



Research Report 5 Land Registration in Eastern and Western Regions, Ghana

Osman Alhassan and Takyiwaa Manuh

Securing Land Rights in Africa

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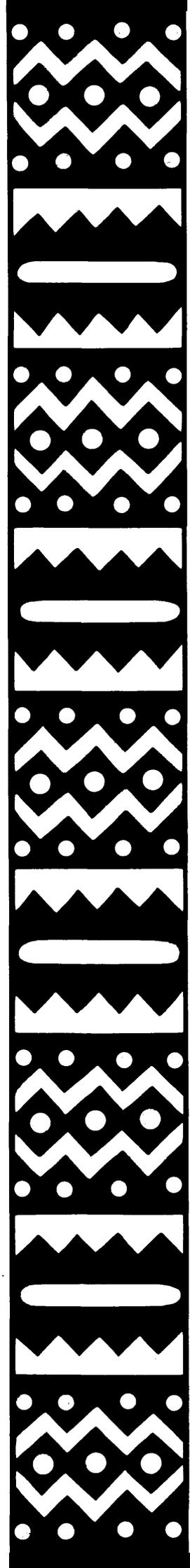


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By Osman Alhassan and Takyiwaa Manuh, Institute of African Studies, University of Ghana, Legon, Accra.
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LIST OF ACRONYMS

CHRAJ	Commission for Human Rights and Administrative Justice
CLS	Customary Land Secretariats
ASD	Akuapem South District
DT&CP	Department of Town and Country Planning
FSC	Forest Services Commission
LAP	Land Administration Project
LC	Lands Commission
LTR	Land Title Registry
LVB	Land Valuation Board
MLF	Ministry of Lands and Forestry
MOFA	Ministry of Food and Agriculture
OASL	Office of the Administrator of Stool Lands
SD	Survey Department
WAD	Wasa Amenfi District

PREFACE

This research examines the current processes of land rights registration in Ethiopia, Ghana, and Mozambique and assesses their outcomes for poor and vulnerable groups. Land is becoming increasingly scarce in many parts of Africa, and mounting competition for this valuable resource is driving conflict between and within groups. Many governments have initiated a review of land legislation and established new structures for land rights administration. At the same time, there is considerable informal documentation of ownership and transactions in land taking place in many areas, as people seek to strengthen their claims over land and natural resources. Informal processes include the increased use of written contracts, witnessing of agreements, the emergence of new forms of rental and sharecropping arrangements, and other kinds of local collective action, often around management of common property resources. However, such informal documents and processes are not usually legally binding.

While registration might, in theory, be expected to help poorer groups confirm their claims to land, in practice registration has often served to redistribute assets towards the wealthier and better informed. We are keen to ask the question – is this inevitable? Can provisions be made which explicitly address the need to level the playing field between poorer and better-off groups in relation to registering claims over land? In Ethiopia, land registration systems are being designed and pilot programmes carried out in several states. In Ghana, an ambitious Land Administration Programme has begun, which has chosen to do much of its work through Customary Land Secretariats. In Mozambique, the 1997 Land Law is being implemented, a law which has been recognised internationally as demonstrating a strong pro-poor approach. What lessons can be learnt, from these cases, to inform policy and practice for future interventions in the registration of land rights in Africa?

The study tests a set of interlinked hypotheses, which assert that:

- Land registration is not inherently anti-poor in its impacts;
- The distributional consequences of land registration will depend on the design of the process and governance of the institutions responsible for its management; and
- Land registration procedures can be elaborated to address systematically the risk of bias against poorer, more marginal groups by considering issues including location, registration fees, language used, and recognition of secondary rights.

While the hypotheses can be broadly accepted as valid, and the study did identify examples of “good practice”, there are also many lessons to be learnt about the design of registration systems if they are to protect effectively the rights of poorer groups. Work in all of the case study sites pointed to the critical role of institutional governance.

The results of this research project come at a particularly opportune time. In 2005, a “High Level Commission on Legal Empowerment of the Poor” is in the process of being set up with an independent secretariat jointly hosted by UNDP and the UN Economic Commission for Europe (UNECE). It seeks to make property rights accessible to all, especially the poor and marginalized, and by so doing, contribute to poverty reduction and achieving the Millennium Development Goals (MDGs). Evidence suggests that formalising property rights through individual title can have negative consequences for poor groups and in particular, for women and those relying on secondary rights to land. It is therefore important to base recommendations on empirical findings from diverse settings to avoid “one size fit all” solutions.

This research project was coordinated by the International Institute for Environment and Development (IIED) working with:

- Mekelle University, Mekelle, Tigray, Ethiopia
- SOS Sahel, Addis Ababa, Ethiopia
- Institute of African Studies, University of Ghana, Legon, Accra, Ghana
- Land Studies Unit, University of Eduardo Mondlane, Maputo, Mozambique
- Royal Tropical Institute (KIT), Amsterdam

The project adopted an iterative approach using reference groups at the national level to advise the researchers as work proceeded, and to disseminate findings. A proactive strategy was adopted to feed findings into relevant debates at local, national, and international levels. This included a major conference, which brought African policy

makers, opinion leaders, and researchers together with international agencies and experts to discuss “Land in Africa” in November 2004¹.

The research has addressed three sets of questions:

Firstly, questions on the design and process of registration:

- What land and what land rights are being registered?
- How is land registered and by what institutions based at what level?
- What is the basis of registration and whose rules and procedures are being followed?
- How are boundaries demarcated and recorded and with what forms of technology?
- Where are land registers stored? In what language are they recorded? How accessible are they to the public?
- Have precautions been taken to ensure equitable access to the registration process, such as cost, language used, and place of registration? Has this made a difference in practice, in terms of who can register their rights?
- What happens to secondary rights because of registration?

Secondly, questions on the governance of registration processes:

- Which state and non-state actors are involved in registration processes?
- What political and legislative framework governs the actions of the actors involved in land registration? How is accountability to a broad constituency assured?
- How do these institutions deal with disputes? How transparent are these conflict resolution processes?
- How well do the different institutions involved in land registration coordinate their activities?
- How do formal processes of rights registration interact with “informal” processes for securing rights?

Thirdly, questions related to equity of outcomes:

- Who is seeking to register land rights, and why? Who are the winners and losers in the process?
- What happens to the claims of weaker groups in society?
- What happens to unregistered rights in practice?
- How are land rights of smallholders affected by the policy thrust to attract large, sometimes foreign, investors?
- How are land rights of more disadvantaged groups changing in peri-urban contexts where competition for high value land is intense?

Seven research reports have been produced under the common title “Securing Land Rights in Africa”.

Research Report 1: Can Land Registration Serve Poor and Marginalised Groups? Summary Report

Research Report 2: Land Registration in Tigray, Northern Ethiopia

Research Report 3: Land Registration in Amhara Region, Ethiopia

Research Report 4: Land Registration and Women’s Land Rights in Amhara Region, Ethiopia

Research Report 5: Land Registration in Eastern and Western Regions, Ghana

Research Report 6: Land Registration in Nampula and Zambezia provinces, Mozambique

Research Report 7: Land Registration in Maputo and Matola cities, Mozambique

¹ See <http://www.iied.org/events/landinafrica.html> for further information.

1. INTRODUCTION

This report provides an understanding of the processes of land registration, including informal documentation processes, in two study areas in Ghana, the Wasa Amenfi District (WAD) in the Western Region and the Akuapem South District (ASD) in the Eastern Region. It discusses pertinent questions around issues of practice, equity, governance, and outcomes of the registration process on various segments of the population in the study areas.

The report describes the land tenure systems in the two regions, outlining the key principles governing the customary and statutory landholding arrangements. It looks in particular at the two main systems of registration – the formal deeds registration process and informal mechanisms under the customary system – to see who is registering land and why others are not. Governance issues are examined, with a close look at conflict resolution mechanisms and an assessment is made of who is benefiting and who may be marginalised from processes of registration as they are currently designed.

The research found that smallholder farmers have little knowledge of formal registration and are very unlikely to use it to make their land rights more secure. Medium and large agri-businesses, forestry and mining companies and those seeking to formalise their residential holdings are most likely to use the deeds registration system. Land conflicts, especially boundary demarcation and land alienation by chiefs and other traditional authorities are one of the main factors limiting the formal registration process, however, these factors also act as an incentive to others to seek to formalise their land rights. There seem few mechanisms in place to enable registration, either formal or informal, to protect the poor and vulnerable from suffering the effects of land scarcity and the marginalisation that it brings.

Under the Ghana Poverty Reduction Strategy (GPRS), land is to be made more accessible and productive for the majority of Ghanaians (GoG, 2003). This is expected to increase production and productivity and boost the income earning capabilities of inhabitants of the region whose main occupation is farming. Immediate and long-term benefits expected include employment generation, increases in incomes, poverty reduction and improvements in general living standards. This is in line with the new development strategy aimed at promoting diversified and export-led agricultural development. The Western region has enormous resources: minerals, cocoa, oil palm, rubber, and timber and has around 40 percent of the country's closed forests and large chunks of land that can favourably support increased agricultural production (Forest Services Commission, 2003 and MOFA, 2001).

Ghana has a diverse and rich resource base. However, the country's leading supplier of jobs and export revenue is agriculture. Agriculture provides approximately two-thirds of export revenues and one third of GDP. Traditional export crops include cocoa and cocoa products, coconuts, palm nuts and palm products, shea nuts, and coffee. Ghana has also undertaken the successful export of non-traditional crops including pineapples, cashews, and pepper, and almost one quarter of Ghana's GDP comes from this industry.

The government of Ghana (GoG) is undertaking policies to end dependency on foreign aid. To do so, the GoG created incentives to promote private sector involvement in all sectors of the economy including agriculture and industry. (GoG, 2003) It sees the development of the rural environment as the catalyst for generating wealth and transforming the national economy. Therefore, it has taken an increased interest in reforming the land administration system. The system, as it now stands, is referred to as "archaic" and existing at a near-subsistence level (GoG, 2003). It is proposed to turn the agricultural sector into a progressive, dynamic, entrepreneurial and profitable one that will bring about structural change, as well as changes to the spatial organisation of the rural environment (GoG, 2003). The GoG's aim is "to achieve an optimal geographical pattern of resource investment designed to strengthen and extend national and local connections between both production and trading activities." (GoG, 2003:36)

The GoG has pledged to create an environment in which economic and social infrastructure, land reform, and incentives to entrepreneurs by the public sector are stimulated to make them self-perpetuating. This requires policies and programs to develop and strengthen socio-economic activities through bringing together the four major phases of investment, production, processing, and distribution. The aim of this approach is to create a more efficient and geographically balanced urbanisation process in which urban and rural areas interact to create flows of people and goods. The GoG envisions a complementary structure where urban areas act as catalysts for socio-eco-

conomic development and cultural change for rural areas, which will stimulate the growth of export commodities.

The restructuring of rural areas is seen as the major catalyst for transformation in Ghana. Ghana's Poverty Reduction Strategy aims to reinforce macro economic policies for stability and sustainable growth. Ghanaians have been urged to stop viewing agricultural activities as simply a way of life and see agriculture as a profitable commercial and industrial activity. This new perspective will require a corresponding transformation in attitudes and conventional societal values, particularly in relation to land. As a result, policies have been developed to incorporate land as a tradable asset in the national economy whilst retaining its communality.

Even though a system of land registration has existed in Ghana since 1962, it has made only modest gains. The expectation was that certification of ownership or use rights would confer secure land rights. As is well known, the theory is that secure rights in land through a clearer definition and enforcement of interests can reduce the incidence of land disputes, increase land transactions, provide greater incentives for investment, and enhance the collateral value of land. However, it can be argued that land registration has not explicitly targeted the poor, who comprise the majority of Ghana's rural population. Care must therefore be taken to ensure that registration does not further marginalise poorer and more vulnerable people. In countries such as Ghana, secure land rights can also promote food security and protect the interests of land users including the poor. Agricultural export diversification does not only guarantee alternative livelihoods, but can also raise foreign exchange to finance socio-economic development.

2. LAND POLICY, LEGAL PROVISIONS AND CUSTOMARY SYSTEMS

Ghana, as in many parts of Africa, is characterised by land tenure systems that are legally pluralistic, and maybe either customary or statutory in nature. Customary land tenure is largely unwritten, is based on local practices and norms, and is context specific. Its principles stem from rights established through the first clearance of land or conquest. Traditional authorities including village chiefs, land priests, councils of elders, or heads of family usually manage customary land systems. These systems are continually evolving because of cultural interactions and diffusion, socio-economic change, and political processes. In this context, “traditions” and “customary conventions” are continuously being redefined or reinvented to back the conflicting claims of different social groups (Asante, 1975)².

Statutory rules on land tenure on the other hand are based on written laws and regulations, legislation, and judicial decisions. Land rights are allocated and confirmed through the issuance of titles or other forms of registration of ownership. The management of all stool/skin land in the country is entrusted to the Lands Commission (LC), the state agency responsible for managing all public lands as per the Administration of Lands Act of 1962. Section 10 of the Act empowers the President to order the occupation and use of any stool/skins land if he/she deems this to be in the public interest. This provision has however been altered since the coming into force of the 1992 Constitution. Article 267 (1) of the 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” (Republican Constitution, 1992). While stools/skins³ can deal in their lands as they wish, a grant of stool/skin land is invalid unless it receives the concurrence of the Minister responsible for land.

In addition to the customary and statutory legal regimes, the Land Administration Programme (LAP)⁴ identified a third land regime founded on common practice from formal statutory rulings based on traditional practices (MLF, 2003). Nevertheless, the most significant legal regime around land is based on traditional authority with customary rules governing land ownership, holding, and use arrangements. Around eighty percent of land ownership and control is in the hands of customary authorities who have consistently opposed attempts by successive governments since colonial times to take over control of land in Ghana. Because of this history, radical reforms to replace the traditional land tenure system are likely to face stiff opposition and to lead to social upheavals (Benneh, 1985).

2.1 Customary Land Tenure in Ghana

Academic discourses on land tenure in Ghana have used two main approaches. The first approach suggest that Ghana’s land tenure system is historic and rooted in concepts of indigenous culture, spirituality, and communal social solidarity (Busia, 1951). The second approach sees customary land tenure as very dynamic and evolving. As population density increases and land becomes scarce, tenure systems adapt by ensuring increasingly defined property rights, which move from community rights to land, to lineage rights, and down to household and individual rights to land. Continent wide, the penetration of capitalist land use has particularly provided impetus for

² Much of the debate on the contemporary relevance of the chieftaincy institution in Ghana has centred on the increasing incidence of the institution in alienating communal land and impoverishing their people. Chiefs are accused of becoming landowners and appropriating land, instead of exercising their traditional roles as custodians of communal lands held in trust on behalf of their people.

³ The stool is the seat of the chief of an indigenous state or head of a family and represents the authority of the chief. A skin in Northern Ghana is the equivalent of a stool in Southern Ghana. Levels of traditional authority and what they control: *King*, has overall authority of an ethnic group, does not control natural resources directly, only through divisional chiefs; *Omanhene*, is a paramount or state leader (there are 3 paramountcies in the Wasaw area of Western Ghana. This level houses the traditional council. Does not control natural resources directly; *Divisional Chief (stool chief)* has a number of settlements and area under their jurisdiction and controls the natural resources thereof; *Odikro (stool chief)*, is a village or town chief who reports to the divisional chief but has an area of land & natural resources under their control; *Abusuapanin*, head of a family and controls family land.

⁴ The Land Administration Program (LAP) is a GoG land reform initiative that seeks to improve access to land and ensuring certainty of land rights. The pilot phase of the programme commenced in 2003 and amongst others seeks to establish pilot projects in allodial boundary demarcation and registration, land titling and registration, and strengthen customary land secretariats for effective documentation and record keeping of land transactions in Ghana. This process is expected to last well over 15 years and the first five years will be used to undertake selective piloting of these activities before wider replication in the country.

the fast adaptation to change of the original communal land tenure system described as being typically African. This position argues that an approach based on strengthening customary rights in land is compatible with a market-based approach to land management (Deininger, 2003).

2.1.1 Land acquisition and use rights among indigenous people

Customary tenure arrangements in Ghana are rooted in communal ownership. Land is held to belong to the community, the village, the stool, or family but not to the individual and traditional authorities act as trustees of the land. Membership of the landowning group entitles one to enjoy rights to the land (Bentsi-Enchil, 1975). Occupation has been the oldest mode of land acquisition. Any person who first cleared a portion of virgin forest established his/her right over that land which they could then pass on to others including non-indigenes.

Until the advent of commercialisation of land and increasing demographic pressures, a member of the land owning group reserved the right to use land as long as it was kept under cultivation, which included both active croplands and fallow fields. Although such land could be pledged or given out as a gift, the land remained communal property and could not be perpetually alienated without the consent of the head of family.

2.1.2 Land acquisition and use rights among non-indigenous people

Non-indigenes acquire lands in communities by following certain protocols. Migrants go through a number of customary procedures, which eventually leads to the chief giving them access to some land. On arrival in a village, a migrant introduces himself to the chief and makes a request for a piece of land. In the Wasa area, the land-seeking migrant would normally pay a consideration fee, locally referred to as *amantemsa*, if the request for farmland is granted.

Other important forms of land acquisition in the WAD are through allocation, gift, marriage, inheritance, and outright purchase. These modes of tenure are free grants and may exist depending on whether the grant in question is temporary or permanent, and whether it is a disposal of land or *de facto* possession. Such grants normally involve families and relatives, and apply to migrant and indigenous farmers depending on the social relationships established with the land owning groups.

These principles of land acquisition worked well in the past and served as an inbuilt social safety network allowing people other than indigenes to have access to land, while at the same time ensuring that the land was not easily appropriated to serve the needs of a few. Not only did group members exercise equal rights in access to land, but even outsiders who had established social relations with the indigenous community derived benefits from the land. Secondary or derived rights to land serve an important national interest by making land access easier for those willing to put it into productive use.

These forms of land access and ownership have evolved and in some instances generated conflicts. Part of the problem is that huge tracts of land were allocated to non-indigenous communities. Chiefs willingly engaged non-indigenous people as they provided labour for farms and increased their prestige because traditional authorities viewed bigger settlements as signs of power and wealth (Berry, 2003). However, with demographic pressures and privatisation of communal lands, farm holdings have been reduced in size and many indigenes have become landless. Additionally, in some communities, indigenous and non-indigenous tenants own large pieces of land under *abunu* tenancy⁵ and this has increased the call from landowners for a return of their land. These claims have been made even where land was acquired through outright purchase.

Other forms of land acquisition in the WAD included outright purchase. Before the turn of the 20th century, land markets had developed in many areas in Ghana. Even in rural areas, both indigenous and non-indigenous people could obtain land through outright purchase. These transactions were made orally and no written documents existed to support claims of ownership. While tenant farmers considered the amount paid to be outright purchase, chiefs considered it “drink money.” Rationalising what difference there was between the *twama* and outright purchase, Aidoo describes the situation in Wasa Amenfi thus,

⁵ See description below; also see Amanor, 2001.

“... in its early days, the purchase of land did not differ much from that of ‘twama.’ In the sense that when an individual expresses an interest in having a piece of land and this request is granted he was charged some amount depending on the size of land the chief wanted to grant. This money the chiefs still referred to as “drink money” or consideration fee, the payment of which gave the prospective landowner of farmer access to land. On payment of the money, the migrant was escorted by a team of “boundary cutters” to demarcate an area for him. The amount charged before 1950 were not high. For a square mile of virgin forest a migrant farmer would pay about B£30⁶ (Aidoo, 1990: 94).

As the author further explains, the problem was often compounded by the fact that some migrant farmers exploited the system by luring most “boundary cutters” with money to demarcate more land than was actually agreed upon with the chief. These deals when uncovered became one of the sources of confrontation and hostility between chiefs and migrant farmers.

In much of rural Wasa Amenfi, land tenure is mostly understood through the sharecropping system. The system of sharecropping operates in two main ways, as, *abunu* or *abusa*. In both cases, the land is offered for cocoa or other tree crop cultivation, after which the farm is shared between the landowner and the tenant.

Under the system of *abunu*, the farmland is divided in two, and both tenant and landowner take equal shares of the cropped land. In the case of *abusa*, the proceeds from the land is shared 1:2 between the landlord and tenant respectively. *Abusa* is normally associated with food and not tree crops. An important feature in the two sharecropping agreements is the relative contribution of labour and capital by the tenant farmer and the landowner. In the case of *abunu*, the landowner is expected to contribute some capital and seedlings in addition to the land; while in *abusa*, the landowner contributes nothing apart from the tract of land. The tenant farmer is supposed to use one-third of the share to defray the cost of farm operation, and the other one-third as his personal remuneration, while the remaining one-third goes to the landlord as his rent for the land⁷.

2.2 Statutory Land Ownership and Landholding Arrangements in Ghana

Interventions to streamline land administration have been undertaken by various governments because of the belief that easy access and productive use of land would improve the general wellbeing of the citizenry. These interventions consisting of both policy and legal instruments, have addressed land security and productivity, and the need to create an environment for socio-economic development. Among other things, secure rights in land through a clearer definition and enforcement of rights can reduce the incidence of land disputes, increase land transactions, provide greater incentives for investment, and enhance the collateral value of land. It can also promote food security and protect the interests of land users with derived rights to land. Land registration is perceived as a way of improving land administration because of the expected benefits it can bring to communities, including increased investments and productivity in land and reduction in the cost of resources expended on land transactions.

The state owns approximately 22 percent of the land area in Ghana with statute law applying exclusively to about 20 percent. Under the provisions of the State Lands Act of 1962, the President of the Republic can acquire absolute interest in any land in the country by publishing an Executive Instrument clearly identifying the required area of land and declaring that the land is required in the public interest. The Administration of Lands Act of 1962 provides for the management of all stool/skins land by the State. Section 7 provides for the vesting of stool/skins lands in the President in trust for the local community. Section 10 empowers the President to order the occupation and use of any stool/skins land by any person if he deems this to be in the interest of the nation. The remaining 80 percent of land in Ghana belongs to three different categories of landowners: 1) individuals and families; 2) Communities, represented by stools, skins, and families; and 3) ‘*Tendamba*’ (the first settlers) or clans in northern Ghana. (Kasanga and Kotey, 2001)

A number of attempts have been made in the past to initiate, encourage, and improve registration of interest in land in Ghana. Registration of deeds (affecting land and other properties) commenced in 1843. The Land Registry

⁶ It is not clear if B£30 can by any standard be considered a small amount in 1950. If computed at 1950 base prices, it would seem to be quite a substantial amount even then for such a land area.

⁷ see Amanor 2001 for detailed examples of these systems in the Eastern Region.

Ordinance of 1895 was repealed in 1962 but re-enacted as the Land Registry Act of 1962⁸. Under the Act, any instrument affecting land could be registered voluntarily so long as it contained a description of the land. Under such circumstance, if there were some contest over a piece of land, the first of two registered deeds affecting that same piece of land would prevail. Yet to date, few district LC offices exist, and only regional offices function to help prospective applicants process their title documents for final registration at the deeds registry in Accra.

The Land Title Registration Law of 1986⁹ was introduced as an effective and better system of land titling and registration. Land Title Registration targeted the problematic land use areas of Accra-Tema and Kumasi, the two major metropolitan areas in Ghana, and prescribed compulsory title registration to address the shortcomings of the deeds registration system, which remains optional. In effect, the land titling process was supposed to phase out the deeds system that existed before it. With compulsory title registration, both the allodial and usufructuary interests are registered¹⁰. The other difference is that the registered document is termed a *certificate* under deeds registration, and a title under title registration. The purpose of land *title* registration was twofold: (i) to give certainty and facilitate the proof of title, and (ii) to render dealings in land safe, simple, and cheap.

Policy responses towards securing land rights for interest holders have mostly been attempts to eradicate customary systems and replace them with a “modern” system of land tenure (Cotula et al, 2004; Kasanga et al, 1996). Indeed, it was argued that only “secure” private property could provide adequate incentives for investments in land and that such tenure security could only be achieved through land titling and registration.

There have been many problems with the registration of land in Ghana that can be attributed to the implementation of the system. These include:

- a) A cumbersome and costly registration process;
- b) Two different plans can exist for the same property because cadastral plans need to be prepared for title registration, which are different from the plan used for the original transaction;
- c) The absence of site plans, which can result in two title certificates issued for the same plot; and
- d) A lack of logistics and personnel at land service delivery agencies (Asiama, 1998).

⁸ Act 122

⁹ PNDCL 152

¹⁰ Allodial refers to the superior interest i.e. landowner/holder and usufructuary refer to the use of the land.

3. RESEARCH METHODS AND FIELD SITES

3.1 Research Methods

Wasa Amenfi District (WAD)

The Wasa Amenfi District in the Western Region was chosen as a study location because of its importance in land use and ownership dynamics, which have been the focus of many land management interventions in Ghana. In addition, there are mixed feelings concerning the success of new land reforms and community innovations meant to improve land rights and land management in the country. The reforms have implications for future land management in Ghana and need to be explored and understood. These issues constitute significant grounds for investigating salient aspects of land access and use; landholding arrangements; methods of documentation that enhance the security of landholding; and the likely impacts these might have on poor and vulnerable groups such as women, youth, and migrants.

Secondary data was used to provide background to the research questions and to provide useful input into the composition of field instruments.

Primary data from field interviews form the basis of this report. Reconnaissance surveys were carried out in the district in December 2002 and January 2003. Asankrangwa, Wasa Akropong, Manso-Amenfi, Akyikyere, Yirase, and Sureso (including Pebase and Kamaso) were chosen as study locations due to their accessibility and suitability for investigating land documentation in the district. These settlements with the addition of Samreboi eventually became locations for the main interviews and field activities. During exploratory visits to the various study sites, contacts were made with policymakers and implementers, opinion leaders, and farmers comprising both indigenous and migrant tenant farmers. Following the reconnaissance, informal meetings and discussions were held in the selected settlements targeting key stakeholders in the communities to discuss research objectives and the proposed field methodology.

In all, 80 in-depth interviews and 15 group discussions were conducted¹¹. In addition to the in-depth interviews with farmers at various settlements, group discussions were also held with women's and men's groups. In Asankrangwa and Wasa Akropong, youth groups and land agencies were included in group discussions. The youth have begun asserting their claims in land matters because, like women, they often tend to suffer the effects of land scarcity and have reason to be included in deliberations on their future security.

Akuapem South District (ASD)

Akuapem South District in the Eastern Region was chosen as a study location because of the importance of food crop production for a significant proportion of the population, as well as the increasing importance in the production and export of non-traditional crops such as pineapple, pawpaw, citrus, mango and vegetables. The nature of land use currently practised in the district allows for an understanding of the dynamics of land access and rights associated with land use, especially in the face of increasing demand for land for pineapple farms. As a new frontier in the drive for agricultural diversification, there has been policy attention on pineapple and businesses have been encouraged to start production to earn more foreign exchange for Ghana's cash-strapped economy.

Research methods focused on by this study has focused on qualitative information from both secondary and primary data sources. Two reconnaissance surveys were carried out in November of 2002. During these visits, contacts were made both with policymakers (District Administration), opinion leaders, and male and female farmers of both pineapple and staple food crops (such as cassava, maize and plantain).

Following these visits, a local meeting was held in December 2002 and involved various stakeholders at the community level – policymakers and implementers, assembly members, farmers, chiefs, opinion leaders, and traders. Discussions focused on the research objectives and methods to be used, but also participants' roles as stakeholders in ensuring a close collaboration during and after the research process.

¹¹ In most communities, 10 individual interviews were conducted except in Asankrangwa where this was 20. Two group interviews were held in Wasa Akropong, Akyikyire, Sureso and Yirase; three in Asankrangwa and Manso Amenfi, and one in Samreboi.

The first phase involved identification of the main agricultural extension operational areas including:

1. Akwamu area comprising Dzatsui New Town, Kofisah, Apeteshie Nkwanta, and Yaw Densu;
2. Ahodwo area;
3. Ahuntam-Darmang area comprising Ahuntam-Darmang, Ahwerease Darmang, Kwasi Tenten, and Dua Ye Den; and
4. Fotobi area comprising Fotobi and Ankwani Dobro.

Settlements of Nsawam, Fotobi, Adoagyiri, Sakyikrom, Oboadaka, Dobro, Yaw Duodo, and Pokrom were chosen as study sites. In all, 75 in-depth interviews and 15 group discussions were conducted¹². These involved the use of structured questionnaires for in depth interviews, and semi-structured memos for group discussions. The structured questionnaires targeted different stakeholders such as farmers, chiefs, traders, and government officials such as agricultural and community development agents. The group discussions equally targeted several stakeholders including women and youth groups in order to get a representative view of the issues.

Interpretation and analysis of data has been mainly qualitative emphasising issues raised by the responses.

3.2 Field Sites

Wasa Amenfi District

The Wasa Amenfi District (WAD) used to be the largest district in the Western region in terms of land area; and the second largest district in Ghana. In January 2004, it was divided into two districts: Wasa Amenfi West and Wasa Amenfi East. Asankrangwa is the administrative capital of Wasa Amenfi West, while Wasa Akropong is the administrative capital of the Amenfi East district. This study covers both districts and the area will be referred to by the original name of Wasa Amenfi.

The Western region has enormous resources such as minerals, cocoa, oil palm, rubber, and timber. It has around 40 percent of the country's closed forests and large chunks of land that can favourably support increased agricultural production (Forest Services Commission, 2003; MOFA, 2003). Though not fully exploited, the district has enormous agricultural potential for cocoa, rubber, timber, and food crop cultivation. Agriculture is the mainstay of the population, though significant numbers of people engage in mining activities. Population densities are relatively low.

WAD has been a destination for agricultural labour since the late 1920s and approximately one-third of its population is made up of settler/migrant farmers. Most of the farmers have smallholdings of two acres, on average, for cocoa farms and food crops cultivated using the bush fallow system of farming. With increasing population and land scarcity, the diverse ethnic composition has tended to retard rather than promote effective agriculture as tenants and indigenes compete for scarce land. There are pronounced land use conflicts among tenants and indigenes¹³. This is particularly true for towns such as Manso Amenfi and in predominantly migrant communities such as Gravel Yard.

The indigenous population, the Wassaw, are part of the Akan-speaking group. There is, however, a diverse cultural composition found as the district is home to other Akan speaking groups such as Fante, Nzema, Asante, Akuapem, as well as other ethnic groups such as Krobo, Ewe, and Ghanaians from the north of Ghana. The migrant population of WAD is estimated at approximately 40 percent¹⁴. Migrant populations are concentrated mainly in the cocoa and oil palm growing areas. (Wasa Amenfi District Development Plan, 2001-2003) In the neighbouring Wasa West District where vast gold mining opportunities exist, many migrants are also found in the large-scale mining companies, as well as in the informal gold mining sector, popularly known as *galamsey*.

¹² In most communities, 10 individual interviews were conducted except in Sakyikrom where this was 5. Two group interviews were held in Fotobi, Oboadaka, Dobro, Yaw Duodo, Pokrom; three in Nsawam and one each in Adoagyiri and Sakyikrom.

¹³ Field interview and group discussions show that land use conflicts are quite complex and exist even at household and family levels. The most prominent and serious ones, however, happen to be conflicts between indigenous and migrant farmers. This was clearly the case in migrant and indigenous communities where reference to land conflicts were mostly seen as between "them and us".

¹⁴ The District Chief Executive of the Wasa Amenfi District and other district administration sources indicate that preliminary information contained in the 2000 Population and Housing Census estimate the migrant.

The population of WAD is 234,384¹⁵, and Asankrangwa, the administrative capital, has a population of 11,611 (2000 Population and Housing Census). Other major settlements include Samreboi (8,891), Wasa Akropong (6,170), Asankran-Breman (5,056), and Manso-Amenfi (3,460). The population of the district is typically rural (70%) with the majority of this population living in very small settlements of less than 200 people. Samreboi is regaining its timber and plywood processing activities following expansion by Samartex Timber & Plywood Company Ltd. A downturn in the lumber industry in the 1970s and 1980s resulted in a drastic decline in population as unemployment grew, but the population in Samreboi has risen from 6,030 in 1984 to 8,891 in 2000.

Nationally, cocoa farming is on the increase after a decline in the mid-1980s. Cocoa cultivation is a major activity in WAD. Cocoa farms comprise about two-thirds of all land use in the area¹⁶, and are mostly smallholdings, with some farms as small as a fraction of an acre. On average, smallholder farmers produced approximately one tonne of cocoa per year. Interestingly, these smallholder cocoa farmers together produce the bulk of all cocoa grown in Ghana. Smallholder farms are spread evenly throughout the district. Most of the large-scale cocoa plantations that exist are owned by the state and a few are privately held. Almost all cocoa planting in Ghana is done in the traditional method.

In spite of the abundance of natural resources, WAD remains underdeveloped with inadequate socio-economic infrastructure. Low agricultural productivity arises partly from land scarcity with serious land disputes among users and inequitable distribution of land due to a lack of transparency in governance. Unsustainable land use patterns among competing uses has also resulted in serious problems related to slowing down agricultural production and productivity.

To improve land administration in Ghana, a Land Administration Programme (LAP) is being implemented on a pilot basis. The LAP has established an office at Wasa Akropong to support the customary land secretariat at the Omanhene's Palace. Both the LAP and this project have overlapping interests and findings from this research could complement that of the LAP's pilot registration programmes.

Akuapem South District

The Akuapem South District (ASD) is located north of the Ga District and south of the Akuapem North District in the Eastern Region. Nsawam is the administrative capital and the other major urban settlements are Adoagyiri, Aburi, and Sakyikrom. ASD occupies 360 square kilometres of land area and has population densities that do not exceed 110 people per square kilometer. Population densities are higher in urban settlements and in the pineapple growing areas due to the concentration of farm labour.

The terrain in ASD is generally rolling hills and valleys. It is located in the Volta basin and has an average annual rainfall of 1200 mm, with the northern areas experiencing slightly higher rainfalls. The area is well drained with numerous streams and tributaries that serve as water sources for increasing crop and livestock production. Fertilizer and chemical use in the pineapple production process has, however, rendered many of the surface water sources unusable due to pollution. Fuelwood harvests and farmland extensions have transformed the original forests into secondary forests of patchy re-growth, resulting in a landscape of sparse tree cover and stands of silk cotton trees.

Though cultivation of staple food crops remains important, the expansion of non-traditional export crop cultivation has reduced the production of food crops. Women are heavily represented in farm labour and are likely to be affected more negatively by the increase in non-traditional export crop production. This is because most women engaged in household or farm labour do not necessarily have equal or equitable benefits in the income or wealth accruing from farm yields.

As experienced in elsewhere Ghana, demographic pressures, economic and social change, and changing traditional land ownership and use patterns have affected land access and use in ASD. Following the slump in cocoa production in the 1920s, the area lost population to areas in the Western region that became the new cocoa growing area, and also to Accra. The District is now noted for the production of pineapple, pawpaw, citrus, and vegetables

¹⁵ Population of Western Region: 1,924,577.

¹⁶ This is contained in a field report on the potential of cash crop farming in the district.

for export. The area has become an agricultural frontier attracting relatively large numbers of farmers, as well as allied activities associated with the cultivation of these non-traditional export crops.

The revival of the agricultural sector since the mid-1980s was partly to diversify the cocoa-led export agriculture. Non-traditional export crops were developed and promoted. The Nsawam-Aburi area of ASD took the lead and remains today one of the country's major producing areas. The proximity to the Accra-Tema metropolis has made the area very competitive, as there is good access to road and air transport, as well as to processing facilities and markets.

The development of non-traditional export crops, however, has radically changed land access, ownership and use in the area. The spread and practice of pineapple production has placed greater demand on the land to meet the expanding export market. At the same time, farmers in the area have been trying to expand and consolidate their holdings. Other farmers who had left during the downturn in agriculture and are now returning and new migrants moving into the area, is placing even more stress on available land.

Population in ASD has grown from 103,000 in 1996 to 116,344 in 2000 (GSS, 2002). The district administrative capital, Nsawam, saw a population growth from 22,500 in 1995 to 29,986 in 2000. The other major settlements in the districts also saw population increases between 1995 and 2000, including Adoagyir, Aburi, and Sakyikrom. In 1990, the average outright purchase price for a 100 square foot plot of land was ₵500,000. By 2003, that same-sized plot of land sold for ₵2,000,000¹⁷. In 1992, the cost of leaseholds for the same 100 square feet were approximately ₵30,000. In 2003, those same leaseholds were secured for between ₵250,000 to ₵500,000. Between 1992 and 2003, the area under pineapple production more than quadrupled with exports recording a 235% increase (ISSER, 2004).

As pineapple production increased, there was greater demand for land in ASD. As a result, medium and large-scale pineapple growing companies purchased outright or leased large tracks of land. These companies could afford to pay more for leases, while the changing outlook on land management allowed them to pay cash to farmers for land. It was the modus operandi of the companies to secure certificates of ownership and use via land registration to enhance their tenure security.

While field evidence shows that the pineapple growing communities in ASD have reaped some benefits following the pineapple boom, many people think the boom in non-traditional exports has not been the best thing for the long-term sustainability of livelihoods. Access to land has become difficult for smallholder farmers because competing demands for land has resulted in landowners leasing or selling to companies who can pay more. This had led to some land conflicts in some areas such as Sakyikrom and Nsawam.

¹⁷ ₵8,852 to the USD

4. DEEDS REGISTRATION IN PRACTICE

4.1 The Registration Process and Institutions Involved

Formal registration in WAD, as prescribed by the Deeds Registration, is carried out at the regional level in Sekondi, the regional capital. However, the regional offices of the Lands Commission only facilitate documentation and registration, because the issuance of title itself is done in Accra. All the timber and mining companies register their concessions at Sekondi. Even if the local customary authority issues the first document, all other formal registration is done in Sekondi. Copies of land certificates issued in Accra, however, are sent to the regional offices at Sekondi. Most informal documents are stored at the local level. In places like Akyikyire, the Stool keeps files and records of land transactions. These are not complete records of transactions, however, because farmers retain many of the records themselves.

The form of transaction under registration is indicated in the title deed, where “a lease” applies to stool/family lands and “a conveyance” to private land transactions involving outright purchase. The monetary amount transferred during the transaction is required to be reported. The amount is determined solely by the parties in the transaction, but investigations reveal that in most cases of registration the price of land or property transferred is grossly under-reported. This is normally done to avoid the payment of full tax on the transaction.

A lawyer draws up the deed as a formal indenture, while a professional or licensed land surveyor prepares the plan. Four copies of these documents are provided at the cost of the acquirer and with an application letter attached, the documents are submitted to the Regional Lands Office (Lands Commission) for registration. At Wasa Akropong, only one farmer out of 10 respondents had an indenture and a site plan for a piece of land acquired from the family head for his own use. The document was legally worded as these are often prepared from old documents. Both parties to the transaction and the witnesses all sign the document.

Formal registration in ASD is centralised in Koforidua at the Lands Commission regional offices. The process is not decentralised because there are no logistics and expertise to reach the district level. All title documents are issued at the national capital of Accra. After the documentation is completed at the regional office of the Lands Commission, it is then up to the landowner to send his/her document to Accra for the issuance of the certificate. An officer at the Eastern regional office could not really tell if all the people do send their documents to Accra for the title. According to him, there are many people who say they have certificate of registration, but what they have some document such as a receipt showing the beginning of the process without necessarily completing it.

Several agencies are responsible for designing and implementing land management in Ghana. These agencies are the Lands Commission, Land Title Registry, Survey Department, Department of Town and Country Planning, Land Valuation Board, and the Office of the Administrator of Stool Lands. These agencies work with District Assemblies and, most often, with customary authorities (such as the Regional/National Houses of Chiefs and Family heads) since most of the lands in the country are in their custody. The table below shows processes involved in land registration as specified by the statutes (Land Administration Act, 1962) and implemented by the Lands Commission.

4.2 Knowledge about registration

Knowledge about formal land registration is generally high in the pineapple growing communities in ASD. But this does depend on who is being asked. Among the medium to large pineapple growing companies there is a very high awareness of the process. It is also equally high among those who acquire land for urban residential and commercial uses. Out of the 20 respondents whose acquisitions were for residential use, all were aware of land registration. However, out of 42 other respondents who made acquisitions for farming, only 14 were aware of the formal registration process. Respondents mentioned surveyors, teachers, agricultural officers, and revenue officers as their sources of information on land registration.

Similarly in WAD, there is a general lack of knowledge and practice of formal land registration among the majority of cash crop and food crop farmers. However, the situation is quite different with formal businesses such as

Table 1: Land Registration Processes as Specified by the Deeds Registration

Stage	Agency Involved	Activity/ Documentation
1	Source of land acquisition (Customary authorities, individuals, Lands Commission)	Receipt/Indenture and Site Plan
2	Regional Lands Commission Offices (Registry)	Presentation of documents at LC offices and payment of processing fees
3	Lands Commission	Verification of documents at the Survey, Dept. of Town & Country Planning, Office of the Administrator of Stool Lands, Lands Valuation Board, District Assembly
4.	Lands Commission	Person seeking registration has the documents to provide more information if required
5	Lands Commission	Land value is assessed and payment of fees made
6	Lands Commission	Payment of Stamp Duty. Also signing, plotting and sealing of certificate
7	Lands Registry of the Lands Commission	Registration of Certificate

Source: Compiled from Information Brochure Prepared by the Lands Commission (2002), Accra.

timber and lumber processing, mining prospecting and extraction, and agri-business, where knowledge and practice of land registration is high.

The level of knowledge about land registration is reflected in the following section, which looks at which groups are registering land and why others are not. Registration data from the Deeds Registry and the LAP project is presented.

4.3 Who is registering land?

Table 2 provides registration details for the Western Region from 1988 to 2004. Except for agri-business companies, and long-term mining and timber concessions, other land acquirers do not have the opportunity to have long leases. The number of companies are therefore likely to fluctuate from year to year and there would not necessarily be a cumulative pattern that increases as the years go by. A number of companies in the Western Region that have registered their concessions include Samartex Timber and Plywood Co. Ltd. (Samreboi), Wexford Goldfields Ltd. (Prestea), Ghana Rubber Estate Ltd. (Bonsa), Swiss Lumber Company (Manso Amenfi), Western Hardwoods Ltd., (Mim) Ghana Plywood Products Ltd. (Mim) and Bush Mining Co. Ltd. (Huni Valley).

Table 2: Land Registration in the Western Region – 1988 to 2004

Year	Number of Applications	Year	Number of Applications
1988	38	1997	72
1989	29	1998	96
1990	51	1999	86
1991	44	2000	40
1992	29	2001	73
1993	63	2002	177
1994	58	2003	233
1995	48	2004	104
1996	89		

Source: Deeds Registry, 2004, Accra

Table 3. Records of Deeds Registration for Nsawam, Eastern Region

Years	Eastern Region	Nsawam	Year	Eastern Region	Nsawam
1988	122	26	1997	650	113
1989	206	18	1998	464	76
1990	360	34	1999	560	75
1991	477	48	2000	375	30
1992	205	36	2001	500	42
1993	345	58	2002	1196	69
1994	585	75	2003	942	46
1995	655	117	2004	484	34
1996	452	115			

Source: Deeds Registry, Accra

Table 3 above provides an overview of the number of certificates recorded for the Eastern region as a whole and for the district for the period from 1988 to 2004. Data has not been disaggregated and all areas with registered lands are assumed under the district capital of Nsawam.

The records shown above did indicate that in most cases, registration was for residential, commercial and industrial purposes rather than for farmland. Nsawam's expansion coupled with the growth of the pineapple industry has seen many developments and some developers are not taking chances, hence the resort to registration. No clear pattern emerges but it appears that registration has been generally high at the regional level since 1993, peaking in 2002 with 1,196 titles issued. In Nsawam, it exceeded 100 between 1995 and 1997, but has since dropped often in an irregular fashion. There are always many more applications than are processed.

In ASD, registrations for farmland are more likely among medium to large scale agri-businesses in pineapple, pawpaw, citrus, mango, and vegetables. This is for both those companies with outright purchase and long leaseholds, according to information from interviews with the land agencies and records available at the Deeds Registry in Accra. Appendix 1 shows registration by some companies in ASD. Not only is knowledge of land registration generally high among medium to large pineapple companies, such companies have actually gone ahead to register their acquisitions. In addition to the companies whose brief profiles are stated in the appendix, there are many others who registered their leaseholds. These companies have land holdings ranging from 120 acres, for Blue Skies Ltd., to 500 acres for Combined Farms Ltd. They also have leaseholds varying between 20 to 35 years. There are also many medium scale pineapple farmers who have registered their land but who are not included here.

As has been noted, in ASD most farmers do not find the need to register their land, especially those who have land leased to them for just short periods. Leases for pineapple cultivation might be only three years, in which case only two crops can be supported. With food crops and vegetables, land is rented or leased on very short-term basis and this practice impedes documentation. No tenant would incur huge costs on documentation of lands they are using for only a few years. Poorer farmers are in this category. They know little of the registration process, are less endowed with the resources necessary, and often have only temporary use rights with no incentive (or actually the right) to enhance their rights over land. As a university professor intimated, *"This is in line with common logic that you cannot seek rights over landed property that you do not have rights in, and you cannot seek more rights than the rights you are entitled to."*

But variations do exist. At the community level, residential acquisitions are more likely to be registered, as is the case in Nsawam and Aburi while small farmholdings are likely not to be registered. However, the concentration of pineapple farms around Nsawam is leading to registration by companies and individuals who feel insecure and want more security. Another example of some variation is that of Sakyikrom in ASD where families have begun

preparing informal documents such as site plans¹⁸. This is partly because of the numerous land disputes that exist. However, these site plans do not exist at Adoagyir to the same magnitude.

Indeed other farmers in ASD would have liked to register but they are discouraged from doing so because of the long procedures and bureaucracy. One such respondent was a university professor who acquired farmland at Dobro near Nsawam.

Box 1. An attempt to register individual farmland at Dobro

A university professor applied for an indenture and site plan from the landowner at his expense. He sent it to Koforidua and filed an application for registration. He checked twice within the first five months of submission to ascertain the progress made on his application. The third time he was told it could not be registered because the Town and Country Planning Department (DT&CP) had not yet responded to queries on the master plan of the area and whether it should be registered as farmland. That was 12 years ago and today the area has become a built-up residential area. He has to file a new application to register his land but he is undecided as to whether there is an incentive to restart the process.

In WAD, most companies register their land interests as this is a government regulation. Additionally, it is not costly for big companies to process registration. As we discovered, there are desks at the government ministries that liaise with the agencies dealing with investments and exports. The Chamber of Mines also assists mining companies in registering their leasehold concessions. A small company in oil palm production said most of the companies, even with leaseholds of 3 to 5 years, do register their landholdings.

The generally observed trend is that there is an increase in formal companies registering their landholdings. Indications are that formal registration has never been a problem for the majority of companies. The companies engage the services of surveyors and lawyers to help with the registration process. This enables them to obtain formal documents that make it easier to secure land rights. As officials of these companies put it, they are willing to register their concessions because of increasing land scarcity, land encroachment, and land disputes.

Indigenous people do not usually register their landholdings as they believe they have a natural right to the land. Many respondents in WAD were of the view that even if they had to enhance their rights of land ownership and use they would do this through regular use of land by themselves or family members. Group discussants in many settlements said they were not likely to register their farmland if they were indigenous. In all the research locations where interviews and discussions were held, it became clear that tenant farmers were more likely to register their holdings.

One exception was recorded in Pebase where an indigenous farmer applied for and obtained formal registration for his extended family land (see Box 2). However, this was necessitated by changing land relations following increasing scarcity of land and pressure by the Akyikyire Stool to renegotiate the terms under which the family held its land. The interest also stemmed from community debates over equitable access to land and ownership of large parcels of land by individual families. Such community debates are understandable as land scarcity is increasingly becoming a challenge to peace and stability in rural Ghana.

Table 4 pulls together details of land registration in three regions; the two study regions and the Ashanti region for purposes of comparison. It needs to be noted that accurate comparison is not possible because there is no data on total land parcels surveyed or number of applications lodged. It is even difficult to find data on total acquisitions and developments for the period. Such data would have made it possible for a comparison between land parcels available for registration and the number that have been registered. Data on the number of parcels developed in Accra and Kumasi metropolis could provide evidence of the progress of the registration process since registration in these two areas is compulsory.

¹⁸ The Sakyikromhene (chief of Sakyikrom) elaborated on some of the land disputes among families within his jurisdiction. He also showed us site plans that had been made by individuals. Some of these site plans have been contested because their boundaries overlap. Even the chief currently has a court case in which one of his subjects is claiming land that is the property of the stool which he represents.

Box 2. Registration of family land

A smallholder farmer, Peter*, and his wife live in Pebase. They are agro-foresters. Following the death of the Peter's father in 1995, he and his siblings inherited a 165 acre farm and secondary forest land that their father had worked on since 1942 when he migrated from Nzema to Pebase and bought the land from the Akyikyere stool. Peter and his siblings have lived there all their lives and are accorded indigenous status. The land he holds in custody for his extended family is on a freehold basis. In 1995, the stool contested the land the farmer owns. The Akyikyere Stool thought the land was too much for one person and wanted to take a portion of it for itself. After negotiation with the stool, Peter paid ₵1 million as extra value for the land. The agreement stated that he could claim and use the land he inherited from his father.

Peter explained that part of the reason the Akyikyere Stool took this action was because there was neither a plan of the land nor any written documentation to bar it from being repossessed by the stool. This compelled him to hire a surveyor to survey and draw a site plan for the land. He lodged the site plans and indentures with the Stool and forwarded extra copies to the Omanhene.

Many problems arise because some tenants acquired land through outright purchase and on agreed tenancy terms, but there are no documents to prove the transactions ever took place. In Peter's case, he only started the documentation process after his legitimacy was questioned. He noted that as land becomes scarcer, several people make claims for the same piece of land.

*not his real name

Table 4. Records of Deeds Registration for Eastern, Western and Ashanti Regions

Years	Eastern Region	Western Region	Ashanti Region	Year	Eastern Region	Western Region	Ashanti Region
1988	122	38	1038	1997	650	72	990
1989	206	29	850	1998	464	96	839
1990	360	51	660	1999	560	86	
1991	477	44	780	2000	375	40	
1992	205	29	981	2001	500	73	
1993	345	63	912	2002	1196	177	
1994	585	58	951	2003	942	233	
1995	655	48	1080	2004	484	104	
1996	452	89	937				

Sources: 1. Deeds Registry (2004), Accra. 2. Kasanga and Kotey, (2001)

In spite of these shortfalls, it is still significant to make some rough comparisons. From the table above, the Ashanti region recorded more registrations (10,018) than the other two regions between 1988 to 1998. The Ashanti region is followed by the Eastern Region with 4,521, while the Western Region had a low registration of 617.

The reasons for this might be many. But the Ashanti region's lead is not surprising because of the success story of the Asantehene's Land Secretariat (for stool lands) which is reputed as having the best customary land recording system in Ghana. Awareness of land registration is better in this region due to this Land Secretariat. This is evident from the data, which show that most of the registrations were done within the stool. Out of a cumulative total of 10,018 registrations in the region from 1988 to 1998, 7,115 registrations (71%) were done under stool administration, while 2,903 (or 29%) of registration was effected at the Lands Commission. This underscores the significance of customary authorities in registration in the Ashanti Region. However, as Kasanga and Kotey note for the Ashanti region, the number of deeds registered is quite low in comparison to the level of rapid urban sprawl and residential developments throughout the region. The same low level of deed registration relative to the amount of development is likely to be found in the other two regions.

Another reason for the Western Region recording low registrations despite its huge land area may be due to its rural nature. Evidence from registered titles so far indicate they are more related to residential and commercial lands. Being more rural, it is quite understandable why many of the lands in the Western Region are not registered. The picture gets even clearer if we recall that most of the mining, agricultural plantations, and forest concessions managed by large companies and the state are normally registered. This suggests that registration is very low among the majority of the small-scale farmers who constitute the main land using group in the region.

Experience of the Land Administration Programme (LAP) Pilot Project

Though the LAP has started pilot projects to facilitate speed and ease of land registration, this process has been in place is too short a time to assess its achievements. The LAP inaugurated the Customary Land Secretariat (CLS) programme at Wasa Akropong on November 12, 2003 but it took over six months before the process started in earnest. However, it is still significant to learn early lessons to start monitoring and evaluating.

The first stage of the CLS process to document landholdings involves the registration of landowners and farmers and the size of their holdings within the few Stool areas. So far, most landowners and farmers in four out of the 46 Stool areas of the Traditional area have been covered. The areas covered were New Abiri Stool area, Wasa Saaman Stool area, Wasa Asikuma Stool area, and Akyikyere Stool area.

As Table 5 depicts, only 841 out of an estimated 85,000 farmers have been covered in the first phase of the registration process¹⁹.

Table 5. The LAP's CLS Registration of Farmers as at January 2005

Stool Area	Indigenous Farmers	Settler Farmers	Total
New Abiri	24	186	210
Wasa Saaman	21	160	181
Wasa Asikuma	0	119	119
Akyikyere	0	331	331
Total	45	796	841

Source: CLS Records, Wasa Akropong, January 2005.

The registrations completed so far suggest that the exercise is much more popular with tenant farmers (95 percent) than indigenous farmers (5 percent). Progress has been slow and is likely to continue, especially as disputed lands are yet to be dealt with, but both the CLS and traditional authorities have quite high hopes for the prospects of registration.

Two reasons were given for the difference in response towards the registration exercise:

- a) Indigenous people do not see the need to be part of the registration exercise because they are the landowners. They often detest any process or mandatory exercise that tends to lump them together with tenant farmers; and
- b) There is strong social networking among settler/migrant farmers. The LAP's CLS carries out the registration exercise through the chief farmers of various settlements who offer immense assistance in organising the farmers. Most of these chief farmers are settler/migrant farmers.

The information the CLS is gathering includes the name of the farmer, his/her town of residence, farm name, acreage of land owned, acreage under cultivation, if the landowner is a settler or not, and a site plan, if any. The farmers who indicate that they have site plans would have those site plans checked to determine their accuracy for land registration. The CLS has invited the Regional Survey Department to be part of the process and to assist communities in demarcating and mapping out land holdings for those farmers who do not have site plans. This also applies to farmers with site plans that are not done to specified standards. Site plan preparation is envisaged as the next stage of the documentation process. As at March 2005, the CLS was yet to receive a reply from the Regional Survey Department.

¹⁹ This estimate is based on the updates on the roll call of farmers in the district. The District Assembly compiles annual updates of statistics on farmers. The initial estimate of around 80,000 farmers is found in the WAD Development Report (1997-2000).

4.4 Constraints of the Registration Process

Slow pace

New government reforms indicate that the land agencies including the Lands Commission will be strengthened to perform their tasks more efficiently, but to date registration and certification is not as fast as it should be. While it is the wish of the Lands Commission to issue Deeds certificates in less than six months after the start of the registration processes, this is not yet happening because of many problems including communication and networking among land agencies. Also, stools/skins and heads of families, in spite of being encouraged to deposit their proprietary plans as well as signatories to their grants with the Land Commission, do not do so.

The slow pace of land registration in WAD is explained partly by the uncertainty over land boundaries and the numerous land disputes that are yet to be resolved. Field interviews revealed that most stools in the Wasa Amenfi Traditional Area have not surveyed and demarcated, or registered their lands. Customary rights in land are so complex that prospective investors in farmland, including tenant farmers, sometimes have difficulty in establishing the actual owner of a given parcel of land. Multiple interests in a given parcel of land can be found and this is a serious factor hindering land registration.

Stool boundary disputes

The numerous Stool land boundary disputes that remain unresolved have a negative impact on any registration process including the current LAP initiative set up to help customary authorities register land within their stool areas. Some progress has been made with out-of-court settlements for long-standing boundary disputes. Boundary disputes must be resolved if the LAP hopes to achieve its objectives for land registration. In addition, there needs to be education and consultation to avoid similar problems occurring elsewhere. Some of the chiefs who did not understand the intention of the registration exercise would not cooperate because they thought their authority over land administration would be eroded. Box 3 provides examples of major stool land disputes that make land registration difficult.

As the Akyikyere chief indicated, disputed lands are often cultivated by settler farmers whom he believes exploit conflict situations to use land without paying rents or tributes. As a field officer of the Office of the Administrator of Stool Lands (OASL) made clear, they avoid asking for rents in such conflict areas because it is dangerous. If rents are not collected, no revenues accrue to the state or stools.

Box 3. Main stool disputes in the Wasa Amenfi traditional area

Manso Amenfi Stool vs. Tarkwa Breman Stool

This is a stool boundary dispute between the Manso Amenfi Stool of the Wasa Amenfi Traditional Area and the Tarkwa Breman Stool of the Wasa Fiase Traditional Area. The case started in the early 1820s. It was last heard in 1996 at the Takoradi High Court. It was then adjourned 'sine die'. It has not been resolved yet and it is on hold 'sine die' primarily because Counsel for Manso Amenfi died prior to the hearing in 1996. When contacted for more details the current chief of Manso Amenfi could not say much about the case. He was, however, sure documents on this boundary dispute could be traced at the Counsel's Chambers at Takoradi or the Sekondi High Court.

Akyikyere Stool vs. Dwokoto Stool.

Since 1976, the Akyikyere and the Dwokoto Stools, both in the Wasa Amenfi Traditional Area, have disputed their common boundary. Originally, the disputing Stools were Dwokoto Stool, Anyinabrim Stool, Kwaman Stool, Akyikyere Stool, and Asirewadi Stool. Resolution of the dispute by arbitration was first attempted at the Wasa Amenfi Paramountcy without success, and then at the Stool Lands Boundary Commission. The Commission heard and gave judgement in 1986 in favour of the Akyikyere and Asirewadi Stools against the Dwokoto and Anyinabrim Stools. Consequently, both losing Stools appealed separately against the judgement of the Commission. The appeal was against only the Akyikyere Stool. The Appeals Court gave judgement in 1991. Dwokoto Stool won the appeal against Akyikyere whilst Akyikyere won against the Anyinabrim Stool. Subsequently the Akyikyere Stool in 1991 filed an appeal at the Supreme Court against the Dwokoto Stool. This appeal was yet to be heard as at April 2005.

Procedural problems

There can be other procedural problems in the registration process. The District Court Clerk at Asankrangwa revealed that there are many instances where parties to a land transaction wrongfully append their signatures. The District Court has noticed that witnesses often sign under the spaces provided for landowners and tenants and vice versa. Also, in cases involving family and stool lands documents need to be stamped by the Stool. Unfortunately, many have neither the stamp of the divisional chief nor that of the family that contracted the agreement.

Accessibility

Accessibility to registration was understood by respondents to include affordability and convenience. An official of a pineapple and citrus growing company said even though their company registered its land, they went through a lot of hardship. He felt that the Ghanaian bureaucracy is not fair to citizens, but rather tends to have a preferred orientation towards foreigners. The perception has developed that Ghanaian investors have no financial resources or the technology to do business. Consequently, the bureaucracy frustrates indigenous businesses while favouring foreign companies from whom the likelihood of getting kickbacks could be more favourable. As he recalls, they had to spend time and money, and it took a long time to get their company registered. If other persons or companies are not as committed as he was, they would not be able to acquire registered titles to their farms.

For the majority of poor rural farmers, whether in pineapple, vegetable, or food crop production, registration is not very accessible. They lack the money to pay registration fees, they already have tight schedules to be able to make their living on a daily basis, and cannot spend days and weeks chasing after documents to get them processed. Registration in ASD is done at Koforidua, which is further from Nsawam than Accra where farmers could travel more easily to register their land acquisitions. Registration would be more accessible if it was decentralised to the district level, and fees and other charges reduced to make it affordable.

On the other hand, because farmers have heard about the cumbersome and expensive procedures involved in the formal registration process, they are not keen to get their land acquisitions registered. In such instances, lack of registration is not necessarily the result of inaccessibility, but rather the result of bad public perception about registration, and this does not encourage people to undertake it no matter the benefits.

4.5 Who benefits?

In both WAD and ASD, the large scale agri-business, mining, and timber companies are the victors in formal registration. They are succeeding because they have the financial and information resources and access to the right contacts. As mentioned earlier, registration offers some benefits such as being able to source loans from financial institutions for the expansion of businesses. Two pineapple companies, Koranco and Combined Farms Ltd. stated they had been offered short-term loans by commercial banks, which have been important in ensuring that casual labour is employed during peak periods. Soliciting these bank loans has been facilitated by the registered documents on their acquisitions, supporting the observation that registered lands provide more possibilities for sourcing financial support for farm activities.

The same cannot be said of the rest of land acquirers. As revealed from field evidence, a large number of land transactions such as the *abunu* and *abusa* tenancies are still made under customary law. Interviews conducted in WAD indicated that 73 out of the 80 respondents perceived that these tenancies are made orally. Of the 30 tenant farmers interviewed, 20 worked under traditional oral tenancies (66 percent), while 10 have some form of documentation outlining the agreement (33 percent). Any registration process that is pro-poor and expects to benefit the majority of people should target many of these small rural farmers whose productive activities sustain the nation. Unfortunately, the exclusion of oral grants under the prevailing law means that these transactions are not eligible for registration unless they are put into writing.

While it is too early to assess the impacts of the LAP's CLS pilot project in Wasa Akropong, it is equally true to say that it has only touched the surface and begun to understand the challenges of land registration in Ghana. What is clear is that traditional authorities and many ordinary farmers (whether indigenous or migrant) are beginning to appreciate the relevance of documentation and are likely to cooperate to facilitate the process. This is likely to increase the willingness of farmers to undertake simple documentation of their landholdings as a first and nec-

essary step towards certification of land rights. This would in turn result in some more elaborate documentation as well as wider coverage in the district, and subsequently in the Western Region.

Due to differences in resources, including knowledge among people and companies engaged in various land use activities, there are different attitudes towards formal registration through the deeds system. As noted earlier, state agencies in charge of implementing this policy have not demonstrated that the policy is pro-poor. It is centralised, not known by many land users especially rural farmers, and quite expensive for the majority of subsistence farmers, most especially tenant farmers who need secure tenure arrangements in order to make meaningful investments and achieve high production. Therefore, certification has only come to benefit the large formal agri-business companies of rubber, cocoa, and oil palm plantations, and others with long leases for timber and mineral exploitation. There are bound to be different outcomes among rural land users due to the differences mentioned above.

5. INFORMAL DOCUMENTATION/REGISTRATION AND PRACTICES

5.1 Documentation

Despite the slow pace of the formal registration process, the need for documentation seems to be increasing, especially among small-scale farmers. Officials at the palace of the chief of Asankrangwa highly recommended that every land transaction in Asankrangwa be documented and endorsed by the Chief irrespective of who the landowner is. The forms of documentation vary because they are written by various categories of literate people including teachers, extension officers, surveyors, and revenue officers to mention but a few.

The common document is the Deed/Conveyance/Transfer for land acquired through outright purchase. There is also the Deed of Gift and it covers lands given out as gifts. Gifts used to be rare, but these are on the increase in many areas of the district where men are rewarding their wives and children who have helped them establish cocoa farms with part of the farmland. Both Deeds of Conveyance and Deeds of Gift are signed by the chief, especially at Stool level, in return for a fee. This is normally based on the size of the land and is paid by the tenant.

Land scarcity and associated conflicts are the driving force for farmers to acquire informal documents to enhance their rights over land. In many farm villages, tenants who have acquired land through outright purchase are keener to prepare site plans than those who acquired land through the *abunu* or *abusa* tenancy. Those on *abunu* have indicated greater willingness to purchase and register their holdings than those with *abusa* tenancies. This is because outright purchase gives a fuller sense of security of land ownership than the *abusa* tenure. The *abunu* tenure is also edging out the *abusa* on security considerations because of the longevity of the crops (either cocoa or oil palm) grown on *abunu* land, which then assures the tenant a longer stay on the land. This also determines the level of investment the tenant will make in the production process. Additionally, field evidence suggests that parties in a transaction do not always understand the documents, and the landowner and the tenant may interpret them differently. Table 6 shows the kinds of documents used in the informal documentation process. It also specifies some of the salient characteristics of the documents.

Table 6. Kinds of Informal Documentary Evidence in WAD

No.	Type of Document	Holder	Salient Features	Written/Drawn by
1	Written documents (indentures)	Tenant farmers and landowners, Stools	Date, type of tenancy, amount involved, names and signatures of parties transacting land, names and signatures of witnesses, stamp of firm drawing up the agreement, size of land and location, mode of sharing (food crops and cropped land)	Stool and family heads, Law firms, Commissioner of Oaths, Court Clerks
2	Site plans	Tenants, Stools, Lands Commission	Date, name and address of owner or lessee, size of land and location (stool area), name of surveyor (s)	Surveyors (both licensed and unlicensed)
3	Printed receipts	Tenant farmers and landowners	Date, names and signatures of parties, amount, type of tenancy, may have stamp of lessor/stool or the one disposing of the land, affixed postage stamp with thumbprint over	Completed receipt books from stationery stores, literate party fills out the relevant portions.
4	Written receipts/ 'paper'	Tenant farmers and landowners	Date, normally captioned "official receipt" written boldly in handwriting and in few cases typed, signature of lessee, amount involved	School teachers, Agric Extension officers, Revenue officers (OASL), Forestry officials, others

Source: Field Data, May 2003

Box 4. Formalising land use rules in a collaborative initiative – the case of Oda-Kotoamso Agro-Forestry Community Project (OCAP)

OCAP is a collaborative initiative between Samartex, the timber company, farmers from Oda-Kotoamso and other communities, and landowners (Stools). Land was sought from landowners to practice agro-forestry as a result of pressure on land, landlessness, soil degradation, and depleting tree resources. Land suitability was performed and zoned into suitable uses. Community farmers applied and were given land in different areas for cultivation.

There are rules governing the use of land and sharecropping arrangements. While individual agreements have not been signed by farmers, they all know the rules and strictly adhere to them. Documents have been drawn up to guide members and are lodged with the district court in the event of dispute. The District Assembly also has copies of the salient agreements.

Apart from enhanced productivity based on sustainable livelihoods principles, land acquisition is easy and open to all, indigenes and tenants alike. Plots are also demarcated and there is no doubt as to boundaries. Members interact frequently and OCAP benefits from the Forest Services Commission and the Agricultural Extension Services, which provide free technical services to enhance production and productivity of land.

The main problem at the onset was a long-standing boundary dispute between the Oda Stool and the Asankran-Breman Stool, and this problem affected farmers on the fringes of the project land. At the initial stages, some new farms were destroyed, and the project tried as much as possible to stay clear of the disputed boundary line.

5.2 Land Boundary Demarcation

As this study has already shown, conflicts over boundaries are the most serious issue facing any registration system. It is worthwhile therefore to examine what farmers actually do to ‘officialise’ their boundaries in the absence of an accessible registration system. It has also been noted that many people start the process of registration at the regional office of the Lands Commission, but never complete it. For these people, some form of documentation is better than none at all. Hence, it is useful to explore farmers’ perceptions of acquiring a surveyor’s site plan compared with traditional demarcation methods.

Boundary demarcation through landmarks and physical objects

It is common practice amongst landowners and farmers in WAD to use landmarks such as valleys, streams, huge trees, special plants, anthills, and rock outcrops, etc. to identify their farm boundaries. It is important to note that more than one landmark is used in many instances thus making the process cumbersome. As farmers explained, this makes it easier and more convenient for them. A farmer at Akyikere said even though boundary markers are a source of disputes, there are many farmers who still use these landmarks without encountering any problems. Out of 80 farmers interviewed about boundary delineation, over 60 used physical objects to define their farm boundaries. This evidence was corroborated during group discussions when all participants agreed that the most common way of delineating boundaries was through physical objects.

As a farmer at Kamaso, near Sureso put it,
“trees serve a good purpose in boundary demarcations. They stay longer on the field and do not change locations. The big trees may live up to 70 years, thus being able to provide evidence of where farm boundaries are.”

With reference to a question that it could be cut or uprooted, he remarked,
“even if a serious rainstorm pulls the tree down, it stays for years. Even when we cut the trees, the stumps would stay for decades, and even if the tree is completely burned when dry, the soil on which it stood would provide different vegetative cover (whether food crops or grasses) for over a decade to make a difference.”

Whatever the circumstance, it is agreed that landmarks should be prominent to avoid any doubts whatsoever. Landowners and farmers seem comfortable with the use of these objects to demarcate their lands. However, de-

marking boundaries this way has caused boundary conflicts between landowners. Whereas valleys and streams may change their course over time, plants may wither and anthills may be rebuilt. Landowners may replant the flowers and pineapple when these wither, and the original boundary line may change in the course of replanting.

While farmers are quick to mention that costs associated with proper survey and demarcation are quite expensive and beyond their reach, it is also true that many do not care to change their practices concerning boundary demarcations even though it is the source of frequent land disputes.

The majority of small subsistence farmers interviewed in ASD use a variety of indicators including natural objects for identifying their boundaries from a neighbour's. Many farmers use the fast growing fire-resistant trees such as the *ntome* and *abrototo* for delineating boundaries. Others use footpaths and cement block pillars to demarcate the boundaries of their farmlands. At Dobro, two brothers use a geodetic benchmark to identify boundaries. But the benchmark is only at one side and there may be the need for more physical objects to show clear boundaries. The benchmark is used as a reference point, and additional use of some measurement (like the use of a rope or walking space) might be used in the event of disputes to establish boundaries on other locations.

Boundary demarcation by surveyors

Farm boundary demarcation using surveyors is not a popular practice amongst farmers in the study area. Some farmers interviewed claimed that they used surveyors to demarcate their boundaries, but this proved difficult to verify. Some farmers contracted surveyors to make plans of their farms and this establishes some credible boundaries between them and adjacent farmers. Many farmers appeared keen to have their farms demarcated, and have appealed to surveyors to prepare site plans. This also because of the increasing incidence of boundary disputes amongst farmers as a result of population increases and the high demand placed on farmland. However, the increasing interest of farmers has not translated into increased numbers of farmers who acquire site plans. This emerged during group discussions when many farmers indicated that their desire for site plans had not materialised due to a variety of constraints.

The cost of surveys was the most cited reason for the inability to acquire site plans. Farmers indicated that the cost of hiring the services of the surveyors is very high. An agricultural extension officer commented, *"though land holdings are generally small (average 1 acre) tenant farmers are always hopeful of a better yield and reliable income. However, it is particularly difficult to embark on survey and demarcation of land when farmers have only two or three-year leaseholds. This is because they cannot recover any medium term investment put into the land. In fact it is unreasonable for tenants on short term leaseholds to be asked to spend money surveying their land holdings when they know they may lose use rights in the next two or three years. This is particularly so as tenant farmers are required to bear the full cost of land demarcation, and no credit or support services are available to these farmers. The tenant farmer on short leasehold already pays land rents, annual tributes and other social obligations associated with outdoorings and funerals. In this case therefore the cost is seen by tenant farmers as not justified as it is unreasonable if spread over only a few years."*

While the cost of demarcation and site plan preparation may be prohibitive to short-term leaseholders, the sentiment expressed by the field worker suggests that it is the short lease terms that are of more concern to farmers than the monetary cost involved. Short leaseholds are a disincentive for land demarcation as it may be unreasonable for the tenant farmer to incur such costs when he/she has only a few years to use the land and may not be able to recover them. Because of land scarcity in many rural areas, tenants can only contract short lease terms.

Surveyors are important stakeholders in land security and productivity. This is especially true in WAD where a few cases of land demarcation and site plan preparation exist. A tenant farmer at Manso Amenfi, had a site plan prepared for his *abunu* tenancy holding. He hired the services of a surveyor to demarcate and prepare a site plan for his farm. This was done in 1992 and since then he has had no problems even though part of his cocoa field was used for food crops when the cocoa plants withered. In the same vein, a tenant farmer from Bawku has a site plan of his *abunu* tenancy cocoa farm at Yirase. He thinks the site plan ensures more secure tenure for him as he can produce it in any traditional or formal court of jurisdiction to back his claim over the land if the need ever arises. In Asankrangwa, a female tenant farmer holds a site plan prepared by a licensed surveyor in 1994. She is confident that the site plan adds more to her security over the land she owns as long as she is cropping cocoa. She is

impressed with the document and stressed that she has been assured by “government people”²⁰ that it is a genuine paper which she should keep so nobody can claim that piece of land.

The data obtained from both farmers and surveyors clearly demonstrates the lack of incentives to have farmers acquire site plans and the financial burdens this imposes on them. While the surveyors claim the service is available on credit terms, farmers insist they have to pay before the plans are made. At least some initial deposits need to be made to get surveyors to commit, which often constitutes a significant burden for the majority of farmers at Yirase, Akyikyire and Wasa Akropong.

Box 5. Surveyors as sources of credit for farmers

It costs ₵400,000 to demarcate and draw a site plan on the first ten acres of land, and ₵20,000 for any additional acre of land. His thought on why farmers are not preparing site plans has more to do with misplaced priorities rather than poverty. He said he has lived in the area for such a long time that he is capable of predicting the behaviour of many farmers, indigenes and tenants alike. According to this surveyor, farmers spend so much money on social occasions like funerals and festivals. Many farmers spend so much during these festivities that they are broke for the rest of the year and unable to provide money for more relevant things such as acquiring site plans that enhance peaceful coexistence with their neighbours on adjacent lands. In any case, many surveyors perform services on credit because not many can provide the cash at that instance. There are instances where the farmer spreads the debt over such a long period of time that the paid instalments are small and of little benefit to the surveyor. It is therefore wrong for farmers to say they are not acquiring site plans because they are poor or that the service is not provided on a credit basis. Indeed, the very small payments farmers make has compelled many surveyors to hold onto prepared site plans until the debt is finally settled.

A licensed surveyor at Manso Amenfi

As might be expected, most of the limited liability companies and other medium scale enterprises cultivating non-traditional export crops hired qualified surveyors to demarcate lands after it was allocated to them. This is done before the payment of goodwill, as rents are calculated on the size of the land. The surveyors contacted said they used theodolites, ranging poles, chain or tapes, and compasses for land demarcation. A few of the surveyors make use of the GPS; which offers a more accurate means of surveying land. Most of the farms have clearly demarcated boundaries with pillars at regular intervals to show the area of coverage of their farms.

It is important to note that the Survey Department currently has no mechanism for effectively checking the authenticity of the qualification of surveyors and the accuracy of site plans prepared by self-licensed surveyors. Indeed, information from the LAP’s Customary Land Secretariat (CLS) at Wasa Akropong suggest that many of the site plans held by farmers are likely not to follow specified standards, because of the level of qualification of surveyors who demarcate and draw these plans.

²⁰ Her reference to government people points to people in formal land and natural resource management agencies such as Revenue Officers from the Office of the Administrator of Stool Lands (OASL), Court Clerks, Field Extension Agents/Officers of the Ministry of Food and Agriculture (MOFA), Forest Services Commission (FSC), and Commissioners of Oaths.

6. ISSUES OF GOVERNANCE

Issues of governance, including awareness and participation in the registration process are crucial for determining the success or failure of the certification system. The success of the registration process is influenced firstly by the efficiency of the institutions in charge of registering land claims; second, the efficacy of dispute resolution and how accessible and transparent these mechanisms are; and third, the accountability of those involved in the process.

6.1 Institutions Involved in Registration

An array of institutions, both government and customary, are involved in the formal process of land registration.

6.1.1 Government institutions

The government institutions that implement the various aspects of land management include the Lands Commission, the Land Title Registry, the Land Valuation Board, the Survey Department, the Department of Town and Country Planning, and the Office of the Administrator of Stool Lands. In addition, the decentralised District Assemblies and the Traditional Councils play key roles in the proper functioning of these land management agencies.

The Lands Commission (LC) is responsible for public land administration. The head office is in Accra and each of the 10 regional offices is responsible for land administration in its region. The LC is the lead land agency and its functions include: guiding the registration process, issuing certificates for registered land and keeping stock of all government land. The Survey Department (SD) provides base maps for the entire country. The Department of Town and Country Planning (DT&CP) prepares the Master Plan for urban and rural land use patterns and that plan is supposed to guide development. The Land Valuation Board (LVB) assesses the value of land and helps determine stamp and other rental charges. The Office of the Administrator of Stool Lands (OASL) collects revenue from stool/skin (and family) land. The Land Title Registry (LTR) ensures security of tenure by issuing title to landowners or holders in the Accra-Tema and Kumasi Planning Areas. These agencies work together to ensure that land is administered properly.

Most of the agencies are overly centralised and found at the regional level only. In WAD for instance, there are no LC or LVB offices at the district level. Additionally, the agencies such as the SD, DT&CP, and the OASL function in isolation with each performing its specific roles without any coordination with other agencies. In one instance, the LAP invited the SD to work together to demarcate rural land holdings to facilitate registration and reduce land conflicts. The SD has yet to respond and even if it agrees, there is a strong likelihood that it will not have the personnel and equipment to perform the tasks.

With the absence of the LC in the district, and the inability of the land agencies to help farmers, people do not participate in making decisions that affect land management at the official level. The agencies are not decentralised enough, or where they exist at district level, they lack the requisite personnel and logistics to function properly. This is a serious challenge as the majority of poor, rural farmers produce the bulk of the national wealth and live in very small settlements where accessibility to centres of information is difficult. Yet these villagers need the services of the agencies to help them understand the registration process and to register their holdings to ensure security of tenure.

6.1.2 Other institutions

There are other non-state actors who play key roles in governance and participation in decision-making. This is a necessity as approximately 78 percent of the total land area of Ghana is held under customary ownership. However, no comprehensive data on customary land ownership or defined boundaries exists. The control and governance of land by traditional authorities is abundant. Cultivation dates, ownership information, and boundary identification are based on oral tradition and memory.

Any successful registration program will require the participation of chiefs and other traditional authorities who are custodians of communal lands. In recent times however, chiefs are being accused of becoming owners rather than custodians of land. Many farmer-respondents at Akyikyire, Manso Amenfi, Yirase and Sureso in WAD said

chiefs and family heads were to be blamed for the current pace of illegal development and land disputes.

The activities of some chiefs have jeopardised the proper functioning of the land agencies. For example, officials of the SD and DT&CP in Asankrangwa stated that chiefs have made their work difficult because they will not be advised on land demarcation for development. Chiefs fail to take advice because they often make unscrupulous transactions, which if their elders and communities knew about would result in protests. As a result, many of the lands they sell to farmers and other land users are not demarcated.

6.2 The Nature of Major Land Conflicts

Contrary to popular belief that rural areas have relatively abundant land and that land ownership and use conflicts are minimal, this is not always the case. There are several problems associated with accessing land which negatively affects socio-economic development and aggravates poverty. Indeed, the National Land Policy includes a long list of problems associated with land tenure in Ghana, many of which are problems arising from customary landholding and use arrangements (MLF, 1999).

In the Western Region of Ghana, the importance of state interests in land as demonstrated in forest reserves, agribusiness plantations, and mineral and timber concessions is quite high. But both state and customary practices often result in difficulties of land access especially for poorer farmers including migrants and women.

Table 7 illustrates in ranked order the eight most common types of land conflicts as perceived by the respondents. Boundary problems topped the list with 54 (68%) of respondents perceiving it as the most common but serious problem. This was followed by conflicts arising out of crop sharing arrangements by 53% of respondents. Third in order of occurrence was chieftaincy disputes; the fourth ranked land alienation by chiefs and heads of land owning groups, and conflicts over inheritance of farms/land is fifth. Other significant problems perceived by respondents included tenants not living up to their responsibilities in upholding land agreements, and conflicts arising over payment of rents and tributes. Although not perceived by many as serious problems, subcontracting of land by tenant farmers, and multiple allocation of the same land by landowners to tenant farmers were also mentioned as grounds for land conflicts in many rural areas in the district.

Table 7. Respondents' Perceptions of Common Land Conflicts in WAD

No.	Kinds of land conflicts	Number of Respondents	Rank
1	Contests over land boundaries	54	1
2	Cropping/crop sharing arrangements	43	2
3	Chieftaincy disputes	36	3
4	Land alienation/issues of accountability	28	4
5	Inheritance of farms/land	28	4
6	Tenants not upholding land use agreements	26	5
7	Payment of rents/tributes	25	6
8	Acquisition of land by the State	19	7

Source: Field Data, May 2003

6.2.1 Conflicts over land boundaries

From responses given, land boundaries remain the most serious issue. This is often not documented but represents the most serious problem confronting land productivity in the district. Though the table above represents interviews held with individuals, group discussions in all the field sites suggested that boundary problems were considered serious. At Asankrangwa for instance, many opinion leaders interviewed said they were aware of boundary disputes even among indigenous settlers, as well as among migrant farmers at Gravel Yard and Kwahu Bisa Agya, both of which are predominantly migrant settlements.

As noted earlier close to 78 percent of total land area in Ghana is under customary ownership. No data exist on such land ownership and boundaries are not defined. Due to the poor nature of record keeping coupled with land scarcity, boundary identification based on oral tradition and memory is increasingly being challenged, especially as new interest holders emerge daily. Boundaries are defined according to physical landmarks, most of which shift over time. This issue has been addressed already (see section 5).

That many respondents see boundary disputes as one of the most serious land conflicts is not new. In a group discussion with 13 men at Asankrangwa about the boundary disputes they were aware of in the area, they gave a rough count of 103 land conflicts involving different stakeholders in the stool area. A detailed count by one of the group discussants gave a figure of 175 land conflicts. At the District Magistrate's court, only 218 cases are on record pending adjudication. The much smaller number of cases at the court confirms the general belief that though there are over 20,000 land conflicts pending in the regular courts countrywide, the real situation on the ground could be anything around 250,000 cases²¹. This is because the majority of rural farmers would only go to the court as a last resort. The various methods used for resolving conflicts indicate that in spite of the shrinking image of family heads and chiefs, these together with opinion and religious leaders are the important channels for resolving land conflicts in areas under their jurisdiction. Their roles in traditional land management cannot be ignored.

6.2.2 Disputes over cropping/crop sharing arrangements

Crop sharing arrangements are most often misinterpreted by landowners and tenant farmers. This is said to be more related to the fading *abusa* tenancy arrangements where food crop sharing is the most common practice. In Wasa Akropong and Akyikyire, there is evidence to suggest that even the *abunu* sharecropping arrangement involving long-term tree crops also has problems and can subsequently result in conflicts. The interesting aspect of this problem is the kind of polarised response it generated between indigenous and tenant farmers in all the field locations where the views of these farmers were solicited.

At Akyikyire and Manso Amenfi, indigenous farmers accused tenants of altering practices that define tenancy arrangements in the area. The landowners claim that after established cocoa or oil palm farms are shared between tenants and landowners, the former deliberately extend the outer borders/margins of established farms in clandestine ways. They first plant food crops at the farm margins, then later introduce cocoa, which becomes very noticeable because of its stage of growth compared to the first crop that was shared. This is particularly true in remote rural settlements where absentee land owners do not visit their farms regularly, or where the same tenants are employed as caretakers.

Tenant farmers refute these allegations. According to them, as trees die they replace them but do not extend farm boundaries. As it turns out replacement of dead trees has been a normal part of cocoa and oil palm farming practice. This might why established cocoa farms as old as 50 to 60 years in the district still look fresh. As the aging trees give way, tenants plant new ones to replace the old trees. It is unlikely that the land under current cocoa farms belonging to tenants will ever revert to the original owners, as it should, due to this practice of replacing dead trees.

6.2.3 Chieftaincy disputes

There are a number of serious chieftaincy disputes in the district which become a fruitful ground for land conflicts. There are more than 23 chieftaincy disputes in the Wasa Amenfi Traditional Area. In what respondents claimed as no secret, the Asankrangwa chief who has been on the stool for almost 40 years was threatened with destoolment charges in the 1990s. There is an open confrontation between the chief and the Omanhene with allegations that the Omanhene gives grants in the Asankrangwa area without consulting the chief²².

Some of the reasons for the numerous chieftaincy disputes may not be too farfetched. There is a gradual shift by many chiefs from acting as custodians of land to becoming owners of land. Land has become an asset used to negotiate wealth, power, and status. To be a chief one to land and other natural resources such as minerals and forest products. The tendency has been for members of the ruling family or clan to make claims to land even before they are approved to be the right custodians. These create problems and often result in multiple allocations that further fuel conflicts among grantees.

²¹ See LAP Mid-Term Project Review Report, MLF, 2003.

²² See footnote 3 for further explanation of traditional authority hierarchies and who controls natural resources.

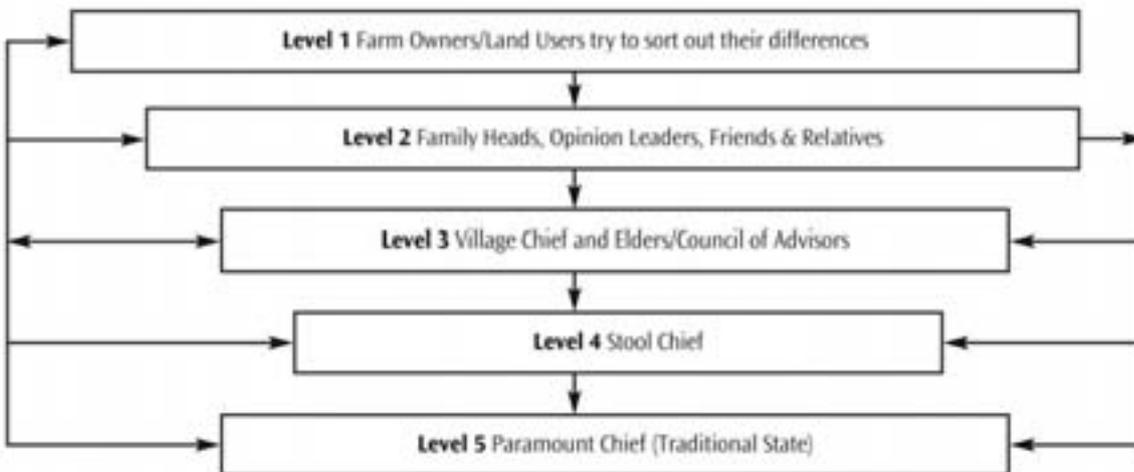
6.3 Conflict Resolution Mechanisms

There are a number of options still available to people in WAD to settle disputes arising from land use and ownership. These include: (i) the performance of litigation by chiefs, and sometimes family heads/elders; (ii) the regular law courts; and (iii) the Office of the Commission for Human Rights and Administrative Justice (CHRAJ).

6.3.1 Traditional dispute resolution mechanisms

Though the chieftaincy institution and traditional governance in general has been plagued with several problems, it is still the most preferred institution for conflict resolution in many rural areas in WAD. Many cases involving land disputes are settled by chiefs, family heads (*Abusuapanin*), and others such as religious leaders and renowned herbalists. In some communities around Manso Amenfi and Akyikyire, some disputes have gone to the courts because the disputants do not have confidence in traditional dispute resolution mechanisms, or doubt that they will be treated fairly. In general, many rural farmers still rely on the chiefs and traditional methods of arbitration in conflicts arising from land ownership and use.

Figure 1. Chart Showing Channels of Traditional Dispute Resolution



As can be seen from the chart, land disputes that arise are resolved at various levels; from the household or compound level (Level 1), through the village or community (Level 2), to the paramount chief (Level 5) if need be. At the first level, litigants try to sort out their differences and this is often successful as farmers make compromises for peace to prevail. Depending on the differences and the entrenched positions adopted by land users/owners, the case is sent to family heads who also seek the support of other relatives and friends of the litigants in the settlement. It is then sent to the chief (*Odikro*) if it cannot be resolved at the family level. Disputes over land use and crop sharing arrangements are often flouted by one party, in most cases the tenant farmer who produces the crop. Depending on the context and other related issues, the case might travel all the way to the Paramount Chief or law courts.

According to some key informants, over 60% of the cases are settled at the community level. A further 10% to 15% might likely be settled at the stool and traditional state level. The other cases that go to the law courts are normally stool and family cases involving large tracts of land. This is often tied to the chieftaincy institution and is why, depending on the context, a farmer who pays no allegiance to the village chief may decide to take a land conflict to a higher authority or the law courts for redress. In several instances, the chiefs are required to give testimony before cases can be resolved. A chief will normally not respond to a court summons as a witness if he feels humiliated or bypassed. Such cases may drag on for years without resolution. Indeed, some such cases may eventually be referred to the local chiefs or other dispute resolution mechanisms for arbitration.

Traditional dispute mechanisms are cheaper because they are often nearer to the litigants, and do not take as long to settle. Equally, there is rarely a clear winner and loser and people prefer this to the outcomes in courts of law.

We found evidence among rural farmers that often the chiefs ask for settlement to be made outside the palace. In such cases, known friends, relatives, or local opinion leaders from the communities of the disputing parties are the likely arbiters. In Asankrangwa for instance, the Chief's court sits once a fortnight. When cases are brought before the chief, they are heard immediately and the chief appoints a committee of elders to investigate these cases to establish the facts. After the investigations, which often involve hearing from other witnesses, the disputing factions are summoned to the chief's palace and informed of the opinion of the independent enquiries. They are normally advised to go home to settle the issue themselves. If parties are reluctant, the chief engages in persuasion to ensure settlement.

Group discussants at Akyikyire stated that the chiefs and family heads still manage up to 60 percent of land disputes. They also observed that these include sensitive disputes involving land boundaries and sharecropping arrangements. Perhaps the success of chiefs in settling land disputes is borne out of the fact that even if people send their cases to the law courts, the courts may still rely on the chiefs and landowners to give evidence. Knowing this, most rural farmers agree to settlements under the traditional system out of fear that chiefs and elders would be reluctant to give evidence in court if the disputant had bypassed them, and hence their authority.

Some cases are not resolved by chiefs because such lands may not be stool lands and so do not fall within the jurisdiction of the chief. In other cases, stools contest boundaries and such cases are difficult to resolve at the local level because of the conflict of interest. Where there are serious stool disputes over land, farmers play to the gallery by refusing to subject themselves to the authority of one or all chiefs involved in the dispute. Such disputes including those involving tenant and indigenous farmers, especially over large tracts of land eventually get to the law courts and may take years to be resolved. There are many examples of such cases all over the district and some files containing such cases are reported missing at the district court at Asankrangwa²³.

6.3.2 The courts

It is quite expensive to have justice in the law courts because of the delays, cumbersome procedures, high fees, unfriendly environment, and what appears to some rural people as the exploitative and lukewarm attitude of court staff. A tenant farmer at Kamaso narrated his experience in the following way,

"if you have a case in the court, clerks and typists take monies from you anytime you go there to check on the case. Some even charge specified fees with the excuse that they can see and influence the judge or a lawyer to help you win the case. In the end, you spend so much money and get more confused because you are not sure who is telling the truth. And since we villagers do not have the means and time to continue checking, people with cases may even abandon them as they see no sign of justice in sight. It is actually litigants who often abandon their cases because they do not have what it takes to pursue the cases further. Some cases end this way. Unless absolutely necessary, there are many wrong things about the law courts and many would only send cases there as a last resort".

From records available to us during our fieldwork 47 land cases were pending at the District court at Asankrangwa in June 2004. Of these only 4 were concluded by the end of the month, although 40 of the cases started in the month²⁴. Thus, 43 cases were carried over to July, and this has been the general trend at the court over the years. The courts, for various reasons, do not appear to offer prompt and adequate justice to people in the district.

Many respondents said they would only go to the regular courts when all other avenues have been fully exhausted without success.

In other discussions, respondents indicated that there were many cases where settlement was given in favour of some farmers, but losers refused to obey the settlement. The winner would need to provide resources necessary for the Police to enforce the judgement. With many poor farmers unable to get Police protection and enforcement, sending cases to the court are not worth the effort. An opinion leader at Sureso lamented that court decisions are left to people given favourable judgement to enforce. He cited some cases where the court at Asankrangwa was unable to help farmers get back his land even though the court had ruled in their favour. It is therefore not sur-

²³ According to the Court Clerk at Asankrangwa, they spend time looking for files that cannot be traced when people come with complaints that they brought their cases to the court some years ago. Missing files are quite common especially with litigants who do not hire the services of lawyers, or have no documents concerning the court case in their possession.

²⁴ The records indicated here were compiled from specific, quarterly, and annual reports available at the District Court in Asankrangwa.

Box 6. Going to court

One respondent who had a problem with the village chief near Manso Amenfi over the use of land he had acquired from another family, took the case to court at Asankrangwa because he was not sure he would have justice at the local chief's court. He perceived a conflict of interest because he was litigating with the village chief. He first sent the case to the Manso Stool, but the chief refused to appear before the divisional chief, claiming the Ohene of Manso Amenfi had no authority to summon him. Following continuous harassment, he took the case to court which he thinks is a higher authority and more disposed to giving him a fair hearing. It is in such cases where there is no chance of having a fair traditional settlement that people send their cases to the regular courts. In this particular case, the respondent said he has not had the justice he seeks because the chief was invited to give evidence. This chief has been dodging the court for over five years now and nothing seems to happen. He is considering taking the case out of court if there is a viable alternative dispute resolution.

prising that for many rural farmers, the court is not the best place to seek redress, especially in land issues. According to officials of the District Court at Asankrangwa, the concern over delays in the courts is of utmost importance to the court. They attributed the delays to problems associated with gathering evidence including documents submitted to the court.

As already noted, most of the documents are made informally and are sometimes difficult to understand. Also, some of the site plans provided are made by unqualified surveyors; some of the plans show only land boundaries without locations and other details. In such instances, it takes the court a long time to verify and investigate the cases. Judging from the rural nature of the District, it is even more difficult to locate people because some of the settlements are not known and the directions given are difficult to follow. These difficulties of location coupled with the lack of finances by the courts make it difficult to deal with cases with the required speed. Some of the complainants are not ready to pay the fees for processing their case. Paying around ₵50,000 for processing of a land case becomes a problem for many farmers and a good reason to make the complainant change his/her mind unless they have no other avenue for redress.

From several indications, it is clear that although the law courts are available, such as at the District Court at Asankrangwa, they are practically inaccessible and unaffordable for various reasons. Many settlements are geographically far removed from the district capital where the court is located. With the common delays in cases, and very poor road conditions in certain seasons, it is preferable to seek land dispute settlement near one's area of abode.

6.3.3 The Commission on Human Rights and Administrative Justice (CHRAJ)

An alternative system that offers some opportunity to poor farmers for dispute settlement is the Commission on Human Rights and Administrative Justice (CHRAJ) at the Wasa Amenfi District. The office has over the years encouraged people of the area to file complaints of all sorts, including land disputes. Established in 1994 in the district, its aim is to promote, uphold, and protect the basic human rights of people. It was the fourth to be established in the Western Region after offices in Tarkwa, Axim and Sefwi Wiawso. The District Office has five personnel: the District Director, an Investigator, an Assistant Registrar, a Bailiff and a Secretary.

Any complaints brought to the CHRAJ are filed, recorded, and reviewed to ascertain merit. Most cases have merit and necessitate action. In most cases, the investigator goes to the locale of the dispute to investigate. However, due to resource constraints, the investigator cannot visit the location of every case. Hearings are held fortnightly and the interested parties are invited to the hearing. Each case is heard and judgement is given as quickly as possible.

Records available at the District Office at Asankrangwa show that the CHRAJ receives about 10 cases every month for resolution. In a major farming community such as WAD, it is obvious that many of the cases involve land disputes, which are brought by all manner of farmers, including women and tenants for resolution. Indeed, only seven out of 139 cases that were studied by our research team were related to general human and administrative rights issues. The rest were land related involving disputes over crop sharing arrangements, inheritance of land and

crops, marital issues including domestic violence, and other complicated land rights problems. Of the 23 cases that were brought before the Commission by wives and sisters because of some injustice they incurred, 20 cases were land related and involved disagreements over inheritance of farmland and food crops after divorce, or death of a family head or husband.

The success of the CHRAJ in adjudicating on such cases has been minimal because they are often quite complicated. Parties are advised to seek court action, especially where mediation fails. However, in cases involving women where most cases related to crop and land sharing rights, many have been successfully settled. Between 2002 and 2004, over 38 cases involving women were settled amicably by CHRAJ. Most of these cases involved either differences between husbands and wives over land/crop sharing arrangements after divorce/separation, or disputes over land and crop inheritance following the death of a husband. Few cases had to do with complaints over trespassing and unlawful harvest of farm produce by landowners from farms of their tenant with whom they have sharecropping arrangements.

The CHRAJ does not have the mandate to adjudicate, and so disputes are solved through mediation. The CHRAJ has over the years gained some popularity in the district as a fair and competent institution for dispute resolution. This is because of its adherence to the principles of equity where adjudication is based strictly on the possibility of no outright winner or loser.

Lack of logistics has been the main constraint facing the CHRAJ. The nature of its work takes officers to remote areas in the district, but the office has no means of transportation except for one motorcycle. CHRAJ officers also have complaints over remunerations and general poor conditions of service. Many beneficiaries assert that they access the CHRAJ because they cannot afford the time and money involved in accessing the courts. Some also have reservations and mistrust their chiefs and family heads because they perceive that the arbitrations are not impartial.

6.4 Accountability

6.4.1 Accountability Mechanisms of Implementing Authorities

All the state agencies discussed above, and the traditional authorities are responsible for implementing either formal or informal land registration mechanisms and should be accountable to the population they serve. The Lands Commission is accountable to the Sector Minister, but not directly to the broader majority of people who ought to know what the office is doing. In WAD where there is no office of the LC, it is difficult to see how people can know of and judge the role of the Commission. Rural WAD is not easily accessible as the terrain is rough and road networks are poorly developed. It is highly unlikely that poor farmers know about the roles of the land agencies and would find it necessary to spend time and money to travel to Sekondi to find out.

Not many farmers and land acquirers are aware of the roles and responsibilities of the land management agencies such as the SD and DT&CP, which have district-level offices. These agencies work in isolation and the bureaucracy involved in their functions contributes heavily to their lack of accountability to their constituents. Indeed many field responses did not give much credit to officials who work in these agencies, and some respondents labelled them as people who are only serving their own self-interest.

As observed in many settlements, customary authorities are key in any registration exercise. Indentures and site plans are prepared and signed by chiefs and family heads who give out land to acquirers. Not many of these custodians have any process for ensuring accountability to their communities or family members. Many traditional authorities noted with concern the rate at which custodians of land were transacting business without the prior consultation and approval by their communities or family members. It came to light at a workshop in Asankrangwa that chiefs and family heads were making it very difficult to document land transactions because they profit from the secrecy with which lands are disposed of. Such transactions tend to dispossess community or family members. Some of the chiefs are accused of using 'paper' and official receipt books instead of stool and family receipt booklets because they do not want their illegal activities to be noticed. The different ways in which various traditional areas undertake land transactions also makes it difficult for informal documentation to be standardised. Chiefs and other traditional leaders do not want to use transparent and acceptable processes, as this makes it difficult for them to alienate land and thereby make personal gains.

As one respondent observed, customary land law as practised by the majority of chiefs is against traditional wisdom. Transactions in land are highly informal and often shrouded in secrecy. Their opaque nature is designed to hide many of its dealings from the majority of people who have a common interest in land. There is poor institutional capacity and where there is inadequate recording, accountability is very low. It is no wonder that there are numerous litigations and land conflicts.

As a result of these problems, there is little or no accountability and this compromises the security of land grants in the area. For instance, migrant farmers in many parts of WAD (and indeed in many parts of the Western Region) have taken advantage of the confusion generated from land disputes to squat along contested boundaries where many people/stools claim ownership. This way the tenants exploit undue advantages as they shift their allegiance depending on what suits them. An officer of the OASL noted that there were high concentrations of migrant farmers in areas where land rights claims were being contested. This defies common logic where such lands would have been “no go areas” for many stranger farmers. The situation is also confused when chieftaincy disputes arise. Where actions have begun to destool a chief or where a chief’s enstoolment or eligibility has been challenged, all land grants made by the incumbent chief may be annulled by his successor, and such grantees will have to re-negotiate their land grants again, entailing the payment of additional purchase price or sometimes the loss of such grants.

Thus, both state and traditional mechanisms for land management lack transparency and accountability. In part this is a result of weak management capacity. But it is also because both officials in state agencies and traditional authorities are self-serving rather than serving the interests of the population. Custodians of stool lands often alienate the same interest in land to more than one person and compromise the security of land grants. There are no obligations binding these land management agencies and institutions, and communities are not organised enough to demand accountability from them. There may be occasional sanctions for some chiefs, but in general, there are no local mechanisms that make chiefs accountable even though destoolment charges and youth protests have often exacted some measure of accountability from chiefs.

6.4.2 Land alienation and accountability

Any successful registration process will require the participation of chiefs and other traditional authorities who are custodians of communal lands. This might explain why the LAP is targeting customary secretariats as one possible way of achieving registration of land to ensure land security. Many respondents share the view that in recent times, chiefs and family heads behave as if they were absolute owners, rather than custodians of land. Many respondents at Akyikyire, Manso Amenfi, Yirase and Sureso said chiefs and family heads were to be blamed for the current pace of illegal developments and land disputes in the district.

Youth groups at Manso Amenfi recounted that over the years chiefs and family heads had sold most of the lands to migrants and other developers for their own gains. Now the same chiefs are saying they never sold the land outright, but gave it for use for a limited time. Apparently, the discontent the chiefs face from their communities has made state land agencies less willing to involve such chiefs in land matters, which often compounds rather than resolves some issues. The activities of some chiefs have even jeopardised the proper functioning of the land agencies.

The chiefs do not always accept the blame and say that some family heads are alienating communal land, and they are the sole beneficiaries. Many of the traditional leaders explained that family members take parts of stool lands for free, but turn around and lease it to tenant farmers on the *abunu* basis. Not only do these families end up with large cocoa farms that earn them huge amounts of money annually, they also alienate huge portions of the land to migrants who keep the land as long as the cocoa or oil palm crop produces. The same observation was made by the Chief of Manso Amenfi who said he has no land for farming and has to appeal to some family heads for help. This would not be the normal situation, as the chief would expect to have custody over land and not have to go begging for farmland.

7. CONCLUSIONS AND RECOMMENDATIONS

The study examined the processes of land rights registration in two districts in rural Ghana, both the formal mechanism of deeds registration, and informal documentation and practice through customary systems. The analysis assesses whether the systems of registration to secure land rights can benefit poor and vulnerable groups. The study looked at the procedures involved, the accessibility of the systems, and issues of governance.

Although deeds registration has been in place a very long time in Ghana, its record of success is low. State agencies in charge of implementing this registration process have not demonstrated that it is pro-poor. It is centralised, not known by many land users especially rural farmers, and quite expensive for the majority of subsistence farmers, most especially tenant farmers who need secure tenure arrangements in order to make meaningful investments and achieve high production. Therefore, registration has only come to benefit the large formal agri-business companies of rubber, cocoa, and oil palm plantations, and others with long leases for timber and mineral exploitation.

Who is registering land?

In both areas, it is middle to large sized companies which are making use of the formal registration system. These larger agricultural, forestry or mining business have an understanding of registration, are sometimes assisted by government institutions and can afford the fees. Most commercial enterprises or those registering residential landholdings are doing so due to increasing land scarcity and the frequency of land conflicts, particularly boundary disputes. There are a few exceptions where farmers are registering, or attempting to register, their land rights due to their feelings of insecurity.

Very few smallholder farmers have registered their landholdings or use rights using deeds registration. Many see no need to register their land. They rely on a variety of customary practices and mechanisms for ensuring their rights are secure. These can be traditional boundary demarcation methods; use of oral contracts in the presence of witnesses; or an assortment of informal documents – from indentures to either printed or written ‘official’ receipts; customary mechanisms of arbitration; continuous occupation and land development. However, in the growing climate of land scarcity and increasing numbers of conflicts over land, there is some evidence that these methods are increasingly formalised. Surveyors are commissioned to produce site plans to improve farmers’ sense of security over their land boundaries. This is expensive for poorer farmers, but some surveyors even offer this service on credit, and unlicensed surveyors charge lower fees. However, the validity of using these methods is questionable in the context of poor institutional capacity. Although the Survey Department is represented at District level, it has no ability to verify authenticity of a surveyor’s qualifications, or the accuracy of the plan. The study shows that there are three main factors that will determine whether smallholder farmers are interested in land registration, the level of confidence in their traditional authority, the number of land disputes in the area, and the level of land scarcity.

The LAP has established a pilot programme to support registration processes for customary lands. This has been inspired by the widely reported ‘informal registration’ success story of the land secretariat of the Asantehene, which is reputed to have the best customary land recording system in Ghana. Early experience of the pilot programme in the Western region, although making slow progress, shows that registration is much more popular with tenant farmers (95 percent) than indigenous farmers (5 percent). Indigenous farmers feel no need to register their land as they consider themselves ‘owners’. Tenant farmers, on the other hand, seem to be very well organised and have a strong social network which encourages and supports farmers through the process. Although it is early days to make an assessment, there are indications that traditional authorities and farmers, both indigenous and migrant, are recognising the relevance of documentation.

Constraints to registration

One of the serious issues affecting any process of registration is the number of land conflicts, ranging from stool boundary disputes, family land disputes and individual plot disputes. Ranked the most serious, were problems over boundaries. The majority of these are settled at the community level, a smaller proportion at the stool or traditional state level. Traditional dispute mechanisms are preferred; they are cheaper, closer and are settled more quickly. A small number will go to the formal courts, where there are long delays, and cumbersome procedures at a high cost. A third mechanism for dispute resolution in the Western Region is the Commission for Human Rights

and Administrative Justice (CHRA). Most of the 139 cases studied in this research were land related. 20 out of 23 cases brought by women related to land grievances following divorce or death.

Who is likely to be marginalised in the registration process?

In the struggle to secure landholding and land use rights, there will be some who are less advantaged than others. There are many potential reasons for the exclusion of poor, rural farmers from land registration processes including limited awareness of the process, exorbitant fees, cumbersome procedures, and corrupt practices by officials in land agencies. Even at the village level where informal documentation seems to be cherished, and occurs in various forms, the financial cost involved is still restrictive and many farmers engage the services of unlicensed surveyors to draw up site plans because they cannot afford the costs charged by licensed surveyors.

In the Western region, even though population densities are low, land has been scarce. A large amount of the land area is under protected forest reserves; cocoa, oil palm, and rubber plantations; and mineral concessions. This is in addition to other acquisitions for commercial, residential and industrial purposes. The region also happens to have a large migrant population with some of the early settlers acquiring large tracts of land for themselves, in addition to large farms under *abunu* tenancy. Those with land are advantaged as they can rent out part of the land, sell it outright, or engage in sharecropping arrangements. On the other hand, those without land, including some indigenous farmers, have to rent small parcels of land at higher prices, or enter into sharecropping tenancy agreements that are often exploitative. It is the latter group which are unlikely to benefit from land registration in its current form.

Women suffer these repercussions more than men where they do not inherit land. Younger generations are likely to suffer more from land scarcity because they are growing up in communities and families whose communal holdings are shrinking and being rapidly alienated. Tenancy agreements in general are likely to change to become more exploitative of those who are vulnerable. All these likely impacts, some of which are already experienced in various degrees, are a threat to genuine policies aimed at reducing poverty and raising living standards for the majority of poor farming households.

The research does raise concerns that poorer, more vulnerable groups are suffering from increasing land scarcity and the current registration processes are likely to favour businesses and the richer at the expense of the poor. Land scarcity may also result in over-exploitation of the natural environment which would have a greater impact on the poor.

Governance

One of the research findings of most concern was the frequency of responses of disappointment and disillusionment in the custodial role of customary chiefs. It appears that the level of customary land alienation to serve chiefs' own self-interest is very high. Whereas people's perception of the weakness of the formal registration system has more to do with poor capacity of the state's land management institutions (and the cost of the process), in the traditional arena, the lack of confidence in the customary system is laid directly at customary authorities. This becomes very difficult for a smallholder farmer to overcome. To contest wrongdoings by chiefs or elders means either bypassing these authorities and going to the superior traditional authority or taking a claim to the formal courts. In both these scenarios, the chief or elder in question must appear before the council or court and often will refuse to do so thereby protracting the case enormously and sometimes indefinitely.

With the absence of the Lands Commission in the district, and the inability of the land agencies to help farmers, people do not participate in making decisions that affect land management at the official level. The agencies are not decentralised enough, or where they do exist at district level, they lack the requisite personnel and logistics to function properly. This is a serious challenge as the majority of poor, rural farmers produce the bulk of the national wealth and live in very small settlements where accessibility to centres of information is difficult. Yet these are the people in most need of the agencies' services.

Neither state nor traditional institutions for land management have mechanisms that ensure transparency and accountability. In part, this is a result of weak management capacity. But it is also because both officials in state agencies and traditional authorities are self-serving rather than serving the interests of the population. Chiefs and other traditional leaders do not want to use transparent and acceptable processes, as this would make it more difficult

for them to alienate land and make personal gains. There are no obligations binding these land management agencies and institutions, and communities are not organised enough to demand accountability from them.

RECOMMENDATIONS

State agencies, in particular the Lands Commission and the Department of Town and Country Planning need to collaborate more to plan land allocation and use so that the numerous complex conflicts could be minimised. In addition, the Office of the Administrator of Stool Lands should contract qualified and competent surveyors to demarcate and prepare site plans of farms. This would reduce the common inaccuracies of many of the plans prepared by private surveyors which have been the cause of some boundary conflicts between landowners in the area. The cost of making the site plans needs to be affordable for farmers or incentives should be offered.

Registration would be more accessible if it was decentralised to the district level, and fees and other charges reduced to encourage smallholder farmers to participate. Aspects of informal systems of registration, such as the use of witnessed oral contracts, should be incorporated into the process. 73 out of 80 respondents confirmed that many tenancies contracts are oral. Unfortunately, the exclusion of oral grants under the prevailing law means that these transactions are not eligible for registration unless they are put into writing.

Considerable effort must be channelled into mechanisms for resolving boundary disputes. These must be resolved if the LAP hopes to achieve its objectives for land registration. In addition, there needs to be far greater awareness-raising and consultation about registration processes. The Lands Commission should find ways to encourage smallholder farmers to complete the registration processes that they have started.

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ANNEX 1 PROFILE OF SOME COMPANIES IN PINEAPPLE CULTIVATION

Company	Year Established	Land Area (ac)	Orientation of Product	Registration Status	Labour Employed	
					Casual	Permanent
Combined Farms	1977	Pineapple (500) Coconut (1000)	Export, production and supply to Blue Skies	All farms registered except new areas (documents sent to Koforidua for plotting)	95	85
Koranco Farms	1981	500	Production and Export	Registered	240	30
Alomal Farms	1980	130	Production, Supply to Blue Skies, Export		20	15
Farmapine	1999	Not applicable	Solely export	Registered	150	79
Blue Skies (Gh) Ltd	1998	Cultivated (20) Uncultivated (100)	Production & Export They are into production and export of pineapple, papaya, mango, citrus, banana and coconut.	Registered	165	605
He Moves Farms	1998	148	Export, production & also supplies Blue Skies	Not registered but had sent document to Koforidua for plotting	20	22
Others	—	200	Mainly export	Leaseholds registered	200	50

ANNEX 2 QUESTIONNAIRE ON LAND REGISTRATION

1. NON-TRADITIONAL AGRICULTURAL ZONE (NSAWAM)

Questionnaire for in-depth interviews, group discussions, and other informal interactions on land registration and impact on vulnerable groups.

A. Background Information

(i) Village/Town: (ii) Age: (iii) Sex:

(iv) Occupation: (v) Migrant/Indigene: (vi) Household Size:

B. General Questions for in-depth interviews/group discussions

1. History of farming and the dominant farming activities around Nsawam
2. Growth of the pineapple industry and its place in agriculture both as cash and food crop
3. Who are those mostly involved in pineapple/pawpaw/citrus/banana etc cropping (is it women, young males, agricultural labourers from other areas, etc.)?
4. How is land acquired for farming purposes?
5. Who gives out land (through chiefs, families, land owners, etc.)?
6. How do you establish land boundaries?
7. What technology do you use to establish land boundaries?
8. If you use the services of surveyors, how much does it cost per unit area?
9. Is it generally affordable?
10. Is that the practice by many farmers?
11. If not, what reasons can be given for its limited practice?
12. What conditions govern the use of land (share cropping, cash payments, free use, etc.)?
13. Are there outright purchases of land, and from whom?
14. What processes of land documentation exist around this area?
15. Are you aware of any formal registration process for land?
16. What are the processes of land registration? (both formal and informal documentary evidence)?
17. How would you describe the registration process (in terms of cost, time, language, environment, procedures, etc.)?
18. Is the registration procedure acceptable to all?
19. Who are more likely to register their lands?
20. Who are most unlikely to register their land?
21. What land ownership problems arise from land use for non-traditional cash/export crops?
22. What mechanisms are there (and who exercises them) to resolve these problems?
23. What are the key persons, groups, communities and institutions that are responsible?
24. How successful are these mechanisms?
25. Who are mostly involved in the cultivation of these non-traditional export crops?
26. What are the benefits (employment, income, etc.) of the production of non-traditional export crops to farmers, local community, and the national economy?

C. Interviews with Community leaders (chiefs, family heads, stool elders, Queen mothers)

1. How are communal land transactions undertaken here?
2. How is land distributed among land owning groups?
3. Is land equitably distributed among members of the land owning group?
4. Give an evaluation of the overlap of traditional and statutory land laws as they operate on a) paper, b) as perceived by people, and c) as obtains on the field (what happens in practice)
5. Into what productive uses are most lands used?
6. Who takes the major land use decisions?

7. Is there evidence of consent or nonconsensual/discontent (if both, when do they become manifest)?
8. Which section of community show discontent (youth, women, elders, chiefs, queen mothers, etc.)?
9. What is the nature of land disputes and litigations (how frequent, who are involved)?
10. What is responsible for land problems?

D. Interview Schedules with Land Sector Institutions (Lands Commission, Land Valuation Board, Survey Department, Department of Town and Country Planning, Office of the Administrator of Stool Lands, Land Title Registry)

1. How is land being registered? Document all procedures and processes involved in land registration
2. What are the anticipated benefits society seeks to derive from land registration (economic, social, environmental, etc.)?
3. What capacities do you have for handling land registration processes?
4. What general problems are associated with land registration?
5. What is your assessment of the performance of land sector institutions in land registration?
6. What ought to be done to make the activities of the institutions effective?
7. What are other informal ways of land documentation that you are aware of?
8. What are the benefits and problems associated with these informal land transactions?
9. Do you sanction these informal land transaction procedures? If yes, what can be done to make them effective?

2. TRADITIONAL AGRICULTURAL ZONE (WESTERN REGION)

Questionnaire for in-depth interviews, group discussions, and other informal interactions on land registration and impact on vulnerable groups.

A. Background Information

(i) Village/Town: (ii) Age: (iii) Sex:

(iv) Occupation: (v) Migrant/Indigene: (vi) Household Size:

B. General Questions for in-depth interviews/group discussions

1. What is the dominant farming activity around the Wasa Amenfi area (crops grown)?
2. What amount of land is put into cash as oppose to food crops in the district?
3. Who are those mostly involved in (a) cash crops, and (b) food crops (is it women, young males, agricultural labourers, etc.)?
4. How is land acquired for farming purposes? (Detail the processes)
5. From whom is land acquired? (through chiefs, families, land owners, etc.)?
6. What would you say about land acquisition? (easy or difficult)?
7. How do you establish land boundaries?
8. What technology and processes are involved?
9. If you use the services of surveyors, how much does it cost per unit area?
10. Are the services the same for surveyors? Is it generally affordable?
11. Do many farmers demarcate their boundary?
12. If not, what reasons can be given for its limited practice?
13. What conditions govern the use of land (share cropping, cash payments, free use, etc.)?
14. Are there outright purchases of land, and from whom?
15. What processes of land documentation exist around this area?
16. Are you aware of any formal registration process for land?
17. What are the processes of land registration? (both formal and informal documentary evidence)?
18. Which institutions are involved in land registration?
19. How would you describe the registration process (in terms of cost, time, language, environment, procedures, etc.)?

20. Is the registration procedure acceptable to all?
21. Who are more likely to register their lands?
22. Who are most unlikely to register their land?
23. What forms of informal documentation exist in your area? (written papers, receipts, etc.)
24. What persons/agencies prepare these documents?
25. What categories of farmers engage in this practice?
26. How widespread and recognized is this practice?
27. What are the benefits derived from this practice?
28. What land ownership problems arise from land use for cash/export crops?
29. What mechanisms are there (and who exercises them) to resolve these problems?
30. What are the key persons, groups, communities and institutions that are responsible?
31. How successful are these mechanisms?
32. Who are mostly involved in the cultivation of export crops?
33. Who are mostly involved in the cultivation of food crops?
34. What are the benefits (employment, income, etc) of the production of both food and cash crops to farmers, local community, and the national economy?
35. What are the effects of land registration?
36. Have weaker groups (migrants, women, young people, and the landless) tried to address their grievances?
37. What means have they employed to seek redress?
38. Has land registration affected the rights of smallholders?
39. If so how has it affected them?

C. Interviews with Community leaders (chiefs, family heads, stool elders, Queen mothers)

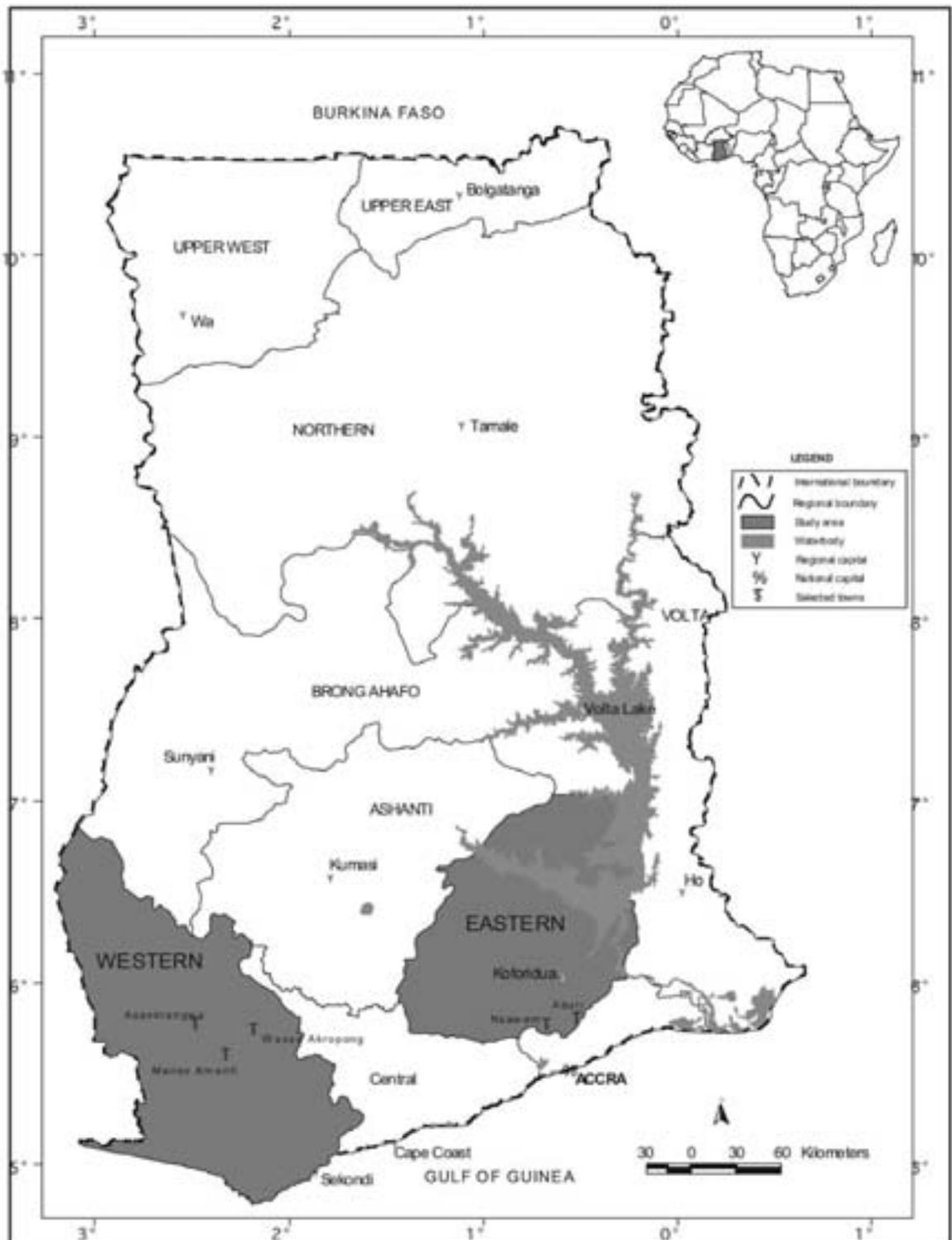
1. How are communal land transactions undertaken here?
2. How is land distributed among land owning groups?
3. Is land equitably distributed among members of the land owning group?
4. Give an evaluation of the overlap of traditional and statutory land laws as they operate on a) paper, b) as perceived by people, and c) as obtains on the field (what happens in practice)
5. Into what productive uses are most lands used?
6. Who takes the major land use decisions?
7. Is there evidence of consent or nonconsensual/discontent (if both, when do they become manifest)?
8. Which section of community show discontent (youth, women, elders, chiefs, queen mothers, etc.)?
9. What is the nature of land disputes and litigations (how frequent, who are involved)?
10. What is responsible for land problems?

D. Interview Schedules with Land Sector Institutions (Lands Commission, Land Valuation Board, Survey Department, Department of Town and Country Planning, Office of the Administrator of Stool Lands, Land Title Registry)

1. How is land being registered? Document all procedures and processes involved in land registration
2. What are the anticipated benefits society seeks to derive from land registration (economic, social, environmental, etc.)?
3. What capacities do you have for handling land registration processes?
4. Do land agencies coordinate their activities (i.e. do they work together)?
5. What general problems are associated with land registration?
6. What is your assessment of the performance of land sector institutions in land registration?
7. What ought to be done to make the activities of the institutions effective?
8. What are other informal ways of land documentation that you are aware of?
9. What are the benefits and problems associated with these informal land transactions?
10. Do you sanction these informal land transaction procedures? If yes, what can be done to make them effective?

ANNEX 3 MAP

Map of Ghana Showing Study Regions



Land Registration in Western and Eastern Regions, Ghana assesses the process of rural land registration in Ghana and its outcomes for poor and marginalised groups. In Ghana, deeds registration has been in place since colonial times, and enables right holders to record their land transactions. However, very little rural land has actually been affected by this registration process. The research shows a general lack of awareness of the registration process among the majority of cash and food crop farmers. High monetary and transaction costs and a long and cumbersome process also constrain use of deeds registration. As a result, while farmers in both Western and Eastern Regions increasingly make use of written documents to secure their transactions, very few bother to register those documents with the deeds registry. On the other hand, deeds registration is commonly used by agribusiness, and by mining and timber companies acquiring interests in land. In other words, while the deeds registration system seems to cater for the needs of medium to large-scale enterprises, it does not respond to the needs of small holders. The ongoing land administration reform programme needs to address these issues in order to establish institutions and processes that secure the land rights of poorer and more vulnerable groups.

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**Natural Resources Group
International Institute for Environment and Development
3 Endsleigh street
London WC1H 0DD
United Kingdom
Tel: +44 20 7388 2117
Fax: +44 20 7388 2826
<http://www.iied.org/>**