

Land Tenure Administration in Peri-Urban Accra: A Case Study of Bortianor

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Key words: land tenure, land administration, tenure insecurity, customary tenure system

SUMMARY

This paper describes evolving land tenure administration practices in Bortianor, one of the Ga stool lands on the periphery of the expanding city of Accra, Ghana. The case provides insights into how a society living under customary tenure adapts to statutory land administration structures and processes when there is increasing pressure on the land, hastened by population growth and migration from rural areas into the neighbouring city. Customary land tenure is enshrined in Ghana's constitution. Chiefs (stool heads), family heads and land priests may be responsible for land allocation and general land administration. At the same time, customary land can be held in individual parcels, registered by deed at the Land Titles office, and alienated to the state or people outside the customary lineage. The people designated to allocate land under the customary system (e.g. chief, family head, land allocation committee) hold tremendous power, a power limited under customary law by a fiduciary obligation to act in the best interest of their stool or family. However, in spite of their fiduciary obligation, this power is frequently abused by customary leaders who enrich themselves through land sales, often with the collaboration of well connected outsiders. In this way vulnerable sections of peri-urban customary societies are left landless as land is alienated to people outside their customary unit. Consequently, power struggles over who should inherit the chieftaincy are common. In addition, violent conflicts over land and the power to allocate it, at times with fatal consequences, are well documented.

The case provides insights into observable social change patterns. In the past powerful positions over land in Bortianor were assigned based on rules grounded in unwritten oral tradition, however these rules evolve due to internal and external forces such as corruption and urbanisation. Also, these rules may be manipulated in terms of social change theories. Manipulation of the customary rules enables powerful elites to use the registration system, a system upheld by statute law, to sell land to the detriment of many of those whom they are meant to serve and in conflict with the traditional fiduciary obligation. The case is instructive for land tenure administration where registered individual tenure and customary tenure co-exist in a rapidly changing environment.

1. INTRODUCTION

This paper describes land administration in Bortianor, and in so doing provides insights into how customary tenure administrations respond and evolve as state administration structures and processes become part of the customary system. For example, registered deeds and survey plans may be used to alienate traditional land to strangers but, *de facto*, indigenes have no access to these artifacts.

In this discussion, strangers are people who are not part of the Bortianor customary society, as they or their forefathers migrated into the area (Bentsi-Enchill 1964). Indigenes are part of the customary society; they were born into a customary lineage (Ollenu 1962).

Bortianor is a Ga community, west of Accra's urban edge. As with many other peri-urban areas in Ghana, there is increasing pressure on the land in Bortianor, and competition over land is manifested in conflict, land grabbing, and exploitation of positions of power for personal gain and abuse of their fiduciary obligations by those in stewardship positions. This can be attributed to factors that underlie many urban and peri-urban land problems in Ghana, which include urban expansion, population growth, urbanization, commodification and commercialization of land, customary leadership disputes, and rural – urban migration (Gough and Yankson 2011, Tetey *et al* 2008, Aryeetey *et al* 2007, Cotula L C, Toulmin C and Hesse C 2004, Van Donge 1999).

The paper begins with a general description of the land administration and land tenure systems in Ghana, followed by a review of land related problems in peri-urban Ghana derived from the literature. A narrative of the Bortianor case study is presented, and some emerging issues/findings emanating from the research are reported using a theory of land-related social change and the problems outlined in the literature to structure the analysis.

2. LAND TENURE TYPES

There are three main forms of landholding in Ghana, customary, state and vested land. An estimated 80% of Ghana's land is customary. These include stool, skin, clan and family tenure systems (Arko-Adjei 2005). In brief, land is vested allodially in the cognate (kinship) group, which includes the living family together with the ancestors and future generations. Ownership is joint and undivided. Traditionally, land should not be alienated as it does not belong to the current generation alone. Indigenes may claim undeveloped, unclaimed land on behalf of their family units. Over time this tends to evolve into family lineage land to be passed on through to family members over generations (Anyidoho *et al* 2008). Strangers tend to be migrants from outside the cognate group (indigenes) who are given the right to live, use and enjoy portions of the land at the pleasure of the customary group. An individual cannot easily convert their status from stranger to indigene. Descendants of migrants who settled on the land some generations back are still considered strangers (Ollenu 1962, Interview 14-2011)

State lands are acquired by the state, by compulsion if needs be, for national development

purposes. As with expropriation law and policy in many countries, compulsory state land acquisitions have to be for development projects deemed to be for the public good. Land can be acquired in terms of one of the State Property and Contracts Act, 1960 (CA 6), the Land (Statutory Wayleaves) Act, 1963 (Act 186), the State Lands Act, 1962, (Act 125) or the Constitution, Act 20 of 1992. Specifically, land may be expropriated under the Constitution: “in the interest of defense, public safety, public order, public morality, public health and the development or utilization in a way to promote the public benefit” (Constitution Act 20 of 1992, Article 20(a)). By law, the state must compensate customary authorities for land that they surrender to the state. Once surrendered, all previous interests in the land are extinguished. A major source of discontent among customary authorities is misuse of the system, e.g. land is expropriated for a particular purpose and then used for another purpose or sold (Interviews 45-2009; 48-2009).

An estimated 2% of Ghana’s land is vested land, which is customary land over which the power to manage is vested in the state. The state appropriates the powers of the customary authority and holds the land in trust for the customary society in terms of The Administration of Lands Act 1962 (Act 123) S7. It removes the power of the customary authority (e.g. chief) over the land, but it does not assume the allodial interest, which remains in the cognate group. The cognate group receives no compensation for losing management control. They are however, compensated for revenues accruing from the land and the proceeds of the transaction if land is alienated. According to an official who administers vested land, this form of vesting tends to occur because of dysfunctional local land administration attributable to disputes and uncertainty in a customary authority (Interview 50-2009). The power to manage the land vests in the state, through its agents in the form of the Lands Commission and the Office of the Administrator of Stool Lands (OASL). The state may alienate land (sell, lease) and receive revenues from the land. Part of the revenue is returned to the owners, the cognate group (Amanor 2009, Aryeetey *et al* 2007). More than half of traditional Ga lands are estimated to be vested lands or have been compulsorily acquired (Kotey 2002 cited by Aryeetey *et al* 2007).

3. LAND ADMINISTRATION IN GHANA

There are two main land administration forms in Ghana, customary and state administration. These are intertwined in customary land as state land administration structures, artifacts (deeds, survey plans, boundary monuments) and processes are very much part of modern customary land administration in many areas. In terms of the Ghana Conveyancing Decree 1973 S4 (1), indentures (deeds) are required for all customary-law grants that alienate customary land (e.g. sale, lease to a vendee outside of the lineage group). “The Conveyancing Decree now requires that every such grant made after January 1st 1974, be recorded, signed by the transferor or his agent, and certified by a registrar.” (Woodman 1973).

The leadership cohort (chiefs, land priests, family heads and council of elders) are commonly referred to as custodians of the land and have a fiduciary duty to administer the land in the best interests of the customary group. This principle is enshrined in customary law (Ollenu 1962), the Constitution and other statutes such as the Head of Family Accountability Law Act

114 of 1985. In terms of the Constitution, Article 36(8): “the State shall recognize that ownership and possession of land carry a social obligation to serve the larger community and, in particular, the State shall recognize that the managers of public, stool, skin and family lands are fiduciaries charged with the obligation to discharge their functions for the benefit respectively of the people of Ghana, of the stool, skin, or family concerned and are accountable as fiduciaries in this regard”.

The leadership group allocates land to their subjects, and is responsible for general land administration. Administrative tasks include alienation of rights in land, receipt of land revenues from the OASL, disbursement of OASL revenue to the customary group, and adjudication and mediation of land disputes based on customary law, social norms and cultural practices (MLFM 2003). In common practice, chiefs are the ultimate custodian and oversee all the land administration processes. They are the most visible and perhaps the most important traditional authority, whose influence extends beyond the traditional and cultural to many facets of social, political, religious, and economic affairs in Ghana (Amanor 2006).

Traditional councils are the highest decision making body in any traditional area. Typically, council members are the Paramount Chief, Sub Divisional chiefs and Council of Elders. For instance, in the Ga traditional area, the traditional council consists of the Ga Mantse (Paramount Chief), Divisional Chiefs (e.g. Jamestown Chief), Sub-Divisional/local chief (e.g. Bortianor chief) and a number of influential elders (e.g. *Wulomei* -Traditional Priests - *Ga*). The Council should make decisions through consensus building. In some instances the Paramount Chief may give specific instructions to be implemented by the council according to the Chieftaincy Act 370 of 1971.

Ga traditional councils have oversight over land allocation to manage commonage and reduce the incidence of disputes and multiple sales of the same piece of land. The paramount chief should consent to any stool land transaction (Interview 1-2011, 61- 2011). (This does not appear to occur in practice in Bortianor as indentures (deeds) are signed by the local Sub-Divisional chief).

Ga traditional councils (or a Regional Council of Chiefs, or Chieftaincy Committee) validate the nomination of a chief. These institutions design and manage the processes of enstooling chiefs, registering chiefs, and notifying the public in the Gazette of the status of persons as chiefs (Constitution Act 20 of 1992, Art 270(3b). They may impose sanctions, according to customary law and practice, on a Divisional or subordinate chief; in the most severe cases a chief may be destooled. In addition, the Traditional Council is responsible for resolving competing claims to a chieftaincy (Interview 1-2011, 61- 2011).

There are six primary central government land administration agencies: the Lands Commission, Land Valuation Board, Survey Department, Land Title Registry, Office of the Administrator of Stool Lands (OASL) and the Town and Country Planning Department. The Land Commission Act 767 of 2008, S19 brought the first four under the umbrella of the Lands Commission with four divisions, Land Valuation, Land Registration, Public and Vested Land Management, and Surveying and Mapping. The OASL and the Town and Country Planning

Department remain separate entities.

In addition to the main land sector institutions, local municipal government may be a District Assembly or a Municipality – depending on size - established under the Local Government Act, 1993 (Act 462). District / Municipal Assemblies have elected bodies which promulgate local by-laws relating to the overall development, improvement and management of human settlements; they develop and administer land use planning schemes to guide development within their jurisdiction (Local Government Act, 462 of 1993 S9, Kasanga 2002). Local plans should be in harmony with regional plans developed by the central government's Town and Country Planning Department. According to a sitting member of a municipal assembly, elected Municipalities are supposed to plan land use and provide services, and work in conjunction with customary authorities in administering land (Interview 6- 2011).

Customary land disbursements have to be in accordance with local development plans and regional development plans. Land allocations and transactions may be voided if they do not conform to an approved development plan. Municipalities may demolish improvements that violate development plans, even if the parcel has been alienated under the customary system. The Lands Commission will not register an indenture which does not conform to the local approved development plan (Local Government Act, 1993 Act 462 S53, 61).

The OASL collects land revenues – ground rents from strangers on customary lands and mineral exploitation royalties from mining companies. Traditional authorities administer land in trust for their subjects, but the government does not allow chiefs to collect ground rents. In a particular customary area, The OASL collects land revenues and disburses money to stool accounts, to the Traditional Councils and to District Assemblies according to a set formula (Constitution Act 20 of 1992, Art 267(6), Interview 50-2009).

Deed registration dates back to 1883 in terms of the Registration Ordinance of 1883, Land Registry Ordinance of 1895 and Land Registry Act 1962, Act 122. Title registration was introduced in 1986 in terms of the Land Title Registration Law 1986 (PNDCL. 152) and the Land Title Regulation, 1986 L.I. 1241 in an effort to reduce conflicts attributable in part to incidences of indeterminate boundaries and double registration of the same piece of land under the deeds system (Sittie 2006). Alienations of customary land may be registered under the deeds system. Up to 1992 it was recorded as freehold, but since then it tends to be recorded as a long term lease (Interview 45-2009).

The next section discusses some of the problems encountered with land tenure in Accra.

4. LAND RELATED PROBLEMS IN ACCRA

The Greater Accra Metropolitan Area's population is estimated at 3.9 million people (Brinkhoff 2011) and it covers a total land area of 3,245 square kilometers or 1.4% of the total

land mass of Ghana. It is divided into ten administration districts; the Accra Metropolitan District, Tema Metropolitan District, Ga South Municipal District, Ga East Municipal District, Ga West Municipal District, Adenta Municipal District, Ashaiman Municipal District, Ledzokuku-Krowor (L.K) Municipal District, Dangme East and Dangme West. Accra accounts for over 40% of Ghana's urban population (Tackie 2008)



Figure 1: Districts in Greater Accra Region (after Ghanadistricts 2006)

Demand for land for residential, industrial, infrastructure and other uses keep rising, as do land conflicts. Up to half the cases before the courts in Ghana relate to land disputes (Crook 2005). In brief, continual and widespread conflict over land in the city and its peripheries are common in Accra. These conflicts are manifested in:

1. Indiscriminate grabbing and sale of stool and family lands to strangers and commercial entities for personal gain by traditional leaders (e.g. chiefs, family heads) in contravention of their fiduciary obligations. Proceeds from these sales seldom flow to the owners, the indigenes (Owusu 2008, Owusu and Adjei 2007, Gough and Yankson 2000)
2. Building on (1), traditional authorities sell the same piece of land to multiple purchasers (Arko-Adjei 2009). A prominent land lawyer observed that a common problem before the courts is land sold by a family member who does not have the status to sell it. Another family member may then sell the land to someone else. In his observation, knowledge of who has the power to alienate particular pieces of land is well understood in the kinship group. Strangers who purchase land are seldom aware of this (Interview 46-2009). Supporting this statement in our fieldwork, an informant in Bortianor related how land held jointly by two family siblings was sold covertly by one of them. In the meantime, the other sibling also sold the land, supposedly unaware that his brother had already sold it to someone else (Interview 8-2011).

3. Chieftaincy disputes over who should inherit the stool either after the death of a reigning chief. Stools are frequently contested, and these include attempts to destool a sitting chief (Ghanaweb, 2011).
4. Expropriation of land by government without compensation being paid (Kasanga and Kotey 2001)
5. Encroachment on government lands by indigenes. This often happens when state land is left vacant, and the customary group in whom it vested originally reclaims it. Opportunistic traditional authorities may also sell this state land to strangers who are unaware that it is state land (Amanor 2006, DailyGraphic, Oct 6 2011).
6. Commodification of land and the resulting sales has changed land use from agricultural to residential and commercial in areas proximate to the city. A consequence of this is tenure insecurity for the vulnerable (women, impoverished, youth) who have no land available for farming or other traditional forms of land derived livelihood (Owusu, 2008, Gough and Yankson 2000).
7. Intimidation and violence by land guards, who are hired to molest and drive indigenes off their land (Owusu 2008, Tettey *et al* 2008).
8. A manifestation of social change consequent to urbanisation and competition over land is that, for many, customary lands in Accra have lost their traditional social, cultural and spiritual significance and so it may be alienated (Owusu 2008).
9. Undocumented land transactions by customary authorities mean that a potential buyer cannot check if the land has been sold to someone else (Gough and Yankson 2000).
10. Indeterminate boundaries between stools, individual and family plots of land means these areas are contested (Aryeetey *et al* 2007).

5. BORTIANOR CASE STUDY DESCRIPTION

The case study involved 64 interviews and group discussions; a total of 119 people were present during these interviews and group discussions. The purpose was to examine land administration and the evolving tenure system in a peri-urban customary area. Participants included traditional leaders and people who held prominent positions in the Bortianor customary hierarchy, senior officials, land professionals, politicians, and a sample of Bortianor residents. The narrative covers Bortianor's history, social structure, contests over local political power and land management, as well as instances of schism and coalition formation as a manifestation of social change related to evolving land tenure and administration:

5.1 History of Bortianor

Interviews revealed a contested history based on oral tradition, which informs part of the system of local politics characterized by contested chieftaincy, contested space, and contested power in Bortianor. There is consensus that Bortianor's original name was Kukubi, which early settlers named after the surrounding hills. Legend has it that Bortey, a native of Nungua (suburb of Accra) fished in the area, and traders who came to buy fish from him renamed the area after him. However, competing narratives regarding the nature of the beginnings of permanent settlement of Bortianor underlie how different claims to the stool are articulated. There are two families contesting the entitlement to the Bortianor stool based on different exposés of oral tradition.

The Solowe family version is that Bortianor was founded in the 17th century by four siblings, three brothers and a sister, who were on their way to hunt. One of them, Nii Kometey, of the Solowe family, became the chief. He created the town shrine (*gbatsu*) and settled close to it. People from other families moved into the area over time. Kometey later allocated a portion of land to Ofolisorlo (a blacksmith/merchant and stranger). Ofolisorlo married Kometey's only daughter, and this started the the Ofolisorlo family lineage in Bortianor. Several other families migrated to the area with the permission of Nii Kometey. Strictly, in terms of custom, only the Solowes' should be considered royals and priests; all other family units have no claim to the stool or the priesthood. The town shrine (*gbatsu*) on the Solowe family's compound is a major part of the evidence forming the basis of the Solowe family's claim to the stool and the priesthood (Interviews 21,41,61-2011).

The Ofolisorlo family narrative concurs that four siblings established the Bortianor settlement. However, they contest the legend that Bortianor was an empty space at the time. There were other family units in the area. Ofoli (Chief and merchant) appointed Kometey (Solowe), a farmer who settled in the area, to stay close to the shrine (*Gbatsu*) and perform priestly duties in his absence. This explains why the shrine is in an area that the Solowe occupy. According to this oral tradition, people of the Solowe lineage are the priests, not chiefs. Accordingly, the chief should come from the Ofolisorlo's lineage (Interviews 13, 29, 57-2011)

A third narrative seeks to explain the situation based on oral history. Oral history is based on what people have observed themselves whereas oral tradition is passed down through generations (Vansina 1985). Bortianor was founded by Nii Kometey. He allocated a portion to Ofoli who migrated from Manye (nowadays also on the outskirts of Accra). Ofoli married Kometey's daughter, Ofolioko, and they had a son, Mantse Komey, who became the first chief of Bortianor after the death of Kometey and the Solowe lineage continued thereafter. In the 1970's there were no Solowe heirs. Nii Kwei Arku I, of the Ofolisorlo family, was enstooled purportedly because he was educated. The death of Nii Kwei Arku I created confusion and conflict between the main family units, where each feels they have the legitimate right to the throne. (Interviews 21, 35, 41-2011)

The contested history underlies current claims to the stool. Nii Ogbaame I, a Solowe, was enstooled in 1993. Nii Kwei Arku V contested this from 1998 onwards, claiming that as an Ofolisorlo he is the rightful chief. The matter is further complicated by the Dsaasetse (King

maker), who claims that he is the acting chief, because tradition holds that in the event of a dispute, he should be acting chief.

5.2 Municipal and Local Tenure Institutions (Role players in the community)

Bortianor falls under the Ga South Municipality Local authority it acts as a decentralized body. The Ga South Municipality was carved out of the Ga West District in February, 2009 in pursuit of the government’s decentralization and Local Government reform policy as preserved in the Legislative Instrument (L.I.) 1867. The inaugural name of the district was Weija Municipal Assembly, but it was later changed to Ga South Municipal Assembly, with Weija as its capital (Ghanadistricts 2006)

In the customary system, Bortianor is a substool under the Jamestown paramountcy. However, it manages its own administration and affairs. Bortianor exists as an autonomous entity ruled by customary authorities who administer land tenure, with the chief acting as the overall custodian of the land.

Figure 2 depicts the institutional structure which comprises both traditional authorities and the local government. Bortianor elects a representative to the Ga South Municipality, popularly referred to as the Assemblyman. The Council of Elders is the stool’s highest decision making body. It is made up of the Chief (*Mantse*), Vice President (*Mankralo*), King Maker (*Dsaasetse*), Traditional Priest (*Wulomo*), Chief of Defence staff (*Shipi*), Queen, Head of Family (*Wekunukpa*), Commander in Chief (*Asafoatse*), Linguist and the stool’s Secretary.

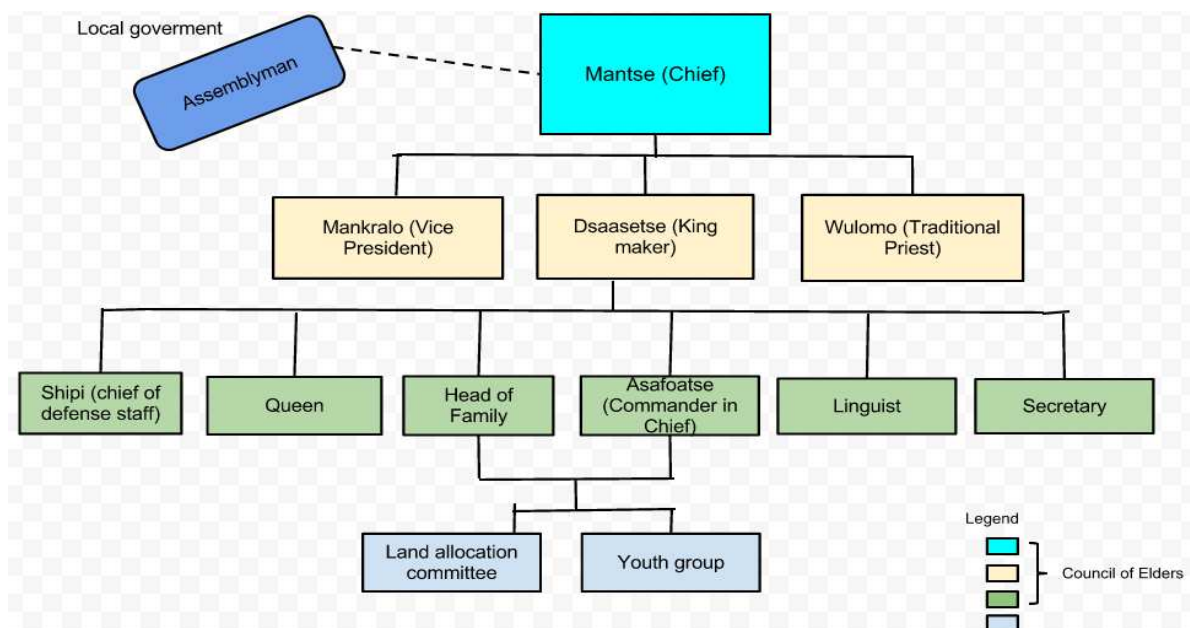


Figure 2: Institutional structure of Bortianor customary area

The Chief (*Mantse*) is the head of the entire community and acts as the custodian of the land. He also chairs the Council of Elders at meetings and serves as the final. The Mankralo acts as

the next in command when the chief is away temporarily; while the Dsaasetse is the king maker responsible for the installation of a new chief. In addition, he also acts as the chief during a chieftaincy dispute. The Traditional Priest performs priestly duties and takes care of the town shrine (*gbatsu*). In addition, he acts as the mediator between the gods and members of the community; while the Asafoatse acts as the chief commander during battles. The Shipi serves as the youth organizer and takes care of the stool land to prevent it from being misused or grabbed; while the Queen advises the chief during decision making (Interviews 8, 11, 14, 21, 29, 30, 41, 61-2011)

Head of Family represents the family heads of the various family units at council meetings, and also performs certain rituals during annual festivals. The Linguist acts as the mouth piece of the chief and relates messages between the chief and the people. For example, according to custom, in formal face to face meetings between the chief and another person, both the chief and the outsider only speak to the linguist who then relays the message. The Secretary maintains the local system land records and takes minutes at meetings. The Land Allocation Committee is constituted by selected elders from different families. They check land allocations and mediate between land seekers and the council of elders. The youth group is made up of leaders from the various youth associations in the community (Interviews 8, 14, 29, 41, 61-2011)

Holders of the above key positions are selected from the thirteen main families in the stool. Among these 13 family units, as per the history narratives above, the Solowe and Ofolisorlo are arguably the most influential families.

The Assemblyman (local municipal government representative), acts as the mediator between the community and the government. He is democratically elected as a representative of the Bortianor constituency. This position is unrelated to the customary system; he or she does not have to be a Bortianor indigene (Interview 1, 14 - 2011).

5.3 Contesting Political Power

Figure 2 portrays the social hierarchy in the customary system. The chieftaincy is the highest position/office in the community. The chief possess the ultimate power to act in the best interest of his community. He approves any land transactions and indentures must be signed by the chief in order to be registered. If there is a dispute over the installation of a particular chief, the Dsaasetse is mandated by customary law to manage the affairs of the community together with the council of elders.

In our fieldwork, we discovered land alienations to strangers were being approved, and the indentures signed, by all three “chiefs”; Nii Ogbame I, Nii Kwei Arku V, and the acting chief, the Dsaasetse. At the time, the Lands Commission had put a moratorium on registering indentures from Bortianor until the chieftaincy dispute had been resolved. In addition to interviewing key informants and influential people outside of Bortianor, thirty two interview sessions involving individuals, discussions involving members of a family group, and group discussions involving up to eight people from different households were held with people in

Bortianor who did not hold leadership positions (e.g. Chief, Priest, linguist, Shipi). Of these, four groups were strangers. The remainder were from what we were led to believe are the 13 main families in Bortianor. Exact figures are misleading, but approximately half of the groups indicated that there was no chief in Bortianor at the moment; they were aware of the dispute but were reluctant to be seen to support any of the contenders. One quarter asserted that Nii Ogbaame was the chief, a sixth mentioned the Dsaasetse and a tenth Nii Kwei Arku V. Strangers were especially reluctant to be seen to support any of the candidates. A common response was: “*We will know who the chief is when the Ga Traditional Council passes its judgment*”.

Some groups presented us with unregistered indentures signed by the Dsaasetse reflecting sales of land to strangers. Other groups presented which had been signed by the candidate that they claimed to be the rightful chief.

In addition to the contest over the stool, some groups alleged that one of the main factions and powerful individuals (that were opposed to their faction) were backed by national political parties and supported by the police and other government agencies. These same informants, whose evidence suggests were from an opposing faction, alleged that government officials collaborated in land grabs. One farmer indicated that he had lost all his family land as a result (Interview 8, 11, 61-2011).

5.4. Social Change, Conflict, Schism and Coalition Formation

Social change tends to be accompanied by conflict and competition over access to power and resources (Ritzer 2008, Fourie 1993). In theory confirmed in earlier work, far reaching, land related, social change is likely to be characterised by schism, solidarity and coalition formation. As part of internal conflict, coalitions may form and dissolve around particular issues and individuals may align themselves with more than one coalition; coalitions that may be in opposition over particular events. Opportunists or “entrepreneurs” are likely to manipulate the rules for their own benefit. Less powerful individuals will align with a coalition for survival purposes (Barry 2010, Barry 2006, Fourie 1993). We now discuss how we observed these phenomena in Bortianor.

5.4.1 Chieftaincy & Family Coalitions

The two men contesting the stool are supported by their family, and it appears that the main families show solidarity around the issue of the chieftaincy, although we did uncover evidence of members of one of the two main family units supporting the “other contender”. (He had no claim to land in Bortianor, but we did not establish a relation between this and his support for the other contender). There was also evidence of members of the eleven families outside of the *Solowe* or the *Ofolisorlo* lineages being divided on the issue (Interview 34, 42, 57, 64 - 2011).

The conflict situation has also suited the Dsaasetse who imposed himself as acting chief. There

is evidence from court documents of him using this position opportunistically to lay claim to land and dispose of land through the registration system without following the normal processes that are to be expected in the traditional customary system. A striking example is the palace case where communal land was used to build a large house (Case L 551/2000) and a large tract of Bortianor land (1,570.67 acres) was sold to Alrotech (a company of which the Dsaasetse was a founding director) and a government housing organization, Social Security and National Insurance Trust (SSNIIT) (Case L283/2003; Case BL 622/2004).

It emerged that some family members had split from their families and aligned with the more powerful factions to get land and power in the community (Interview 13-2011).

5.4.2 Economic Activity/ Occupation

Farming and fishing dominate the main forms of occupation in the community. The fishermen have their head, locally referred as the *Woleitse* who organizes and manages the fishing group in the community. The farmers on the other hand, inherit farm lands from their forefathers. Due to increased monetary value of land in recent times, families with few or no lands are alleged to collaborate with *land guards* to exploit lands from landholding families out of jealousy (Interview 32, 34, 36, 60 - 2011).

5.4.3 Youth solidarity

There is also solidarity among the youth groups in the community. This was observed through their union to farm, fish and organize social and sporting activities. It was mentioned by some youth respondents that, the attitude of their leaders and elders towards land use and management instigated their solidarity. Tenure rules have recently been introduced by the youth group to aid them benefit from their supposed inheritance (Interview 14, 38- 2011). There is very little agricultural land left in Bortianor, certainly not sufficient for a new farmer to make a living. Fishing, the other main economic activity, does not offer opportunities for all the people who would have been farmers when there was less pressure on the land. Unskilled illiterate youth have few economic opportunities available to them. One method of earning income was to form a group, manipulate the rules and claim ‘digging fees’ and ‘foundation fees’ from strangers, before allowing them to develop their land (Interview 14, 19, 40-2011). There was also evidence of individuals being part of youth coalitions which were poised in opposition to their family units over certain events some issues (Interview 14-2011).

5.5 Securing Land

It emerged that individuals and groups use a number of different strategies to protect their land interests. These ranged from group pressure and solidarity, creating permanent improvements, to outright violence. Official documents were not seen as particularly useful.

5.5.1 Permanent and Temporary structures

People indicated they would put a structure on their land to dissuade others from doing the same to grab what they claimed to be their land. These include but not limited to, digging a foundation, building walls, dumping building sand and other materials and erecting reinforced concrete pillars on their land. Any bare land without improvements was at risk of being sold to strangers by factions aligned with one of the two chiefs or the Dsaasetse. Even possession of an indenture, a registered deed, did not deter land grabbing, and so building improvements was seen as the primary strategy to protect ones interests (or lay claim to someone else's land). They would also patrol their agricultural land and demolish any structures that appeared there surreptitiously (Interviews 1, 8, 31-2011)

5.5.2 Documentation

Our data collection indicated that indigenes did not have a land title certificates. Even though some informants claimed to have them, they did not present them to us. However, some respondents showed copies of indentures prepared for strangers. It appeared to be very difficult for a family member to register their land, even if they desperately wanted to. One couple implied that an indenture might offer protection against their land being sold by elites in their own family. They were powerless to challenge the group in order to get one, and consequently they were landless (Interview 36-2011). Others did not see them as useful; at least they did not express this openly in group discussions. Common responses were: "our forefathers whom we inherited from did not possess any documents"; "Indentures are only prepared for strangers who want to acquire land and not indigenes". In other words, in terms of the customary system, members of the community do not need registered documents (indenture) since their inheritance and land allocation is common knowledge in their family. Witnesses who would support them in the event of a dispute were important. Groups indicated that the testimony of family, neighbours and other witnesses as to their long occupation of their land and the positions of boundary stones were crucial in forcing away people who had appeared from nowhere and had claimed they owned their land. (Interviews 8, 11- 2011)

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

Apart from the formal court system as an avenue for resolving land disputes, land guards who are armed and well-built men from northern Ghana are hired by landholders to guard land and to drive people of what they claimed was their property. Strangers who had bought land often had to use guards to protect their interests. Land guards were also hired to grab land. Some respondents revealed they were fortunate to have strong siblings and family coalitions who would answer a call to arms to fight off groups of intruders who had attempted to grab their land by force. People had been killed in some of these conflicts. However, vulnerable families lost their farms and even well organised family groups claimed to have lost much of their land (Interview 60- 2011).

"I used to farm 700 acres but now the land guards took 690 acres, so now I have very small land to farm" (Interview 11-2011)

6. FINDINGS/ EMERGING THEMES/ LESSONS LEARNT

The case study confirmed findings reported in the literature related to:

6.1 Multiple sales of land

Respondents indicated incidents of multiple claims to a piece of land. The sale of the same of land could be intentional or non-intentional in the sense that, amongst other causes. Officials attributed multiple sales to poor record keeping; a new chief, for example, might be unaware that the previous chief had already sold a piece of land (Interviews 1, 3, 4, 6, 16- 2011). As noted earlier a prominent land professional indicated that the causes are multifarious (Interview 46-2009)

6.2 Forced land sale

It was gathered that, indigenes especially farmers, with plots of land are selling off their lands to strangers to earn some money in order to avoid losing it to land guards/ grabbers (Interviews 4, 60-2011)

6.3 Pressure to develop land (urbanization)

External forces such as urbanization and quest for development have affected the local tenure system. For instance, customary rules which prohibited the sale of lands have now been modified to accommodate developmental needs. Lease agreements stipulated in the indenture, have conditions which forces buyer to develop their land quickly (i.e. 6 months to 2years). The seller may reclaim the land if is not developed (Interview 61- 2011).

6.4 Registration used to annex land

Issuing of land title certificate by the Lands Commission aims to protect and secure land rights. However, powerful local elites in collaboration with outsiders have used the registration system to register communally owned/stool lands under their name and their private companies. In addition, there were low levels of knowledge and registration about registration procedures, (50% of the people in the 32 interview/discussions with people in the field indicated that they are illiterate). In effect, customary rules and the land registration system are being manipulated by elites for personal gains. Obtaining indentures and subsequent registration are viewed by indigenes as a thing for strangers; they had no access to these (Interviews 8,60,61-2011)

6.5 Chieftaincy disputes affects development

Formal development planning is effectively frozen due to the contested stool; all three actors have to agree and sign off on a development plan. However, doing so would recognise the claims of the other chief, and so plans seldom get the necessary signatures. A development planner expressed his frustration with the procedures to get consent from all three chiefs

before proceeding with any developmental project (Interview 14- 2011)

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

An interview with some key informants revealed that, land sales in the community are necessary to pay for religious rituals. In his words, items such as cows, schnapps, sheep, goats are required for each god. Therefore, there is the need to sell some of the community lands in order to afford such expensive ritual items (Interviews 21, 41, 61-2011)

7. CONCLUSIONS

Behaviours and land use patterns observed in Bortianor confirm much of what is reported in the literature on peri-urban land tenure in Ghana and elsewhere (e.g. Barry 2008). Customary agricultural land is being converted into residential private holdings. Farmers who lack the skills to engage in other economic activity are losing their livelihood, and customary notions of communally held land have changed drastically to the benefit of a few. The case supports the components of social change theory relating to land tenure change. The following observable patterns emerged from the case study: conflicts over access to power and resources; patterns of schism, solidarity and coalition formation around particular phenomena; manipulation and change of long standing rules to consolidate power and access to land and entrepreneurial opportunities; and opportunistic grabbing and sale of land which conflicts with the ethical behavior expected under the customary system and the constitution. Contested chieftaincy, underlies much of the land related problems and the manifestations of social change that are emerging in the case. The uncertainty allowed an individual to step into a position of power and sell off much of the land, often without the knowledge of people on the ground. The formal court system is being used to address some of the conflicts, and there has been a criminal case involving one of the three main actors, but court cases are a long expensive process. However, it is a system that many in Bortianor cannot access.

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