspectives.

The study is limited geographically to the community of *Bortianor*, in the *Ga* South Municipality, where the predominant language spoken is *Ga*. Therefore, assertions made in this study may not necessarily be true for other peri-urban areas in the municipality.

A potential problem in the research is the generation of a theory based on information that may have been distorted by respondents to favour their assertions. This may be exacerbated

by language, since interviews were conducted in *Ga*, the local language. Ideally this whole thesis should be written in *Ga*, to maintain the originality of thought. When using English to explain non- English ideas, there is bound to be a distortion. While this cannot be avoided because of the need to interact with a wide readership, I have nonetheless incorporated in this thesis as many local concepts and ideas as possible. In this regard, it must be stated that the English renditions of these local concepts are mere approximations; they do not convey completely the thoughts in their native forms.

This is worsened by the lack of prior research conducted in this study area to serve as a literature resource. However, the lack of previous on the ground research in this area also means that participants were likely to be more candid in their responses to questions, as they had not been sensitised to them.

(See Section 3.3.1.7- discusses further potential biases and other limitations encountered in this study, as well as strategies used to alleviate these limitations)

1.8 RESEARCH SIGNIFICANCE

The research revealed that the interaction of customary and statutory tenure systems within weak state and the customary institutional and regulatory frameworks leads to a high rate of tenure insecurity, particularly for the vulnerable, who are most impacted by the dynamics that occur in the land tenure administration in the community.

In addition, this study provides insights and understanding of the underlying changes observed in *Bortianor* and similar peri-urban areas in Sub-Saharan Africa. The objective is that results from this study will provide insight and awareness to land tenure issues such as manipulation of customary rules, land grabbing, tenure security and more.

The research adds to the theoretical approaches used to study peri-urban problems. The study mainly uses Comaroff's dialectical framework to address the underlying causes and issues of land problems in peri-urban environments. Therefore the research looks beyond the technical and legal issues by employing aspects from the social and political perspective, especially local level politics.

In addition, analyzing the evolution and interactions between the customary and statutory land tenure systems reveals new insights into the dynamics of these two systems.

Besides, this study is one of the first of its kind to look at land tenure administration at the micro level in peri-urban Ghana, hence provides valuable insights that may inform the design of a strategy in future work for meeting land tenure and land administration requirements in peri-urban areas of Ghana. In anticipation, the information provided will not only serve as a good literature resource for future research but may also help facilitate means toward achieving equitable and fair access to land.

1.9 THESIS ORGANIZATION

Chapter 1 provides the introduction and background of the thesis which includes topics on the research problem, the questions and objectives of the study, the framework and methodology that are adopted, and the study's significance. The subsequent chapters are organized as follows: Chapter 2 explores the literature review of land tenure and land administration systems in Ghana (Accra). Chapter 3 focuses on the research context while Chapter 4 discusses the theoretical framework and methodology adopted, through which this study may be analysed. Chapter 5 provides data analysis of the field work while Chapter 6 looks at the application of the theoretical framework that was adopted. The thesis concludes with Chapter 7 on emerging themes, observations and theory generation, suggestions and recommendations for future work.

1.10 CHAPTER SUMMARY

This chapter introduced the main research issue/problem, and the research questions formulated in addressing the set objectives, in order to explain the evolving system of customary land administration. In addition, the research method, data collection processes and the conceptual framework adopted in this study are introduced. Lastly the structure of the contents in the thesis is outlined.

CHAPTER 2: LAND TENURE, LEGAL PROVISIONS AND LAND ADMINISTRATION

2.1 INTRODUCTION

This chapter discusses the land tenure and land administration systems in Ghana. In order to facilitate the explanation and understanding of organizational and operational aspects of land administration, this chapter also focuses on the legal and institutional framework for land administration across the country.

To start, the chapter gives the definition of land tenure and what constitutes the different categories of land in Ghana. It then follows with an overview of what causes changes in the land tenure system, and gives an insight into the history and organizational/institutional framework of land administration in Ghana.

2.2 LAND TENURE

Land tenure is a system which includes the means in which land is defined and held. It consists of a milieu of social and legal relationships that support and negate the holding and use of land by individuals or groups of people (Barry, 1999). This explanation is in harmony with the Ministry of Lands and Forestry - MLF (2003)'s description of land tenure in Ghana as: "the system of landholding, which evolves from the peculiar history, political and socio-economic circumstances, cultural norms, and religious practices of a people regarding land as a natural resource, its use and development" (MLF, 2003). A land tenure system is therefore the result of the historical, political, religious and socio-economic practices of a socio-cultural group relating to land. In line with this, Kasanga (1988) defines it as a system which comprises various rules, laws and obligations governing landholdings of rights and interests in land. Either of the above

described definitions captures the sense of obligations to the i) land itself or ii) to the past and future generations.

With their peculiar history of colonization, Ghana and most countries in Sub-Saharan Africa, have a dualistic - or, in some cases, multi-faceted - land tenure system that is a combination of statutory and customary land tenure systems. We might argue that customary systems have evolved and adapted some statutory processes in their operation. To fully comprehend the system of land tenure in Ghana, it is important to understand the different categories of land and how they are held.

2.3 CATEGORIES OF LANDS IN GHANA

‘Lands’ in the context of Ghanaian land law are broadly classified into public and customary lands. The Public Land comprises state and vested land. State land refers to land acquired by the state for a specific public purpose in the interest of the public by a legislative instrument. Vested land, on the other hand, is a unique case where the landowner retains customary land ownership but the state manages the land in trust of the owners. Customary land falls under the ‘stool,’ ‘skin,’ ‘clan’ and ‘family’ heads, all of which are characterized by communal ownership (MLF, 2003). These categories will be discussed in depth in this chapter.

2.3.1 Forms of Land Tenure systems

(a) Public Tenure

Public lands include any land acquired through statutes (*State Lands Act, 1962, (Act 125)*) for public purposes. Public lands are vested in the President in trust for the people of Ghana based on the applicable requirements of the *Administration of Lands Act, 1962*. They are managed by the Lands Commission and its secretariats as per the *Lands Commission Act, 1994, (Act 483)*.

With State/Public lands, prior interests are extinguished and compensation or replacement of comparable value is given to persons who previously held recognizable interests in such lands. In Accra, many lands that were formally customarily owned have been shifted into the “Vested land” tenure system which are administered under the *Administration of Stool Lands Act, 1962 (Act 123)* and the *Lands Commission Act, 2008 (Act 767)*. Amanor (1998) mentioned dysfunctional customary administration, as one of the reasons why the shift from customary lands to vested lands occurred. With vested lands, the legal (e.g. prosecution), financial (e.g. rent assessment, collection, disbursement) and estate running (e.g. physical planning and its enforcement and administration of the property) are managed by the State under its various public institutions (Amanor, 1998).

Public Institutions

The Lands Commission (LC), responsible for public land administration, was established after the 1969 Constitution, under the *Lands Commission Act 1971 (Act 362)*. It has its head office in Accra with a Regional Office in each of the ten regions responsible for local administration. LC duties include guiding the registration process, issuing certificates for registered lands and keeping stock of all government lands. Under the Lands Commission, there are various units that are responsible for specific roles. For instance, The Survey Department (SD) prepares base maps for the entire country, while The Land Valuation Board (LVB) provides the value of land and helps ascertain stamp and other rental charges. The Land Title Registry (LTR) ensures tenure security by issuing title to landowners or holders in the Kumasi-Accra-Tema areas (PNDCL 152, 1986). As per Section 2.7, there have been major revisions to the LC. Other departments under the Ministry of Land and Forestry collaborate with the LC in administering its duties. These include the Department of Town and Country Planning (DTCP), which prepares a master plan

for rural and urban land use patterns, and the Office of the Administrator of Stool Lands (OASL), which collects and disburses stool land revenue as required in Article 267 (2) of the 1992 constitution and the OASL Act 1994, Act 481 (MLF, 2003). (See Figure 2.4).

(b) Customary Land Tenure in Ghana

Two main approaches have been adapted by scholars in discussing land tenure in Ghana. The first approach as noted by Alhassan and Manuh (2005), views Ghana's land tenure system as concepts based on spirituality, social and communal solidarity, and indigenous culture (Busia, 1951). In other words, this approach sees Ghana's customary land tenure, deeply rooted in communal ownership. As observed by Bentsi-Enchil (1975), land is held to belong to the entire community, the village, or family and not to an individual. Traditional authorities (chief, head of family, clan or fetish priests) act as trustees of the customary land for the benefit of members of that group (Kuntu-Mensah, 1997). Article 267 (1) of the 1992 Constitution states "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".

The second approach perceives Ghana's customary land tenure system as evolving and dynamic in nature. This approach according to Alhassan and Manuh (2005), argues that, as land becomes scarce due to influx of population, land tenure systems evolve by ensuring continuously defined property rights. For instance, a move from community rights to land, to family rights, and down to household and individual rights to land. In addition, the infiltration of capital land use on the entire country has provided a momentum to the adaptation to change of the traditional/communal land tenure system (Alhassan and Manuh, 2005).

Land Acquisition and Use Rights among Indigenous and Non-indigenous people

As mentioned earlier, Ghana's customary land arrangements are entrenched in communal holding. Membership of the landowning group/family entitles one to have rights to the customary land (Bentsi-Enchil, 1975). Any member of the community who first cultivates/clears part of unoccupied land/ or virgin forest establishes his/her right over that portion of land, which they could transfer to others including non-indigenes. A member of land owning group is entitled to use the land as long as it was actively kept under cultivation (i.e. croplands and fallow fields). Even though such land could be given out as a gift, they stayed as a communal property and could not be permanently estranged without the consent of the traditional authorities (Ninsin, 1989; Quarcoopome, 1992).

Non-indigenes (migrants) acquire portions of customary lands by going through a number of customary procedures. For a migrant to acquire land, he/she introduces himself to the chief or family head, and makes a request for a piece of the community or family land. In the *Ga* traditional area, the migrant would normally pay a consideration fee or 'drink money', if the request for farmland is granted. Other forms of land acquisition in customary areas are through marriage, gift, inheritance, and outright purchase (Aidoo, 1990). These transactions were made orally and no written documents existed to back claims of interest/ownership (Amanor, 2001).

In many rural areas in Ghana, sharecropping is common. The operation of the sharecropping system comes in two main ways: (as *abunu* or *abusa* - Akan) where land is offered for cultivation, after which the proceeds of the farm is shared between the landowner and the tenant. Under the system of *abusa*, the proceeds from the land is shared in a ratio of 1:2 between the landlord and the tenant; in the case of *abunu*, the farmland is divided in two, and both the landowner and the tenant take equal shares of the harvested land (Amanor, 2001)

2.4 HISTORY OF LAND ADMINISTRATION IN GHANA

Before colonialism, land tenure management in Sub-Saharan Africa was based on individual or collective holdings of land which were held and controlled by family heads or chiefs for the benefit of a community or a family (Aidoo, 1996). However, colonialism introduced a dual system where land management principles were changed to reflect policies of British conveyancing systems (Larbi, 1995). As a result, land management in Africa became a complex system moulded by both customary and British laws.

In post-colonial Africa, both indigenous and European land systems operated in parallel to each other, but there was significant rise in lands placed under the State tenure system. In fact, some scholars have argued that the State system took root in many African countries because migrant Africans, who fled the plantations in rural areas for greater economic opportunities in the cities, were allowed only limited access to participate in the free market economy in lands (Mabogunje, 1992). As a result, more lands, especially in the cities, were controlled by the State. Even after independence in many African countries, land tenure management was placed under the state's jurisdiction which limited Africans' ability to acquire legal title to land either for state development or private investments (Amanor, 1998). Consequently, in the 1960s and 1970s, there was a major focus on land policies in Africa which involved the formation of state institutions to implement formal land registration and titling (Amanor, 1998).

Nonetheless, it is important to note that majority of African lands were still under the customary system and in fact were controlled by lineages. For instance, patrilineal lands which were operated mostly by companies for oil palm and cocoa plantations were structured so that portions were assigned to each group member comparative to his/her contribution. Family lands, which comprised of small groups of matrilineal relatives, were controlled by a family head or

leader. In both situations, individual rights to land were recognized when one had cleared and cultivated a piece of the land (Hill, 1970; Kuntu-Mensah, 1997).

Since the early part of the 20th Century, succeeding governments in Ghana, including the colonial administration, as mentioned above, have sought to exert state control and management over lands in Ghana (LAPU, 2004). Laws which delegated managerial, expropriation and fiduciary powers of customary land to the state were passed to give the state sweeping control on lands and land use. Historically, the *Land and Native Acts Rights Ordinance of 1927*, enacted by the British government, declared all lands to be publicly owned. Therefore, lands were administered by appointed colonial governors and paramount chiefs respectively. As a result, a village chief's authority over lands in his community was limited.

Since 1992, the *Constitution of Ghana* has recognised two separate tenurial systems; the public and the customary (Aidoo, 1996). Although the state tenure system has become somewhat of a 'watchdog' over land management, the majority of the lands are vested and controlled by the communal tenure system. About 80% of the land in Ghana is held under communal ownership whereas 20% is under state management (Antwi and Adams, 2003).

In Accra, land tenure was and is partially based on the customary system, based on ancestral transfer of ownership (Acquaye, 1972). For instance, the Ga people who are the largest ethnic group in Accra believe that the land is owned by the lagoon gods and therefore its tenure is administered by the "Wulomei", the fetish priests of the lagoon gods (Acquaye, 1972). Since land ownership in Accra is based on religious and ancestral inheritance, the priest and "land elders" sometimes determine the administration and usage of the lands. As recounted by Asante (1975), the received conception of land ownership transcends the material realm to something more consistent with the spiritual order, with attendant sanctions and practices. For instance, land is believed to bind families together from all generations and has certain rituals performed on it

to grant fertility and progress (Kludze, 1975). Nonetheless, this type of tenure in Accra has gradually been marginalized and commoditised due to increased urbanisation and the related effects of industrialization and the introduction of the Public tenure system (Asiamah, 1983).

2.5 URBANISATION IN ACCRA

Accra has developed from a small fishing village in the 16th century into Ghana's economic and political centre (Gough and Yankson 2000). It has become one of the fastest-growing cities in West Africa with a population of 1.67 million in 2000 and expected growth of 3.04 million by 2020 (UNCHS, 2008). With the advance of urbanisation, lands which, pursuant to government policy, were officially preserved for future development are handled as commodities and sold to individuals and groups without regard to previous restrictions. Massive expansion in Accra, as influenced by liberalized financial markets both within the country and across the globe, has enabled many Ghanaians to acquire funds to purchase lands and to build houses. As a result, the majority of agricultural lands have been converted to residential developments as land in the cities and their respective peripheral areas face significant pressures to adapt to these changes (ISSER 2008). In addition, the establishment of corporate and institutional developments such as schools, hotel resorts and factories, further threatens the existence of these agricultural lands (Owusu, 2008).

Allen, et. al. (1999) argue that development of a peri-urban area is an inevitable consequence of urbanisation. As urbanisation extends to peri-urban areas, the desire to own land for business and/or residential purposes is a factor contributing to peri-urban migration from nearby cities. Such a move is desirable as a means of avoiding the high rents in the city, and is perceived as an elevation of one's social status. The high influx of population and the boom in building developments in the city turn effectively compound the overflow into its

peripheral areas (Pandey, 2010). Kasanga and Kotey (2001) have reported that land sales and other dealings have increased in these areas and, in some cases, led to the eviction of the population of entire settlements. Consequently, land which seemed inexhaustible in the past is now in short supply. It follows that the poor with the fewest livelihood assets become vulnerable with these changes.

With high demand for this limited commodity, there is a high volume of disputes and litigation surrounding land ownership and distribution. Issues around land management spring from encroachments, multiple sales, and multiple claims of ownership, questions of the seller's capacity to transfer land, and indeterminate boundaries among several others.

2.6 DISPUTE RESOLUTION MECHANISMS

There are two main resolution mechanisms that are used to settle disputes:

- (i) disputes resolved by chiefs, and family heads/elders;
- (ii) the law courts

2.6.1 Traditional dispute resolution mechanisms

As shown from figure 2.1, there are different levels of resolving land disputes; from the household (Level 1), through the community (Level 2), to the paramount chief (Level 4) if necessary. Issues or disputes commonly settled at level 1 include share cropping arrangements between land users/ owners. If it cannot be solved at level 2 (i.e. family heads), it is sent to level 3 (i.e. the chief). Based on the context and related issues, the case might be sent all the way to level 4 (i.e. Paramount Chief) or the law courts (Alhassan and Manuh, 2005). According to Alhassan and Manuh (2005), cases that utilize traditional dispute mechanisms are cost effective, faster to settle, and no clear loser and winner as compared to the law court. Therefore, most

people prefer traditional systems over the law courts. Nonetheless, cases involving large land disputes normally end up in the law courts.

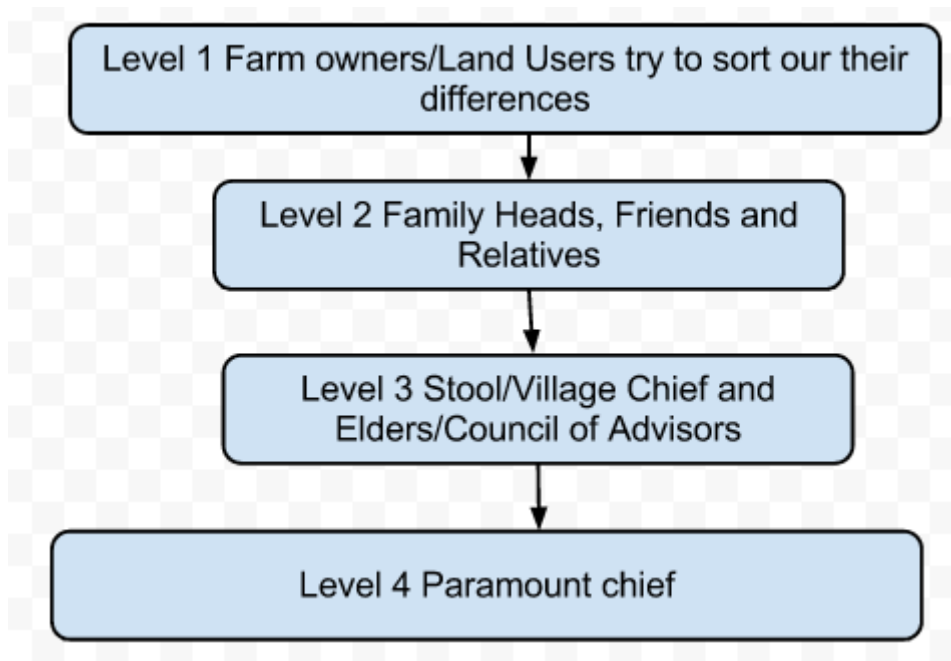


Figure 2.1 Customary/Traditional Dispute Resolution Structures (after Alhassan &Manuh, 2005)

2.6.2 Court System

The role of the court is vital to the land management system in terms of the authoritative determination of land disputes (Kasanga and Kotey, 2001). Nationally, land cases make up more than 80% of all new cases in court annually and about 50% of all new civil cases filed (Crook, 2005). However, the Ghanaian court system is faced with poor case management and case resolution caused by backlogs, an antiquated system of trial and procedure, and the prevalence of bribery and corruption among others (Kasanga and Kotey, 2001). According to the Daily Graphic, 60,000 land related cases are undecided before the various courts that would take an average of approximately between 5-6 years to be determined (Daily Graphic, November 15,

2001). Justice Wood (2002) acknowledged the administration's concern over the inordinate time frame involved in processing and ruling land cases. The result of this lengthy process leads to loss of time and resources for the applicant and an ineffectual judicial system.

With the outpouring of land cases and ever-present land disputes and litigation, Alternative Dispute Resolution (ADR) mechanisms which involve chiefs and conflicting parties have been introduced to complement but not supplant the court's role in resolving disputes. This is known as out of court settlement. Its spectrum as discussed by Okludzeto (1994) ranges from processes where the parties in dispute do not control the outcome (arbitration) to processes where the parties bear the full responsibility for resolution and a facilitator guides the process (mediation); other alternatives include negotiation, partnering, and conciliation. The conflicting parties after resolving their differences append their signatures to a document which is submitted to a state court for further actions. These (ADR) mechanisms accelerate the processes for resolving conflict either by the state court or the traditional authority (Okludzeto, 1994).

2.7 LAND ADMINISTRATION IN GHANA

Land Administration encompasses the administration of elements such as land tenure systems, land policy, and natural resources among others, which function to administer land and also serve a number of broad social, economic, environmental and political objectives (Barry, 1999:60). Figure 2.2 depicts the various elements that comprise the administration of land as per by Barry (1999).

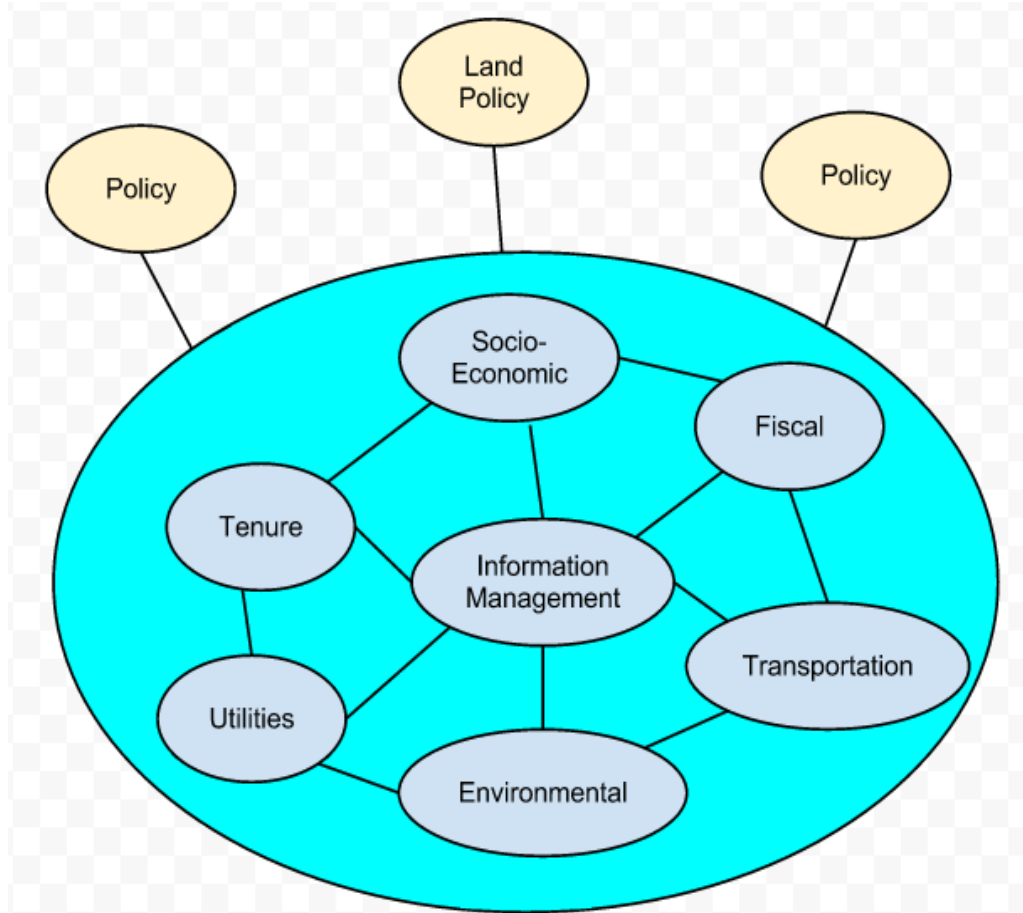


Figure 2.2 Land Administration (after Barry, 1999)

In October 2003, with support from the World Bank and a number of bilateral donors, the Government of Ghana launched the Land Administration Project (LAP), a reform with the objective of ensuring tenure security, and streamlining the procedures and processes involved in land acquisition, land titling and registration (World Bank, 2001). The LAP aims to support and improve the customary land administration through the establishment of Customary Land Secretariats (CLS) in some 50 areas in Ghana. This approach was adopted under the (LAP) to regulate customary land in a way that facilitates the objectives of tenure security and fairness.

Within (CLS)’s mandate was the provision of accurate land records; ensure accessibility to local communities; reduce land-related disputes and conflicts; and to clarify and facilitate awareness of land use rights especially among the vulnerable and poor (Arko-Adjei, 2011).

Prior to the 2008 reform, the generic functions shown in Figure 2.3 were given effect in the Ghanaian administration in the form of several key agencies. These include the Lands Commission, Land Valuation Board, Land Title Registry, Survey Department, Department of Town and Country Planning, and the Office of Administrator of Stool Lands (OASL). (See Section 2.3.1 (a) for their respective duties).

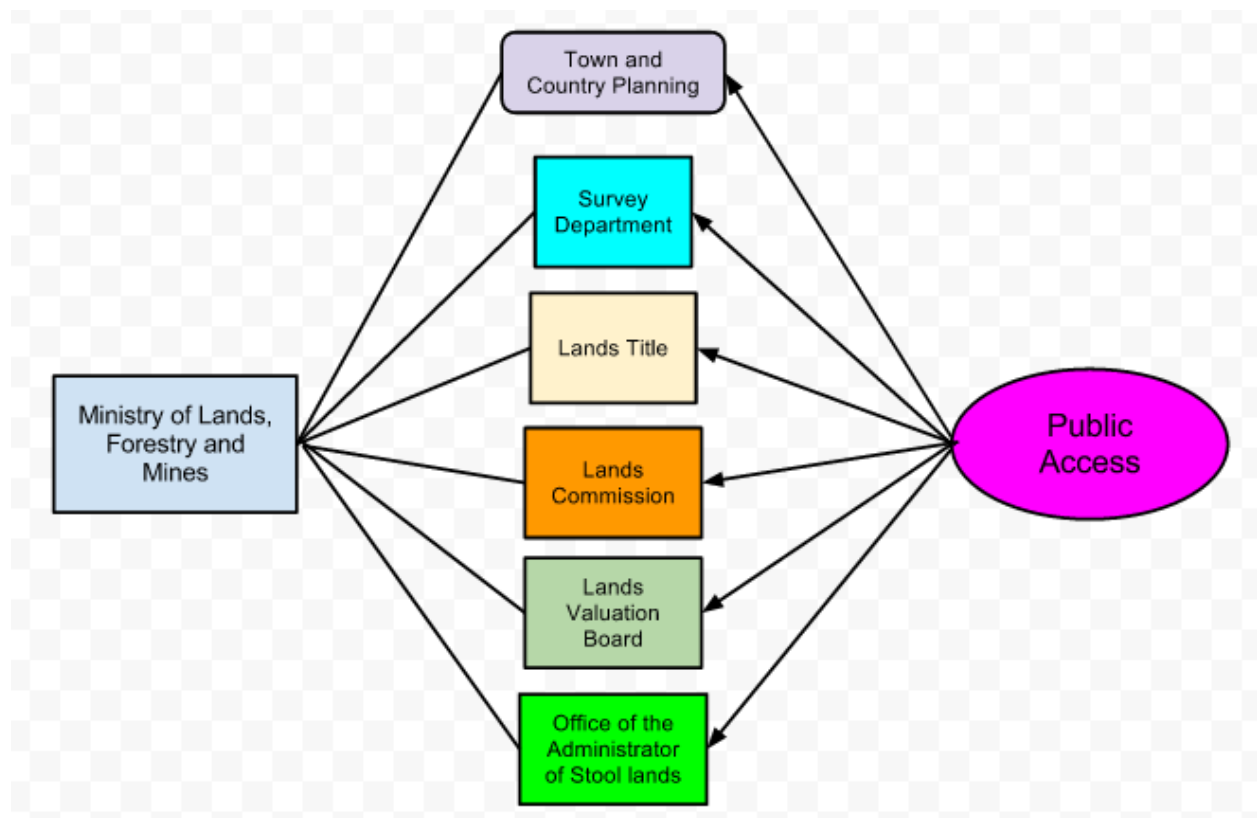


Figure 2.3 Prior to Reform –Land Administration Organizational Chart

In 2008, the government established the new Lands Commission which combines the six land institutions as shown in Figure 2.4 into one to streamline the process and procedures of land

administration and provide a “one-stop-shop” for land matters. As the sole agency mandated by the government to manage lands, the Lands Commission is supported by the OASL and the Town and Country Planning Department, under the Ministry of Lands and Forestry.

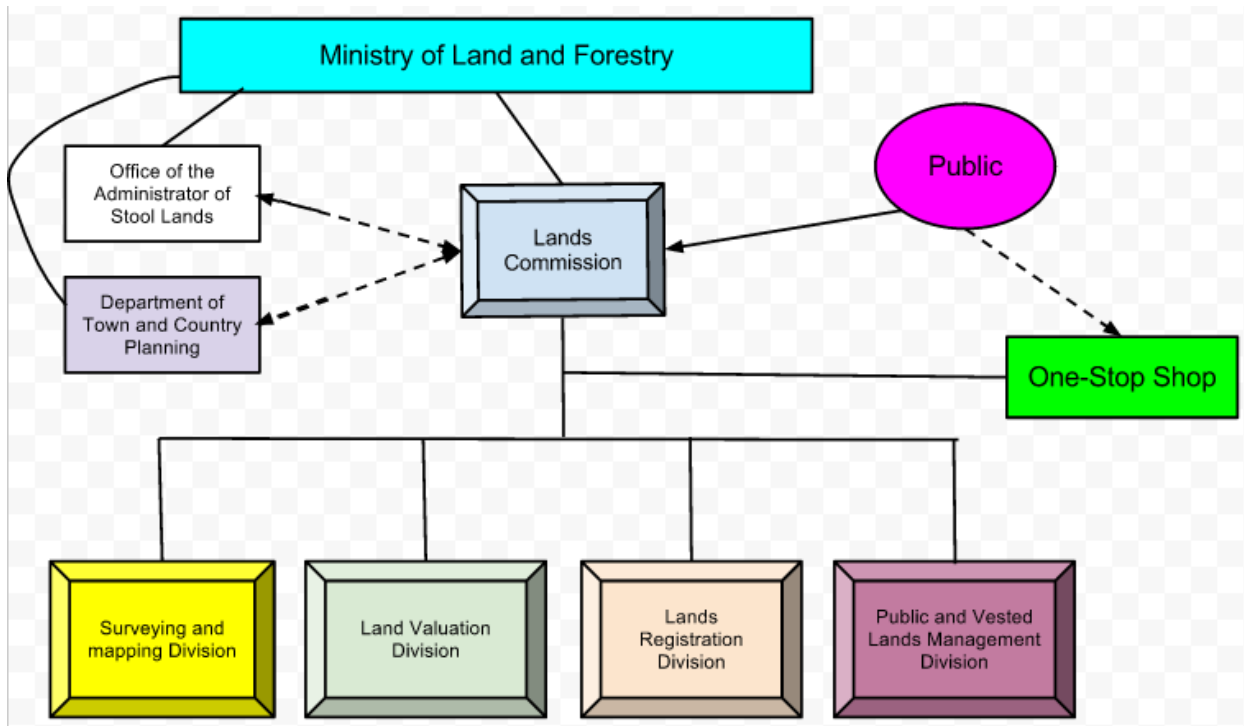


Figure 2.4 Post-Reform Land Administration Organizational Chart (after LAP, 2008)

The New Lands Commission shown above comprises of four divisions: The Public and Vested Lands Management Division facilitates the acquisition of land for Government; Land Valuation Division assesses/determines the compensation payable on Government acquired lands and the value of purchased, rented or sold properties. The Land Registration Division is responsible for all land related registration and the publication of registered lands. Lastly, the Survey and Mapping Division supervise, regulate and control the survey and demarcation of land and survey, map and maintain the national territorial boundaries (Ghanalap, 2008).

2.8 CHIEFTAINCY AND LOCAL GOVERNMENT

As mentioned in Section 2.2.1, customary land institutions in Ghana comprise a range of actors and structures including families, clans, stools, and skins. Regardless of the influence accorded to these subordinate forms in a given locale, the chiefs' authority as custodians of the land in general is widely acknowledged. A nationwide survey conducted by Land Policy Reform in Ghana (LPRG) showed that the majority of land in many areas was owned by the chief in trust for the community. The survey also found that about 86% of the respondents wanted the chiefs to be owners/trustees of land to regulate land matters, fix land prices or to have authority to register land transactions (Anyidoho et. al, 2008).

Furthermore, chiefs are perhaps the most eminent figure of the Ghanaian customary authority structure. Odotei and Awedoba (2006) assert the central role of the institution of chieftaincy as the medium for the expression of social, political, religious and economic authority and, thus, the agency of chiefs as drivers of change in the process of development. This in effect makes the chieftaincy institution essential when dealing with land reforms.

However, in the Greater Accra region, chieftaincy institutions have characteristics that are dissimilar to the other nine regions of the country. It is faced with a decline in authority and legitimacy as the government assumes a more prominent role in the administration of the nation's governmental and symbolic centre (Anyidoho et. al, 2008). In spite of the enormous government authority and control, chieftaincy institutions are still resilient, as witnessed by the inauguration of the national and regional houses of chiefs across the country. The chiefs still have political and social influence because of their fiduciary obligations such as holding lands in trust for past, present and future generations, overseeing grants of customary lands, and disbursement of gains made on land (Odotei and Awedoba, 2006). As a result of the gains made on land, there is a gradual shift by many chiefs from acting as custodians in trust of the people to becoming

owners of land. Hence land has become a vital asset to negotiate power, eminence, and wealth (Odotei and Awedoba, 2006).

2.9 CHAPTER SUMMARY

The chapter has given an overview of the framework of the land administration, organizational structures and legal provisions for landholding in Ghana. It shows that Ghana has a broad institutional and legal framework for land administration that recognises and accommodates customary tenure. Its orientation however still follows colonial models which have, in themselves, influenced the form and operation of pre-existing customary land management.

The chapter provides a foundation for understanding how urbanization and population growth have influenced the land administration laws and people's behaviour patterns in terms of land purchases and sales. In doing this, the chapter provides the necessary tools to facilitate the explanation and understanding of the operation of the land administration system in Ghana. This chapter sets the corner stone in understanding the land tenure system of the study area in order to address the research questions effectively.

CHAPTER 3: THEORETICAL FRAMEWORK AND RESEARCH METHOD

3.1 INTRODUCTION

This chapter introduces the theoretical framework and the methodological approach to this study. It is divided into two parts; firstly, introduction of the theoretical framework that is applied in Chapter 6 to aid understanding of the underlying factors causing changes in the land tenure system in *Bortianor*; and secondly, the research method is discussed.

3.2 THEORETICAL FRAMEWORK

The main theoretical framework used in understanding the land tenure relations in *Bortianor* is based on Comaroff's (1982) dialectical framework of analyzing local systems. The framework was used by Fourie (1993) to develop the social change model, which explains the radical historical transformation in Mgaga's system of Zulu land tenure. Barry (1999) also drew from the social change model, to describe the dynamics in Cape Town's informal and semi-formal settlements to provide a framework to understand the patterns of behaviour that were observed in Xhosa-speaking settlements in Cape Town.

The section below gives a brief outline of Comaroff's (1982) dialectical framework; also presented are Fourie's (1993) and Barry's (1999) works on the social change model, as adopted to understand the phenomenon of land tenure and the dialectical forces at play in *Bortianor*.

3.2.1 Comaroff's Conceptual Framework

In his work on Dialectical Systems, Comaroff constructs a conceptual framework that he terms a "theoretically-principled historical anthropology". He used this framework to observe and understand the process of interaction involved in the dialectic of articulation between a local system and its surrounding contexts. Dialectic in this context refers to the tension between individuals and groups in a community flowing from simultaneous dependency and competition.

In addition, Comaroff warns of the dangers involved in predicting units of analysis based solely on either centrist perspectives, or on indigenous ideas of community structures. He asserts that the analysis of all local systems starts with the "recognition and understanding that the construction and transformation of such systems are affected by an ongoing dialectic/tension between internal forms and external forces" (Comaroff, 1982). This means that the constitution of any community, especially of the local unit, is influenced and dependent on its lateral relations with other communities and its vertical linkages to outside influences (see Chapter 6).

Comaroff attests that the local system must be seen as an internal dialectic made up of a number of contradictory principles, where these contradictory principles shape local level behaviour; i.e. they influence the way the institutional rules (such as land tenure rules) manifest themselves. For instance, pertaining to the Barolong study, Comaroff argues that endogamous marriages among matrilineal kin results in multiple agnatic bonds which results in various irreconcilable expectations between agnates and matrilineal kin (Comaroff, 1982:150). In addition, the "contradictory principle" according to Comaroff is not only limited to marriage but it trickles down to the society at large. For instance, the "process of class formation" and a new centralised "political order" emerged as a result of internal dialectics (Comaroff, 1982:168).

Comaroff further analyzed the history of the Botswana region where the Barolong people are located and the sub-continental external factors of the political economy of the area. He

showed that the external forces also affect the internal dialectics existing in the community. Furthermore, he stresses that these external forces comprise colonialism and capitalism, which render the internal forms of a local community inert, and deny community members any active part in the dialectics of their own history. The interplay of the internal and external forces, also referred to as dialectic of articulation, leads to different levels of changes in the system (Comaroff, 1982).

3.2.1.1 Social Change Model

Fourie (1993) drew on Comaroff's approach, as introduced in the above section, to develop a model of social change, which explains the radical historical transformation in Mgaga's system of Zulu land tenure. In Mgaga an informal settlement had developed on customary land. Fourie first identified the factors in the wider society, which caused behavioural changes in Mgaga (study area) at both national and regional scales. This could be referred to as the external dialectic as argued by Comaroff, which influences the study area.

In addition, Fourie used the dialectical approach to identify contradictory principles within the Zulu society in order to hypothesize an internal dialectic centred on fission and integration for the Zulu social organization (Fourie, 2001); fission being the process of splitting away from a common unit; and integration being the process of coalition formation among groups (Fourie, 1993). In this regard, she affirms Comaroff's approach as vital and employs it to examine the link between the internal dialectics or forces in the local system and the ongoing alterations and manipulations of the land tenure rules, which create an opportunity for transactional and entrepreneurial behaviour in the Zulu social structure.

Barry (1999) also concurs with the above theoretical frameworks and processes the social change model through the filter of Soft Systems Theory to describe the dynamics in Cape Town's informal and semi-formal settlements. He uses this model as the main instrument to provide a framework in which to understand the observed behaviour in Xhosa-speaking settlements in Cape Town. His work supports Fourie's (1993) and Davies (1998) thesis which holds that land tenure and land administration are dynamic and are subject to manipulation by groups competing for land, power, status and resources which creates conflicts. These conflicts and competitions, according to Barry (1999), lead to the rules governing land tenure being subject to changes pursuant to the wishes of the dominant group. Moreover, he clearly demonstrates the existence of continual conflict inherent in social relationships between individuals, groups and sub-groups within a settlement and also between the external actors.

In discussing the social change model, Barry (1999) makes reference to a set of features which capture the processes involved in understanding the informal and semi- informal settlements to include the following: 1) the dialectical approach (conflicts or structural tension inherent in a system); 2) the ongoing schism and coalition formation/solidarity processes in a system; and 3) transactional or entrepreneurial, opportunistic behaviour observed in his study.

This study draws from the theoretical frameworks introduced by the above authors, through which the dialectics, conditions and interrelations between the macro (external forces) and micro (internal forces) in *Bortianor* may be analyzed (see Chapter 6).

3.3 METHODOLOGY

This study consists of qualitative research, approached inductively using a case study strategy of inquiry. Yin (2009) explains case study as an approach, which examines a contemporary phenomenon within its real- life context. According to Yin, the distinctive need for case studies emerges out of the yearning to comprehend complex social phenomena. This is because, “the case study method allows researchers to retain the holistic and meaningful aspects of real- life events” Yin (2003:2).

Creswell (2007:23) also describes case study as research methodology that involves the study of an issue explored through one or more cases within a bounded setting or context over time through detailed, in-depth data collection through multiple sources of information such as interviews, observations, documents, and so forth.

Case study methodology was employed due to its ability to obtain details about selected issues; develop an in-depth description and analysis of this study; and also provide an in-depth understanding of the changes observed in the land tenure system in *Bortianor*. Furthermore, this methodology helps to explore the dialectic of articulation between the macro/external factors and micro/internal dialectics as introduced in Section 4.1 to aid understanding of the power dimensions, processes and means engaged in by the various actors with regard to land holding; to address the primary objective of this study as stated in Chapter 1.

Key characteristics of case study methodology that are applicable to this research can be summarized as follows (Benbasat et al. 1987:371):

- Phenomenon is examined in its natural setting; the focus is on contemporary events
- Data are collected by various means;
- Examine one or multiple entities (individual, group, or organization);

- No experimental influence or manipulation is involved;
- The research addresses ‘why’ and ‘how’ questions rather than frequency or incidence.

This study is intended to identify the roles and interests of both the public and private sectors in the customary and state land tenure systems through the case study method. In this regard, the data collection processes, sampling and data analysis techniques employed during the fieldwork are briefly discussed below.

3.3.1 Data Collection Processes

According to Creswell, data collection provides one more chance for assessing research design within an approach to inquiry. In light of this, Creswell’s data collection circle as shown in Figure 3.1 was followed, involving a sequence of interrelated events, aimed at assessing information to answer the research questions (Creswell, 2007: 118). I discuss some of the processes applied to my study below:

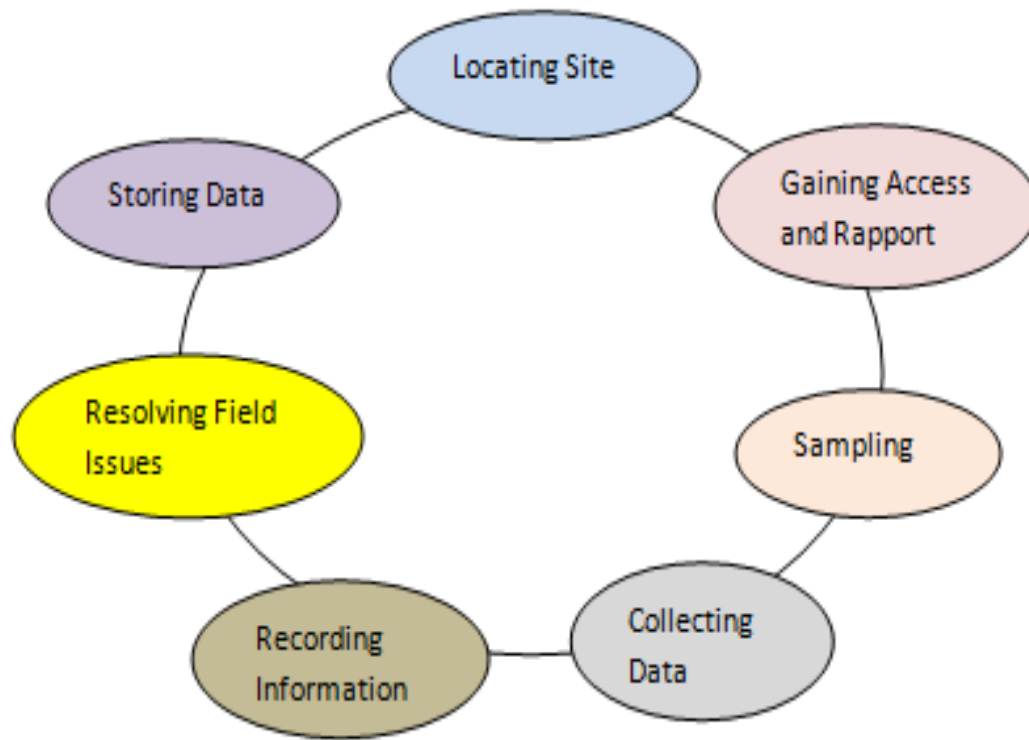


Figure 3.1 Data collection Activities (after Creswell, 2007)

3.3.1.1 Study area Selection

Bortianor is an area with high demand for land, experiencing a population increase as a result of rural-urban migration and urbanization. In the past, apart from the indigenous settlements, all other land in this area was used mainly for agricultural purposes. Recent developments (i.e. growth in population and urbanization) have caused use of these lands to be diversified into commercial and residential purposes. *Bortianor*'s proximity to Accra, the nation's capital and most populous city, along with rural-urban migration, imposes population overspill effects from Accra. Owusu (2008) submits that in peri-urban Accra, this causes changes that may well lead to high land tenure insecurity and alternation of the traditional social and economic landscape.

Few, if any, studies have been done in *Bortianor*, which has distinct conditions with respect to its location (close to the beach and capital city), high tenure insecurity and ongoing chieftaincy contestation. In this regard, it provides a compelling scenario for a study of the dynamics of the peri-urban environment.

3.3.1.2 Gaining Access and Establishing Rapport

Drawing on Creswell (2009), gaining access to a study area and research participants involves several procedures which are essential, regardless of the strategy of inquiry used. To obtain permission from the community, the researcher's family contacts with people in *Bortianor* were engaged in scoping the area for the intended study and connecting with community leaders for meetings. Key actors were informed of the nature of the study and its significance, which eased the tensions that could have otherwise been faced during fieldwork. The sample of participants outside *Bortianor*, which included *inter alia* land officials, lawyers and academics, were informed of the proposed study through emails and telephone calls, with the help of the research supervisor.

To promote cordiality between the researcher and the various participants, field activities were designed to give an opportunity for the participants to opt out or ignore questions they felt uncomfortable with at any point during the interviews. Most of the questions were open-ended, which engaged the participant, and were typically asked of each participant in an organized and consistent order. With regard to research design, the interviewers (supervisor and researcher) were allowed the freedom to digress; that is, the interviewers were allowed (in fact expected) to probe beyond the answers to their standardized questions (Berg, 1998: 61). Furthermore, the issue of confidentiality and trust was addressed by protecting participants' identity and seeking

their consent as to how they wished to be identified in any reports (see Appendix A for sample questions presented to participants).

3.3.1.3 Sampling

Sampling in the broad sense can be defined as the manner in which a selection is made from the basic unit under study. In other words, sampling in field research involves selection of study area, time, people and events (Burgess, 1982:75).

With regard to the selection of respondents, Creswell (2007: 127) describes snowball sampling, in which participants introduce the researcher to other members of their group who know what cases are informative and meaningful for the researcher's objective. This technique was used in the field studies which capitalised on participants' ability to recommend useful potential candidates for study; especially people who have in any form suffered from land loss or have been involved in land issues.

So as not to skew the sample, the corps of interviewees included members of all the major family units. During interpretation of the data, it was important to consider, as equally valid, data from those participants who support emerging explanations (i.e. common reasons for chieftaincy dispute, land guard attacks, etc.) and, just as importantly, subjects who disagree (confirming and disconfirming samples).

Sampling of interviewees was representative of gender consisting of both men and women, individuals of various ages, individuals from different families as well as individuals of different socio-economic status. This technique was employed in order to ascertain whether or not such diversity would contradict or confirm affirmations in the landholding situations in the different individuals.

3.3.1.4 Collecting Data (Data Forms and Respondents)

Stake (1995) and Yin (1994) identified different sources of data that should be considered in case studies. The following are the main sources identified, which should be informed by sources reflected from the actual research in each particular setting (Tellis, 1997):

- Interview
- Documents
- Archival records
- Direct observation
- Participant-observation
- Physical artifacts

As noted in Chapter 1, the research objectives and related questions demanded a data collection approach that employs varied methods, especially for data verification. Keeping in mind the research goals, time constraints and other limitations, the list of selected data include the review of relevant literature published on Ghana's land tenure to grasp the context and gaps to be addressed in the research; data collected through interviews with land officials and professionals, official documents and newspaper reports, law reports and historical narration from some elders of *Bortianor*. In-depth interviews were arranged with participants, classified under three main streams:

- Outsiders: These are people who live outside the research area. It includes families or individuals living outside the community who own land or rent a residential/commercial property in the area and/or have substantial knowledge of the research area. They include but are not limited to academics, lawyers,

surveyors, government officials (e.g. at the Lands Commission Secretariat, Survey Department, Office of the Administrator of Stool Lands, Land Title Registration office, Town and Country Planning and officials from the Local Government Authority, Land and Property Fraud Unit of the Police Criminal Investigations Department)

- Residents of *Bortianor*: This group consisted of residents who own or occupy land in the study area. The bulk of participants for the study in this category consist of both indigenes that have lived in the study area from birth as well as strangers/ outsiders who have migrated to the area.
- Community Leaders: This group comprised community leaders such as chiefs, elders, town heads, government officials in the community, community organization leaders and Assemblyman.

(Samples of structured and unstructured interview questions for all three categories described above are attached at Appendix A).

In addition to the above, artifacts including indentures (deeds) which we photographed in the field, court case records, icons (e.g. shrine, river), and the ‘palace’, were collected to aid in explaining and also fostering understanding of the phenomena studied (see Appendix E).

3.3.1.5 Recording Information

As required pursuant to the university's ethical protocol, permission was sought from participants before using both field notes and electronic gadgets such as cameras and voice recorders to record information. In order to get such approval, participants were given an explanation of how these devices would aid in improving the process of data interpretation and presentation. The option to grant or decline this request was well noted in the consent forms and strictly adhered to. In an instance where a participant declined this request, we immediately discontinued use of the recording device (Interview 5-2011).

3.3.1.6 Data Analysis

Data analysis is a vital stage of a study as it provides a foundation for drawing conclusions and recommendations. To do this, data were grouped according to source (i.e., interviews, maps and photographs, court cases and law reports, literature documents, and newspaper clippings).

Interview data were grouped further according to the respondents, with pictures related with each participant pasted on their respective transcribed document.

Voice recordings and field notes were transcribed at the end of each fieldwork day. The transcribed data were thoroughly read to identify matching patterns and constructs with regard to the research objectives and questions. The analysis relied on all relevant evidence and also included rival views and interpretations. The important aspects of the case study were addressed to ensure that the research objective was fulfilled; unrelated information presented during data collection was discarded. In addition, the researcher's prior knowledge and experience was brought to bear where required to further the analysis, giving due care to avoid imposing undue bias (Yin, 1994). Finally, the data were presented using narrative, tables and figures.

3.3.1.7 Validation Issues and Strategies

Validity assurance in qualitative research is the process of assessing the accuracy of findings, as best described by the research and the participants (Creswell, 2007). However, there are no straightforward tests for ensuring that qualitative research is reliable and valid, which nevertheless do not mean that there are no guidelines (Patton, 2001). Two key validity issues were identified that may have influenced my research. They are discussed briefly below.

A. Validity Issues

(i) Researchers Biases

The reliability and accuracy of a study depends on the correctness of issues presented by the respondents as well as the researcher's accurate interpretation of the information presented (Maxwell, 1992). Efforts were made to minimize, if not eliminate entirely, the effects of the researcher's preconceived notions and possible biases; these include his preconceptions about the nature of the land tenure system, his educational background as a Geomatics engineer (Surveyor), and his local knowledge of how things work in the study.

(ii) Misleading Impression

Because this study relies on human participants as its major component, it is, hence, subject to distorted impressions being presented to the researcher. It appeared that some residents either exaggerated or distorted stories to win favour or to position their perspective in some light to win the researcher to their side. Also, some community leaders either created good images or distorted certain information which did not tally with what appeared to be being practiced on the

ground. Certain responses could be classified as ‘what you want to hear’ or ‘what is good/right thing to do’, instead of what really occurs.

B. Validity Strategies

Creswell (2007) explains strategies employed by most researchers’ from which the following were adopted; selected strategies are discussed below in an attempt to address the issues raised in sub-section (A) above:

(i) Triangulation

The application of various research strategies and theories increases the depth of understanding that a study can yield (Berg, 1998: 6). Triangulation was employed between data sources to increase the reliability and validity of findings, as well as to increase the depth of understanding of this study.

Multiple sources of data such as interviews, observations, document analysis and so forth were used to assist in cross-checking information gathered from participants in order to draw and bolster conclusions.

In doing this, interview data were crosschecked with other factions/groups in the community and outside, to obtain or confirm different perspectives about the same or similar issues and also triangulated with observations and documents. For instance, historical myths about foundations of *Bortianor* and land tenure practices presented by community leaders were crosschecked with other members and different factions in the community. By so doing, the possibility of obtaining misleading impressions or false claims in the data interpretation stage is reduced.

(ii) Prolonged Engagement

This strategy calls for the researcher to stay in the field over an extended period (years) to build trust and be able to understand the day to day activities in order to check misinformation (Creswell & Miller, 2000). This was not necessary since the researcher is a Ghanaian who had lived in Accra and had “local knowledge” of the happenings in the study area. Therefore, it was not necessary to prolong the duration of fieldwork in order to understand the existing culture of the study area. Even though this might pose some form of weakness in the research method, triangulation and key informant strategies were utilized to bridge any anticipated weaknesses.

(iii) Rich-thick description

Rich-thick description was implemented in this research by covering a varied range of participants which helped present findings in a clear and concise manner (Creswell, 2007). In-depth descriptions of research context and deep underlying meanings of events were constructed (see Chapter 5). Besides, it is recognised that the rich picture diagram (as shown in Appendix G) can also be a suitable alternative to a textual description of a problem situation. Thus help increase an appreciation of the problem situation, to provide a good view of the overall environment for the existing system (Darzentas & Spyrou, 1994).

3.4 CHAPTER SUMMARY

This chapter included a discussion of the theoretical frameworks through which the study was designed as well as the qualitative methods that were used to collect the data for the case study fieldwork. This chapter has demonstrated that much consideration was given concerning the appropriateness and effectiveness of the methods employed to collect the data. It was important to complete this planning prior to conducting the fieldwork in order to be certain that the case study findings were both reliable and valid. The following chapter will present and discuss these findings.

CHAPTER 4: DESCRIPTION OF CASE STUDY

4.1 INTRODUCTION

This chapter provides a description of the social organization of the peri-urban area where this study was located. Such information is vital to a general understanding of the behaviour patterns of members of the community and facilitates an appreciation of their value systems and how they have adapted to the evolution trends and issues that confront the community at large.

The information provided in this chapter was obtained mainly from primary sources such as interviews with residents of *Bortianor*, and secondary sources such as newspapers, law reports and documents. To begin, the location and demographic information of the study area is presented; followed by the description of the land tenure system and customary institutional structure in *Bortianor* customary area.

4.2 GEOGRAPHICAL LOCATION & CLIMATE OF BORTIANOR

Bortianor is a wetland located in the south-western part of central Accra, the capital of Ghana. It is geographically located 332 kilometres south east (146°) of the approximate centre of Ghana and 13 kilometres west (254°) of Accra, and is known for its beautiful beaches and serene environment (Traveljournals, 2011). *Bortianor* is bounded to the south by the Atlantic Ocean, and 112 km from Cape Coast (the capital city of Central region) of Ghana to its west. The features of the environment and geographical location of the study area are shown on the maps below.

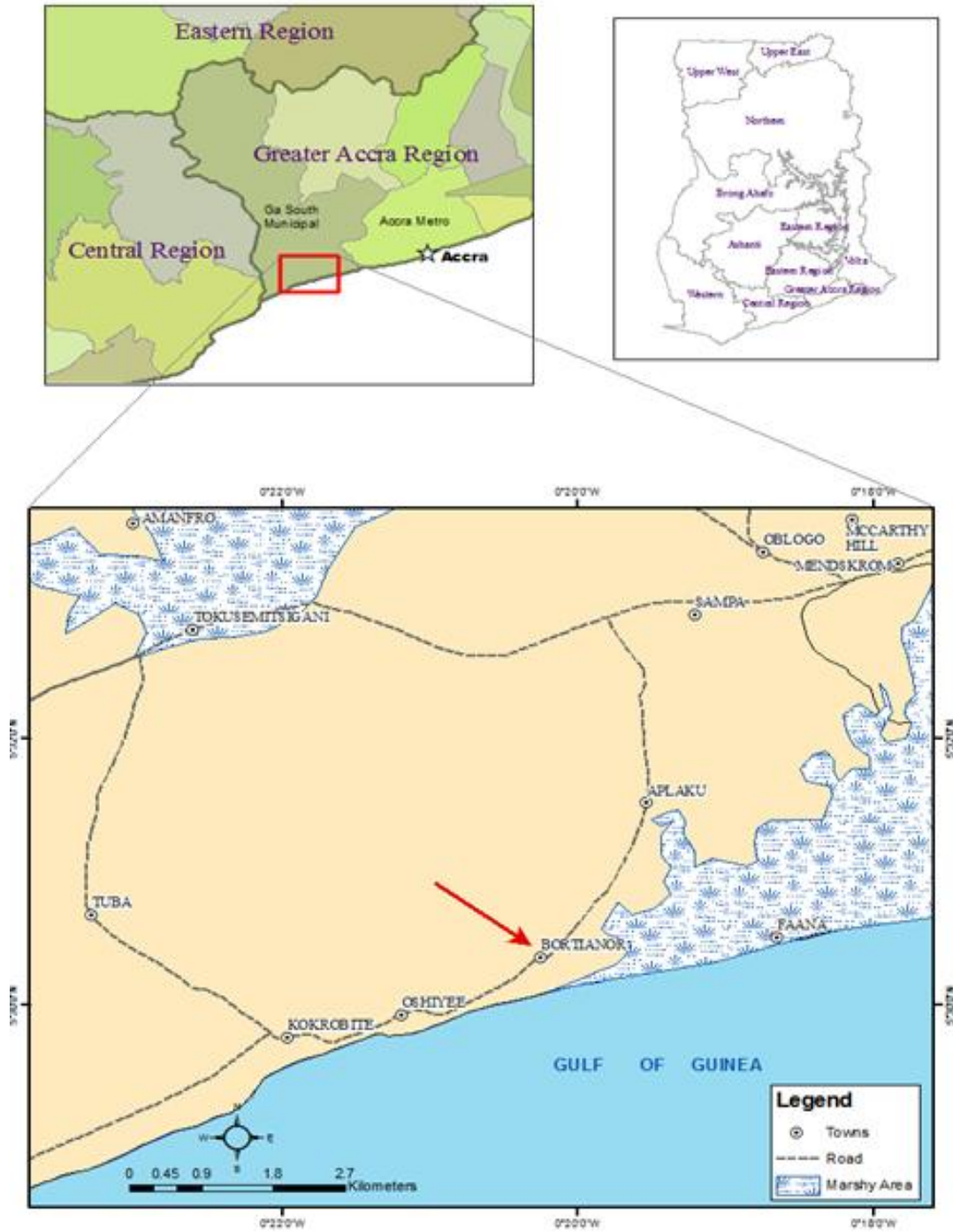


Figure 4.1 Map showing location of the study area (Bortianor)

Communities such as *Amanfro*, *Aplaku*, *Kokrobite* and *Oshiyee*, located on the east and west ends of *Bortianor*, share both linguistic and cultural affinity. The *Densu* River feeds the

wetland, and has been dammed a few kilometres up-stream (*Weija* dam) to provide water to a number of areas in Accra.

Bortianor falls within the dry equatorial climate region of Ghana, with the climate governed by three distinct air masses, namely; the harmattan, the monsoon, and the equatorial air masses. In addition, it lies within the coastal savannah belt where rainfall is seasonal with two peaks in June and September. Mean annual rainfall for the area is 800 mm with an average yearly temperature average of 26°C. The area is mainly undulating with relief ranging from 20 to 100 m above sea level. The vegetation in this area is predominantly shrub and grassland (Teley, 2001).

4.3 OCCUPATION & LIVELIHOOD

The climate and vegetation as described above supports farming and fishing, which are the main traditional occupations in *Bortianor*. Crops such as okra, tomatoes, cassava and other food stuffs are produced at subsistence levels by farmers in the various family units (areas) in the community. The head farmer from the various family units is called *Akwashontse*. Each family unit has its specific demarcated plots of land for farming. (See Figure 4.2 below).

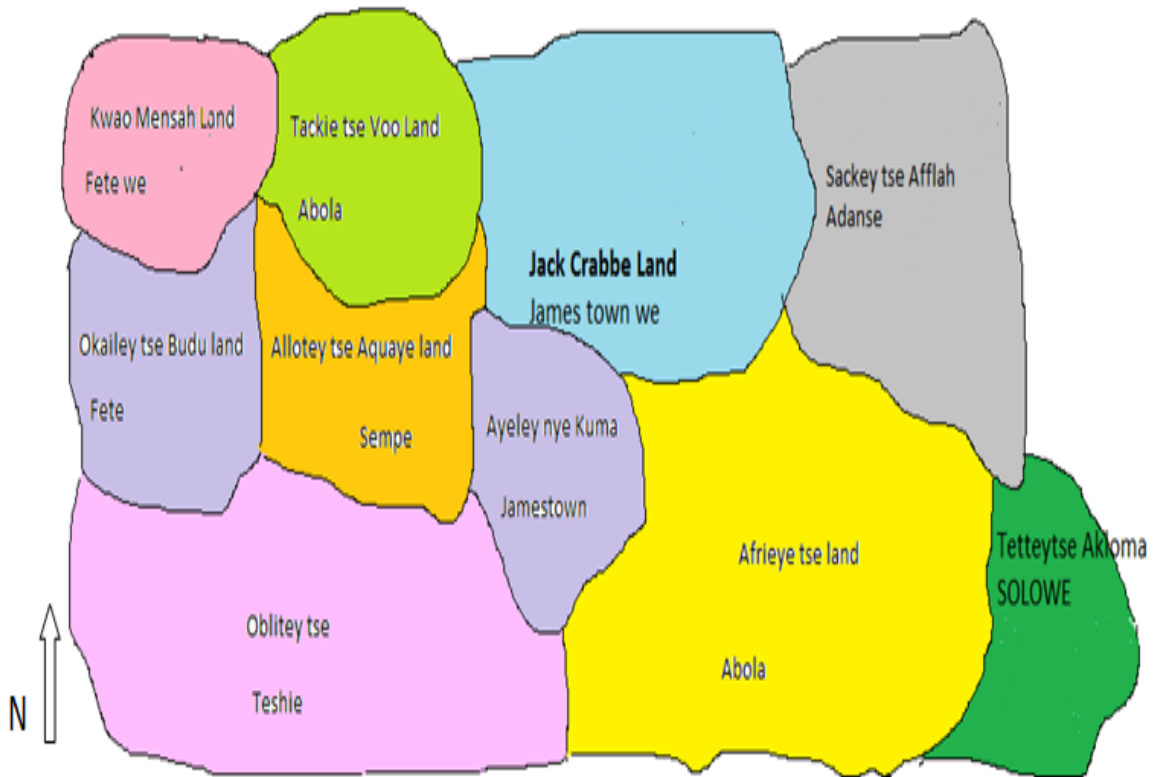


Figure 4.2 Topological Map of Farmlands held by different family units in *Bortianor* created from Interviews with Key respondents. Not to Scale.

The other major occupation of the residents in the community is fishing. The various fishing groups are comprised of individuals from the various family units and headed by an appointed leader known as *Woleitse* (Head fisherman). The *Woleitse* manages the contributions made by the fishing groups and settles any disputes that may occur among the fishermen.

Other members of the community, who are neither farmers nor fishermen, engage in construction/building activities, commercial driving, and other trading activities (see Chapter 5 for further discussion).

4.4 LAND TENURE SYSTEM

All lands in Ghana are partially or fully owned by a group, individual, or an institution. As noted by Ollenu (1962) “There is no land in Ghana without an owner; every inch of land is vested in somebody” (Ollenu, 1962). This statement holds true when it comes to land ownership in *Bortianor*; some portions of the land have been acquired by the Government for irrigation farming, while the remainder is vested in the stool through family lineages of the first settlers.

In the past, the lands from the family land were controlled and managed by their respective families. However, this changed under the late Chief, Nii Kwei Arku IV in 1977, who changed the family lands to stool lands (i.e. controlled and managed by the chief in terms of Article 295(1) of the 1992 Constitution) (Interviews 9, 10, 22, 26, 61- 2011). Nevertheless, the de facto ownership of land in *Bortianor* is controlled by the respective families, as directed by family heads who are responsible for management of their family lands (see Figure 4.2 above). Members of the family have usufructuary rights that allow them to use portions of their family land *ad infinitum*, and which can be inherited or transferred to their descendants without consent of the chief. However, land transfers to strangers, in the form of leaseholds, require the consent of the chief and the chief’s council of elders.

4.5 LAND ALLOCATION

Bortianor lands administered by the chief(s) (*Mantse*) and/or the family are defined by tenures that are mostly unwritten in nature. The land allocation process to either a family member or a stranger for farming or residential purposes is done with the consent of the family head or the chief. *Bortianor* land includes portions held by families, along with non-occupied parcels held by the stool and (the latter) controlled by the chief. The chief together with his council of elders may sell portions of land, normally the stool lands (open land in the community not claimed by

any family), to outsiders on behalf of the entire community/stool. Stool lands are normally sold to benefit the operation of the stool and are vested through performance of certain rituals for the gods of the land. Nevertheless, the chief cannot sell or give out land belonging to a family, without the consent or permission of the land-holding family. He normally redirects the interested buyer to consult the land-holding family. Should a family member need some portion of stool land, he presents his intention and a ceremonial drink to the chief, who allocates him a portion to use. The land allocated to either stranger or member of the community, ultimately reverts to the stool or family unit, depending on who allocated the land, should an occupier die without any heirs (Interviews 14, 41, 61 – 2011).

Family members do give out/sell portions of their land to strangers without the consent of their family head, if they have exclusive rights and have been allocated their individual plots by the family. It is regarded as a sign of respect to inform the family head of one's intention to sell allocated land. In this light, the family head pours libation to ask permission from the ancestors relating to any transactions under consideration (Interviews 14, 41, 61 – 2011).

4.6 GOVERNANCE AND LOCAL TENURE INSTITUTIONS

Bortianor falls under the *Ga* South Municipality Local authority and under the authority of the Local Government Act 1993; it acts as a decentralized body.

The *Ga* South Municipality was carved out of the earlier *Ga* West District in February, 2009 in pursuance of the government's decentralization and local government reform policy as enshrined in the Legislative Instrument (LI) 1867. The inaugural name of the district was *Weija* Municipal Assembly, which was later changed to *Ga* South Municipal Assembly, with *Weija* as its capital.

In the customary system, *Bortianor* is a substool under the Jamestown Paramountcy. The head of this Paramountcy, (called *Jamestown Mantse*), is Nii Kojo Ababio V. *Bortianor* is a part of this Paramountcy and appointed chiefs are taken to the paramountcy for final acknowledgement and recognition. However, it manages its own administration and affairs. The tenure institution of *Bortianor* exists as an autonomous entity, and is ruled by customary authorities, with the chief acting as the custodian of the land. Figure 4.3 depicts the position of community leaders within the institutional structure of this customary area.

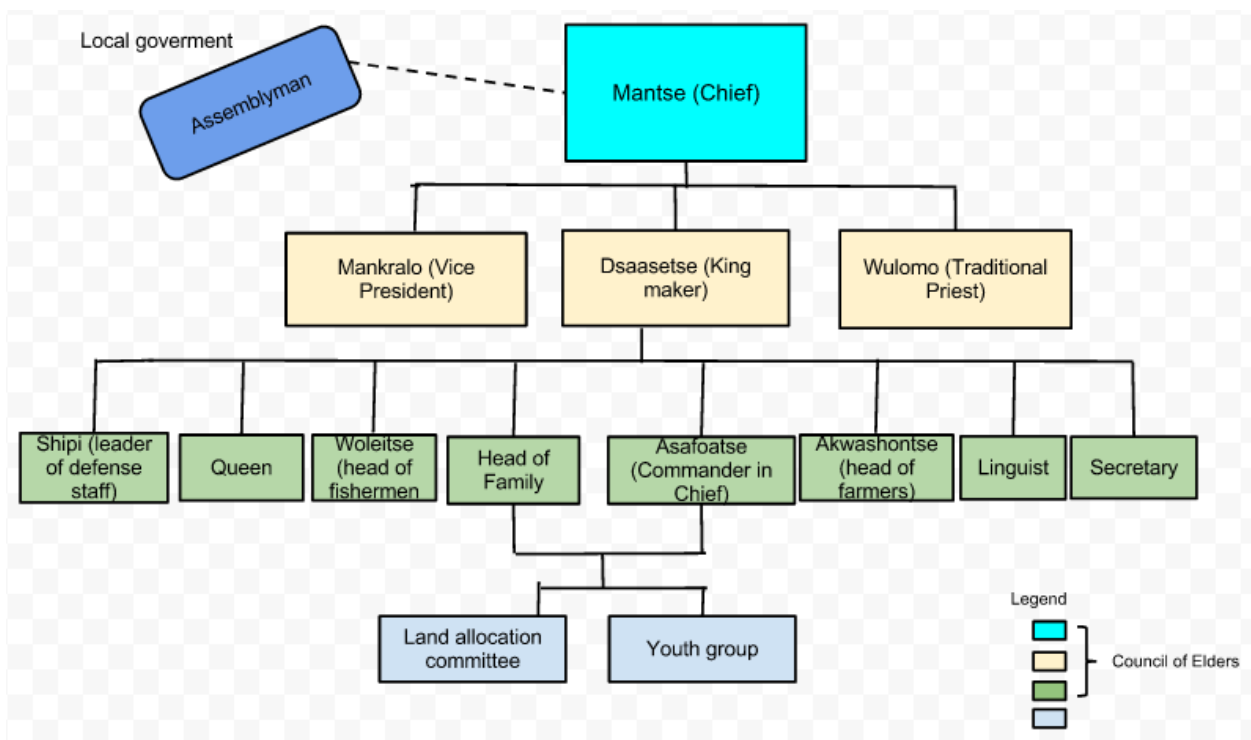


Figure 4.3 Institutional structure of *Bortianor* customary area (source: compiled from interviews with key informants)

These divisions handle all decisions concerning the management and use of land. The Council of elders, which is the stool’s highest decision- making body, is composed of the *Mankralo, Dzaasetse, Wulomo, Shipi, Queen, Woleitse, Head of Family, Asafoatse, Akwashontse,*

Linguist, the stool's Secretary, and is chaired by the Chief who is the final approving authority of all land transactions. The functions of various members of council are described as follows:

The *Mankralo* acts as the next in command when the chief is temporarily absent; while the *Dzasetse* is the king maker responsible for the installation of a new chief. In addition, he also acts as the chief during any chieftaincy dispute. The Traditional Priest acts as the mediator between the gods and members of the community, and also takes care of the shrine (gbatsu); while the *Asafoatse* acts as the Chief Commander during battles. The *Shipi* organizes the youth and takes care of the land; whereas the Queen advises the chief during decision making. The Head of Family, however, represents the heads of the various families at council meetings, and also performs certain rituals during annual festivals. The *Woleiste* and *Akwashontse* are the heads of fishermen and farmers respectively. The Linguist acts as the mouth piece of the chief and relates messages between the chief and the people; while the Secretary keeps land records and takes minutes at meetings (a position held only by literates). The Land Allocation Committee is comprised of selected elders from different families who mediate between land seekers and the council of elders; while the youth group is also made up of leaders from the various youth associations in the community (Interviews 41, 61 - 2011, 77- 2012).

The members of key positions described above are selected from the thirteen main families of the stool. Among these main family units, the *Solowe* family and *Ofolisorlo* family are the most popular and powerful families from whose ranks the chief is selected. (See later sections for details).

The local government representative, the Assemblyman, acts as the mediator between the community and the government. He is elected and does not have to be an indigene from the community (Interviews 14, 41, 61-2011).

Bortianor's traditional structure is linked to the *Ga* customary system in terms of its historical foundations. Next, an overview is presented of the *Ga* state, the main ethnic group from which the *Bortianor* community emanates.

4.7 OVERVIEW OF THE GA STATE

The *Ga* state, from which the early lineages who initially founded *Bortianor* migrated, was more like a federation of self-governing republics made of separate units (see Figure 4.4) (H- Quartey, 2002). In other words, the *Ga* state consisted of minute units of communities where each republic was represented by a stool.

The *Ga* stool was an emblem of military power which was occupied by the *Ga Mantse*, who serves as the military leader but does not exercise any political power (Firmin-Seller, 1996:37). However, the contact with the early Europeans is believed to have changed the *Ga* traditional state structures, customs and traditions. For instance, colonialism introduced new strategies to be used by lineage members to claim economic and political resources. As recounted in Firmin-Seller (1996), the passage of the Native Jurisdiction Ordinance (NJO) in 1878 changed the loose federation of *Ga* republics into a rigid hierarchy. For instance, the NJO divided the independent republics into divisions and quarters, and each division was governed by the *Mantse* (Chief), with the *Ga Mantse* (Paramount chief) as a ruling head of the whole state.

Whoever gained control over those institutions stood in the position to enforce his preferred version of customary land tenure. In effect, their contact with colonial rule was a catalyst for changes in the *Ga* state with extended battle to control the definition of tradition. This accounts for the fluid situation experienced over *Ga* lands currently (Firmin-Seller, 1996).

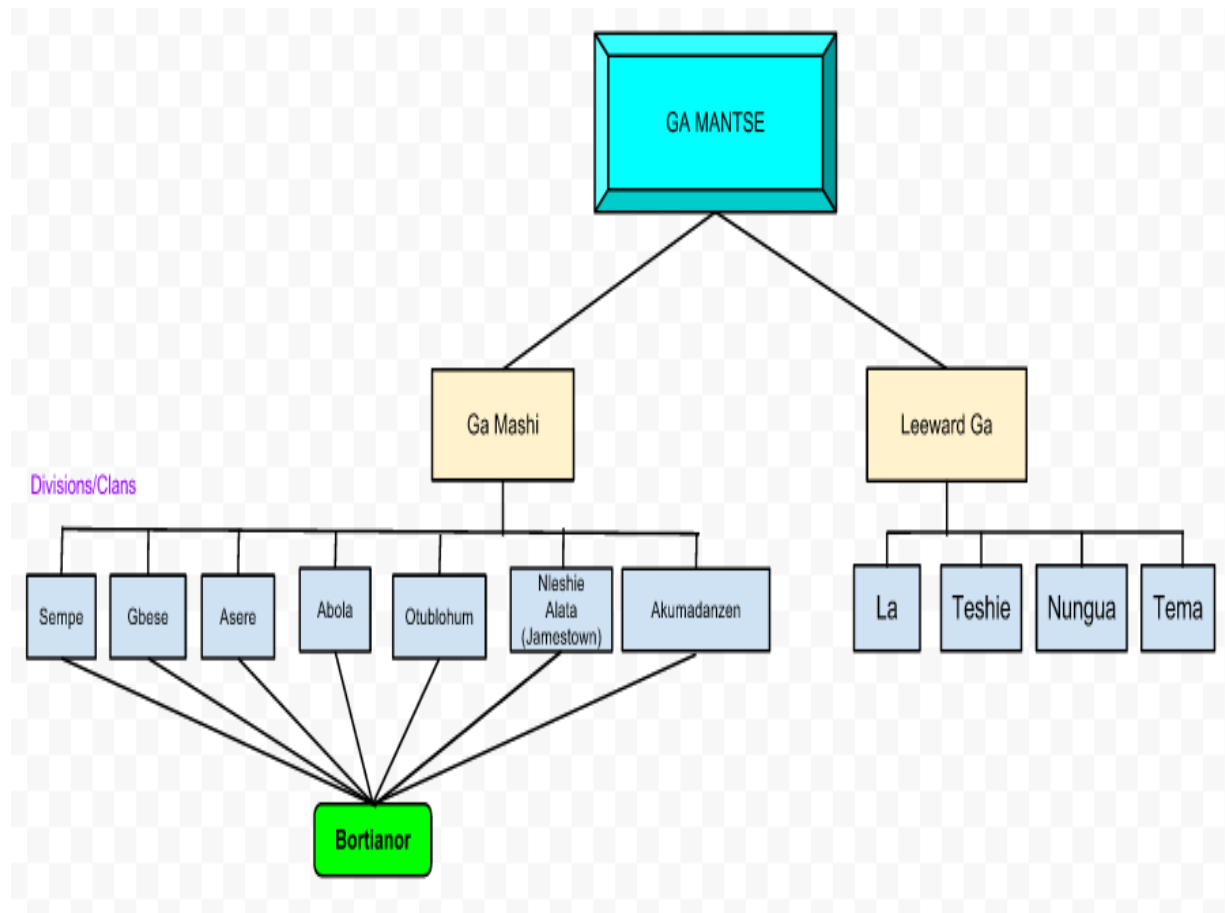


Figure 4.4 Political Hierarchy of the *Ga* State (after Firmin-Sellers 1996, p. 39)

4.8 HISTORY OF BORTIANOR (MYTHOLOGY)

The formation of *Bortianor* draws on mythology gathered from unstructured interviews with residents and key informants during fieldwork. Unfortunately there is no definitive, comprehensive account of *Bortianor*'s history, unlike the foundation of the *Ga* State (see Section 4.7) documented in any literature. There are three sides to the formation of *Bortianor* according to different factions within the community. These views are presented below:

4.8.1 History 1: Founding of Bortianor

Discovered and founded by three brothers; Kometey, Komeiteh and Komey and their sister Komeiley on a hunting game in the late 17th century, *Bortianor*, formally called Kukubi came into existence after the siblings' settlement. Over time, its name was changed to its present name *Bortianor* which reflects the people and their occupational practices; which at that time was mainly fishing, farming and trading. According to interviews, the name *Bortianor* originates from a man named Bortey (a fisherman originally from Nungua-Accra, who once settled there) and his "anor" (meaning a cat in the *Fante* local dialect). It was told that at night, this "anor" (cat) chewed the purchased fishes of the traders (mostly *Fantes* from the neighbouring towns) who came in to buy fish but had to stay overnight with their procurement due to the length of the journey to their respective towns. Consequently, traders began to warn their fellow traders to be wary of Bortey's cat (anor) should they go to Kukubi to buy fish. With time, *Bortianor* became a common reference to Kukubi. Increasing settlement brought the need for leadership and structured cultural and social practices to complete the creation of this community. Nii Kometey, the first hunter to discover the place was unanimously elected the first chief of the village. He became the leader in allocating lands to new settlers, and performed various cultural and social functions such as the annual pacification of their rivers which are revered as gods in the community.

Out of friendship and generosity, Nii Kometey from the *Solowe* family, allocated a portion of land to *Ofoli*, a blacksmith and a merchant, to settle in order to reduce the distance travelled to supply cutlasses and machetes to them for farming. *Ofoli* was popularly referred to as *Ofolisorlo* (meaning Ofoli the blacksmith) by Nii Kometey and his *Solowe* family. *Ofoli* settled in this new village and later married and had a son with Nii Kometey's only daughter at that time. Even though he settled there for a long period of time, he was still considered a stranger. In

terms of inheritance, the patrilineal system (i.e. inheriting from the father's lineage) was practised among the inhabitants of *Bortianor*. In this regard, it negates the possibility of the son of *Ofoli* (a stranger) assuming the chieftaincy throne or inheriting any property belonging to the *Solowe* family lineage. *Bortianor* is made up several family units, with the *Solowe* family arguably the first settlers of the community. The location of the town shrine (*gbatsu*) on the *Solowe* family's compound is the evidence on which they affirm their status and superiority over other families in the community (Interviews 21, 41, 61-2011).

4.8.2 History 2: Founding of Bortianor

The second historical narration coincides with some of the above. It concurs as to how the three brothers and their sister were first to discover the place, as well as the story behind how the name changed from *Kukubi* to *Bortianor*.

Nevertheless, this historical narration holds that the whole area that has become *Bortianor* was not void in its entirety since there were other family units in the environs. It affirms *Ofoli* as the renowned blacksmith who supplied cutlasses and machetes to farmers in the vicinity and beyond. This version maintains that, due to *Ofoli's* busy schedule and constant travelling, he needed someone to take care of his gods and to perform the necessary rituals in his absence. It was at this time that *Kometey (Solowe)*, a visiting farmer, approached him and asked to be granted some portion of land to farm and settle on.

In light of this, *Ofoli* instructed *Kometey* to settle close to his shrine (*Gbatsu*), and also gave him land for farming. This explains why the *Solowe* family unit is situated close to the shrine. Over time, *Ofoli* assigned the priest role to *Kometey* so that he could permanently take care of the shrine and perform the necessary rituals.

Unlike the earlier narration above, *Ofolisorlo* was the chief and first settler while Kometey (*Solowe*) was a stranger who was assigned a portion of land on which to farm (Interviews 13, 29, 57 – 2011).

4.8.3 History 3: Founding of Bortianor

Bortianor was founded by Nii Kometey, a hunter from Accra who frequently travelled to *Bortianor* to hunt. During his frequent visits, he later met Bortey, a fisherman, who seldom came fishing as indicated in History 1. He finally settled in *Bortianor* when he discovered the flow of fresh water (*Solo*) and the serenity of the milieu. *Ofoli* (a blacksmith), a migrant from Manye, who usually supplied machetes to Kometey, was also given a place to settle due to the unrest in his place of origin. *Ofoli* later married Kometey's daughter, *Ofolioko*, and they had a son, *Mantse* Komey, who became the first chief of *Bortianor* after the death of Kometey.

After the death of *Mantse* Komey, the chieftaincy was vacant due to lack of male siblings to succeed the late chief. This created an opportunity for a 'stranger' named Kwei Arku (i.e. the most educated) to be installed as a chief to represent the stool for public functions.

This truth that Nii Kwei Arku was not eligible to be installed as chief since he was the step-son (or what they considered '*futufutu bi*' - mixed blood/ stranger) of *Ofoli* and, therefore, not considered part of the royal lineage. Now the death of Nii Kwei Arku has brought massive confusion among the main family units, where each feels they have the legitimate right to the throne (Interviews 21, 35, 41-2011).

4.8.4 Researcher's Observation

All three historical narrations presented above were mainly centred on the *Solowe* and *Ofolisorlo* families. The other minor families either supported one of these two historical familial claims in

proving their supremacy and the legitimacy of their claim to the throne. It is believed by all that the first settlers represent the true royal lineage; therefore, it explains the varied nature of historical formation of *Bortianor* presented by supporters of these two main families, where each claims to be the first settlers in the community. Those who hold History 2 vehemently deny the claim held by History 1, that a family's proximity to the shrine (*Gbatsu*) reveals its closeness to the chiefdom/ruling of the community. They also debunk the narration held by History 3 describing them as *futufubii* (mixed blood/stranger) (see Chapter 5 for further analysis). (Interviews 13, 14, 21, 29, 35, 41, 61, 57 – 2011).

The layout of family locations in *Bortianor* together with the shrine (*gbatsu*) is shown in Figure 4.5

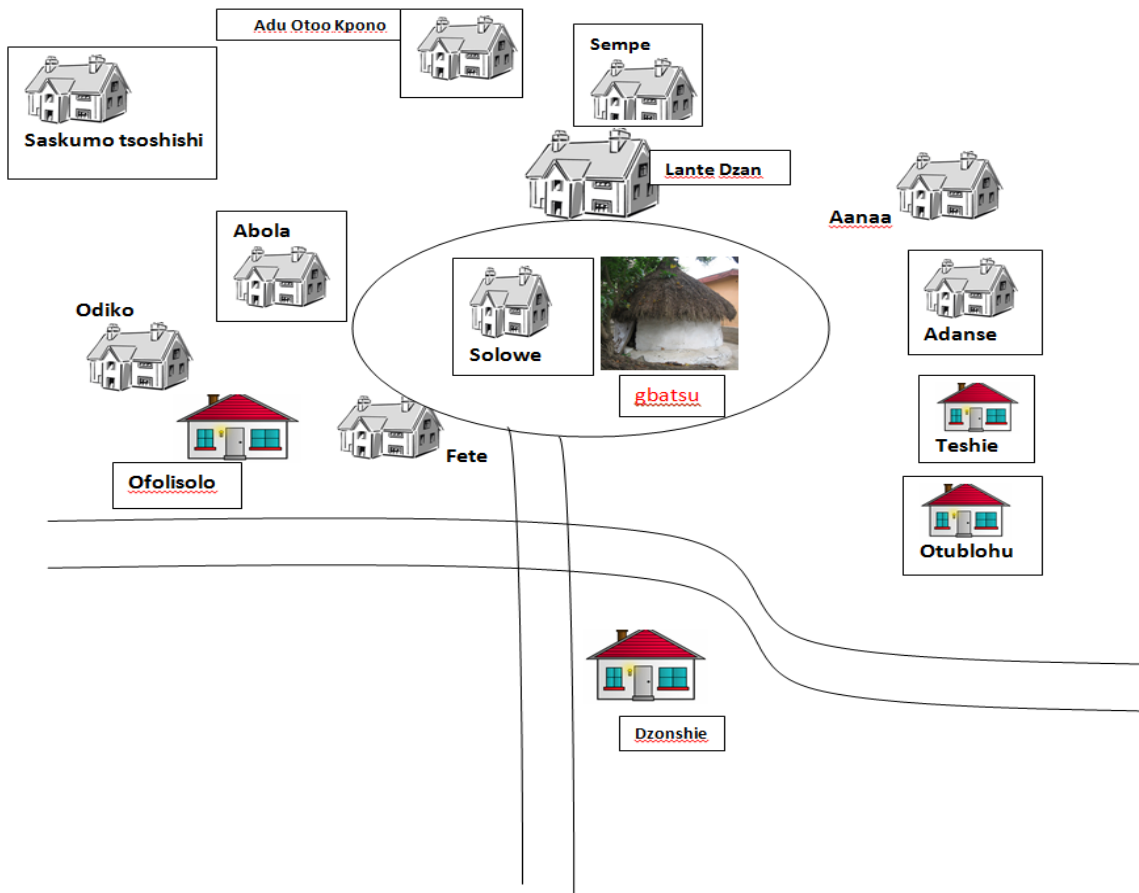


Figure 4.5 Bortianor community layout showing relative family locations in the community (Interview with residents and key respondents)

4.9 CHIEFTAINCY & LAND POLITICS

Accra, which is part of the *Ga* State, became a trading centre and subsequently an emerging urban centre with its land value increasing significantly. The decision to make Accra the administrative capital of the Gold Coast (Ghana) by the British also contributed to this increase in land values (Firmin-Seller, 1996). The use of *Ga* lands has evolved from exclusively farming activities to residential homes, government buildings, industrial and commercial buildings etc. As a result of this process of commercialization, intense conflicts were generated among indigenous actors in order to claim more exclusive land rights to enhance their economic wealth. The competition for wealth and economic status has brought about the reinvention of the

institutional traditional states into traditional repository powers. As previously pointed out in Section 4.5, anyone can enforce their preferred form of customary land tenure, as long as they gained control of the institutions of social order. This implies that indigenous actors had limited access to the systematic authority established by the British for the enforcement of local decisions. As a result, distributional conflicts could not be curtailed and property/ land rights could not be effectively enforced.

Furthermore, as noted by Amanor (2006), the role of chief's in land management was revised by the institution of colonial rule. For instance, the British colonial government enacted the 1894 Lands Bill, which placed fallow and unoccupied land under its control. This Bill constrained the authority of traditional authorities over land, which consequently marginalised many farmers and settlers (strangers) (Amanor, 2006).

Chieftaincy is the most resilient system of Ghanaian traditional political and historical life, especially at the local governance level. Regardless of the challenges they face, such as interference by colonial powers with the aim to merge the chieftaincy into modern politics; it is still potent and plays a vital role in the post-colonial state of Ghana (Ray, 1996; Apentiik 2002). The constitution of Ghana recognizes the institution of chieftaincy and the chiefs continue to act as traditional leaders who manage and oversee affairs in the community. With the influx of recent political arrangements, chiefs throughout the country have formed strong and formally constituted bodies.

In *Bortianor*, the chieftaincy is a very complex and contentious matter, as there are different factions vying for the position. The two major family factions (i.e. *Solowe* and *Ofolisorlo*) each believe their line to be the sole legitimate family from which the rightful chief should be selected. This issue has deep roots in their historical orientation as discussed in the earlier section.

There exist two widely recognized contesting chiefs with other self-acclaimed chiefs. These two contesting chiefs i.e. Nii Ogbaame Ankonam I and Nii Kwei Arku V are legitimate indigenes from the *Solowe* and *Ofolisorlo* families' respectively. They both have support from various family units in the village and have taken on the responsibility of managing the community's resources including land allocation and other duties assigned to a chief. Before these two contesting chiefs, Nii Kwei Arku IV from the *Ofolisorlo* family, was the chief in control of the *Bortianor* stool. After his death in 1993, Nii Ogbaame Ankonam I was elected and nominated from the accredited Royal lineage, and enstooled.

According to their traditional authority structure, the *Dzasetse* - a person selected and approved by the council of elders in the community - is mandated to install the newly appointed chief via the council of elders. However, in the case of a chief's absence, either due to contesting of his selection, or sudden death, the *Dzasetse* becomes the acting chief of the community until a new one is appointed. Currently, due to a dispute between the two heir apparents' of the *Solowe* and *Ofolisorlo* families (i.e Nii Ogbaame Ankonam I and Nii Kwei Arku V), the *Dzasetse*- Nii Akotey IV who was appointed in 1994, has been acting as a chief under the title (Acting chief) for the past 18 years in *Bortianor*.

In spite of the acting role the *Dzasetse* plays, the two contesting chiefs deem themselves as the reigning chiefs and perform and sanction land transactions to individuals and groups. As a result, what is seen in *Bortianor* is a complex chieftaincy system where these individuals seek to control land management in the area. Consequently, the existence of the chieftaincy dispute has increased land and boundary disputes which have heightened tensions and mayhem in the locality (Interviews 1, 4, 9, 10, 14 – 2011).

4.10 MIGRATION

Due to the spread of urbanization and land development in Accra, peri-urban areas like *Bortianor* have also experienced population surges due to the accompanying migration. According to the National Population and Housing Census in 2000, the population of the *Ga South* Municipal Assembly (which includes *Bortianor*) was estimated to be 210,727, with an estimated growth rate of 3.4% per annum. In *Bortianor* alone, the population increase in 2002 was at 7,014 with a projected increase of about 11,155 by 2011 (CensusGhana, 2005).

Bortianor as an Electoral area has four (4) communities namely; *Bortianor*, Tsokomey, Faanaa and Aplaku. The *Bortianor* Electoral area is one of the thirty-five (35) electoral areas which fall within the *Ga South* Municipal Assembly of the Greater Accra Region of Ghana. Provisional results from the 2010 population and housing census show that *Ga South* is the third most populated district in Ghana out of one hundred and seventy (170), with a total population of 485,651.

From the same 2010 provisional results, the *Bortianor* Electoral area has a total population of 26,522. *Bortianor* as a single community has total population of 15,653 persons (7,522 males and 8,131 females).

According to Arko-Adjei (2011), many people move from the inner city to the periphery to avoid high rent rates and congested conditions, and seek lands in these peri-urban areas to build their own houses.

4.11 CUSTOMS AND BELIEFS

In spite of the processes of urbanization and land development, certain customs and beliefs are still potent, and are observed by the inhabitants of the community. The stream, known as *Solo*, running through the South west end of the town, is regarded as a god who demands that certain

rituals should be observed. For instance, no one goes into the *Solo* or farms on Fridays. It is also taboo to catch any fish (tilapia) from the *Solo*. It is forbidden for fishermen in all *Ga* communities to fish on Tuesdays. The *Densu* River as mentioned in Section 3.2 is also regarded as a god; with its accompanying set of rituals (e.g. fish may not be caught).

Special gods, including the ones alluded to above, were inherited from their ancestors, and are still revered and require observance of annual ritual practices. Items such as schnapps, cows, goats, sheep, yams, eggs etc. are presented to their various locations and shrines (Interviews 14, 21, 29, 35, 41, 61- 2011)

4.12 TOURISM

The Solo Forest Monkey Sanctuary at the South West end of *Bortianor* serves as an interesting site for tourists who visit the community. The sacred sanctuary, locally known as *Faana*, is occupied by a troop of semi-habituated monkeys, tall trees and is divided by a small stream (see Photo (IV) in Appendix E). From the description given by some residents, we suspect the monkeys were likely mona monkeys. We were informed they normally come to the stream to drink before 08:00 or after 16:00 (Interview 57-2011).

4.13 CHAPTER SUMMARY

This chapter provided a socio-cultural view of *Bortianor* and the *Ga* state in general, which was obtained through interviews and documents pertaining to the area. It further examined events in the study area in terms of its history, the chieftaincy issues occurring in the area, as well as migration, occupation and some general demographics. Specifically, the chapter covered the chieftaincy issues of the study area and a general discussion of the context of the case study.

CHAPTER 5: DATA DISCUSSION AND ANALYSIS

5.1 INTRODUCTION

This chapter discusses the material collected in the field, as presented in text, tables, quotations and figures to facilitate the analytical inferences deduced from the data. Rigorous analysis of data is vital as it provides the foundation upon which the researcher may draw conclusions and make recommendations (Masum, 2009). In this regard, the chapter synthesises the analyses of qualitative data from the in-depth interviews with ‘outsiders’, community leaders, and residents of *Bortianor*. Secondary data from newspaper articles, Serious Fraud Office (SFO) reports, court cases and law reports, and the sociological, land tenure and land administration literature are used to support the observations and assertions discussed. On the whole, the chapter discusses the various dimensions of change in adherence to customary land tenure norms; the nature and extent of change; its causes and consequences on land administration (which addresses the main objective of the research) on the basis of these findings.

The section begins with an overview of the of research data demographics, followed by a discussion on social settings; land holding types and tenure security; procedures of acquiring and disposing customary land; and land-related problems in relation to the research questions outlined in Section 1.2.

5.2 BREAKDOWN OF RESEARCH PARTICIPANTS/RESPONDENTS

Unstructured interviews were held with respondents within and outside the study area. Group sessions and individual interviews were held with *Bortianor* residents. A breakdown of respondents involved in the research is shown in Table 5.1 below:

Outsiders		Community Leaders		Residents	
Lawyers	2	Chiefs	} 10	Indigenes	28
Land officials	15	Linguist		Strangers	4
Surveyors	2	Assemblyman		Estimated # of people	
Detectives	1	Traditional Priest		present during resident	
Planners	2	Family heads		interviews -----	119
		Council of Elders			

Table 5.1 Breakdown distribution of respondents

The case study involved a total of 22 interviews with outsiders, and 42 individual interviews and group discussions with *Bortianor* residents and community leaders; a total of 119 people were present during these interviews and group discussions. The purpose was to examine land administration and the evolving land tenure system in a peri-urban customary area as per the main research objective (see Section 1.3). Participants included traditional leaders and people who held prominent positions in the *Bortianor* customary hierarchy, senior officials, land professionals, lawyers, politicians, and a sample of *Bortianor* residents.

As Table 5.1 shows, there were 28 resident indigenes interview sessions compared to 4 stranger interview sessions. This disparity was because there are more indigenes in *Bortianor* than migrants, which explains why more indigenes than migrants were interviewed. In addition, there were a greater number of migrants than indigenes who work outside the community, hence migrants were mostly unavailable during most meeting times. This aligns with earlier studies which affirm that peri-urban areas serve as dormitory towns for urban workers (Edusah, 2000).

5.3 DEMOGRAPHICS

5.3.1 Origin of Resident Respondents

The vast majority of respondents were indigenes from *Bortianor*, in the Greater Accra Region (GAR). The remaining respondents were migrants from other regions of Ghana (see Figure 5.1 for distribution below). The majority of respondents affirmed that an individual can be classified as an indigene only when he/ she has demonstrable lineage ties to the community (Interviews 14, 28, 41- 2011). This implies that, whether a migrant is born in the community, or has lived there for a very long time, his/her status as stranger does not change. A migrant is referred to as '*gbo*' meaning stranger in the local *Ga* dialect.

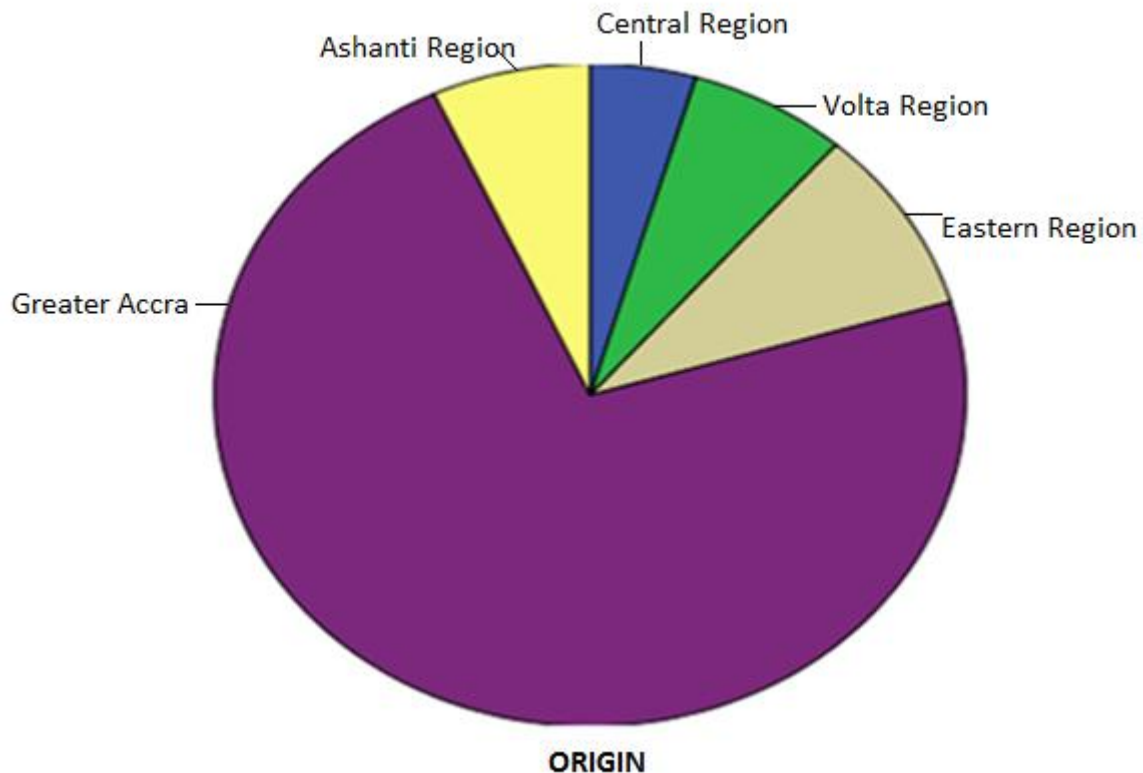


Figure 5.1 Origin of research participants (Residents)

5.3.2 Gender

Out of the total, 18% of respondents were female and 82% were male. The disparity between the sexes is due to the patriarchal milieu of the community. This is further influenced by the snowball sampling technique adopted in the study. The key informants, mainly males, often referred fellow male land holders and community members they believed had insights and/or experience in land issues in the area.

Although the study area is patriarchal, and men were mostly the landholding residents who deal with land issues (Interviews 14, 61- 2011). An attempt was made to involve women as much as possible. For instance, group and individual interviews were conducted with women who were available and willing to participate. In addition, efforts were made to invite wives of the male participants to the discussion, even though some declined when they realized it was about land issues. Nevertheless, some participated willingly and enthusiastically. However as the research progressed, the author focused more on people who had dealings with land, which included women as well as men.

5.3.3 Age Distribution

The age composition of the respondents is displayed in Figure 5.2, where most of the respondents are seen to be between the ages of 31-40 (34%), followed by ages 20-30 (27%). Ages 41-50 and 51-60 made up 21% each, while ages 61-70 made up 9% of the total number of respondents.

Even though the research did not uncover any age restriction in terms of leadership positions in the community, it was found that people between the ages of 41-81 held leadership positions such as king maker, family head and elders. These leaders, according to customary law, work with the Chief in managing community resources including land.

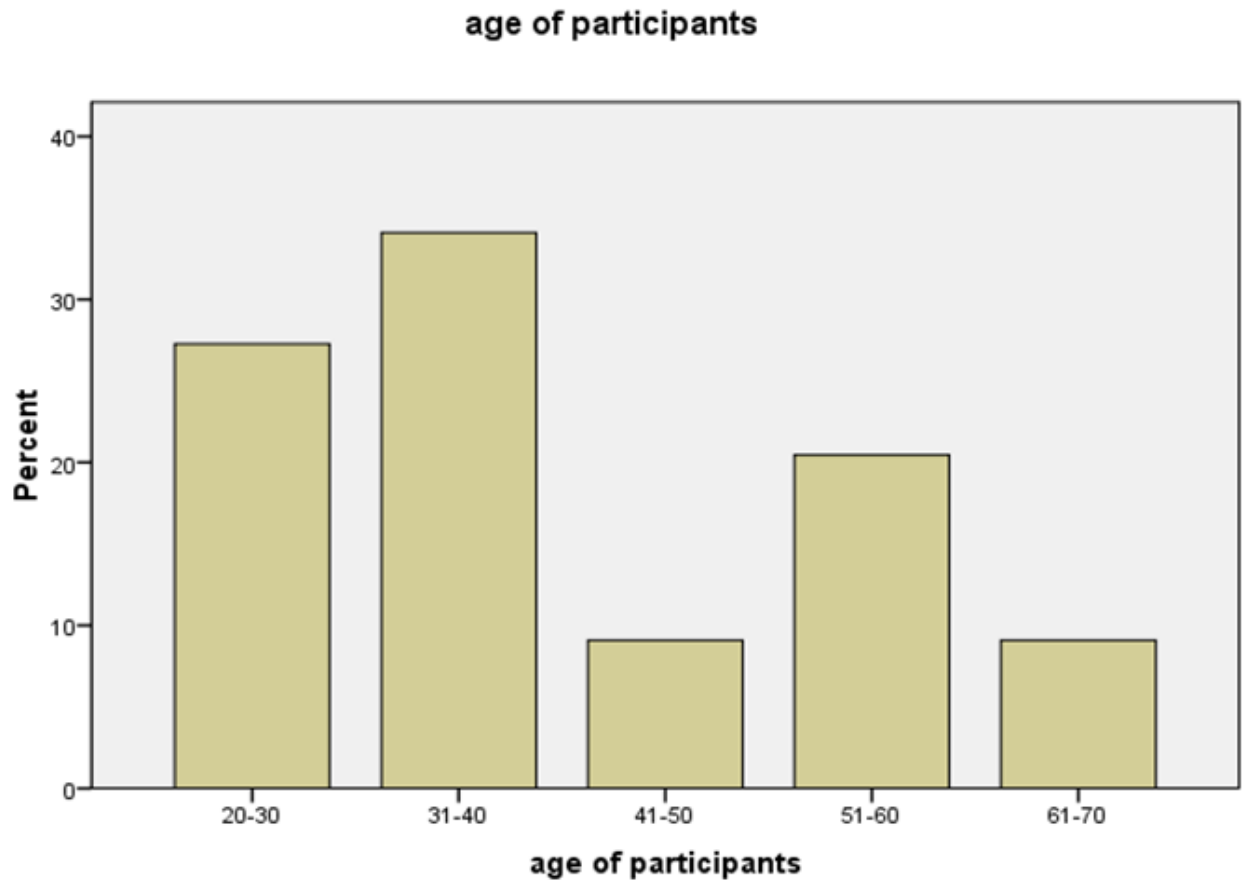


Figure 5.2 Bar Chart of age distribution of resident respondents in *Bortianor*

5.3.4 Education

From the figure below, a high illiteracy rate was found among those who participated in the interviews, with about 50% of the total respondents having less than a Grade 6 education.

According to one local politician, the educational infrastructure in the community is not in good state to support any significant teaching and learning. He continued that, teachers as a result, turn down postings to the community (Interview 76 - 2011). In addition, because some parents do not realise any immediate dividends in sending their children to school, they tend to take them along to farm or fish, teaching them what they consider essential life skills (Annan, 2011). One

respondent admitted that, he dropped out of school because he was his father's last born baby and was scared he might be caned (Interview 20- 2011).

From the study, 22 out of 44 groups of the aged residents were illiterates who could neither read nor write.

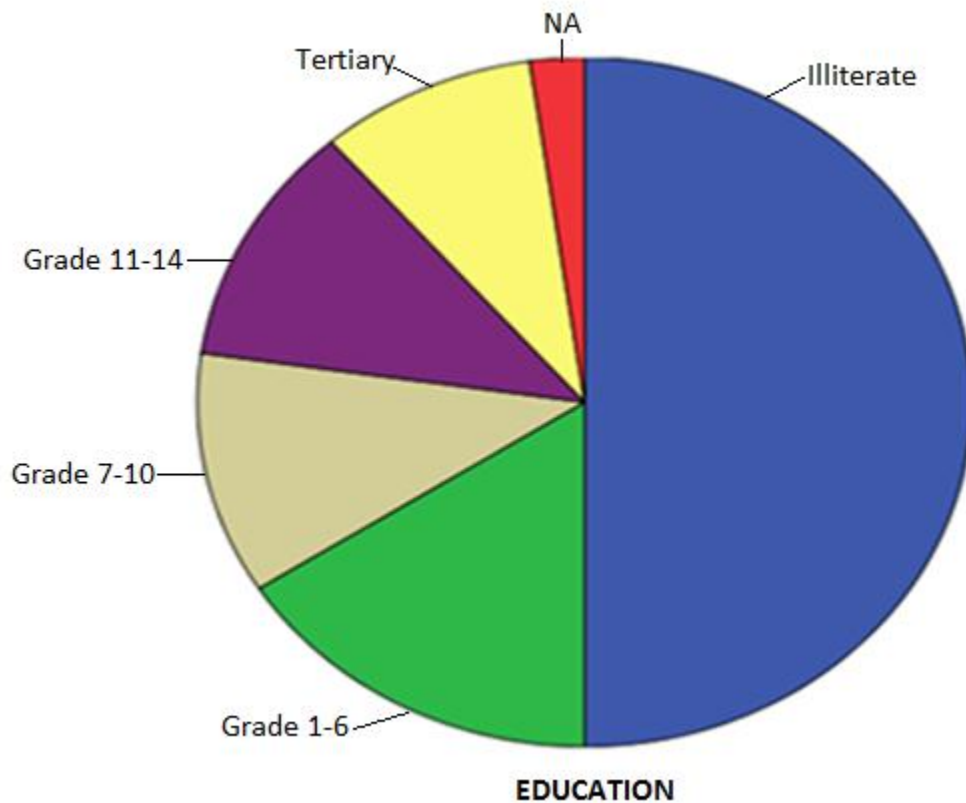


Figure 5.3 Educational level distributions of respondents in *Bortianor*

5.3.5 Occupation and Means of Livelihood

As reported in Chapter 3, farming and fishing are the main sources of livelihood for most respondents. The women in the community mainly engage in fish mongering and trading farm produce with neighbouring towns. Other occupations include government workers, self-employed business men, commercial drivers, and construction workers. This blend of occupations reflects the recent influx of different employment opportunities into the community.

In fact, two migrants indicated that they relocated to *Bortianor* for employment (Interviews 27, 28 - 2011).

In addition, there were instances when indigenes indicated that, due to land scarcity, they have been forced to change their occupation which was, formerly, mainly farming (Interviews 11, 20 -2011). The reasons behind this scarcity will be discussed in subsequent chapters of the thesis.

5.3.6 Inheritance System

Understanding the system of inheritance in any community is vital to studies of land tenure. Due to the fact that, in most indigenous societies, inheritance is one of the significant means by which people access land. People may inherit land paternally, maternally or both paternally and maternally (Interviews 8, 11, 24, 25, 31- 2011).

In this study, about 70% of respondents indicated that the practice in their cultural group was to inherit paternally; 27% maternally; and 3% inherit both maternally and paternally. Among these respondents, it was observed that those who inherit maternally were strangers from other regions of the country where a matrilineal system of inheritance is practiced. On the whole, the patrilineal system of inheritance which is practiced in most, if not all *Ga* communities, is the prevailing system of inheritance practiced among the indigenes of *Bortianor*. The prevalence of this system of inheritance coincides with the observed patriarchal nature of many aspects of community life, as discussed in Section 5.3.2 (Interviews 14, 61- 2011; H-Quartey, 2002).

5.4 HOW IS LAND TENURE ADMINISTERED CURRENTLY IN BORTIANOR?

To answer the first research question as stated in Section 1.3, the current system of landholding is discussed, along with the procedures for acquiring and disposing land, as deduced from interviews.

5.4.1 Landholding Types (Stool land vs. Family land)

Of the total resident respondents questioned regarding *Bortianor*'s landholding type, 15% described that their land as family land, while 78% described it as both family and stool land. Only 2% did not know which type it was. However, in the words of the Local Government Representative (Assemblyman), "the entire community land was formally family land held under the jurisdiction of the different established family lineages. This however was changed to stool lands, after a declaration was made by their past chief Nii Kwei Arku IV in 1977 and registered at the Lands Commission" (Interview 14- 2011). This change in the legal status of the tenure system was confirmed by prominent government land officials (Interviews 1, 9, 10- 2011).

One key informant revealed that, Nii Kwei Arku IV saw the need to register the entire community land, since some surrounding towns, such as *Omankope, Amanfro, Kokrobite, Tuba* had gone ahead to register their territory. Three key informants argued that, "these areas were owned by *Bortianor* (their forefathers leased it to these strangers), but due to a lack of registration, they have lost it all to these areas who have claimed autonomy" (Interviews 14, 61- 2011, 77- 2012). Other key informants argued that, "the chief during that era was educated and took advantage of the ignorance of the people, registered the lands in other to establish his family lineage on the lands" (Interviews 61-2011, 77 -2012). In addition, "people did not see the necessity of such declaration and did not see the consequences of such declaration during that

time. The people were safe on their lands and there were no land sales or land grabbing issues” (Interviews 14, 61- 2011, 77- 2012).

In effect, *Bortianor* is categorized *de jure* as stool land since the declaration, which gives the Chief the authority to manage the allocation and distribution of all lands in the community. This implies that, even though the family heads of the various family units still control the management of their respective family lands, they require the consent of the chief to alienate portions of the land to strangers. As such, all dispositions by deed (indenture) require the Chief’s signature for land alienated to strangers.

Regardless of the official declaration, most of the respondents, as indicated above, believe *Bortianor* land to be a combination of both family- and stool-held lands, and not a unique stand-alone entity. Individual families managed their respective lands passed onto them by their ancestors; whereas lands not claimed by any family are treated as stool lands and are managed by the Chief. The study has explored issues around how the land holding regime in the community has evolved from one of strictly family lands (in the past) to incorporate an estimated portion of stool lands. As a result, some of the families have had their land taken away.

This situation is depicted in the drawing below:

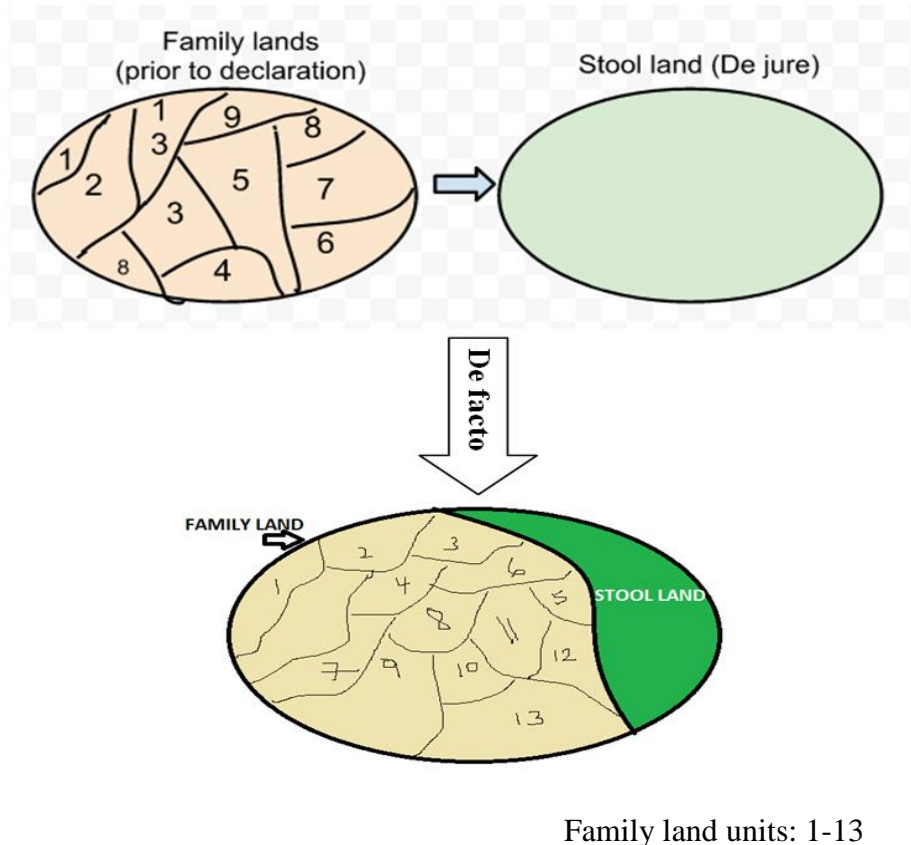


Figure 5.4 Conceptual Sketch of Stool and Family land holdings in *Bortianor*

5.4.2 Procedures for acquiring and disposing of land

The procedure for land acquisition in *Bortianor*, as in the rest of the *Ga* traditional areas, depends on the status of the individual (i.e. whether indigene or stranger). These procedures are discussed in detail below:

5.4.2.1 Lineage Membership (*Acquisition and Alienation of land*)

(i) Acquisition of land

To acquire customary lands, indigenes are able to obtain and access land through their family lineage. For instance, in *Bortianor*, the land belongs to various family units who are all descendants from common ancestors. As a result of this linkage, each member of a family unit

has the right to claim portions of land or access land that falls within their unit. However, the procedure for accessing land depends on the land-holding type (i.e. family land or stool land). The processes involved in accessing these land types are described below.

(ii) Accessing Family land

Interviews with reputable family heads and residents revealed that, in the past, a member of any of the families could cultivate any of the unoccupied virgin lands, possess it and even pass it on to his family members. However, this is no longer the case. Most respondents confirmed that, the ‘*cultivation for keeps*’ practice does not exist anymore due to scarcity and the economic appreciation of land value. The procedure for acquiring family land as described by the residents is captured in Figure 5.5 below (Interviews 8, 11, 14, 61- 2011).

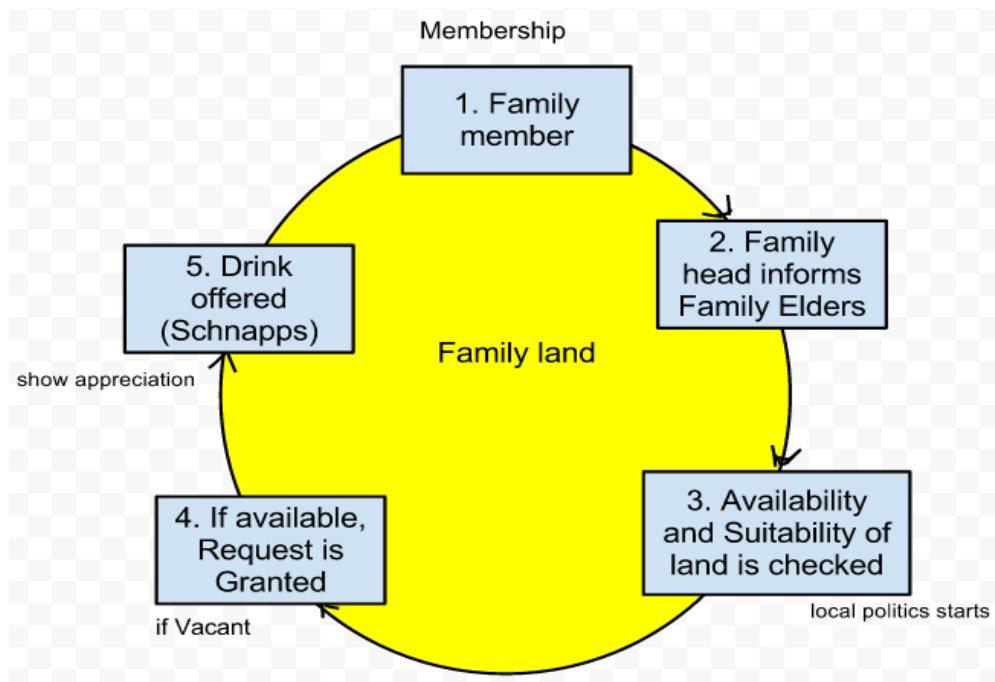


Figure 5.5 Process for Family land access by an indigene deduced from resident interviews

A lineage member can access family land for either residential or agricultural purposes by making a formal request through his family head. The family head then deliberates with the elders in the family to see if there are available lands. If there are, the request is granted and the delivery symbolised with a bottle of schnapps provided by the family member. The drink is shared among the family elders who meet as shown in stage 2 of the diagram above, as a sign of witness and appreciation. “The idea behind this presentation is for all the elders involved during the transaction to drink and serve as witness should any contestation arise on the allocated land” (Interviews 8, 58-2011).

(iii) Accessing Stool land

The process for accessing stool land is similar to the process described above. The difference here is that, the lineage member sends his request through his family head to the Chief. The Chief and his council of elders deliberate and issue the requested land, if available, through the applicant’s family head. The family member then presents 2 bottles of schnapps to the chief and elders of the stool, involved in the allocation according to custom (Interviews 8, 11, 20, 25, 61 - 2011).

(iv) Alienation of land

It was the position of 23 out of 28 groups of residents that their lands should not be sold, to safeguard the customary proprietorship value of land; however, the decision to sell one’s land was viewed as a practical matter for reasons due, but not limited, to economic hardship and the economic value of land.

However, the procedure to alienate land depends on whether the land is exclusively inherited (i.e. by an individual), or inclusively inherited (i.e. family-owned). In the case of

commonly-held (i.e. family owned) land, a family member has usufructuary rights but cannot sell without securing permission to do so from the family head and elders. The interviews confirmed this as 90% of respondents who are indigenes agreed that permissions were sought before lands are sold in situations as described above (Interviews 8, 11, 61- 2011).

The figure below depicts the current procedures involved in alienating land to strangers by indigenes, depending on whether one has exclusive or inclusive rights.

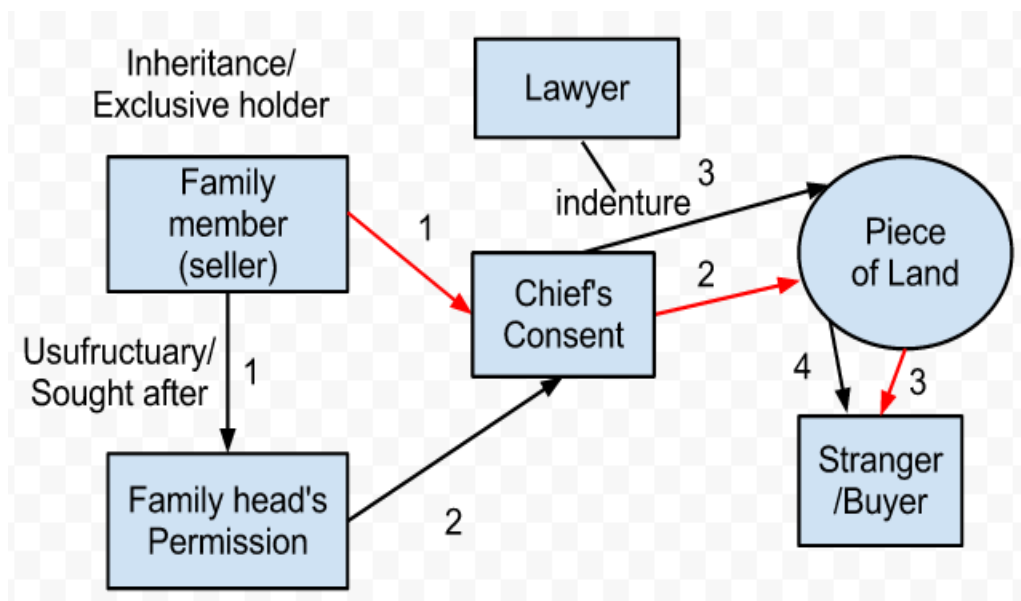


Figure 5.6 Procedure to dispose/ sell land as gathered from respondents

Permissions are sought from family heads and elders for a number of reasons. First, most lands in the community are communal in nature and are treated as the cultural property of all future generations. Therefore, there is no absolute individual claim to it within the exclusively *Ga* cultural context, even though the views on land tenure are changing and have been influenced by the state system.

The community regards the presence of the family head during land transactions as a sign of respect, hence the family head is supposed to be informed to serve as reference should there be any issues that would arise in regards to the transaction.

To complete the alienation process, the chief's consent is required (as shown in the Figure 5.6 above). This practice was the prevailing view in my sample and can be generalized as a normal belief among the community at large. Some respondents believe that a family member with exclusive rights can directly apply to the chief for his signature. However, others without these exclusive rights must still go through the family heads before proceeding to the chief for his consent. (see a sample of an indenture signed by each "Chief" in Appendix D).

5.4.2.2 Migrant/ Stranger land access

(i) Stool Land access

Key informants including community leaders revealed that a stranger can access land either for agricultural or residential purposes. However, he/she must first meet with the Land Management/Allocation Committee (LMC) (a.k.a the "Advisory team"), which is made up of elders of the stool. The LMC serves as a body of mediators between the purchaser and the council of elders to transact and monitor stool land transactions (Interview 61- 2011).

The stranger initially completes a form, in addition to 50gh *cedis* (currency) and two foreign drinks (1 Gin and 1 schnapps), in order to access a parcel of stool land. (see Appendix C for copy of receipt prepared and witnessed between sellers and buyers).

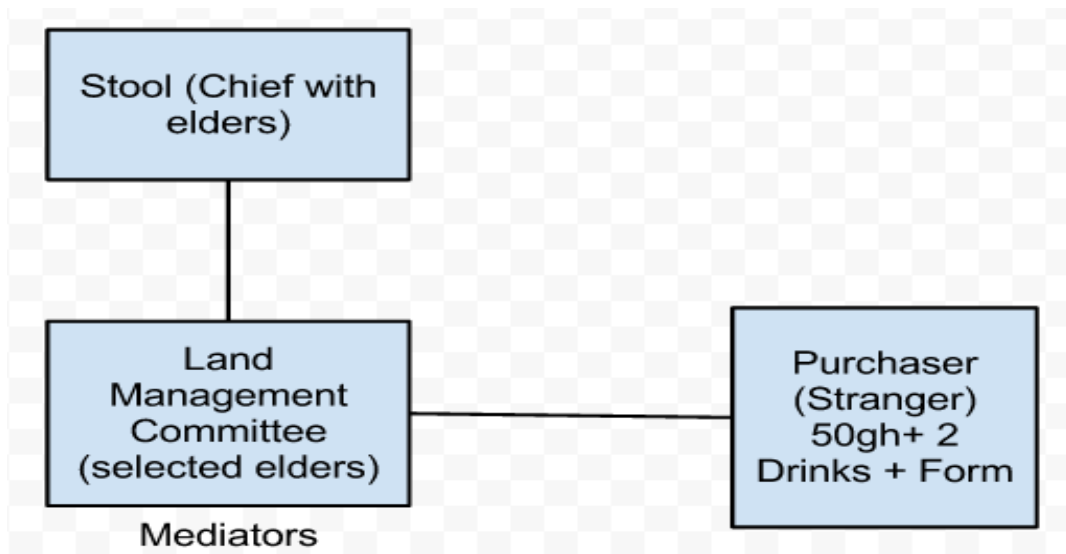


Figure 5.7 Process to access stool land in *Bortianor*

The request is then made known to the chief and his council of elders through the *LMC* for deliberation, followed by an assessment of the application and terms of payment for the requested land are then negotiated. After consensus has been reached, the Chief instructs the Land Allocation committee together with the Head of Family to pray (pour libation) to ask permission to alienate the land from their ancestors who passed the land to them.

(ii) Family land access

Unlike indigenes who can access uncultivated lands in the community, a stranger does not enjoy such a privilege. To obtain a lease to family lands, therefore, most resident respondents and community leaders insist on the need to see the land-holding family member or head and not the *LMC* as is the practice with applications to alienate stool land. “The stranger must see the right family who hold that land must meet with the family head to acquire the land” (Interviews 8, 41, 61-2011).

It was gathered from interview responses that the determining factor for a migrant to access land is his/her ability to pay cash for it. This was confirmed by prominent family heads and traditional leaders, as well as a sample of residents. “Any stranger, regardless of their gender can access land so far as he/ she bring money” (Interviews 8, 14, 29, 30, 34, 35, 41 -2011).

(iii) Alienation by Migrants

Since land held by strangers is leased and not purchased outright, strangers are expected to inform the original landholders of any intent to sublease the land. As under state law, the terms of agreements concluded with the original buyer extend to the subleased holder.

Interview Question 12 (see Appendix A) was employed to explore the reversionary rules applied should any acquired land by a stranger be left unattended for a long period of time. There were different views expressed regarding who takes the land. Some respondents opined that, the land would revert to the chief, while others suggested that the land would return to the respective family who initially issued rights. Other respondents also pointed that the land would return to the chief should any land holder abandon the land without a successor. This assertion appears to be rooted in the belief that the land in its entirety belongs to the stool, as managed by the chief. The ambiguity as to who has the right to re-possess the land could be a source of conflict in the community, even though none of the respondents actually reported any incident in this regard (Interviews 24, 29- 2011).

5.5 HOW IS LAND SECURED?

To address the research question “*How is land secured in the area?*” the author explored whether residents feel they can lose their land to ascertain the perception of land tenure security in the community. On the whole, 76% indicated that they do not think they can lose their land,

whereas 23% expressed a fear of losing their land to strangers, land guards or re-possession by the chief, etc. Since most of the residents held land either for residential and/or agricultural purposes, the author delved deeper into which category of land occasioned greater feelings of tenure security. Interestingly, with regard to residential lands, 90% of all the residents hold a strong conviction that, since their predecessors acquired and passed it onto them, their security is guaranteed and can never be lost. Their basic reliance is on the common land-holding customs within the *Ga*, knowledge of the land tenure principles and rules within the community, and long-standing occupation by a given family group on the land.

Nevertheless, the same level of assurance was not expressed when questioned on the state of security with regard to their farm lands (popularly referred to as *site*). Reasons for this lack of security include invasion of land guards and other forms of encroachment. The range of strategies employed by individuals and groups to protect their interests in land is discussed below.

5.5.1 Permanent and Temporary Development on Land

The responses of residents indicated that vacant land without any development is normally treated as free land to be sold or re-sold. Respondents indicated they would construct works or put structures on their land to dissuade others from doing the same to grab what they claimed to be their land. These include but are not limited to digging a foundation, building walls, dumping building sand and other materials and erecting reinforced concrete pillars on their land. Amidst the highly competitive land market and changing land-holding culture of the *Ga*, any bare land without improvements is at the risk of being sold to strangers by the traditional leaders or members within the same, or different, family units. Even possession of an indenture, a registered deed, did not deter land grabbing; thus building improvements were seen as the

primary strategy to protect ones interests (or means of laying claim to someone else's land). They would also patrol their agricultural land and demolish any structures that appeared there furtively (Interviews 1, 8, 31-2011). In this regard, strangers interested in acquiring land are encouraged by sellers to develop the land quickly, so as to secure their interest.

Due to these occurrences, agreements concluded with any buyer in the form of a lease (indenture) typically require them to develop within 6 months to 2 years after purchase or stand the chance of losing their land.

Nevertheless, some indigenes described incidents where the above condition was taken advantage of by land guards and strangers who grabbed their land. An interview with two "victims" revealed how the sight of luxurious buildings by rich strangers on their land intimidated them from taking any action. The reasons given, such as the cost of a lawsuit, and liability for repair of damage caused to the building should they lose their case in court, showed just how vulnerable poor indigenous landholders are (Interviews 8, 14, 19, 24, 25- 2011).

In addition, interviews with lawyers pointed to the English legal maxim that, "possession is 9/10 of the law" which supports any occupant who proves to have stayed/occupied the contested land for the longer duration. Encroachers and land grabbers take advantage of the above by putting up buildings quickly and taking pictures of the construction activity to prove in the courts their entitlement based on the extent and duration of possession of the land (Interviews 15, 37- 2011). Also, if you have a deed, and can prove it is valid, then the courts are likely to uphold the claim (Interview 5-2011).

5.5.2 Land Guards, Land Grabbing and Defending Land by Physical Force

Apart from the formal court system as an avenue for resolving land disputes, land guards who are armed, and well-built men from mostly outside *Bortianor* are hired by landholders to guard

land and to drive people off of what they claimed was their property. Strangers who had bought land often had to use guards to protect their interests. Land guards were also hired to grab land. Some respondents revealed they were fortunate to have strong siblings and family coalitions who would answer a call to arms to fight off groups of intruders who had attempted to grab their land by force. People had been killed in some of these conflicts. One fatal incident which was reported by almost half of the resident respondents read: “they butchered a man on site when they met him on the land they were interested in, and dragged his body to the centre of the township, holding cutlasses and matches, guns etc. and stood by it” (Interviews 8, 14, 19, 24, 25, 27-2011). Among numerous reports confirming the activities of the land guards, one newspaper article in 2008, captioned - “Notorious Land guard Nabbed” – reports of a land guard arrested in connection with brutal assaults, using machetes to allegedly torture land owners and steal any building materials on their land (Daily Guide, July 12 2008). In addition to the alleged crimes, this land guard was implicated to have butchered a land owner at *Dodowa* (a suburb in Accra), and also shot at a government surveyor. The paper continues that despite investigations into the alleged crimes, the notorious land guard was set free without charges.

There were unsubstantiated allegations that the police colluded with land grabbers, (police protecting land grabbers when they were putting up the palace (see Photo (III) in Appendix E); police arresting land grabbers when they butchered the man on the street and later released the grabbers without any charges (Interviews 8, 14, 24, 25, 61- 2011). In addition, some participants claimed that land grabbers were aligned to a national political party and connected to people in high positions in the country and community. They further alleged that a few years ago, people in high positions had sent land grabbers to act on their behalf. However, no evidence to support these allegations emerged in this case study.

If these brutal expressions of control over land amidst weak enforcement by civil authorities are accurate, then many vulnerable families have lost their farms. Even well organised family groups claimed to have lost much of their land to well-resourced land grabbers employing thugs (Interviews 8, 11, 60- 2011). According to one informant, “I used to farm 700 acres but now the land guards took 690 acres, so now I have very small land to farm” (Interview 11-2011).

5.5.3 Documentation and Registration

The data collected indicated that indigenes did not have a land title certificate that would stand as proof of ownership in a land titles system. Even though some three informants claimed to have them, they did not present them during interviews (Interviews 8, 13, 24-2011). Five land officials at the Lands Commission confirmed that indigenes did not have land title certificates (Interviews 1, 2, 6, 7, 22-2011). This may explain why the indigenes interviewed may not have presented them during the interviews, even though some claim to have land titles. However, some respondents showed copies of indentures prepared for strangers (Interviews 24, 29, 61- 2011). It appeared to be very difficult for a family member to register their ownership in the state land registry, even if they desperately wanted to. One couple implied that, were they to obtain an indenture, it might offer protection against their land being sold by elites, elites for them included members of their own family. They were powerless to challenge the group in order to get an indenture/deed. They claimed that as a consequence they are now landless (Interview 36-2011).

Others did not see indentures as useful; or, at least, they did not express this opinion openly in group discussions. Common responses were: “our forefathers whom we inherited from did not possess any documents” / “Indentures are only prepared for strangers who want to

acquire land and not indigenes”. In other words, in terms of the pure customary system, members of the community do not profess the need for documents (indentures), or to register the documents which they do hold, since their inheritance and land allocation is common knowledge in their family. Verification by witnesses who would support them in the event of a dispute was seen as important to proving their claims to land. Groups indicated that the testimony of family, neighbours and other witnesses as to their long-standing occupation of their land and the knowledge of these witnesses of the positions of boundary stones was crucial in fending off people “*who had appeared from nowhere*” who claimed that they owned their land (Interviews 8, 11, 38 -2011). In the words of one key informant: “any shift in position of any of the stones will reveal deep dent on the ground and would be identified easily, in case there is any dispute over one’s boundary”(Interview 8-2011).

An interview with one resident respondent revealed that members of their family unit have registered their family land at the Lands Commission which was contrary to what the researchers were made to believe earlier (Interviews 1, 2-2011). To confirm this, interviews were conducted with government land officials at the Lands Commission who denied the registration of any specific family land in *Bortianor*.

5.5.4 Consult the gods/charms/divinities

A few participants reported the reliance on gods or divinities to protect their holding if their interest were to be challenged. For instance, as one gentleman, who inherited his property from his father, stated, “everybody knows this is my land, but if you still want to take it from me, I would ask the gods to strike you within three days” (Interview 25-2011).

Other instances recorded include, the use of charms and coffins placed on one’s claimed land so as to scare or kill anyone who trespasses (Interview 31-2011). One community member, whose

father was believed to possess some gods, grabbed people’s land and was less challenged “His father would kill you if you try to fight him, the people are afraid of the gods he had” (Interview 77- 2012).

5.6 MAIN LAND-RELATED PROBLEMS (Nature and causes of conflicts over land)

In order to ascertain whether there have been any land-related problems such as fraud, mass land theft, multiple sales of the same piece of land, and general land insecurity among others, which is normally expected in a place undergoing changes, the author used Question 29 in Appendix A to inquire whether there have been any land-related problems. To do this, responses were gathered from the three main streams interviewed (i.e. outsiders, residents, community leaders). Their responses on different land tenure problems are labelled in Figure 5.8 below.

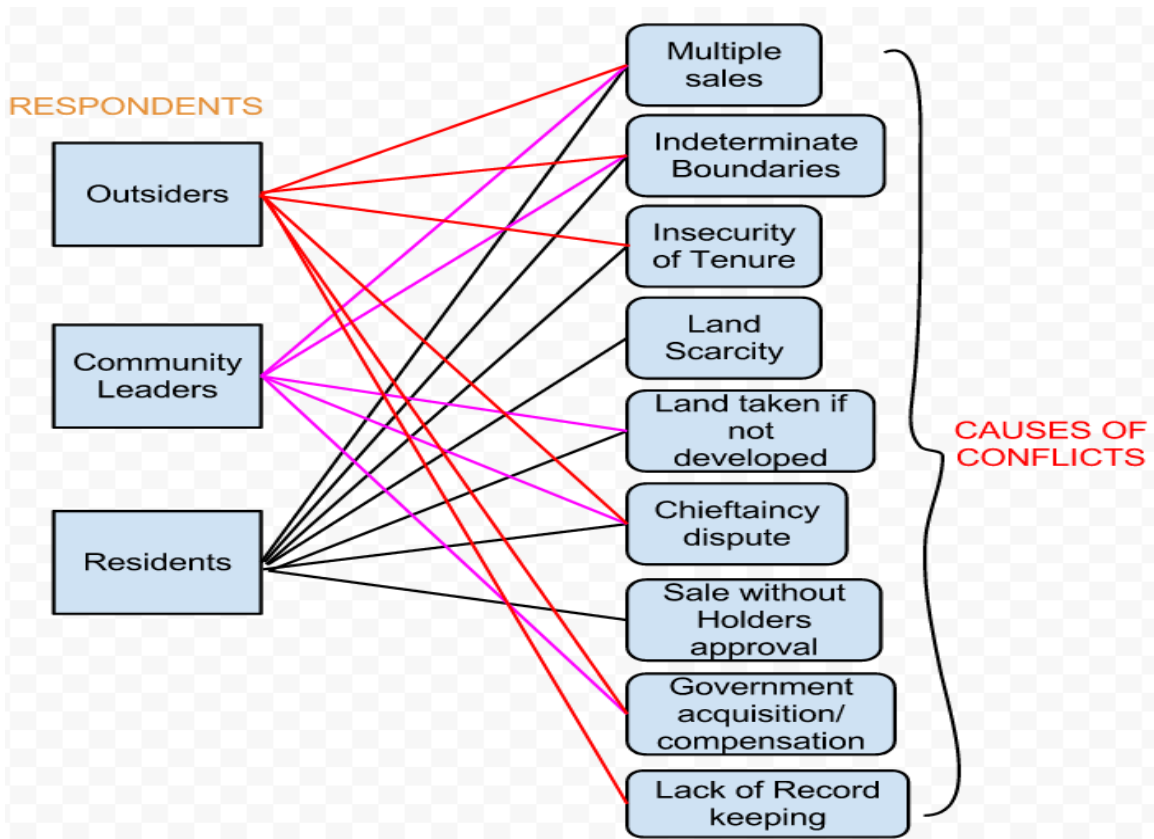


Figure 5.8 Causes of Conflicts based on responses from the three main respondents classes

5.6.1 Outsiders

Interviews with this group revealed land-related problems such as multiple sales of the same parcel of land; poor keeping of land records; disputes over improperly defined boundaries; and, the biggest of all, disputes arising from uncertainty in chieftaincy. In addition, this group importantly stressed the issue of massive encroachment on government-acquired lands by community members and strangers due to general indiscipline or delayed compensation on the part of the government.

Aside from the above comments made during interviews, some of the government land officials reported accusations levelled against the traditional leaders by the indigenes, for selling the customary land to their own private companies (e.g. Company A), and government institutions (SSNIT) (Interviews 1,4 -2011).

Not only were the traditional leaders accused; an interview with one police officer involved in land fraud investigation revealed indiscipline in land transactions also on the part of some family members (family heads, elites within a family hierarchy). In his words, “*Bortianor* has lots of land problems due to its closeness to the sea, which makes its land value high. There is lots of pressure on the land which has led to its drastic scarcity in the area” (Interview 5-2011). He illustrated incidences he had dealt with of multiple sales of the same piece of land, involving members from the same family unit; and an incidence of multiple sales by contesting neighbouring stools (see Figure 5.10), which also applies to *Bortianor*.

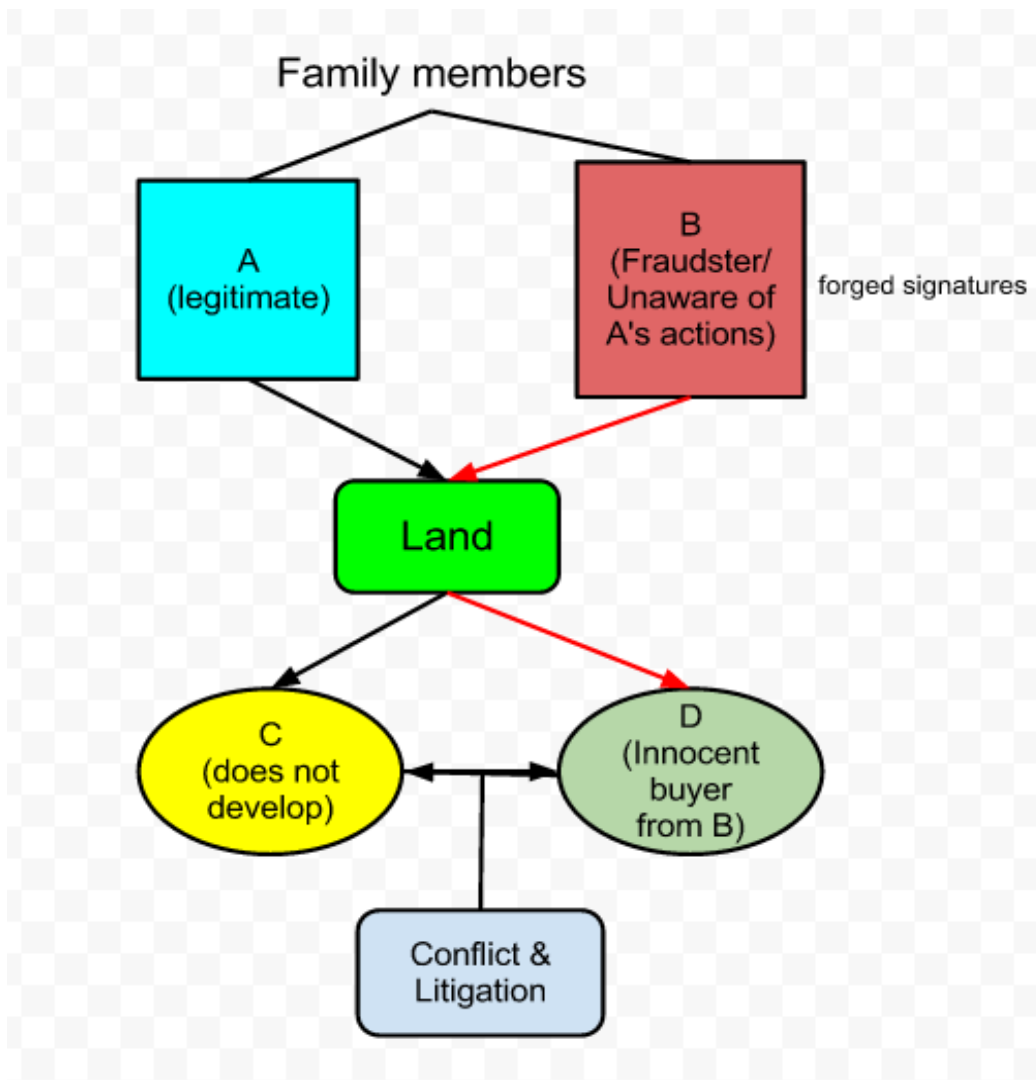


Figure 5.9 Multiple sales of the same piece of land by family members- A common case in Accra which applies to *Bortianor* as well (Interview 5 - 2011)

Reported incidences of multiple sales of the same piece of land by contesting stools are common due to unclear boundaries between the adjacent stools.

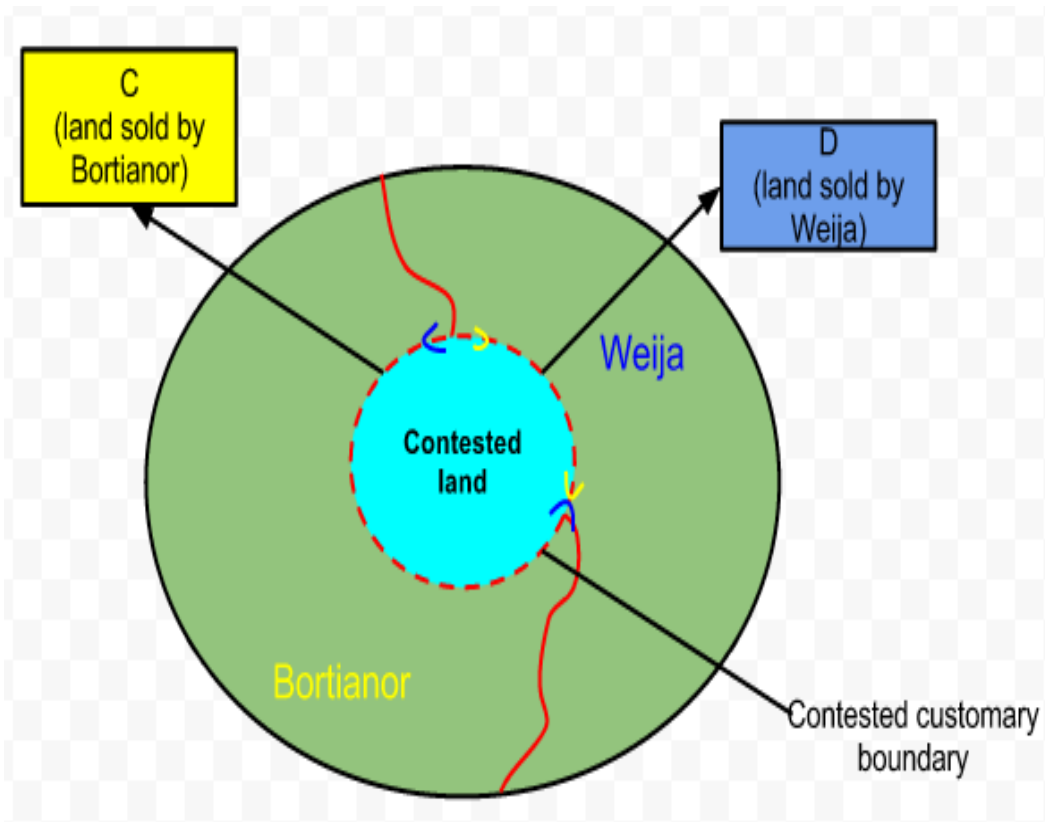


Figure 5.10 Multiple sales of the same piece of land by contesting stools (Interview 5-2011)

5.6.2 Community leaders

From interview sessions with 9 of the 10 community leaders, the issue of delayed or no compensation from government for the acquired land was raised. The problem of local power struggles over the chieftaincy as reported above by ‘outsiders’ was confirmed during the interviews with this group (Interviews 8, 41, 69 - 2011).

The incidence of encroachment by neighbouring stools (*Kokrobite, Aplaku, Weija* etc.) resulting in litigation between *Bortianor* and these stools confirms what was reiterated by the police officer as mentioned earlier (Interviews 5, 61- 2011). Seven of the 10 community leaders alleged that one of the main factions and powerful individuals (that were opposed to their faction) were backed by national political parties and supported by the police and other

government agencies. For instance, the Lands Commission was accused of corruption and liaising with certain politicians and individuals to secretly register stool lands under private ownership (Interviews 23, 35, 41, 61- 2011).

In addition, the invasion of land guards was blamed on Person D, who is alleged to have paid for their services to grab community land to facilitate his personal ambitions. Furthermore, both contesting chiefs accused Person D of grabbing and alienating community lands to both his private company (Company A) and government institutions (SSNIT) (Interviews 8, 11, 21, 23, 29, 35, 36, 40, 41, 61- 2011).

The following court reports were gathered from some community leaders and residents:

Case number	Parties Involved	Main issue
Case AL 7-2008	Nii Kwei Quarcoo v Company A & Others	<i>Bortianor</i> lands sold by a Person D
Case L 283/2003	Nii Kommey Otsi Ata IV as Head of Solowe Family and on behalf of Royal Stool family – Jamestown vs Person D	<i>Bortianor</i> lands sold by a Person B
Case AL 71/2007	2007 Madam Linda S & 4 others (representing 127 landholders) Vs (SSNIT) High Court Accra	SSNIT demolished their houses on their acquired land

Table 5.2 List of *Bortianor* Court cases (See Appendix B for complete list of these documented Court cases)

5.6.3 Residents

More than half of the resident respondents reported indiscriminate land grabbing by their community leaders (chiefs), politicians and government officials as their main source of land tenure insecurity. As reported above, Person D was accused of grabbing and alienating 1500 acres of land to a government institution (SSNIT) at a sum of 10.5 billion cedis (see Case L283/2003; Case BL 622/2004 in Appendix B). Names of Private companies (Company A) were recognised as the registered owners of the residents' inherited lands at the Lands Commission; which in effect hinders their buyers from registering their interest.

Residents also confirmed the pattern of events portrayed in Figure 5.9.

One disturbing note was testimony from a resident who said that family members re-sold lands with the intention to frustrate the transaction carried out earlier. Another strategy is to re-sell the land to create a dispute, which would enable them to regain their interest in situations where the earlier transaction is believed to be illegitimate (Interviews 8, 16 -2011). Incidents of land loss due to operations of land guards who harassed and brutalised indigenes off their inherited lands were also raised. In such instances, prominent persons were alleged to be the brains behind such atrocities (Interviews 8, 11, 21, 23, 29, 35, 36, 40, 41, 61- 2011).

Lastly the dispute over chieftaincy succession between the two main factions (*Solowe* and *Ofolisorlo*) was reported by most residents. This conflict is discussed in Section 5.6.4 below.

5.6.4 Contesting Political Power

The chieftaincy is the highest position/office in the community. The chief possesses the ultimate power to act in the best interest of his community. He approves all land transactions and

indentures must be signed by the chief and some elders in order to be registered with the Lands Commission. If there is a dispute over the installation of a particular chief, the *Dzasetse* is mandated by customary law to manage the affairs of the community together with the Council of Elders.

During fieldwork, the author discovered evidence that land alienations to strangers were being approved and the indentures signed by the two “chiefs”; Nii Ogbaame I, Nii Kwei Arku V, and the acting chief, the *Dzasetse* (see Appendix D for copies of the signed indentures). At the time, the Lands Commission had put a moratorium on registering indentures from *Bortianor* until such time that the chieftaincy dispute was resolved.

From the data gathered from residents, approximately half of the groups indicated that there was no chief in *Bortianor* at the moment; they were aware of the dispute but were reluctant to be seen to support any of the contenders (Interviews 25, 31, 42, 43, 59, 60, 65 -2011). One quarter asserted that Nii Ogbaame I was the chief (Interviews 8, 11, 20, 25, 36, 39, 58, 64, 66 - 2011); a sixth reported the *Dzasetse* (Interviews 28, 32, 34-2011) and a tenth Nii Kwei Arku V (Interviews 29, 40, 57 - 2011). Strangers were especially reluctant to be seen to support any of the candidates. A common response was: “We will know who the chief is when the Ga Traditional Council passes its judgment” (Interviews 19, 27, 31- 2011).

In addition to the above, some groups presented unregistered indentures signed by the candidate that they claimed to be the rightful chief.

Summary of Chieftaincy Succession Flow (gathered as far back to the 1960s)

Interviews with key informants revealed the following information about the widely known chieftaincy succession dispute in *Bortianor* (Interview 75-2012).

1. Nii Kwei Arku III was chief in the 1960s, he had a son Nii Kwei Quarcoo. (refer to Nii Kwei Quarcoo's contention with *Dzasetse* -Akotey IV in Appendix B).
2. After Nii Kwei Arku III died in 1965, Nii Kwei Arku IV was installed. He registered the lands at the Lands Commission in 1977.
3. When Nii Kwei Arku IV died in the late 1980, Nii Kometey was installed from the Solowe faction. Nii Kometey died in 1990.
4. Sackeytse Afla (*Dzasetse*) during Nii Kometey's reign installed Nii Ogbaame in the 1993.
5. Sackeytse Afla died in 1993 and the current *Dzasetse*, Akotey IV was installed in 1994.
6. *Dzasetse*, Akotey IV was alleged to be dissatisfied with the decision of former *Dzasetse*, led Nii Kwei Arku V to contest Nii Ogbaame's position in 1998.
7. Due to the chieftaincy dispute between Nii Ogbaame I and Nii Kwei Arku V, *Dzasetse* acts as Chief of *Bortianor* until the dispute is resolved (custom).

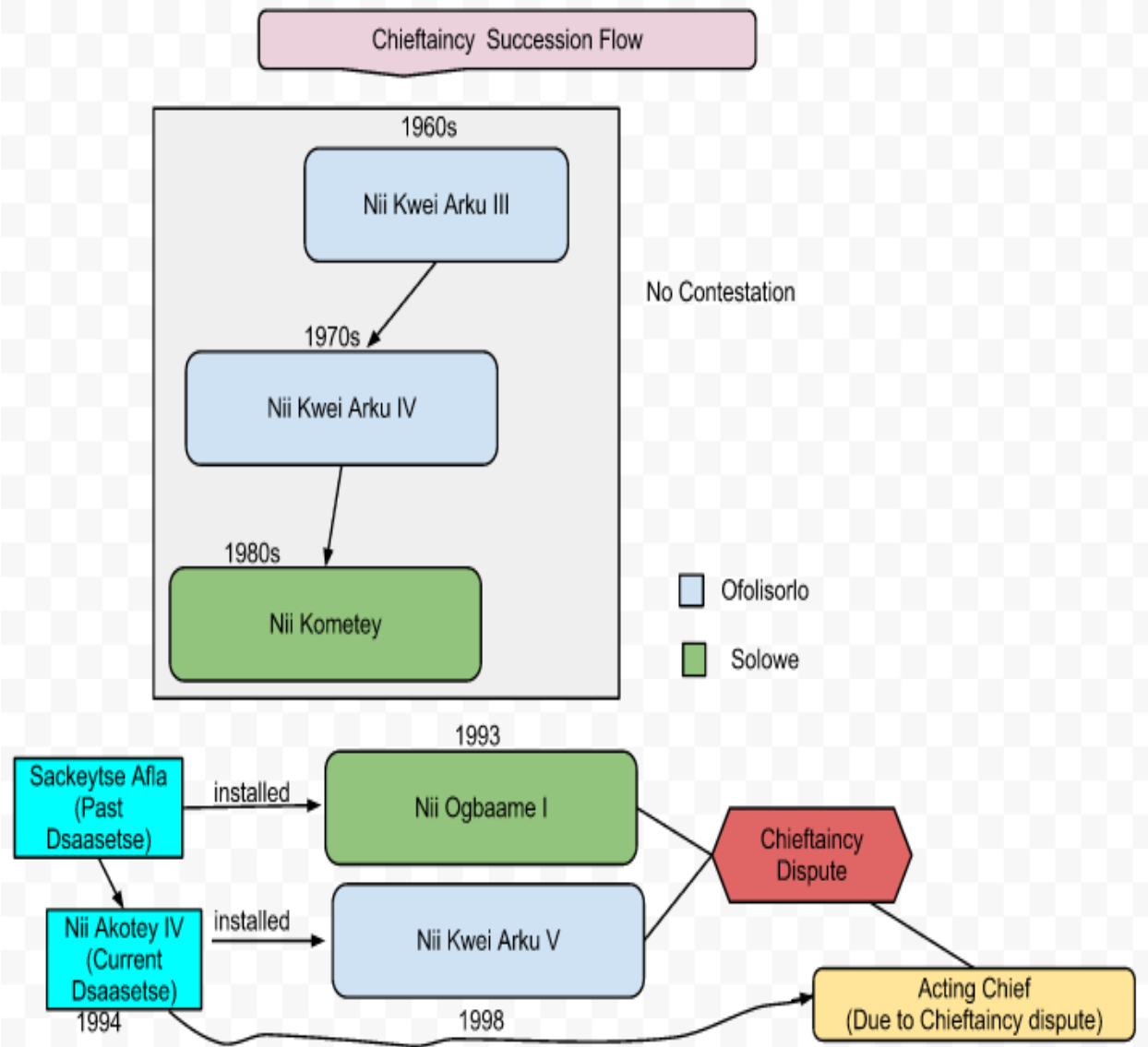


Figure 5.11 Chieftaincy Succession flow (Interview 75- 2011)

Interestingly, some key respondents revealed that, “the chieftaincy position was forced on royal members in the past. People were not interested in it, because it had no worth like today. Now you can make lots of money from it by selling some lands, which explains why everybody is fighting hard to claim the chieftaincy position” (Interviews 14, 61- 2011, 77- 2012).

5.7 CONFLICT RESOLUTION

How are land problems resolved?

Conflicts over land in *Bortianor* occur at different levels between family members: between chiefs; as well as between family members and chiefs; and, in many cases, between landholders and strangers. Conflicts such as indeterminate boundaries between neighbours, and multiple sales of the same piece of land to two or more persons, are common forms of land conflict in the study area.

Regardless of the forms in which conflict occurs, it is expected by the state, as well as the community, that the customary tenure institutions should exercise their judicial role through their traditional conflict resolution mechanisms. However, because chiefs are alleged to be involved, in some manner, in land disputes and are typically blamed for instances of double sales, land grabbing etc., they are not considered fit by landholders to settle land disputes (Interviews 6, 7, 10, 16 - 2011).

In effect, most respondents prefer the venue of state courts for resolving conflicts instead of their customary conflict resolution mechanism which is chaired by the chief. In an ideal situation, reliance on state judicial service to settle land disputes, and on its judgments, would bolster land tenure security; however, respondents reported their scepticism of the courts, given a perception of history of unfair judgments in favour of the rich who are known to routinely bribe judges and to employ lawyers able to manipulate the legal system, among other instances of corruption. This well-founded lack of confidence in the judicial system, which they rely on, heightens tenure insecurity among those lacking resources in the study area (Interviews 8, 35, 41, 61- 2011).

With regards to disputes involving chiefs, the Paramountcy/ *Ga* Traditional Council is mandated to resolve such disputes, and is currently working on the chieftaincy dispute case in *Bortianor*. According to the respondents, family heads are responsible for solving land disputes between family members; their decision is respected, since they are assumed to know much about the family holdings, and on this basis are able to pass concise judgements. It is for this reason they are invited to witness any land transaction between family members, or a family member and a stranger (see Figure 5.12).

The Land and Property Fraud Unit (LPFU) of the Criminal Investigations Department (CID) were reported as a medium for resolving land disputes. Local police stations were alleged to be corrupt, take bribes, and act unfairly in favour of the rich (Interviews 5, 8, 61 -2011). In situations such as the one described in Figure 5.8, the detectives at the (LPFU) would begin by examining documents as the primary source of evidence. In doing this, the police determine the authenticity of documents by checking whether the person who is entitled to sign actually signed. In comparing the relative merits of documents, the standard race system is employed by the police to check which document was obtained first, and who was first to register.

According to a reputable Police officer, a civil suit court is advised in the case of a dispute, especially when buildings are erected on the contested land. In most cases, the registered title holder who has followed due process can evict the trespasser. For instance, from the illustration in Figure 5.9, the Courts are likely to hold for 'C', and consequently grant 'C' the authority to evict 'D' and demolish the building if necessary, especially if D is aware of C's interest. However in situations of genuine error (especially on the part of traditional leaders (Chiefs)), when the same parcel of land is sold to two different people, an alternative land parcel is normally given by the Chief to one person (Interviews 41, 61- 2011).

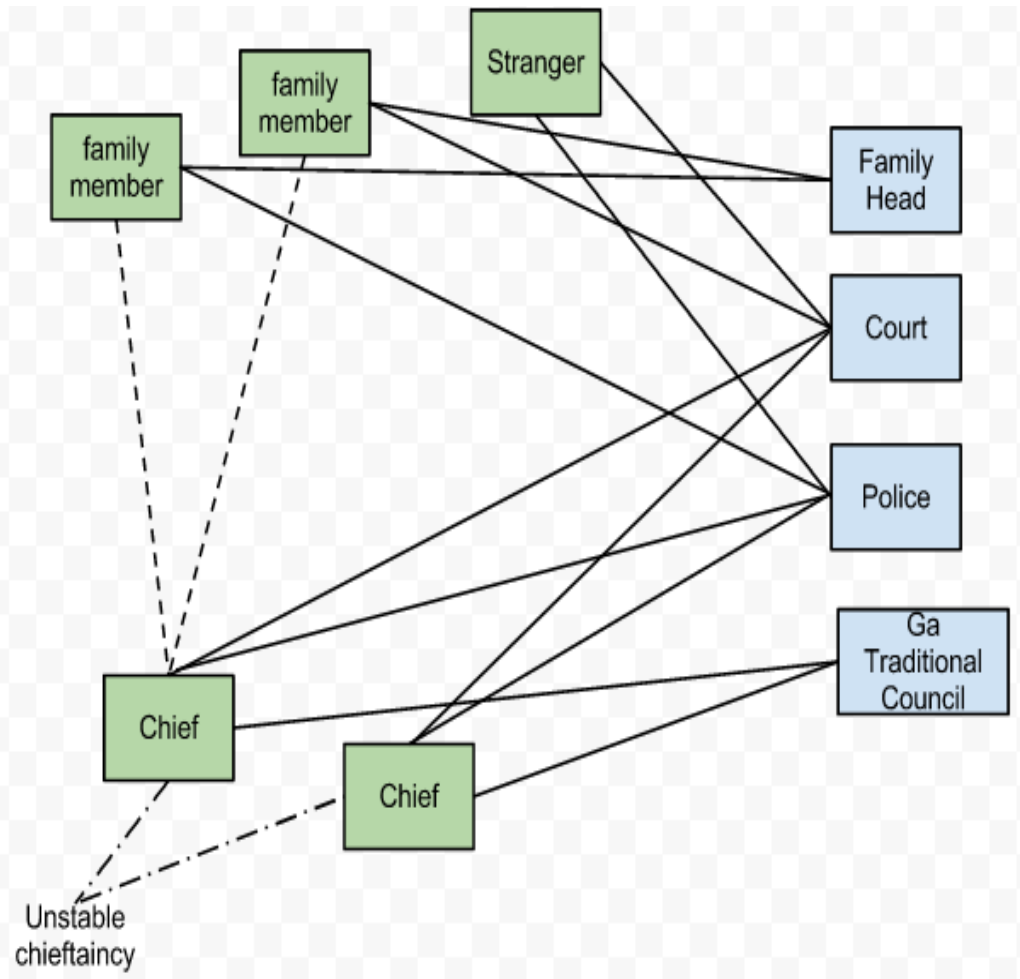


Figure 5.12 Resolution of conflicts mechanism in *Bortianor*

5.9 WHAT MOTIVATES LAND SALES AND LAND ACQUISITION BY SELLERS AND BUYERS

I first discuss some of the reasons why people sell their land in *Bortianor* and follow it up with some motivations why people would want to buy land from *Bortianor* based on answers and observations gathered during the fieldwork. In doing so, the drivers behind changes in tenure will be ascertained which facilitates addressing the research objectives.

5.9.1 Why Do People Sell Land?

Tradition demands - Important Celebrations (Festivals, Funerals etc.)

Interviews with some of the key informants revealed that land sales in the community are necessary to enable the community to be able to afford the items required to perform the rituals for the gods during festivals. In his words, items such as cows, schnapps, sheep and goats are required for each god annually during the festivals. Hence there is a need to sell some of the community land to be able to afford such expensive ritual items (Interviews 21, 41, 61- 2011).

When questioned on how these rituals and important celebrations were afforded and performed in the past, two key informants revealed that, royalties were paid to the chief, by farmers and fishermen during bumper harvest (Interviews 61- 2011, 77- 2012). It was also revealed that not many items were required to perform rituals in the past. One key informant mentioned that *“just blood from one fowl is sprinkled on the habitat of the gods”* (Interview 77- 2012). But before this era, humans were believed to be sacrificed for rituals. In the words of one key informant: *“you would be hanging out with a friend few days before major rituals or festivals are performed, and all of a sudden, you won’t find him and some few others in the community again”* (Interview 77- 2012). It is believed that, modernisation and influence of human rights advocacy has lessened/eradicated such practices (Interviews 61-2011, 77- 2012). With the recent advent of commoditization and rampant land sales, a local official pointed out that these rituals and festivals have now become one of the sources people in position use to exploit community resources (Interview 77- 2012).

Generalised insecurity of residents’ holdings

When asked why they or someone in the community might sell their land, a number of residents pointed to the fact that land was sold to strangers just to get some money, or gain, or to avoid

losing it to land guards/ grabbers. This unfortunate situation was however confirmed by a influential people, who emphasized that the indigenes/land holders would prefer to sell their land as fast as possible to make some money, rather than to lose it entirely to land grabbers without any monetary gain (Interviews 8, 39 -2011).

They cannot effectively justify their holding in court and do not have any documentation certifying their rights to the land. Still, their possessory interest is good relative to someone not in possession and lacking acknowledgement of interest by community members, making sale of the land a regrettable but feasible option. In their opinion, this again calls for the need for a CLS to ensure local land registration of interests which were acquired through oral transactions, to mitigate the intense vulnerability and insecurity of indigenous land holders (Interviews 8, 39, 61-2011).

Economic hardships/unemployment

Another reason for land sale is economic hardship. When asked, respondents reported why they sold their land to acquire money in hope of survival, especially in the midst of the hard economic times. The youth are also actively involved in land sales, whether legal or illegal, to earn money for a living. High unemployment, especially among the youth was reported by most residents. During the interview with some of the youth, they attributed their state of unemployment to the loss of land in the community. Those interested or engaged in farming claim they have no farms to work on, due to the fact that their elders have sold all the land which was supposed to be passed unto them (Interviews 32, 36, 38 - 2011; see Sections 5.4.2.1, 6.2.2.4, 6.3.1.1).

Urbanization pressure

The rapid growth of the city and development encroaching on areas on the periphery of Accra as described in Chapter 4 increase the pressure on community leaders and residents to sell land for development. All eight community leaders interviewed attributed the need to sell land for development purposes to keep pace with the development of Accra. With *Bortianor* only 13km from Accra, it is quite obvious that developments such as new roads, hospitals, schools and residential buildings are spreading towards the area. Community leaders and ordinary members reported the need to develop their area to match this trend, hence putting a clause in the indenture to force land purchasers to develop the land within the shortest possible time (Interviews 41, 61-2011).

5.9.2 Why Do People Acquire Land?

Accommodation and Speculative purposes

In the case of those acquiring land for residential purposes, respondents identified high rent in the city, which forces people to move outward in search of land in developing areas, in order own property. Respondents also reported the area's suitability in terms of its aesthetic assets as an escape from city life, its hilly relief bounded by beaches is good for relaxation. In spite of this, people from outside the community are motivated to buy a plot of land for speculative purposes, in anticipation of higher profit on sales as the area develops further. Such purchasers, however, run the risk of running afoul of the stated condition of purchase, in not actually making improvements on the land post-haste (Interviews 8, 29, 41, 61- 2011).

Business ventures

Respondents were aware of the fact that investors do come in to buy land to create businesses in the area and, thus, foster employment opportunities. The majority of ‘outsiders’ reported that investors interested in beach resorts, hotels, restaurants etc. acquire land in *Bortianor* and related areas to attract tourists and locals in the city and surrounding areas, especially during the holiday seasons (Interviews, 8, 19, 61-2011).

Expensive but cheap land sales (Insecurity creates/favours cheap land sales)

Even though the cost of land in *Bortianor* was described as expensive by the majority of respondents, some also complained how most clients do end up paying for less value. Land buyers (mostly strangers) were described as eager to take advantage of the insecurity of land tenure in the community to offer very low prices. In addition, the buyers often split the payments into small instalments, on the premise that the legitimacy of the transaction has not yet been approved by the Lands Commission *Bortianor* (Interviews 8, 14, 41, 61- 2011).

5.9 CONCLUSIONS AND CHAPTER SUMMARY

This chapter presented and discussed the results of fieldwork conducted in *Bortianor* with the aim of answering the key research questions to address the research objectives. In doing so, the chapter identified various dimensions of change in the customary land tenure system: social settings, land holding and use rights, the state of tenure security, procedures of acquiring and disposing customary land, and some land-related problems and means adopted to resolve them.

In discussing the land-related problems, the chieftaincy dispute was identified as the main issue affecting overall land administration in the study area. Nii Ogbaamey I from the *Solowe* faction mainly claims legitimacy to the chieftaincy position, from the fact that, they were the first

settlers in the community. In contrast, Nii Kwei Arku V from the *Ofolisorlo* faction claim legitimacy to the chieftaincy position, based on the fact that he inherited it from Nii Kwei Arku IV, III and II, whose positions were uncontested.

Individuals in positions of influence have utilized their standing to annex land for personal gain, as seen in cases before the courts. In effect, the research shows that indigenes were left very vulnerable to the predation of powerful resource holders, opportunistic behaviour by decision-makers, changes in the system of customary land holding, and, consequently, have adopted various strategies for their survival. From the indigenous person's perspective, who lack paper title to one's customary family holding, making improvements (usually building structures) on one's land is seen as the surest way to secure one's interest. This perhaps explains why strangers are subjected to formal conditions on their lease to build in the shortest possible time.

On the whole, various degrees of change can be seen in how the customary land tenure and administration system has evolved amidst the forces described, especially in terms of land acquisition and the delivery process, and various means adopted to secure one's interest.

CHAPTER 6: APPLICATION OF THEORETICAL FRAMEWORK

6.1 INTRODUCTION

As introduced in Chapter 4, Comaroff's dialectical framework is employed to explore and explain the interplay between the internal dialectic and external forces, and its effect on *Bortianor's* land tenure administration system. Chapter 6 presents a discussion of the interactions between the internal and external forces, as observed in the case study; the vertical linkages and lateral relations within the internal dialectic in the local system, and their relationship with the external forces, are also examined.

The social change model is applied to explore transactional behaviour influenced by occurrences of schism and solidarity among groups and individuals in the internal dialectic and how that influences the transformation of the land tenure administration and tenure rules.

6.2 APPLICATION OF COMAROFF'S DIALECTICAL APPROACH

Following Comaroff's approach (See Chapter 3), a theoretical framework is developed (Figure 6.1) to depict the internal forms and the external factors that influence the land tenure administration in *Bortianor*. As part of the unit of analysis, the internal forms include the institution of chieftaincy, customary rules and beliefs, history, youth, strangers, inheritance, landholding, family structure and units, and family networks. The external factors consist of statutory measures, *Ga* traditional council and local government, national political party influences, government land institutions, effects of urbanization and proximity to the nearest urban area. Below is a diagram that depicts the external and internal dialectics and some linkages between them.

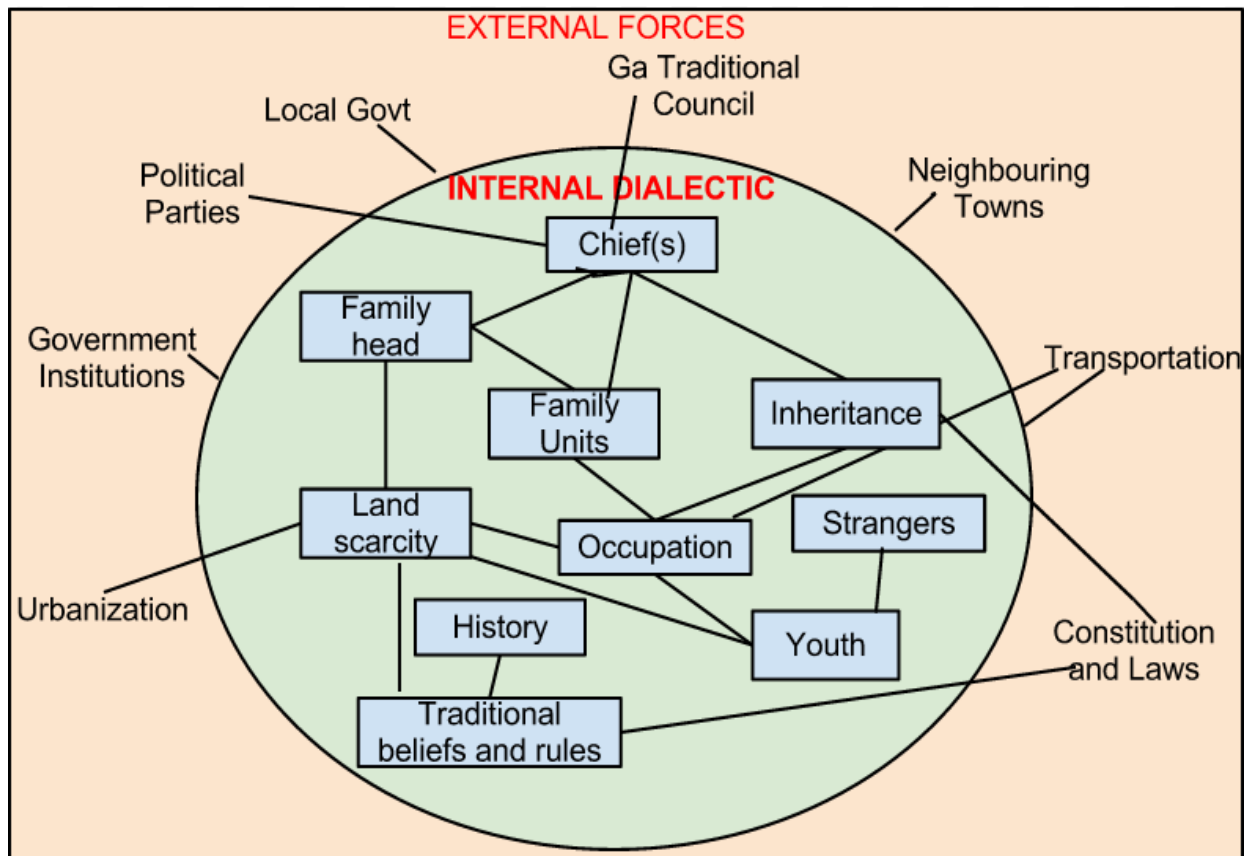


Figure 6.1 Theoretical framework depicting the internal forms and external forces involved in *Bortianor's* land tenure administration system

6.2.1 Vertical Linkage/Relation

6.2.1.1 Relationship between Chiefs (Community leaders) and community members

From Figure 6.1 above, the chief, having a constitutional fiduciary obligation to act in the best interest of his people according to customary rules (Article 267 (1)), occupies the highest position in the social hierarchical structure of the community as the head of the whole community and the custodian of the land. The chief has a close coterie of advisors, commonly referred to as the council of elders, who wield formal customary power to aid the governing of the community affairs.

Interview responses from residents (Interviews 8, 61-2011) and SFO reports suggest that this fiduciary obligation has been abused for personal gain through the grabbing of customary lands and indiscriminate land sales. This has resulted in strained vertical relations/linkages between the chief (i.e. community leaders) and community members due to abuse of this power. The interview results showed gross discontent and dissatisfaction from community members concerning the manner in which the chiefs alienate community resource (land). For instance, some of the residents interviewed described legal actions they have taken against their chiefs and/or traditional leaders to challenge their practices (Case L 551/2000, Interviews 20, 61-2011).

To further aggravate the problem, there are unsolved chieftaincy disputes that have further worsened the abuse of power by various chiefs who each see themselves as the rightful leader. As revealed in Chapter 5, currently, the vacant seat is alleged to have given politically connected people the power to exploit and manipulate the chieftaincy position and land tenure rules (Case AL 158/2008 in Appendix B; The Sun, February 7 2006; SFO, 2003)

Besides the above allegations levelled against prominent people in the community, it is important to note that a lot of the land that has been alienated is family land, and therefore the family heads and their cohort of advisers were also accused of being deeply involved in indiscriminate land sales (Interviews 8, 61 - 2011)

6.2.2 Lateral linkages/relations

To analyse the tensions in the lateral relations in the internal dialectic and how they have contributed to modifications of the land tenure system, the following aspects are discussed: 1) the stool-to-stool relations; 2) relationships between individual and family units; 3) relationships between strangers and indigenes; and 4) relationships between youth, strangers and community leaders.

6.2.2.1 Relationship between Community leaders

As discussed in Chapter 5, there are three main factions within the community of *Bortianor* with leaders of each faction having a supportive group claiming the chieftaincy. Between these contesting leaders, there is an intense power struggle over who has the right to administer and control the community lands which has resulted in tensions and conflicts between them. Each chief together with their cohorts allocate and administer land to interested buyers (outsiders), demonstrating their authority in the community. Indentures signed by the contesting chiefs and the acting chief (*Dzasetse*) proves the above. (see Appendix D for copies of signed Indentures).

Although the chieftaincy dispute is currently being resolved by the *Ga* Traditional Council, such activities by these leaders have led to constant litigation over land among themselves. There are court cases involving these community leaders and community members as well as strangers with regards to land transactions. (see list of court cases in Appendix B).

6.2.2.2 Relationship between individuals from different families (first settler status)

The interview results showed that there were inherent relational tensions between individuals from different families. For instance, most members of the two main families (*Solowe* and *Ofolisorlo*) tend to relate with one another and share a similar ideology, a pattern holding true with the other families as well. During the snowball sampling, key informants referred only to people with similar beliefs; they made no mention of people in other factions unless asked about them directly (Interviews 8, 61- 2011).

Also, aside from the reported 13 established families in the community, there were new families that had emerged in the community who, although *Ga*'s, were not classified as part of the founding lineage members of *Bortianor*. In this light, their access to land and key positions in

the community is limited. In a way, they are classified by some interviewed members from the main families as partial strangers, even though they can relate to them as being part of the *Ga Mashi* tribe (Interviews 9, 61- 2011).

On the whole, the relationship between the different family factions with respect to access and control of land is based on the family's period of settlement (i.e. *first settler status*). In this regard, the main positions such as chieftaincy, traditional priest and other major roles in the community are assigned to direct descendants of the earlier settlers. Due to this, there are inherent tensions in the relations between the family units as each family faction manipulates their history to claim "*first settler status*", in order to have greater access to land and other vital roles in the community. This in fact has been the primary reason behind the chieftaincy disputes between the two main earlier settlers in the community. One's affiliation with any of the two main factions determines one's access to land in the community.

Therefore, it is argued that *first settler status* is directly related to access and rights to land, which in effect causes manipulations of settlement history to support one's claim. Also, instances of jealousy were mentioned in questionnaire responses between different family units in the community. Farmers who cultivated and held large tracts of land were envied by other family members possessing fewer or no land holdings (Interview 11-2011).

6.2.2.3 Tensions in relationships between Individuals within the same family unit

Tensions also exist between individuals of the same family. Among interview responses and in media articles, there was a significant incidence of deliberate multiple sales of land by members within the same family unit. One explanation is this is done to frustrate or hinder their fellow members who have illegally sold lands that belong to family members jointly (Interviews 8, 11, 57- 2011).

There are other explanations for multiple sales. For example, the possibilities of collusion between family members who each sell to different people and then share the funds (Interviews 11, 57- 2011).

6.2.2.4 Relationship between the Youth and community leaders/elders

Tensions were also evident in responses gathered from resident interviews between the youth and community leaders in relation to land rights and community resource management. Allegedly, community lands, which the youth expects to inherit, were sold by their elders. Consequently, the youth have imposed alternative means, usurping the conventional land tenure rules put in place to facilitate land transactions in the community. Among the means devised are forcefully collecting *digging* and *foundation* fees from strangers before allowing them to develop their land (Interviews 38, 57, 61- 2011). On the other hand, some elders view the youth as incompetent, disrespectful, and too lazy to inherit family lands (Interviews 35, 40 -2011; see Section 6.3.1.1).

6.2.3 Dialectics between the internal dialectic and external forces (Dialectic of articulation)

The dialectic of articulation between the internal dialectics and the external forces outside the local context can cause changes in the land tenure system (Comaroff, 1982). I discuss some of the external forces/elements typical to this research and how they influence the internal dialectic below:

6.2.3.1 Relationship between the courts and community leaders & members

Research results suggest that there is belief among Bortianor residents that there is a high level of corruption in the judicial system, which the researcher could not corroborate. For instance,

there were unsubstantiated allegations that judges' decisions are influenced by the rich elites and some powerful individuals both outside and inside the community to obtain favourable rulings in the courts. The resulting lack of confidence and mistrust in the judicial system of the country as a whole became evident during the study, which, in a way, corroborates the assessment of a strained relationship between community members and the court (Interviews 8, 14, 61- 2011; Daily Graphic November 15, 2001). Nevertheless, an interview with a renowned lawyer suggested that, the courts may not be able to accommodate local historical claims, which is exacerbated by the lack of legislation and documentary evidence to preside over multiple local oral claims (Interview 15- 2011; GNA October 28, 2003).

6.2.3.2 Relationship between factions in the community and external political parties

Some *Solowe* faction members claimed that rival competing factions have the support of a particular national political party. This has also caused a strained relationship between the alleged political party (N) and the family faction (*Solowe*) in the community. Furthermore, access to land and power to rule in the community is alleged to have been changed by officials of the N party in favour of the *Ofolisorlo* faction (Interviews 8, 14, 61-2011). However, these claims could not be substantiated in this study.

If accurate, the alleged relation with these external political parties influence who gets access and chieftaincy rights in the community, contrary to their customary laws. In effect, certain groups of the family become more empowered when their political party is in power; thereby influencing the way their followers manipulate land tenure rules in the community (Interviews 8, 14, 61-2011).

The net effect of this type of interference by elites is the belief that a particular faction's access to power and land tenure control depends on one's affiliation with the ruling political party.

6.2.3.3 Relationship between Government institutions and local community

The relationship between government institutions dealing with land and local community factions is strained. For instance, although community leaders believe they have absolute power to manage their lands, the Land Commission's (LC) consent is needed to complete a land transaction. Interview results showed that many community leaders are dissatisfied with the way the LC handle their land matters. In fact, many accused them of covertly collaborating with other Government institutions (e.g. SSNIT), powerful elites and certain individuals to illegally grab community lands. There are various cases where a particular faction has sued the LC for abusing their power or disenfranchising the group of their land rights (Interviews 41, 61-2011; Case L 283/2003).

On the other hand, the Lands Commission believes that the chieftaincy disputes in *Bortianor* hinder the commission in processing and approving any land transactions from that community. As a result, the commission has halted the processing of transactions in *Bortianor* due to the chieftaincy disputes and the controversy surrounding the legitimacy of signatures on indentures (Interviews 1, 2, 3, 4, 9, 10, 22- 2011; see Section 5.6.4).

In addition, the results from in-person interviews with residents and traditional leaders showed that community members were dissatisfied with compulsory acquisition of customary land by government. Instances of change of purpose for which the land were acquired, and the compensation expected from government has led to strained relationship between the government and the community members (Interviews 1, 8, 9, 41, 61- 2011).

On the other hand, some individuals believe otherwise and, in fact, blame community leaders for the land problems in *Bortianor*. The responses from some land officials suggested that the community leaders deliberately encroach on government lands by selling portions of it to strangers for residential purposes, although they have been duly compensated. The site in question is to be developed into real housing estates. In effect, the government was forced to demolish many houses erected by these squatters who had invaded the site (Interviews 1, 2, 4, 29 - 2011; Case AL 71/2007; GNA June 20, 2003). According to an official from (SSNIT) as reported by GNA (2003): “*several warnings by the SSNIT Taskforce have not deterred the encroachers. He said SSNIT had paid 1.6 billion cedis for the land through the High Court as compensation to the landowners after a 99-year lease dated November 1, 1995 by the government of Ghana acting through the Lands Commission*” (GNA June 20, 2003).

The relationship between the community and Office of Administrator of Stool lands (OASL) with regards to the collection and management of ground rents is also strained. While the OASL is faced with the challenge of determining who is legitimate in order to disburse funds to them, the factions surrounding the stool on the other hand are dissatisfied by the choice made by OASL to deal with a particular faction instead of all of those requesting financial support (Interviews 9, 26, 41, 61-2011).

Some community leaders are also generally unhappy with the idea of OASL managing their revenue. They feel that such activity restricts their authority over land and hinders them from effectively administering the stool (Interviews 41, 61- 2011).

6.2.3.4 Effects of Urbanization Patterns on Community

Urbanisation and development patterns in Accra have influenced the customary land tenure administrative procedures in close peri-urban areas like *Bortianor*. *Bortianor's* proximity and

easy access to the city, facilitates the influx of migrants and increased land pressure. For instance, new developments (i.e. beach resorts, hotels, restaurants etc.) attract strangers to the area and escalate land values.

In response, amendments to certain customary practices (e.g. agreements on title to develop land within 2 years on pain of forfeiture) have been introduced by community leaders to land tenure administration in the community (the specific period that this condition was introduced was not given) (Interview 77- 2012; see clause in Appendix D (III)). This, again, is due to high demand for lands by strangers who have facilitated the exploitation of community resources for personal gains by some community leaders. Consequently, there are conflicts and tensions between family units, community members, outsiders and leaders in *Bortianor* (Interviews 8, 41, 61-2011).

6.2.3.5 Effect of Statutory laws (Compulsory registration) vs Customary laws

Government legislation requires all landholdings to be registered can be argued to have some implications on the type of interest acquired by the customary lineage members of the community. For instance, statutory law, which forbids the granting of customary freehold to some extent, contradicts the belief that a customary holding is held in perpetuity.

In addition, the nature of the interest assigned to indigenes who hold customary land - should they register their land - is yet to be codified in statute. Questions of whether indigenes would be classified as tenants on their own land, or otherwise, are being debated in government circles (Interviews 3, 9-2011). On the other hand, powerful individuals in the community have taken advantage of the registration system to register communal lands in their private names/company names in which they hold an interest (which is allowed by statute).

6.2.3.6 Community (stool) – Community (stool) relationship/linkage

Bortianor stool as shown in Figure 3 is bordered by other communities such as *Aplaku*, *Kokrobite*, *Weija*, and *Gbawe*. These communities (stools) are all under the Ga stools who share similar customary traditions and practices. In recent times, some of these neighbouring stools have incorporated statutory processes for securing their land. For instance, *Gbawe* established Customary Land Secretariat (CLS) through LAP by the government and, hence registered their customary boundary (Arko-Adjei, 2011; Interviews 1, 9- 2011). Arko-Adjei (2011) noted that, the aim of this set-up was to increase the accountability of community leaders to their subjects (World Bank, 2001).

Initiatives such as the above may have repercussions on the way *Bortianor* may administer their land. One community leader asserted that it is the intention of his community to pursue regularization of their lands. Most of the stools under the *Ga* state have, however, not delineated or demarcated their land boundaries. Disputes over a boundary between neighbouring communities are therefore quite prevalent. These contested boundary disputes between stools normally involve the use of land guards by community leaders to physically safeguard their stool land, in addition to protracted litigation in the courts to assert their legal rights.

As a result of these boundary disputes, changes are made to the land tenure rules to aid security of one's territory. For instance, a powerful individual was believed by one resident group, to have registered the *Bortianor* stool land under Company A to protect it from being encroached upon by residents of neighbouring stools, even though court cases and SFO reports suggested otherwise (Interviews 13, 34- 2011; see Section 5.4.1; SFO, 2003).

6.3 MANIFESTATION OF SOCIAL CHANGE THEORY

Based on the Comaroff's dialectical approach above, in analysing the tensions inherent in the local system (internal dialectic), the following section discusses the 1) on-going processes of schism and solidarity; and 2) entrepreneurial behaviour/opportunism in the community in relation to the social change model.

6.3.1 Solidarity and Schism

It is expected that every community acts in solidarity when faced with actions of external agencies; however, results of the deals flowing from such actions may facilitate internal competition and conflict (Barry, 2006). The incidences of solidarity and schism between different groups and how they manifest to influence transformation in the land tenure system in *Bortianor* are discussed below:

6.3.1.1 Youth schism & coalition

There is solidarity among the youth groups in the community. This was observed through their organization of a union to establish and safeguard farming, fishing, and social and sporting activities. It was mentioned by some youth respondents that it was the attitude of their leaders and elders towards land use and management that instigated their solidarity (Interviews 14, 38-2011). Tenure rules have recently been introduced by the youth group to strengthen benefits from their supposed inheritance. There is very little agricultural land left in *Bortianor*. Very few economic opportunities are available to unskilled illiterate youth. One method of earning income was to form a group established to manipulate the rules and claim 'digging fees' and 'foundation fees' from strangers, before allowing them to develop their land. There were also instances of intra-family schism occurring where individuals belonged to youth coalitions that opposed the

position of their family units over resource use/entitlement/management of land (Interviews 38, 57- 2011).

Regardless of the above, two community leaders confirmed their ability and role in organizing the youth, in physically confronting and fighting perpetrators (land guards) in order to protect community land (Interviews 8, 61-2011). This act of rallying the youth for a common cause was read as a way to contest use, and to deepen/strengthen their position as rulers in the community (Interview 77- 2012).

6.3.1.2 Lineage schism and solidarity

Affiliation with a particular lineage or family group influences the extent of one's access to certain positions and resources in the community.

In relation to the chieftaincy issue in the community, the two leaders contesting the stool have major support from their main families. There was also evidence of members of the eleven families outside of the *Solowe* or the *Ofolisorlo* lineages being divided on this issue. Apart from these two main contesting factions, the *Dzasetse* who acts as chief when there is any chieftaincy dispute, also has the support of some families. Reasons for this observed solidarity and support behind these contesting leaders and respective family units may be related to the need for power and control, as well as the need to establish and/or strengthen one's position of efficacy or dominance in the community. This solidarity is vital in accessing the chieftaincy, and other key positions in the community. However, it is interesting to note that, not all members of a particular lineage group support the chief from their lineage. For instance, the study showed that some family members split from their units and integrate with factions perceived to be more powerful to obtain land and power in the community. This further intensifies the tensions and conflicts within immediate family units and the opposing family factions. The support rendered

to a particular contesting chief may serve as a source of schism or integration in the community, which may influence the land tenure system in *Bortianor* (Interviews 11, 13, 14, 61- 2011).

6.3.1.3 Coalition among community leaders, powerful elites & politicians

There were notable coalitions among groups of community leaders around certain issues. For instance, the leaders of one faction (*Solowe*) teamed up to sue a prominent person in the formal court to challenge him on indiscriminate land sales (See Case AL 158/2008 in Appendix B). In addition, the prominent person also collaborated with top politicians and people outside the community to form Company A (see Case AL 20/08 in Appendix B) to effecting a land deal. Powerful positions in the community are alleged to have been used opportunistically to lay claims to land and dispose of land through the registration system without following the normal processes that are expected in the traditional system (Interviews 8, 11, 21, 32, 41, 61- 2011).

6.3.1.4 Solidarity among strangers against Government agencies (SSNIT)

As pointed out in earlier sections, a group of strangers held a government housing organization, Social Security and National Insurance Trust (SSNIT) responsible for the demolition of their houses. SSNIT acquired 1,570.67 acres tract of land, which was encroached on by a group of strangers over some extended period. According to the court report (Case AL 71/2007), a group of 127 strangers sued SSNIT for demolishing the houses and abusing their registered rights to the land. Figure 6.2 below gives a diagrammatic illustration of the forces at plan in this situation (Interviews 8, 29, 41, 61- 2011; see Section 6.2.3.3).

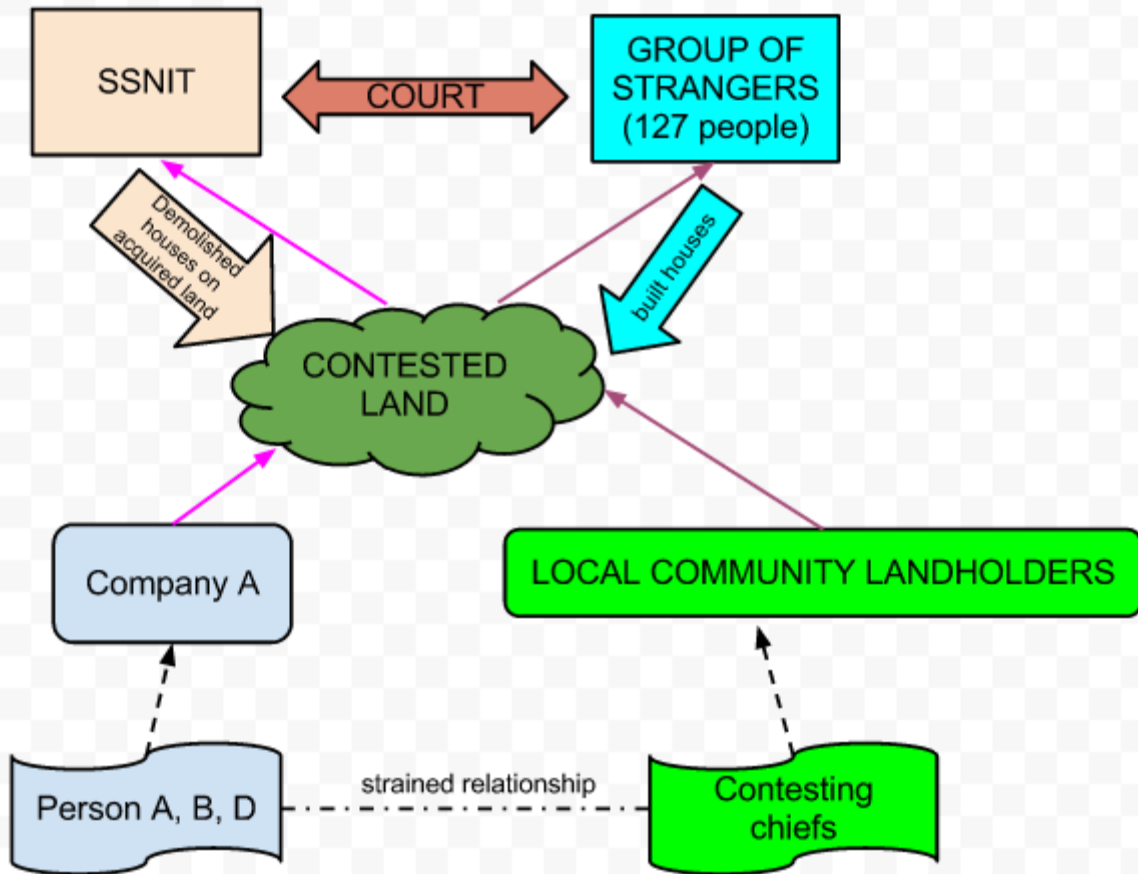


Figure 6.2 Manifestation of solidarity among strangers against SSNIT

6.3.1.5 Economic Activity/Occupation

Factions formed around participation in and dependence upon common economic activities, which were mainly farming and fishing. The head of the fishermen, locally referred to as the *Woleitse* organizes and manages the fishing group in the community. The farmers, on the other hand, have typically inherited farm lands and their livelihood from their forefathers. Due to the increased monetary value of land in recent times, families with few or no lands are alleged to have collaborated with land guards to exploit lands from landholding families due to jealousy. Youth groups had also formed around land matters, where they demand digging and foundation fees from strangers building houses (Interviews 38, 40, 41- 2011).

6.3.1.6 Schism among family units

The competition and rivalry between followers of the two main contesting families has led to tensions between families in the community. For instance, results from the local government representative election gave strong indications of the rift between these families. The Assemblyman who emerged as the winner of the election confessed that he had the highest number of votes because of the tension between the family units. His status as a stranger makes him neutral and, hence, enabled him to get votes from both sides of the competing factions (Interview 14 - 2011).

6.3.1.7 Solidarity among families during festival celebrations

In spite of the above highlighted issues, the community's annual festival (*Homowo*) is jointly celebrated by both contesting factions. They come together and perform all the necessary activities and rights to honour their ancestors and thank their deities for continuous protection and progress in the community (Interviews 14, 21, 29, 30, 41, 61- 2011; see Section 5.9.1).

6.3.2 Transactional/Entrepreneurial behaviour

Entrepreneurial or transactional behaviour as mentioned in chapter 4, centres on negotiations and deals related to land and land tenure within a community (Fourie, 1993).

Instances of transactional behaviour manifested in the processes of land administration, such as land allocation and alienation, which influences the land tenure rules, are discussed in the following sections. This is facilitated by the on-going coalition and schism in the local system, as described in the above section.

6.3.2.1 Deals / negotiations with political parties for support

Discussions from chapter 5 suggest that a particular leader and faction has support from one political party and has sold interests to a tract of 1,570.67 acres of land for his personal gain. Even though the study did not uncover clear evidence of this affiliation with that particular political party, key informants from the *Solowe* faction alleged that their rival faction was established as a ruling house by this national political party (Interview 61-2011). Further unsubstantiated allegations were levelled against Person D whom they accused of financing a national political party's manifesto to the sum of 10,000 cedis (approximately \$10000 US) in 1998 to win their support (Interviews 8, 41, 61- 2011).

6.3.2.2 Manipulation of land tenure rules

Customary rules appeared to have been reinterpreted to suit one's actions in terms of land administration and the changing environment. As discussed in chapter 5, Person D allegedly registered community land under Company A. A tract of 1,570.67 acres was sold to Company A, a company of which Person D was a founding director, and a government housing organization, Social Security and National Insurance Trust (SSNIT) for a sum of approximately \$10 million. The prominent person, who alienated the land, was accused of transgressing the normal processes that are expected in the traditional customary system (Interviews 8, 20, 21, 41, 61-2011; SF0, 2003; The Sun February 7, 2006).

6.3.2.3 Lineage Affiliation and Signing of Indenture

Two respondents who belonged to the *Ofolisorlo* family indicated that members not close to the *Ofolisorlo* ruling family can neither get their indenture signed nor enjoy discounts given to those close to the ruling house. One of the respondents claimed that other community members sought

his help or asked for favours from his family members to facilitate the signing of their indentures, and to avoid high fees accompanied with the process. This however could not be proven and may be a way of projecting his family faction or lineage as superior to the other contesting factions (Interview 13- 2011).

6.3.2.4 Manipulation of Chieftaincy Position

Observations from chieftaincy disputes prevalent in the community, as discussed in chapter 5 and the above sections, have positioned other traditional leaders opportunistically to fill the vacant chieftaincy seat and, in effect, to lay claim to land and to alienate it without observing applicable customary procedures. It was alleged by some members of the contesting faction that a Person B is behind these disputes between the contesting chiefs to enable him to stay in power and alienate land indiscriminately (Interviews 29, 41, 61- 2011). In addition, individuals with no royal lineage were alleged to have been empowered by Person H to contest any *enstooled* chief in order to provoke a chieftaincy dispute, simply to favour her personal ambitions (Interviews 8, 20, 21, 41, 61- 2011; Ghanaian Chronicle May 12, 2009).

However, one cannot deny the fact that, some of the unsubstantiated accusations and allegations, levelled against a particular leader, may be politically motivated to point to a particular faction as being ‘good’ or ‘legitimate’, or to tarnish/blame rival factions for the problems in the community.

6.4 CONCLUSIONS

Chapter 6 has presented a discussion of the tensions inherent in families and groups within the community and the influence of external forces such as national political parties, urbanization, statutory rules, which influence the form and orientation of the evolving land tenure

administration. Social changes are reflected in the fluid sets of customary rules, which are manipulated by people in authority as they compete for power, and community resources. In effect, tenure rules meant to serve members of the community become manipulated for individual gains instead of communal benefits.

In addition, incidences of schism and solidarity, as observed in the internal dialectic, constitute the conditions within which entrepreneurial behaviour can thrive and, so, reward and reinforce such behaviour. For instance, the occurrence of schism provides opportunities for community leaders and members to detach from their social unit and integrate with other groups to enable or facilitate pursuit of their personal agenda.

6.5 CHAPTER SUMMARY

Comaroff's dialectical approach has been adopted and supported with the social change model in analysing the underlying principles that influence changes in the land tenure system in *Bortianor*. The data discussed above support Fourie (1993), Barry (1999), and Fourie and Davies (1998) thesis that the rules relating to tenure and land administration are not static but are subject to manipulation by subgroups competing for land, resources and power. In terms of this thesis, such conflict and competition leads to the rules being re-interpreted and changed to benefit certain groups and individuals in the community. This chapter addresses mainly research questions one and two, regarding the changes observed, and the manifestation of social change, to understand the evolving nature of the land tenure administration.

It is argued in the present study that irrespective of the particular rules of the system of registration or innovation of tenure security introduced into a polity, it cannot solve extant land-related disputes until the underlying issues, such as chieftaincy succession and first settler claims, have been tackled.

On the whole, the theoretical framework espoused above provides a useful platform to explain the changes in *Bortianor's* land tenure administration system. The insights obtained in light of this theoretical comparison are believed to be essential in the design and management of the land administration system in *Bortianor*.

CHAPTER 7: EMERGENT THEORY AND CONCLUSION

7.1 INTRODUCTION

This chapter discusses the main issues and themes emanating from the study. By examining these issues and by ascertaining the inter-relationships between the emerging themes (also known as constructs) a theory is generated to explain the evolving nature of land tenure administration in *Bortianor*. This is followed by a conclusive summary of the study by way of answering the research questions, some highlighting of limitations observed during the study and recommendations for future work.

7.2 SUMMARY OF FINDINGS AND EMERGENT THEORY

Drawing from the case and earlier data discussion in Chapters 5 and 6, several important constructs and their inter-relationships are identified. The relationship between these constructs helps to create a theory to analyse and explain *Bortianor's* land tenure administration. Even though these constructs are thematically fairly disparate, they may be grouped into three main categories (See Figure 7.1):

(1) Nature and Causes: This category looks at issues emanating from cultural, legal, institutional, and socio-economic conditions that provide the context under which to examine the land tenure system. Issues under study include Cultural Norms, Registration and Legal Framework, Documentation, Urbanisation, Land scarcity and Commoditisation.

(2) Inter-personal & Inter-group Problems, Opportunistic Behaviour and Land Conflicts: Problems and land conflicts covers issues such as multiple sales, trust, encroachment, land grabbing, illegal sales and compensation issues are examined.

(3) Consequences or Results: This category focuses on social change issues; landlessness, community development, chieftaincy or social unrest, and ultimately the state of tenure security are examined to generate a theory which explains the land tenure administration in *Bortianor*.

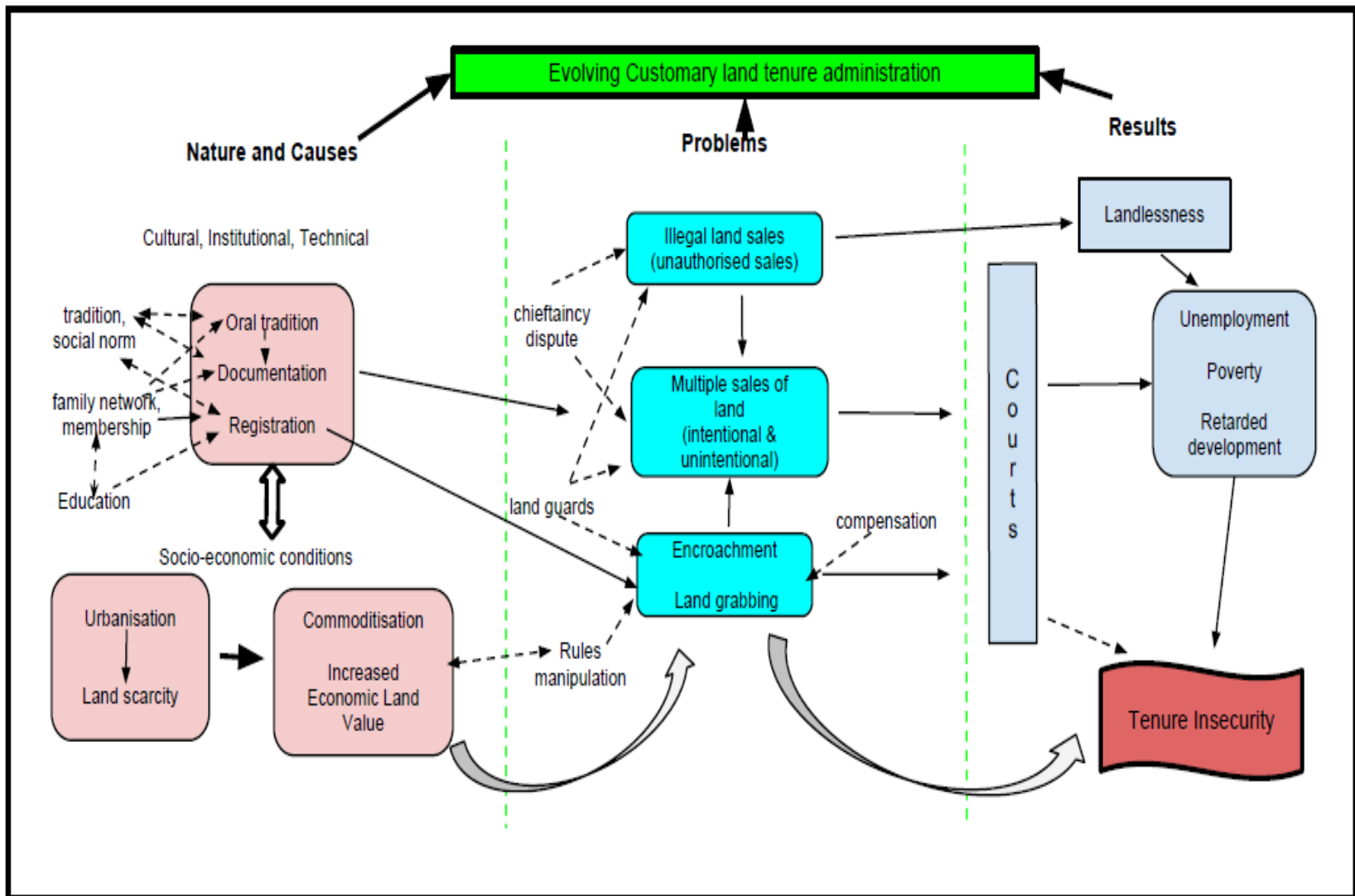


Figure 7.1 Factors leading to tenure insecurity in the evolving customary land tenure administration

7.2.1 Social/Cultural norms

From the information gleaned about land tenure behaviour during fieldwork, it appeared that some customary laws and practices, belonging to a system of social relations embedded in oral tradition perpetuated from past generations are still potent and observed in day to day behaviour. Customs such as performance of yearly community festivals; priestly rituals for the gods of the community; only farming on certain days of the week, and others are still practised in *Bortianor* (see Section 5.9.1). On the other hand, social norms regarding the management of land are evolving and changing from communal holding to suit a more individualistic, profit-motivated orientation towards land (see Chapters 5 and 6). For instance, social norms and rules embedded in customary legislation regarding land allocations and acquisitions have been manipulated to the extent that family lands have been sold off and people who were formerly entitled to smallholdings in the traditional land rights regime have been left landless.

Even though alienating customary land to strangers was considered unacceptable in the past and against the social norm, it appears to be currently acceptable due to the increased demand (i.e. reference to its location in highly contested area) for customary land and the trend towards urbanisation.

7.2.2 Documentation

The lack of written proof of land holdings and claims rooted in pre-colonial land tenure regimes (also referred to as historical claims) is a common trait in most customary systems, as mentioned by earlier researchers. Certain historical claims surrounding chieftaincy succession; how the community was founded, which groups took leadership

positions in the sense of controlling the land tenure system; and issues regarding modern, undocumented land holdings, and hence claims open to individual interpretations and manipulation.

In addition, undocumented land conveyances enacted by past chiefs have a high potential of being re-sold. This may lead to multiple sales of the same piece of land as mentioned in Section 7.2.7.

The state of documentation in the public and private repositories of title is poor (the reasons for this are outside the scope of this work), such that potential buyers (mostly strangers who acquire land as a vehicle for investment) can barely check let alone if land has been sold to someone else in the past. This lack of documentation, which is due partly to the practice of oral tradition, and the manipulation of oral tradition for personal gain, could be one of the reasons why development of the land is highly encouraged, if not enforced by landholders. Nevertheless, this lack of records may suit certain people, who may take advantage to keep selling and scamming. The expenditure of funds to place improvements on a parcel of land, based on a belief (albeit possibly mistaken) in the *bona fides* of one's title, may establish a right rooted in possession that is good against everyone but the true owner. In this way, the onset of development throws up a would-be curtain against claimants purporting to hold land pursuant to competing sales of the same piece of land.

7.2.3 Registration

Registration of all lands in Ghana is the main policy direction of the government for securing land and land rights. However, this study did not uncover a single incident

where any of the indigenes had registered their land. Upon investigation, it appeared that only strangers registered land transactions, given their objective of securing their acquired land; and hence it was not considered a cultural norm for indigenes to register their interest if they have no intention to sell it. Even though the author persisted at getting a clear reason for the non-usage of registration by indigenes, residents simply responded that “it is not done”, and considered avoidance of the state-sponsored registration system a social norm. Relating other occurrences and happenings in and outside the community, I speculate/deduced the following mechanism for the non-usage of registration by indigenes:

- a) The recent cases of indiscriminate customary land sales by the prominent person and incidence of land grabbing by powerful elites outside the customary unit have all included registration of the acquired lands at the LC. This may have painted a negative image or perception in the minds of community members of the actual intent of the introduction of the registration system and, hence, discouraged them from its usage.
- b) In addition, the processes involved in registering land seemed very cumbersome and structured in a way that illiterates may find it difficult to access. Considering the level of education in the community (See Chapter 5), community members may be deterred from patronizing or using the registration system. In addition, the cost involved in registering land may be a factor, even though none of the residents complained about it.

- c) The sense of security derived from the common knowledge and *de facto* recognition of holdings by community members may diminish the importance or usefulness of registration to secure their lands. In addition, the long occupation on one's land creates or increases security at law, and also in the perception of community members, which may explain why indigenes do not patronize the registration system; and may also explain why strangers, whose actual roots, length of stay, and degree of acceptance by the community are much more tenuous, use the registration system.
- (d) Lastly, the presence and actions of land guards who brutalize both indigenes and strangers, regardless of whether they have registered their land or not, raises questions about the effectiveness of the land registration system. It may be that the land guard phenomenon itself discourages community members from using the registration system; rather, it may force them to resort to other alternatives such as selling off their land to avoid losing it through inaction in the face of thuggery or actual malfeasance; or invest in developing the land and regularly patrolling it to avoid encroachers.

It can however be assumed that the successful grabbing of land by one faction or person through the use of registration (as one tactic among others) may motivate others to do the same. In addition to the above, it can further be speculated that if the registration system has been used to grab land, then we can expect people will not trust the

authenticity of the system, but rather dwell on other alternative strategies such as the use of land guards, putting up temporary and permanent structures on land, and social processes among other means as discussed in chapter 5, to secure land.

7.2.4 Urbanisation, Land scarcity and Commoditisation of land

The proximity of *Bortianor* to the capital, Accra, makes it fertile ground for urbanisation. Evidence of this could be seen in the way strangers are given a limited time frame to develop their acquired land, or they lose it. This act is supported through interviews with community leaders, and acts to curb speculative buyers and foster community development to catch up with the pattern of urban development. The effect of this has contributed to the rapid conversion of agricultural land to residential, leading to a scarcity of farming land in the community (data supporting this was presented in the previous chapters). Associated with this are increased competition and changes in tenure rules to accommodate the increased demand for land. In effect, lands in the community have gained economic value and have been commoditised.

This has enticed and promoted opportunists to encroach and grab customary lands, and also contributed to the occurrences of illegal and multiple sales of the same piece of land. A consequence of this is increased tenure insecurity for the vulnerable (women, impoverished, youth) who have no land available for farming or other traditional forms of land-derived livelihood.

7.2.5 Land Grabbing

With the above increased land value and growing pressure on land, different groups and individuals claim rights to certain plots of land. It appeared that the incidences of land grabbing cannot be associated with any one group. I categorise these occurrences into four different levels: youth grabbers, family grabbers, community leader's grabbers, and political/elite's grabbers.

- (1) Youth grabbers: These are youth groups who molest strangers and extort money from them before allowing them to carry out any development on their acquired land. In addition to this, they covertly sell undeveloped lands already sold to strangers. This behaviour may be another reason why local landholders' advise strangers to develop quickly in order to avert any chance of the youth selling off their acquired land.
- (2) Family grabbers: Members of some family units are reported to have secretly sold off portions of family lands to which they have no legal entitlement.
- (3) Community leadership grabbers: This includes alleged key community leaders (e.g. chiefs and family heads) who annex customary lands indiscriminately and sell to strangers and commercial entities for their personal gain in contravention of their fiduciary obligation to members of their extended family group.

(4) Political/elite grabbers: This group of land grabbers include politicians, and elites outside the community who collaborate with community leaders to annex customary land. Thus the tacit support of officials and politicians from the state (SSNIT) and Company A.

It is reportedly common among groups (3) and (4) to hire the services of land guards to facilitate and secure the acquisition of lands. Elites, for instance, have the ability to make use of the public register and their resources to erect large buildings. Their solidarity with influential players, the prestige of their offices and, most importantly, the use of land guards to secure possession, are factors that conspire to intimidate indigenes into abandoning their respective farmlands entirely.

The land guards themselves may be classified into two main categories: (1) Legitimate land guards and (2) Non-Legitimate land guards.

(1) Legitimate land guards include those groups hired by people who legitimately hold land and want to prevent encroachment upon it. This type of guard, however, does not seem to be prevalent during the time frame of the field study, as it was never mentioned by residents during interviews.

(2) Non-Legitimate land guards are those guards engaged by individuals or groups who do not own land but whose intention is, reputedly, to encroach upon or grab customary land. From the descriptions of land guards

given by residents of *Bortianor*, it appeared this type of land guards was common in *Bortianor*.

It is a common belief among interviewees that all land guards have been hired by individuals who do not genuinely own land, but who simply have the financial power to employ their services as a means of intimidation (see Sections 6.2.3.3, 6.2.3.5, 6.3.1.3).

These occurrences and perceptions give a strong indication of the extent of lawlessness, indiscipline, land tenure and general social insecurity in the study area. Regardless of the rule of law, which prohibits the operation of land guards, the frequent incidents of their usage by landholders' raises questions on how effective the people consider the land registration system to secure their land?

7.2.6 Illegal Sales and Lack of Distribution of 'Drink Money'

The proceeds from the sale of land, which is traditionally known as 'drink money' is one of the main sources of income to the stool. However, the proceeds from the land transactions are alleged to be often times used by the chiefs as personal gains instead of benefiting the entire community as demanded by custom. For instance, court cases regarding the community lands alienation to SSNIT and other agencies as mentioned earlier in chapter 5, confirm that the proceeds from the illegal sales of customary land does not extend to the community members who lose their land in the process. (see Sections 5.6.2, 5.6.3)

7.2.7 Multiple Sales

As mentioned above, it appeared that instances of multiple sales of the same piece of land occurred mostly on undeveloped land. For purposes of this study, such occurrences are categorised into two forms: (1) Intentional Multiple sale and (2) Non-intentional Multiple sale.

(1) Intentional Multiple sale: Intentional multiple sales include instances where a family member or individual resells land, which has earlier been sold by his/her family member, in order to frustrate or terminate the earlier transaction carried out. It was gathered from the fieldwork that family members normally instigate multiple sales to raise doubts about the rightful owners, which opens up an opportunity for them to prove their claim, and seek justice either through the Council of Elders, or the formal courts. Hence in such instances, ‘multiple sales’ though illegal, are used as a mechanism to create an opportunity to substantiate one’s land interest.

(2) Non-intentional Multiple sale: Unlike the above, this term describes situations where community leaders re-sell previously sold land to new buyers while withholding knowledge of the previous sale. Some community leaders admitted to facing such situations where they have mistakenly allocated undeveloped land already alienated by predecessors. This explains the possibility where the same piece of land could be sold twice even if it goes through the LMC (see Section 5.4.2.2). It confirms

the issue of documentation discussed earlier in section 7.2.2, as one of the causes of multiple sales of customary land.

7.2.8 Compulsory Acquisition, Compensation, and Encroachment

Government acquisitions of large tracts of customary land appeared to be the class of lands that suffer the highest rate of encroachment. Some of the publicly acknowledged reasons for this include delayed payment, or non-payment of promised compensation; alteration of the purpose of acquisition; and keeping land idle without improvements. In fact, the customary owners regard themselves as rightful owners so far as they have not received their due compensation. Upon inquiry to key government officials, it appeared that the government has not made available the compensation, because many people claim to be owners or custodians of the land. As such, the land could not be re-distributed.

As a result, customary owners encroach on the government-acquired lands with the notion that government has failed and/or refused to fulfil its part of the agreement.

7.2.9 Development

As mentioned earlier, development of land appeared to be the most certain way to lay claim to and assure one's land interest. The popular notion of "the faster you develop the land, the more secured your land" seems to favour the rich who employ land guards as discussed in section 7.2.5, and quickly put-up fancy buildings to intimidate the poor and drive them off their property.

The fear of being asked to rebuild or repair any damage to these ‘quickly built’ buildings, and the cost involved in litigation pushes poor indigenes to abandon their lands. In addition, most residents believed that judges rule in favour of the rich and not the poor (see Section 5.7, 6.2.3.1), which bespeaks the high degree of mistrust in the nation’s judicial system. In effect, the state of vulnerability by the indigenous farmers appears to be at its peak, given the effects of meagre resources, little resources to invest in an independent livelihood, the presence of elites and outsiders with capital to fund land development and security guards, and an unreliable judiciary to tackle the situation.

Drawing from the fact that land grabbing and activities of land guards occurred mostly on farmland and not in built-up residential areas, it is easy to see how well the mechanism fits the socio-economic reality of peri-urban Accra; whereby capital-holders usurp the possessory rights of the uneducated poor (who lack resources to develop their land), employing their greater wealth to erect buildings and hire guards to enforce their claim, all towards securing their interest in the *de facto* land tenure regime.

7.2.10 Trust

Issues regarding trust were observed across the various streams of interviews conducted.

Among these are Institutional trust, Leadership trust, and Individual trust.

a) Institutional trust

From the fieldwork, it appeared that a majority of residents and some community leaders believed that the practices of the Lands Commission,

the Court of law, and the police force were characterised by corruption and unfairness.

The Lands Commission was accused of collaborating with some political elites and individuals in annexing their customary land. As discussed in chapters 5 and 6, the registration of lands acquired by Company A, and the acquisition made by SSNIT were alleged to have been facilitated by the Lands Commission. Interview subjects alleged that blunders were observed to occur at the hands of Land agents or institutions, which affect the perception of other land agencies, and have become generalised to the entire national government.

Aside from the above, the judicial system of the country was alleged to be corrupt and was said to rule only in favour of those who offer bribes.

Nevertheless it appeared that residents and community leaders use the judicial services regardless of the negative allegations directed at it.

Reasons for this irony may be due to the power entrusted by the government in the judicial courts to adjudicate any land dispute; or the diminished potency of their chieftaincy authority due to pending chieftaincy disputes, leaving the courts as the only viable option.

Lastly, rich and well-connected individuals were alleged to have bribed the police force to allow their illegal actions to proceed. Incidents such as police guarding the building of the 'palace' (see Section 5.5.2); police alleged of bribery; acquitting land guards who murdered individuals in the community, explain the sense of mistrust of police among the public

(Interviews 11, 20 -2011; see Section 5.6.2; Citifmonline December 09, 2011).

b) Leadership trust

Prominent men and women were accused of corruption by people outside of their faction. The other two contesting chiefs, however, did not evoke such strong emotional accusations. Regardless of this, there was a general notion that the community leaders are inefficient at managing community lands were accused of indiscriminately selling land without accounting to the stool. For instance, the youth groups in the community detest and accuse their leaders of alienating all the community lands for personal gain. Effects of this mistrust include a generalised increased level, and common attitude, of lawlessness and frustration of the tenure rules. (See Sections 5.9.1, 6.2.2.4, 6.2.3.3, 6.2.3.5, 6.3.1.3).

c) Individual and inter-family trust

In addition to the mistrust that inappropriate alienations have engendered in community leadership and institutions of government, there were also instances where trust among family members was thought to be compromised. For example, interviews disclosed instances of family members accusing other members of the community of conniving with land guards and covertly selling land; and members of other family units in the community being accused by their fellow community members of

encroaching onto the lands of their neighbours. (See Sections 5.6.3, 6.2.2.3).

The overall effects of corruption attributed to institutions and players external to the community, the injection of capital, the abuse of power and the use of intimidation have been so pervasive as to prejudice even the interpersonal relations within the host community and within family groups.

7.2.11 Power, Chieftaincy dispute

Social and political power vest in chiefs and family heads, as well as in the group of elders around them. Land transactions must be finally approved by the chief to be registered at the LC, giving chiefs the power to disallow family members who may try and register family land in their name, even if registration was not considered to be a social norm as discussed in Section 7.2.1.

For this and many other reasons, the position of chief is highly contested, resulting in continual chieftaincy disputes and litigation challenging the legitimacy of a given incumbent's tenure in office. As a result, chieftaincy disputes impede the smooth operation of land administration. There are uncertainties regarding whose signature is to be considered when registering an indenture; this has caused the LC, on occasion, to halt the registration of lands in *Bortianor*.

7.3 PARTICIPATION/INCLUSION AND EXCLUSION

It appeared that community members, youth groups and some elders were not well represented in decision-making processes. The alienation of customary land carried out

by Person A and Company A as well as the SSNIT acquisition appeared to be done covertly and without the involvement of the respected elders of the community. The prominent person's caucus seem to demonstrate a great deal of entrepreneurial/opportunistic behaviour (see Chapter 6) by excluding the rest of the community in the negotiation. As a result, the exclusion of community members in these decisions limits the degree of agency they may exercise in making decisions that affect their future prospects – in economic and social terms. The more the community is involved in decision making, the greater the transparency of the processes of government, the lower the occurrence of conflicts. This principle – closely allied with access to information and so-called 'sunshine' policies – is at the heart of participatory democracy. The overall effect of this aspect, which is clearly lacking in the studied polity, would be to increase the legitimacy and integrity of the community leadership.

7.4 SOCIAL CHANGES

As discussed in Chapter 6, several observed social changes closely linked to the land tenure system are summarized below:

- (a) One key change is the statutory declaration made on November 1977 by Nii Kwei Arku IV which changed the status of *Bortianor* lands from family lands to stools lands. This transition reduced the power of family units to manage land and placed the ultimate power in the hands of the chief whose consent and signature is needed to alienate land to strangers. It is notable that this declaration may have had the effect of increasing the

vulnerability of indigenes, especially in situations plagued with disputed chieftaincy and tenure insecurity.

(b) There appeared to be changes regarding the necessity of securing the permission of family heads when alienating land to strangers. While some members regarded it as necessary to get the family heads' approval before alienating land, others considered it optional and not necessary unless one does not hold the land exclusively. This reveals the dynamics and the evolution of the customary system, where rules seem to be fluid and re-interpreted against the backdrop of questioned legitimacy of, and diminished trust in, the official land tenure system; along with a rising tide of opportunistic behaviour and mistrust within the community.

(c) In addition to the above, tenure rules seem to have been changed or modified to suit the evolving nature of land tenure administration. Agreements are now entered into with strangers to develop their acquired lands within a certain time frame; community leaders as well as some members justify land sales in the name of keeping pace with urbanisation and the increased demand for land.

(d) An influx of new occupations alongside traditional farming and fishing activities is now common in the community. This gives an indication of new opportunities being introduced in the community which reflects

migration of people into the community. At the same time, some residents are forced, due to the scarcity of land, to change their occupation from farming to other available trades. In turn, others become landless and unemployed as economic and population pressures play out.

- (e) The introduction of new processes of accessing and alienating land was evident in the community. Competition for power and resources is intense, and has manifested in coalition formation and division. Opportunists or “entrepreneurs,” such as the prominent persons and their cohorts, have manipulated the rules for their own benefit to grab land and power during a period of uncertainty in chieftaincy in the community.

7.5 TENURE INSECURITY

Drawing from the above constructs, it is evident that the increased competition over land, on-going land litigation, devastating land scarcity, encroachments and land grabbing, lack of documentation, chieftaincy disputes and indiscriminate land sales, as well as multiple sales of the same piece of land have increased tenure insecurity in *Bortianor's* customary system. This high level of tenure insecurity as a result of the activities of land guards, along with instances of land grabbing and multiple sales, has forced some farmers and customary landholders to sell off their lands to avoid losing them altogether. In addition, a large number of oral transactions are not supported by proper documentation, creating inadequate security of land tenure for farmers, especially when competing with

sophisticated, well-resourced individuals who have the means and knowledge to register the land.

As depicted in Figure 7.2 below, the evolving customary tenure system is faced with underlying issues and dialectics both internally and from external agents, creating increased tenure insecurity, with the end result of community members being placed in greatest risk.

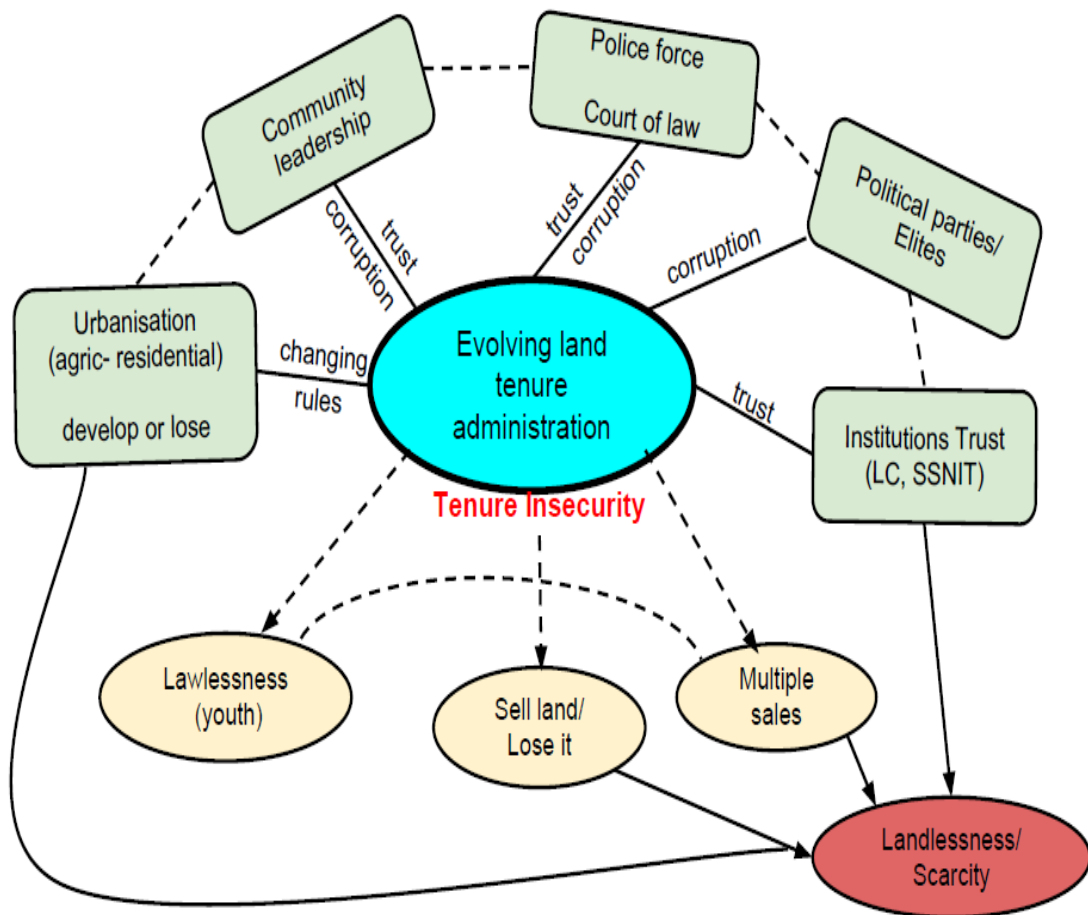


Figure 7.2 Factors leading to tenure insecurity and landlessness in the evolving land tenure administration.

Drawing from the figure above, institutions or agents who are believed or mandated to act in the best interest of community members appear to be acting contrary to the expectations of community members and thereby contribute to a high degree of tenure insecurity. Issues of mistrust and corruption in their dealing have contributed to increased lawlessness and indiscipline in the system, which have eventually led to landlessness and scarcity of land.

It is therefore envisioned that, to protect the rights of the poor and vulnerable in the community, statutory laws must clearly limit the rights of chiefs to sell communal land to outside interests while reinforcing the chiefs' roles and obligations as the land custodian. Likewise, the government must commit itself to enforcing those rights, even if its immediate interests may be compromised.

It also appears that multiple sales of land are favoured by the poorly functioning land administration system. In addition, the influence of external forces such as urbanisation and the adoption of statutory processes (registration), in the midst of power struggles favour corruptive behaviour, and lead to landlessness and intense social unrest. This eventually results in tenure insecurity in the evolving land tenure administration.

In summary, the adoption and integration of statutory processes and tools (registration) in administering land in an evolving customary system (i.e. faced with urbanisation, population growth), which is hindered by social norms (prohibiting community members from registering their land) favours corruptive behaviour and leads to the manipulation of tenure rules. As a result, the basic customary principle which promotes communal interest is weakened, resulting in landlessness and general tenure insecurity for community members in *Bortianor*. In such situations, development of the

land curbs multiple sales of the same parcel of land, and is the most reliable form of securing one's interest in land.

On the whole, this case study supports components of the Comaroff's dialectic system and the social change theory as espoused by Barry (1999), Davies and Fourie (1998), and Fourie (1993) related to land tenure change. The study observed emergent patterns which includes, but is not limited to: strive over access to power and community resources; patterns of schism and coalition formation around particular phenomena; manipulation and change of tenure rules to benefit those in powerful positions to annex land and entrepreneurial behaviour; opportunistic grabbing and indiscriminate land sales contrary to the fiduciary obligation expected under the traditional system and the constitution. The highly contested chieftaincy position in the midst of internal and external pressures such as corruption and urbanisation are linked to much of the land related problems and the manifestation of the social change that emerged in the case. This in effect has allowed opportunists with connections to high profile people in power to manipulate and alienate huge tracts of land without the knowledge of the people on the ground, leading to high tenure insecurity in the study area.

BIBLIOGRAPHY

- Acquaye, E. and Murphy M. C. (1972). Land Use, Land Tenure and Agricultural Development in Ghana. Rome, FAO.
- Aidoo, J. B. (1996). Tenancy and the land reform debate in Ghana. Our Common Estate, Royal Institute of Chartered Surveyors, London.
- Aidoo, J.B. (1990). Effects of Spontaneous Settlements on an Agrarian Economy: With Special Reference to Migrant Cocoa Farmers in the Wasa Amenfi District. Unpublished report, MPhil thesis. University of Ghana, Department of Geography, Legon.
- Amanor, S. (1998). "Customary land, mobile labor and alienation in the Eastern Region of Ghana." Land and the politics of belonging in West Africa, Leiden and Boston: Brill: 137-160.
- Amanor, K.S. and Diderutuah, M.K. (2001). Share Contracts in the Oil Palm and Citrus Belt of Ghana. IIED, London.
- Amanor, K. S. (2006). "Customary land, mobile labor and alienation in the Eastern Region of Ghana." Land and the politics of belonging in West Africa, Leiden and Boston: Brill: 137-160.
- Amanor, K. S. (2006). The Changing face of Customary Land Tenure, Proceedings International Seminar on contesting Land and Custom in Ghana, chief and Citizen, Accra 28 September 2006.
- Annan, L. (2011). Ghana: Bortianor – the Case for Increased Support to Rural Communities. Available at <http://allafrica.com/stories/201112051918.html>. Accessed 10 January 2013.
- Antwi A. Y. and Adams J. (2003). Rent Seeking Behaviour and its Economic Costs in Urban land Transactions in Accra, Ghana. *Urban Studies*, 40(10), 2083 -2098.
- Anyidoho, N A, Amanquah, S. T. and Clottey, E. A. (2008). *Chieftaincy Institutions and Land Tenure Security: Challenges, Responses and the Potential for Reform*, Technical Publication No 77, Institute of Statistical, Social & Economic Research (ISSER), University of Ghana, Legon.
- Apentiik R. (2002). "Lineage Organization of the Tallensi Compound: Social Logic of Domestic Space in Northern Ghana," *Africa*, 72 (2):220-244.
- Arko-Adjei A. (2005). Titling Customary Lands: emerging Challenges Facing the land Administration Society in the New millennium: Case from Ghana, ITC Lustrum

conference on Spatial Information for Civil society – Capacity building for the International Geo-Informational Society, ITC Enschede, Netherlands, 14 – 16 December.

Arko- Adjei A. (2011). Adapting land administration to the institutional framework of customary tenure. The case of peri-urban Ghana. PhD thesis, Delft University Press.

Asante, S. K. B. (1975). Property Law and Social Goals in Ghana 1884-1966, Ghana Universities Press, Accra.

Asiamah, J. (1983). Rural Land Economy in Ghana – The Issues and the Opportunities. Publisher Unknown.

Barry M. B. (1999). Evaluating Cadastral systems in Periods of Uncertainty: A Study of Cape Town's Xhosa-speaking Communities. PhD thesis, University of Natal, Durban.

Barry M. B. (2006). Formalising Informal Land Rights: the case of Marconi Beam and Joe Slovo Park. *Habitat International*. 30(2006), 628 – 644.

Barry, M. and Fourie C. (2002). Analysing cadastral systems in uncertain situations: a conceptual framework based on soft systems theory. *International Journal of Geographical Information Science* 16 (1): 23-40.

Benbasat I., Goldstein D.K., Mead M. (1987). The Case Strategy in Studies of Information Systems, *MIS Quarterly* 11(3): Sept 1987: p 369-386.

Bentsi-Enchill K. (1964). *Ghana Land Law*. Sweet and Maxwell, London.

Bentsi-Enchil K. (1975). The Traditional Legal Systems of Africa. In Lawson F.H. (Ed.) *Property and Trust*, Chapter 2, Section 4, Vol.6. *International Encyclopaedia of Comparative Law*, The Hague, 68-101.

Berg, B. L. (1998). *Qualitative Research Methods for the Social Sciences* (3rd Edition) Needham Heights: Viacom.

Berry, S. (1993). "No condition is permanent: the social dynamics of agrarian change in sub-Saharan Africa". Madison (University of Wisconsin Press).

Busia, K.A. (1951). *The Position of the Chief in the Modern Political System of Ashanti*. Oxford University Press, London.

Colson E. (1971). The Impact of the Colonial Period on the Definition of Land Rights, in V. Turner (ed.) *Colonialism in Africa, 1870–1960*, Volume 3, CUP, Cambridge, pp 193–215.

Comaroff J. L. (1982). Dialectical systems, history and anthropology: units of study and questions of theory. *Journal of Southern African Studies*, (8) 143-172. SLC PHOTOCOPY SHORT LOAN.

Creswell, J.W. (2007). *Qualitative inquiry & research design: Choosing among five approaches* (2nd ed.). Thousand Oaks, California: Sage Publications California.

Creswell, J.W. (2009). *Research design: Qualitative, Quantitative and Mixed Methods approaches* (3rd ed.). Thousand Oaks, California: Sage Publications California.

Creswell, J. W. & Miller, D. L. (2000). Determining validity in qualitative inquiry. *Theory into Practice*, 39(3), 124-131.

Crook, R.C. (2009). Customary justice institutions and local alternative dispute resolution: what kind of protection can they offer to customary landholders, in: *Contesting Land and Custom in Ghana: State, Chief and the Citizen*. J. Ubink and K. Amanor (eds), Leiden (Leiden University Press).

Crook, R.C. (2005). *State Courts and the Regulation of Land Disputes in Ghana; the Litigants' Perspective*, IDS Working Paper 241, London: Institute of Development Studies.

Da Rocha, B. J. and Lodoh H. K. C.(1995). *Ghana land law and conveyancing*. Accra, Ghana, Anansesem Publications.

Darzentas, J., & Spyrou, T. (1994). "Defining the Design "Decision Space": rich pictures and relevant subsystems", AMODEUS Project Document TA/WP 21.

Davies C J (1998). *Land Management of an Informal Settlement in East London*. Unpublished MSc thesis, Department of Surveying and Mapping, University of Natal, Durban.

Denutsui D., Akiti T., Osae S., Adomako D., Dampare S.B., Tutu A.O. (2011), Nuclear Chemistry and Environmental Research Centre, National, Ghana. *Research Journal of Environmental and Earth Sciences* 3(6): 772-781 ISSN: 2041-0492.

Edusah, S. (2000). *Rural Small-Scale Industry and Ghana's Economic Development*, PhD thesis, University of Bradford, Bradford BD7 1DP.

Elias T.O. (1956). *The Nature of African Customary Law*, Manchester University Press, Manchester.

Firmin-Sellers, K. (1996). *The Transformation of Property Rights in the Gold Coast: An Empirical Analysis Applying Rational Choice Theory* (Cambridge, MA: Cambridge University Press).

Fourie, C. (1998). "The role of local land administrators: An African perspective." *Land Use Policy* 15(1): 55-66.

Fourie C. (1993). *A New Approach to the Zulu land Tenure System: An Historical Anthropological Explanation of the Development of an Informal Settlement*. Unpublished PhD thesis, Rhodes University, Grahamstown, South Africa.

Fourie C. (2000). *Capacity Building for sub-Saharan Africa: Towards a more Relevant Approach*. Workshop on Capacity Building in Land Administration, Institute for Aerospace Survey and Earth Sciences (ITC), Enschede, 13 – 15th November 2000.

Fourie, C. (2002). Comment: Designing viable land administration systems. World Bank Regional Workshop on Land Issues in Africa and the Middle East. Kampala, Uganda.

Gough, K.V., Yankson, P. W. K., (2011). "A Neglected Aspect of the Housing Market: The Caretakers of Peri-Urban Accra, Ghana" *Urban Studies* 48(4): 793-810, March.

Gough, K.V., Yankson, P. W. K., (2000). *Land Markets in African Cities: The Case of Peri urban Accra, Ghana*. *Urban Studies*, 37(No. 13): 2485-2500.

Hill, P. (1970). *The Migrant Cocoa -Farmers of Southern Ghana*; Cambridge University Press, Cambridge, England

Wood, G. (2002). 'The courts and land dispute resolution in Ghana', paper delivered to the Land Disputes Settlement in Ghana seminar, Labadi Beach Hotel, Accra, 10-11 July 2002, Legal Pluralism and Gender Project, GTZ Ghana.

Kasanga, R.K. (1988). *Land Tenure and the Development Dialogue*, Antony Rowe Ltd, Chippenham, Wiltshire.

Kasanga, R.K., Cochrane J., King R. and Roth M. (1996). Research Paper, Land Markets and legal contradictions in the peri-urban area of Accra Ghana: Informant Interviews and Secondary Data Investigations, Land Tenure Center, Wisconsin.

Kasanga, K. and Kotey N. A. (2001). *Land management in Ghana: building on tradition and modernity. Land Tenure and Resource Access in West Africa*. London, International Institute for Environment and Development (IIED). Nottingham: Russel Press.

Kludze, A.K.P. (1975). The formalities of the customary law will. Abstract present, University of Ghana Law Journal. Volume 12 #1. pp. 21-47.

Kuntu-Mensah, P.(1997). *Land Tenure and Title Registration in Ghana*. Available at: <http://www.spatial.maine.edu/~onsrud/Landtenure/CountryReport/Ghana.html> (Accessed October 21, 2009).

Larbi, W. O. (1995). "The Urban Land Development Process and Urban Land Policies in Ghana. London: Royal Institute of Chartered Surveyor.

Larbi, W. O., Antwi A. and Olomolaiye P. (2004). "Compulsory land acquisition in Ghana--policy and praxis." *Land Use Policy* 21(2): 115-127.

Lavigne Delville, P. (2000). "Harmonising Formal Law and Customary Land Rights in French-Speaking West Africa", in C. Toulmin and J. Quan (eds), *Evolving land rights, policy and tenure in Africa*. London: IIED, NRI and DFID, pp. 97–122.

Mabogunje, A.L.(1992). *Perspective on Urban Land and Urban Management Policies in Sub-Saharan Africa*. Series World Bank Technical Paper; 196, Dimensions 29 cm. Publisher the World Bank Notes (African Technical Department Series), Pagination 47p pp.

Mahama, C.A., (2004). *Institutional and Legal Arrangements for Land Development in Ghana*, Unpublished PhD submitted to the Department of Land Economy, University of Cambridge, England.

Masum, F. (2009). *Urban fringe management and role of good governance: integrating stakeholders in land management process*. Paper presented and published in 7th FIG Regional Conference on 'Spatial data serving people: Land governance and the environment – Building the capacity', October 9-22, 2009, Hanoi, Vietnam.

Maxwell, J. A. (1992). *Understanding and validity in qualitative research*. *Harvard Educational Review*, 62(3), 279-300.

Ministry of Lands and Forestry (1999), *National Land Policy of Ghana*. Accra, Ghana.

Ministry of Lands and Forestry (2003), *Emerging Land Tenure Issues*. Ghana.

Ninsin, K.A. (Ed.) (1989), *The Land Question since the 1950s. The State, Development and Politics in Ghana*. London (CODESRIA Book Series).

Odotei, K. Awedoba I. and Albert K. (2006). Eds. *Chieftaincy in Ghana: Culture, Governance and Development*. Accra: Sub-Saharan Publishers.

Okudzeto, S. (1994). 'Continuing Legal Education', 8th Workshop held at Ghana School of Law, Legon, Ghana.

Ollenu N.A. (1962). *Principles of Customary Land Law in Ghana*. Sweet and Maxwell, London.

- Owusu G., Agyei-Mensah S., Lund R. (2008). Slums of hope and slums of despair: Mobility and livelihoods in Nima, Accra. *Norwegian Journal of Geography*, 62: 3, 180-190.
- Pandey M.T. (2010). *Globalisation and the Indian Urban Middle Class: The Emerging Trend*. New Delhi: Uppal Publishing House.
- Patton, M. Q. (2001). Evaluation, knowledge management, best practices, and high quality lessons learned. *American Journal of Evaluation*, 22, 329–336.
- Patton, M. Q. (2002). *Qualitative evaluation and research methods* (3rd ed.). Thousand Oaks, CA: Sage Publications, Inc.
- Quarcoopome, S. S. (1992). Urbanisation, land alienation and politics in Accra. *Research Review*. Volume 8 #1-2. Pp. 40-54
- Ray, D. I. (1996). "Divided Sovereignty: Traditional Authority and the State in Ghana." In "The New Relevance of Traditional Authorities in Africa's Future" E.A.B. van Rouveroy van Nieuwaal and D.I. Ray (eds.) *Journal of Legal Pluralism*, Special Issue No. 37/38, p.181-202.
- Stake, R. (1995). *The art of case research*. Newbury Park, CA: Sage Publications.
- Teley, A.H. (2001). *The impact of Waste disposal on the surface and groundwater environment: A case study of the Mallam landfill site, Accra*. M.Phil. Thesis, In Environmental Science, University of Ghana, Legon.
- Tellis, W. (1997). Application of a case study methodology. *The qualitative report* 3 (3): 1-17.
- Tettey J, Gebe, B. Y. and Ansah-Koi, K.(2008). *The Politics of land related Conflicts in Ghana*. Institute of Statistical, Social & Economic Research (ISSER), Technical Publication No 84, University of Ghana, Legon.
- Toulmin, C. and Quan J. (eds) (2000). *Evolving land rights, policy and tenure in Africa*. DFID issues. London (Department for International Development with IIED/NRI).
- Ubink, J. M. (2007). "Tenure security: Wishful policy thinking or reality? A case of periurban Ghana ." *Journal of African Law* vol. 51(2).
- Ubink, J. M. (2008). *In the land of the Chiefs: customary law, land conflicts, and the role of the State in peri-urban Ghana*. Leiden, the Netherlands, University of Leiden. PhD Dissertation

Ubink, J. M. and Quan J. F. (2008). "How to combine tradition and modernity regulating customary land management in Ghana." *Land Use Policy* 25(2): 198-213.

UNCHS (2008). United Nations Commission on Human Settlement UN-HABITAT Annual Report 2008. (Accessed on January 5, 2012). Available at: <http://www.unhabitat.org/pmss/getElectronicVersion.asp?nr¼42670&alt¼41>.

UNESCAP (2010). *Managing the Transition from the Village to the City in the South Pacific*. United Nations Economic and Social Commission for Asia and the Pacific – Human Settlements. Available at: <http://www.velopers.org/huset/pacific/pacific1.htm>.

WaterAid (2006). Ghana Land tenure study report. Available at: http://www.wateraid.org/documents/plugin_documents/land_tenure_study_report.pdf (Accessed October 20, 2009).

World Bank (2001). *Land policy and administration: lessons learned from new challenges for the Banks development agenda*. Washington, DC, World Bank.

Yin, R. K. (1994). *Case study research: Design and methods* (2nd ed.). Thousand Oaks, CA: Sage Publishing.

Yin, R.K. (2003). *Case Study Research: Design and Methods*. California, Sage Publications, Inc.

Yin, R. K. (2009). *Case Study Research - Fourth Edition, Applied Social Research Methods Series, Vol 5*, Sage Publishing.

APPENDIX A: RESEARCH INTERVIEW QUESTIONS

(I) Interviews with Residents of Bortianor (Both indigenes and migrants)

Interview Questions for in-depth interviews, group discussions, and informal interactions on land tenure and administration



[Insert Picture of interviewee if allowed]

Interviewer.....

Date.....

Personal Data

1. Age
2. Gender Male Female
3. Educational Background: Tertiary Level Secondary/Commercial Middle/JSS Illiterate
4. Occupation
5. Inheritance System practices: Patrilineal Matrilineal Both
7. Nativity: An Indigene Non Indigene Specify:
Family.....
8. How long have you lived in Bortianor years, From birth
9. Where were you staying before and why Bortianor now?
10. What is your position in this community?
 elder youth member Specify other.....
11. Position description

Land Tenure Data

12. What happens if you want to sell their land?

- What happens to the land if they die (people who don't want to sell their land)

13. What are the laws that govern landholding in this community?

14. Do you have land? Yes/No

If No to Question 14, please go to question 20

15. What kind of interest/right do/did you have in the land?

Allodial Customary Freehold Usufructuary Leasehold Tenancies

Licenses Use Right

Others, Specify.....

16. How did you acquire the land?

Inheritance Gift Purchase Others Specify.....

17. What consideration did you give for the land?

Money, Specify Amount..... Drinks, Specify..... In

Kind Specify..... Nothing

18. To what use have you put the land?

Agricultural Residential Industrial Commercial Other

purposes.....

19. Where is the land situated/located?

This Community Neighbouring Town, Specify Other

Region, Specify.....

20. Describe how you came to live in the house/on the land you now live in

21. Have there been changes in the land tenure system in this community? Yes/ No. IF

Yes what are they?

Land Tenure Security and Dispute Issues

23. Do you think you can lose your land/interest? Yes/No

If Yes, Give the reason

If No Why?

24. If another person claimed that they owned your land, how do you prove that the land is yours?
25. How do people secure their interest/rights in land?
26. Do you have a written documentation over your land?
If yes, what type of document is it?
If yes, what happens if you lose your document?
If No, why don't you have any documentation over your land?
28. Have you registered your interest in land?
If No, what is the reason for not registering your land?
29. Are you aware of land disputes in this community?
30. What are the causes of these disputes?
31. How are the disputes over land resolved?
32. In your opinion, what can be done to remedy the problem of insecurity of land tenure?
33. If someone has personal crisis, who do they go for assistance?

(II) Interviews with Community Leaders (Chiefs, family heads, stool elders, assemblyman)

1. What is the chief's role in land administration?
2. How do people in the community/chiefdom acquire land?
3. What are the reasons why people come from other areas to buy land in this community?
4. Are you aware of land conflicts in this community?
5. How are disputes resolved in this community?
6. If someone claims that another person's land is theirs, what happens?
7. When a land holder dies or leaves a settlement, who takes over the land and how does this occur?
8. What provision has the government made to those who lose their land for government projects?
9. Have there been problems between the customary and state tenure systems? If so, what are they?

10. What are the ways of improving the processes and policies regarding land holdings in this area?

(III) Interview with Outsiders (Lands Commission, Survey Department, Lawyers, Police department, Academicians)

1. How is land held in peri-urban areas?
2. How do people register and record land transactions in the formal registration system?
3. What other formal and informal systems are in place to secure land tenure for land occupants? I.e. what processes and structures currently underpin security of tenure?
4. In whom does de jure and de facto ownership of land vest in Bortianor?
5. When a land holder dies or leaves a settlement? Who takes over the land and how does this occur?
6. How is the transition from customary to state tenure systems progressing?
7. Have there been problems between the customary and state tenure systems? If so, what are they?
8. Are you aware of other land related conflicts? If so describe them. Are you aware of any court cases in this area or related to this study?
9. What are the options for improving the processes and policies regarding land holdings in the peri urban areas?
10. How do people survive economically in Bortianor?
11. Where do people come from and what are the migration patterns?

APPENDIX B: TABULATED LAND COURT CASES

Case number	Parties Involved	Main issue
Case AL 7-2008	Nii Kwei Quarcoo v Company A & Others	<i>Bortianor</i> lands sold by the Person D
Case L 283/2003	Nii Kommey Otsi Ata IV as Head of Solowe Family and on behalf of Royal Stool family – Jamestown vs Person D	<i>Bortianor</i> lands sold by the Person F
Case BL 622/2004	Ewurama Dzadsie v Company A	Her land was grabbed by the Company A (Person D's company)
Case L 283/2003	Nii Kommey Otsi Ata IV vs Person C	<i>Bortianor</i> lands sold by the Person C
Case AL 71/2007	2007 Madam Linda S & 4 others (representing 127 landholders) Vs (SSNIT) High Court Accra	(SSNIT) demolished their houses on their acquired land
Case AL 20/08	Nii Ofoli Kwei Quarcoo (as	<i>Bortianor</i> lands sold by the

	head of Nii Kwei Arko family) Vs Person D, Company A Co Ltd, Person B, Person C, Person - High Court Accra	Person H
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APPENDIX C: RECEIPT OF SALE OF A PIECE OF LAND

Receipt Form (Interview 76-2012)

RECEIPT ON THE SALE OF A PIECE OF LAND SOLD SITUATED AND LYING AT BORTIANOR NEW SITE (.....70 ft..... AT EAST,25 ft..... AT SOUTH AND AT WEST FEET IN TRIANGULAR SHAPE) AT THE TOTAL COST OF FOUR HUNDRED GHANA CEDIS (¢ 400.00)

This is to certify that I, [redacted] of Bortianor in the Greater Accra Region of Republic of Ghana. (Hereinafter called the Vendor) have today 2ND April, 2012, sold the above mentioned to [redacted] in Accra in the Greater Accra Region of Republic of Ghana. (Hereinafter called the Purchaser) at the total cost of four hundred Ghana Cedis (¢ 400.00) for in which full payment of four hundred Ghana Cedis (¢ 400.00) has been given to me.

Date signed: 22ND APRIL 2012

 R/P

[redacted]
(Vendor)

[Signature]
[redacted]
(Purchaser)

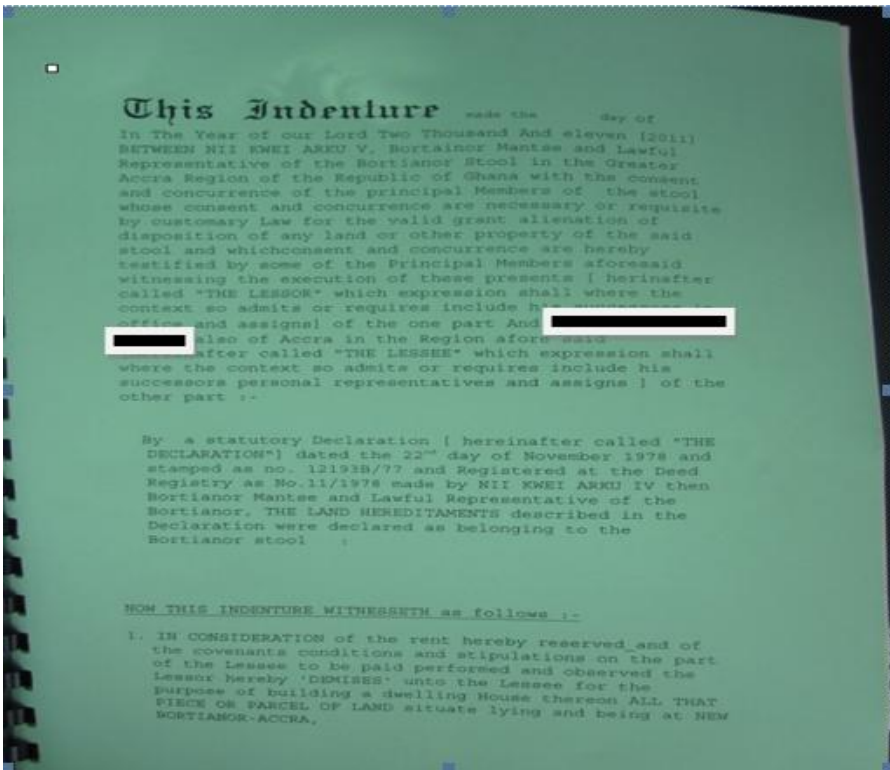
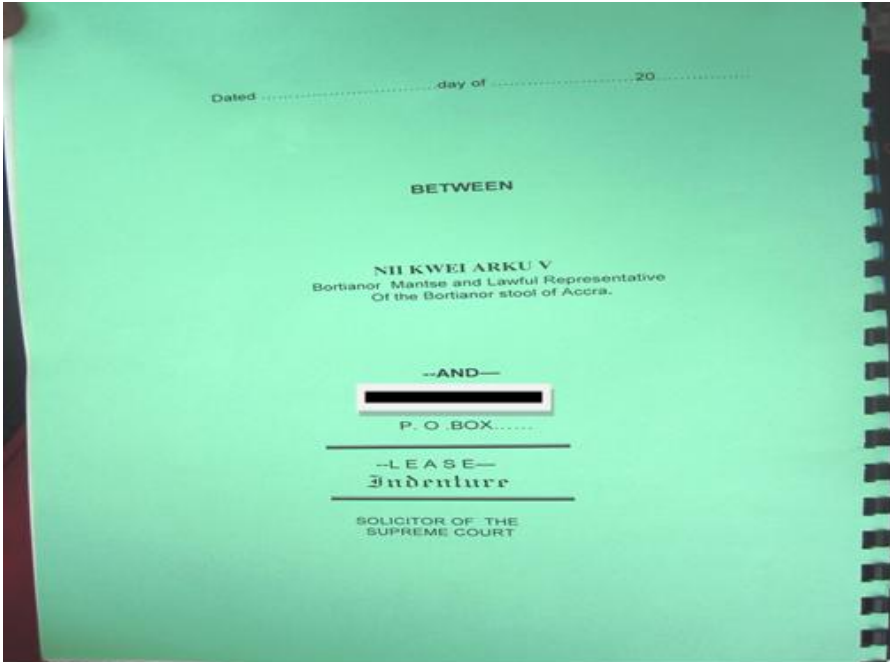
[Signature]
[redacted]
(Witness)

[Signature]
[redacted]
(Witness)

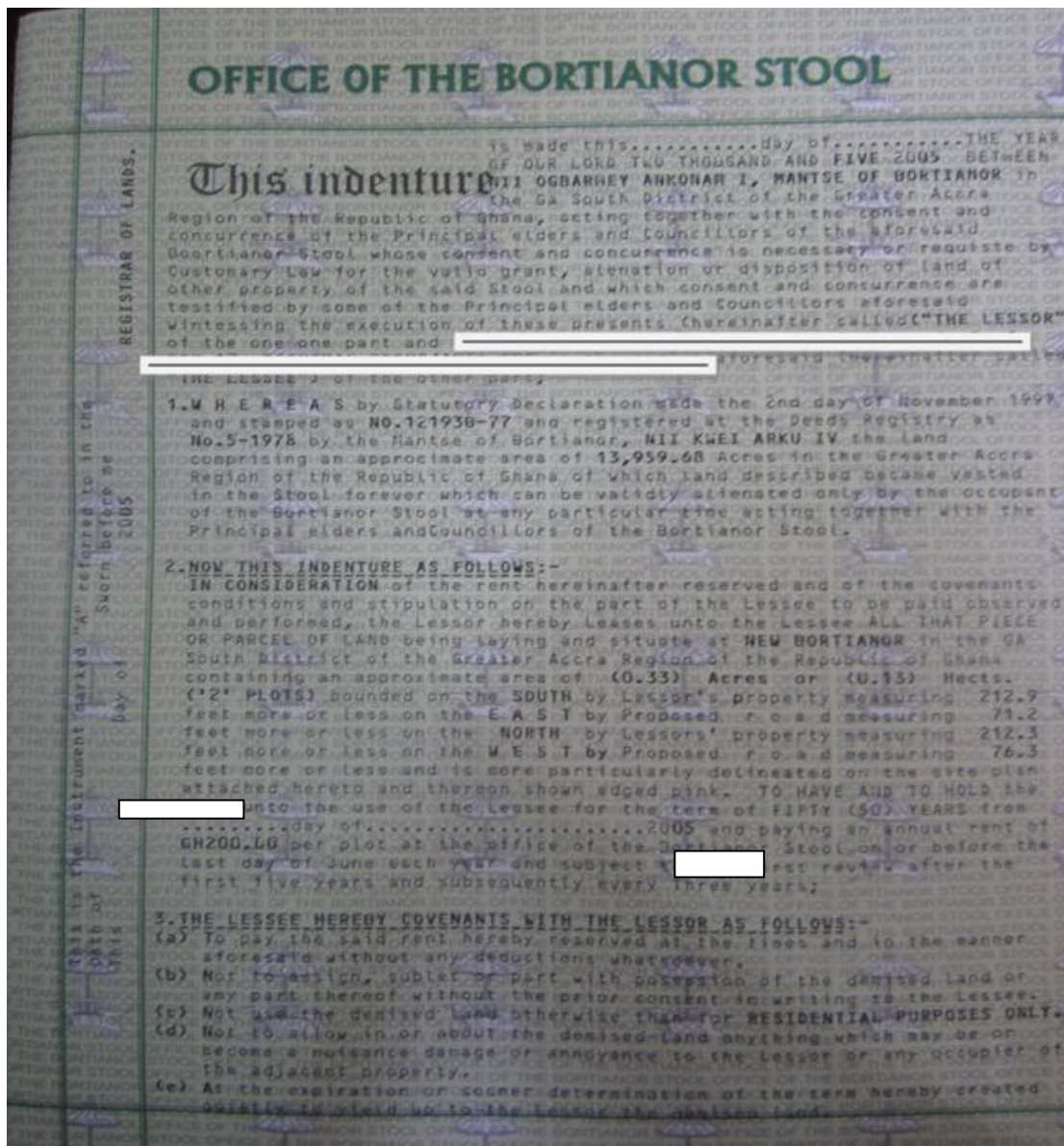
[Signature]
[redacted]
(Witness)

APPENDIX D: INDENTURES SIGNED BY THE TWO CHIEFS AND THE ACTING CHIEF

(I) Indenture signed by Nii Kwei Arku V (Interview 29- 2011)



(II) Indenture signed by Nii Ogbame Ankonam I (Interviews 41, 61-2011)



Dated this day of

= BETWEEN =

NII OGBARMEY ANKONAM I
BORTIANOR WANTSE & ELDERS
BORTIANOR, ACCRA

- A N D -

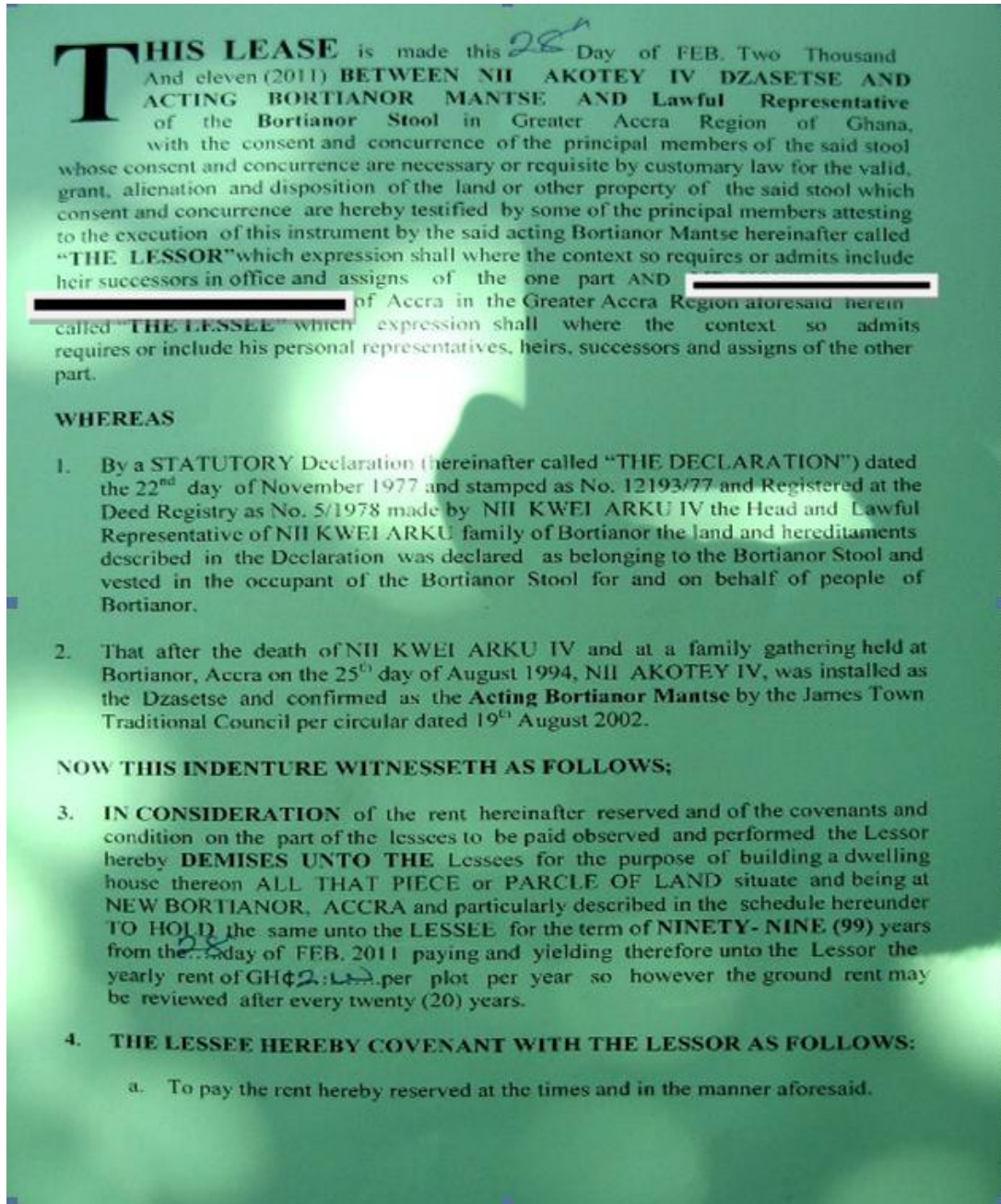
[REDACTED]

[REDACTED]

Indenture

SOLICITOR OF THE
SUPREME COURT

(III) Indenture Signed by Nii Akotey IV (Dzasetse) (Interview 34-2011)



- b. Not to assign sublet or part with possession of the demised land or any part thereof without the prior consent of Bortianor Stool represented by the Dzasetse Nii Akotey IV.
- c. Not to use the demised land otherwise than for Residential Purposes only.
- d. Not to allow in or about the demised land anything which may be or become a nuisance danger or annoyance to the Lessor or any owner or occupier of the adjacent property.
- e. At the expiration or sooner determination of the term created to yield up to the Lessor the demised land.
- f. To commence the development of the demised land within two (2) years with effect from the date of this lease.
- g. That the Lessor shall have the right to re-enter the demised land if the development is not commenced within Two (2) years from the date of the lease.

5. THE LESSOR HEREBY COVENANTS WITH THE LESSEES AS

- a. If the rent hereby reserved or any part thereof shall be unpaid for three (3) months after becoming payable after one (1) month's notice in writing to that effect has been given by the Lessor to the Lessees or if any of the Lessees covenants herein contained shall not be performed or observed it shall be lawful for the Lessor to enter into the demised land shall absolutely determine but without prejudice to any claim which the Lessor may have against the Lessee hereunder.
- b. if the Lessor intends to re-enter the demised land in the event that the development of the demised land has not been commenced within two (2) years from the date of this lease, the Lessor shall give three (3) months notice to this effect to the lessee.
- c. Any notice required to be served hereunder shall be sufficiently served on the Lessee if delivered personally or sent by registered post to them at their usual post or last known place of abode and on the Lessor if delivered personally or sent by registered post to them at his usual post or last known place of abode. A notice sent by post shall be deemed to be delivered at the address to which it is sent when in due course of post it would be delivered at the address to which it is sent.

(See 2- year mandatory development clause - 4(g))

APPENDIX E: PHOTOS/ARTIFACTS

(I) Photos (Items destroyed by Land guards)



The picture above was provided by one resident who claimed the land guards attacked him and his family at home and destroyed several items in an attempt to warn/ scare them off their farmlands (Interview 11- 2011).



(Photos of resident's farmland claimed to be destroyed by land guards, Interviews 8, 11 - 2011)

(II) Photo of Shrine (*Gbatsu*)



(III) Photo of Palace (see Case L 551/2000 in Appendix B)



(IV) Photo of Monkey Sanctuary



Appendix F- News/Press Cuttings

Title	Newspaper/online	Author	Date
Mayhem at Bortianor	Daily Graphic	Albert K Salia	20020730
Ghana: 12-Year Bortianor Chieftaincy Row, Court Rules for Nii Ogbarmey	The Chronicle http://www.accessmylibrary.com/article-1G1-135131532/12-year-bortianor-chieftaincy.html	Florence Gbolu	20050811
Ghana 2007 Country Reports on Human Rights Practices	http://www.state.gov/j/drl/rls/hrrpt/2007/100484.htm	Bureau of Democracy, Human Rights, and Labor 2007	20080311
GHANA: GUN BATTLE AT BORTIANOR	The Chronicle Africa News Source: http://allafrica.com/stories/200504181021.html	George Kyei Frimpong	20050418
Ghana Police is the most corrupt – Survey	Citifm	Citifmonline.com	20111209
Lack of legislation on succession accounts for chieftaincy disputes in Ghana	http://www.modernghana.com/news/307376/1/lack-of-legislation-on-succession-accounts-for-chi.html	GNA	20111207

Ghana Newsreel	http://alixstories.blogspot.ca/2011/11/bortianor-island-fisherfolk-html	Alice Aryeetey	20111110
ACCRA: LA TRADITIONAL COUNCIL WORRIED!	Ghanadistricts http://www.ghanadistricts.com/news/?read=1949	AMA	?0908
Chief Dupes Gov't 1.5 billion cedis	The Sun http://www.modernghana.com/news/94656/1/chief-dupes-govt-15-billion.html	Dominic Jale and Amponsah Boakye	20060207
ADR settles Bortianor Chieftaincy Dispute Out of Court	Ghana News Agency http://www.modernghana.com/news/50296/1/adr-settles-bortianor-chieftaincy-dispute-out-of-c.html	GNA	20040228
Let's Live in Peace and Harmony	Ghana News Agency http://www.modernghana.com/news/51014/1/lets-live-in-peace-and-harmony-nii-arku.html	GNA	20040310
Installation of Nii Arku as Bortianor Chief annulled	Ghanaweb http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=20568&comment=0#com	Ghanaweb	20011229
60000 Land Cases choke our courts and slow development	Daily Graphic Newspaper	Daily Graphic	20011115
Chief appeals to government to make laws to regulate land tenancy	GNA http://www.modernghana.com/news/43484/1/chief-appeals-to-govet-to-make-laws-to-regulate-la.html	GNA	20031028

SSNIT to demolish buildings on its Dunkunah Property	GNA http://www.modernghana.com/news/36266/1/ssnit-to-demolish-buildings-on-its-dunkunah-proper.html	GNA	20030620
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APPENDIX G: RICH PICTURE OF STUDY AREA

