

## Ownership and Access to Land in Urban Mamprugu, Northern Ghana

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### Abstract

This paper explores land ownership and access to land in the urban areas of Mamprugu in the Northern Region of Ghana. An overview of the system of land ownership and access in the rural areas for both residential and agricultural purposes has been used as a background for the understanding of the changes provoked by urbanization. The information used was qualitative through key informant interviews, observation and group discussions. The study revealed that land ownership and access in the traditional rural context was often in tranquility and rarely encountered conflicts. Occasional conflicts arising from the traditional rural arrangements were often easier to resolve. Also, the financial costs have been considered to be within the means of the average family or household in the locality. However, it was observed that access to land by women in the traditional framework subtly deprived women because of the patrilineal system of inheritance and the role assigned to women by the society. In the urban context, land ownership and access is in transition with a combination of traditional and modern institutions in land administration for residential and public infrastructure purposes. The study observed increasing incidence of land disputes in Mamprugu as urbanization progresses. It is recommended that the three district assemblies in Mamprugu in collaboration with the traditional authorities initiate a joint programme to address causes of the emerging problems in the few urban settlements. A successful handling of the problems of land administration in the few urban settlements would serve as gateway to urban land administration in future emerging towns and cities in the traditional area.

### Introduction

The problems relating to ownership and access to land for residential, social and business purposes in urban Mamprugu<sup>3</sup> appear to have increased over the past decade. Since the return of most lands in the Northern Territories to the skins,<sup>4</sup> the scramble for land by chiefs/skins land ownership and families' ownership of land, has affected access to land in urban communities in Mamprugu. Before 2000 in Mamprugu, because land was relatively abundant in the area, perhaps, the need did not arise to clearly draw the lines between allodial and usufructuary land ownership. With urbanization and the absence of such clear distinctions, indiscriminate sale of land has affected access to land and raise question marks about the ownership of land.

There is no doubt that land is one of the most critical resources in Mamprugu as in many parts of Ghana and West Africa. It has also been one of the most contested resources in Africa, setting individuals and groups of people against one another and even against the state (Abdullah and Hamza, 2003; Lentz, 2006, Lund, 2006; Ubink, 2008). Thus, disputes over land in urban communities have become a common phenomenon.

There are many studies in other parts of Ghana with respect to land tenure system, but little empirical studies is conducted in the Mamprugu traditional area. Although various studies have been conducted on land in northern Ghana, e.g. Kasanga (2003) on "*Land Resource Management for Agricultural Development*", the emerging issues of concern in access to land in urban communities in Mamprugu is not highlighted. Anecdotal evidence gathered indicates that access to land in urban communities has become the most contested issue against the background of double or multiple sales of land to different people, leading to internecine disputes and struggle for land.

This study sheds light on the situation of ownership and access to land in Mamprugu in the wake of increasing population, urbanization and the resultant pressure on land for domestic, industrial and agricultural purposes. Specifically, the paper examines traditional ownership and access to land in the study area, focusing on types of land available for residential and agricultural purposes and access to land in urban communities for residential and industrial uses. The paper finally examines the issue of land disputes and how they are resolved.

### Methodology

The research was designed to involve much field research as well as literature review. For the field research we

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<sup>3</sup> Mamprugu is the traditional area of the Mamprusi in the Northern Region of Ghana. Currently, it is coterminous with the East and West Mamprusi Districts plus Bunprugu-Yonyoo District.

<sup>4</sup> Since the promulgation of the Land and Native Rights Ordinance of 1927, all lands in the Northern Territories were declared native lands and placed them under the Governor (Lund, 2006).

employed primarily qualitative methods of gathering the information. This included mainly interviews, observations, and focus group discussions. We also witnessed hearing of land disputes cases at the chiefs' palaces at Nalerigu, Walewale, Gambaga, and Wungu. To account for substantive geographical, administrative differences in terms of urban, cultural, gender, family norms, and customary land practices, as well as economic and domestic activities based on different demand and pressure on land with regard to urban settlements in the context of a restricted budget, the research was carried out in two (2) of the three (3) districts of Mamprugu<sup>1</sup>. Selected sub-chiefs and elders of Mamprugu were interviewed as key informants on traditional land ownership and access in Mamprugu in general. Selected members of staff of the Town and Country Planning offices at Walewale and Gambaga were also interviewed. So were land owners, 'land traders' and those ever involved in land disputes.

Semi-structured interviews were held with the chief of Walewale and his elders as well as elders of the Nayiri at Nalerigu. Also, two (2) heads of family in each community, who owned land and are noted for their involvement in land transactions in recent times from the two towns were identified with the aid of opinion leaders and interviewed. In addition, two land buyers each from the two towns were also interviewed. These interviewees served as key informants given our limited resources and time available. The responses from these interviews were compiled and scrutinized to decipher the relevant issues for the discussion of the thrust of this study.

#### The Study area

According to Brown (1975) and Tonah (2007) the exact frontiers of Mamprugu are difficult to delimit. Currently, it connotes the East Mamprusi District, the West Mamprusi District as well as the Bunkprugu-Yunyoo District all in the Northern Region of Ghana. The study was specifically conducted in the first two (2) Mamprusi Districts which occupy a total land area of about 8,936 km<sup>2</sup> (East Mamprusi is about 3,037km<sup>2</sup> while West Mamprusi is about 4,899 km<sup>2</sup>). The estimated population for 2007 was 174,824 for East Mamprusi and 115,015 for West Mamprusi. This means that the area has a population density of about 32.4 persons per Km<sup>2</sup>.

The Mamprusis are the predominant ethnic group in this area but there are significant populations of other ethnic groups such as Bimobas, Builsas, Busansi, Chakosi, Dagomba, Frafra, Fulani, Hausa, Kassena, Kombas, Konkomba, Kusassi, Mossi, Tampilunsi and some few Ewes and Akans (Drucker-Brown, 1975). Despite the diverse nature of the Mamprusi society, the rural communities are relatively homogenous. Another important feature of the society is the prevalence of patrilineality, in which inheritance, including land follows the male descent group (Abubakari, 2008).

Using the Ghana Statistical Service definition of urban settlements, only five (5) towns in the two selected districts can be described as urban using data from the 2000 Population and Housing Census. These towns with their respective populations are: Walewale – 13,558; Nalerigu – 10,698; Gambaga – 7,887; Langbensi – 6,636; and Janga – 5,054 (Ghana Statistical Service, 2005). The two (2) largest towns – Walewale and Nalerigu – were chosen for the case studies because it is expected that the larger the town, the greater the challenges to land ownership and access. Walewale is the capital town of the West Mamprusi District while Nalerigu is in the East Mamprusi District and is the traditional capital of Mamprugu, though not the capital of the East Mamprusi District. Mamprugu is one of the traditional centralized political kingdoms in northern Ghana and the ultimate authority rests with the Mamprusis although members of the other ethnic groups play delegated and supportive or supplementary roles in traditional governance (Drucker-Brown, 1975). The kingdom also enjoyed the support of the colonial authorities, especially during the Indirect Rule system when other smaller ethnic groups were brought under the Mamprusi kingdom (Illiasu, 1975; Schlotner, 2000). This also enhanced the power of chiefs and their control over land.

The main economic activity in the area is agriculture. The common crops cultivated include; cereals (such as maize, millet, sorghum and rice), vegetables (like tomatoes, pepper and okra), tubers (mainly yam, cassava and sweet potatoes) and legumes (such as groundnuts, beans, bambara beans, and soya beans). Livestock such as sheep, goats and pigs are reared in small quantities and on free or semi-free range while cattle are entrusted to Fulani herdsmen for rearing (Abubakari, 2008).

#### A brief overview of Traditional/Customary land management in Ghana

The literature on land studies on developing countries, in general, and Ghana in particular indicates the important role of traditional authorities and customary institutions in the management of land (see Deiniger, 2003; Kasanga, 2003; Kom, 2003; Mensah, 2003; Nukunya, 2003; Bebelleh, 2007; Cotula, 2007). Mensah (2003) for instance notes that, the institution of chieftaincy is the largest land holder in Ghana, while Kasanga (2003) found among the Mamprusis, Dagombas, Gonjas and Nanumbas in the Northern Region that, the allodial title is held by Skins and there is effective delegation from paramount Skins to divisional and village Skins. Kasanga's findings contrast with the case of the Upper East and Upper West regions where allodial titles are rather held by traditional land priests (*Tindambas*).

In a similar vein, Nukunya (2003) observes traditional land ownership in Ghana from the angle of the descent

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<sup>1</sup> The two selected districts are East and West Mamprusi Districts. The third district (Bunkpurugu-Yunyoo) was not part of the selected districts.

group system, where he notes that, as a rule, land is vested in descent groups in Ghana. He went further to assert that in most centralized political societies in Ghana, land that is not vested in descent groups is entrusted to the king or chief who administers it on behalf of his people. Allodial title may emanate from discovery, settlement, inheritance, conquest, gift, purchase and/or a combination of two or more of these as identified by Kasanga (2003). Kasanga's (ibid) findings corroborate the findings of Delville (2007) on customary land management institutions in West Africa. In the study titled, *Changes in 'Customary' Land Management Institutions: Evidence from West Africa*, Delville (ibid) outlines a number of factors that guide customary land access in West Africa. These factors according to him include; primacy of first occupants, community/lineage membership, rights secured through labour and continuous use, status (nobles/commoners/captives; founders/allies/outside), age (elders/youths), gender (men/women) among others. This assertion implies that preferences and privileges are granted to some categories of people over others. In all circumstances, the vulnerable groups such as strangers, commoners and women are the less privileged.

Kasanga (2003) indicated that a stranger who wishes to settle is required to ask for permission from the chief, and then ask any landholder for land as a gift or on some contractual basis. However, Kasanga (ibid) also noted that under customary land management there are usually no written covenants as to how the land should be used, developed and preserved when allocated to investors or developers. But customary land management is not absolutely devoid of covenants as there are sometimes oral agreements regarding land use, including the observance of certain taboos and conventions and offer of spiritual sacrifices.

An important observation in the literature is the highlight of the limited access to and control over land by women. According to IFAD (1998) decision making on land at the community level in the Upper East Region of Ghana tends to be dominated by male chiefs, *tindanbas*<sup>1</sup> and elders or heads of clans. That when women access small plots for agriculture, they are usually the farthest from home and the least productive and labour access places constraints on their access to land. Furthermore, the report noted that unmarried women seldom have access to land. Quan (2007) also noted that women's land rights and tenure status depend basically on their dual identities as sisters in their families of origin and wives in their families by marriage. Quan (ibid) explains that as both sisters and wives, women are often regarded as not directly responsible for the provision of resources for family needs, and hence, their marginalization in land resource allocations.

#### Land Management in the Urban Context in Ghana

As a society progresses to a higher level of socio-economic development, the proportion of people who live in urban centres and cities increases. The proportion of Ghanaians who live in urban areas has increased from less than 10 percent in the 1920s to over 30 percent in recent times (Yankson, 2003). Cotula and Neves (2007) asserted that population pressure is increasing in much of Africa and competition for land is rising as a result. They further indicated that urban settlements are fast growing, crowding-out agricultural land and attracting the youth from rural areas. Kasanga (2003) also noted the conversion of peri-urban agricultural lands into housing estates and related urban uses because of rapid urbanization in Ghana. But Yankson (2003) observed that land delivery for residential purposes is very slow and demand far exceeds supply resulting in hikes in land prices and thus constraining urban growth and development. Therefore, it has generally been acknowledged that urbanization results in the appreciation of the economic value of land.

Increases in the value of land often compel land management institutions to undergo transformations (either consciously or unconsciously). Cotula (2007) indicated that many African governments have sought to replace customary land tenure systems with a modern system of property rights, based on state legislation on ownership and land titling and registration because of the notion of insecurity of the customary tenure system. Most urban areas in Ghana are declared as planning areas and by that, the owner of any land there cannot use it except in compliance with a scheme of development approved by the Town and Country Planning Department and upon issue of a permit allowing a particular mode of use (da Rocha, 2003). Mensah (2003) asserts that land resources in Ghana are gradually moving from the religious and superstitious regime and acquiring the status of pure economic commodities, hence, the institutional framework within which lands are managed will also have to change.

Ubink (2008) analyses the effects of commoditization of land and the increasing value of land that drives chiefs in peri-urban Kumasi to converting agricultural land use by their people into residential land. Ubinka (ibid) observed that land is sold out to outsiders and the revenue accrued from the sale does not benefit the farmers and the communities. Thus, the people are dissatisfied with the sale of the land but are often unsuccessfully tempted to resist the sale of their farmlands by the chiefs. She identifies the key functions of the chief as: dispute settlement, ensuring peace, community participation and physical development, land management and celebration of traditional festivals (Ubink, 2008).

These observations are in line with those of Cotula and Neves (2007) that urbanization has implications for land use and tenure because agricultural land may be converted to residential use. Also, that customary land tenure systems may be eroded and more individualized arrangements emerged. Delville (2007) also acknowledges the

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<sup>1</sup> *Tindanbas* are the land priests.

mix of customary and modern land management institutions where by chiefs, religious authorities, local government bodies, judges, community committees and central government land institutions may claim legitimacy to exercise land management responsibilities. Interestingly, Delville (ibid) noted that these institutions rely on different norms, and are without a clearly defined relationship or hierarchical order the result of which is non-predictability in dispute resolution and uncertainty with regards to the application of norms.

Nevertheless, Delville (ibid) also did acknowledge that in some cases, multiple institutions find ways of co-operating to create hybrid regulatory frameworks. The author further noted that in Tamale, for instance, regulating urban development is the responsibility of the local government authority but customary institutions maintain control over land access because they have a legally recognized role under land legislation in Ghana. On the other hand, the instances of unfair interplay between modern state officials and locally legitimate private stakeholders of land have also been noted. Some officials of government bodies sometimes act dubiously but do so in the name of the legitimacy enjoyed by the state agencies (Delville, ibid). But Mensah (2003) observed that since the institution of chieftaincy is the largest landholder in Ghana, most of the constraints to land utilization can be traced to chieftaincy.

Therefore, problems abound in land delivery for development in Ghana, especially in the urban areas. Yankson (2003) outlines some major issues of land delivery in the urban areas in Ghana as: protracted litigations due to difficulties in proving titles, boundary disputes between those allotted land and between skin/stool land owners, encroachment on vested lands and controversial site plans; delay in perfecting titles; poor record keeping; uncertainty in the plans of developers/investors; undeveloped land held by individual institutions; high land and development cost; speculation in land as a hedge against inflation, among others.

Kasanga (2003) also acknowledged the problem of poor support services for land delivery in Ghana and identified problems such as inadequate qualified personnel, constrained transportation facilities, insufficient office space and obsolete equipment. This assertion is supported by Cotula (2007) that the problems of enforcement of modern systems of land delivery in Africa emanate from lack of resources and institutional capacity in government agencies, lack of legal awareness and lack of perceived legitimacy of official rules and institutions. As observed by Deininger (2003) sharp changes in land values without adequate improvement in institutional support lead to increases in the potential for conflict. Atteh and Tonah (2007) indicated that multiple sale of land is not uncommon in Bortianor in the Greater Accra Region of Ghana following astronomical increases in the value of land and the perception is that the chiefs and some officials of the Lands Commission are responsible for these anomalies.

Bebelleh (2007) reports that Ghana adopted a National Land Policy in 1999 with the aim of addressing land problems of demarcation and boundaries, equitable access and secure tenure systems through the participation of all stakeholders in land administration. Also, that the Land Administration Project is Ghana's first national programme to operate in the context of the 1999 National Land Policy which seeks to enhance the capacities of the formal institutions and collaborate with traditional authorities in land administration. This project (which is currently under implementation) has a component of institutional innovation that supports several traditional authorities to set up Customary Land Secretariats to enhance their capacity to manage lands (Bebelleh, ibid; Delville, 2007). Against the background of the challenges in land delivery for urban development, the National Land Policy in general, and the Land Administration Act, in particular, is crucial for Ghana's development.

In sum, the highlights of the literature may be categorized into four main issues associated with or as a result of urbanization in Ghana. First is the significant appreciation of the value of land with the resulting outcome of land now being a saleable commodity. Second is the establishment and transformation of land management institutions to cope with the demands of urbanization which requires documentation of property rights. Thirdly, the weaknesses of these land management institutions and the resulting conflicts and associated problems which impede access to land for urban development. Finally, Ghana has embarked on a National Land Policy aimed at addressing the challenges of land delivery (including land delivery for urban development).

As indicated by Cotula (2007) the relative importance of the factors of change in land ownership and access (including the institutional arrangements) varies across and within countries and the implications of similar changes in different contexts of land tenure are also likely to vary. It is in this context that this paper is of relevance because it fills a knowledge gap and the findings could also be useful to policy for addressing land problems, especially in Mamprugu. In the next section, we discuss the empirical issues on traditional land ownership and access (as pertaining to the rural setting) as well as the relevant issues of land ownership and access pertaining to urban settlements in Mamprugu. This is aimed at illuminating the contract between the relatively peaceful land management system and the urban land management systems characterized by relatively frequent conflicts.

#### Discussion of Results

##### *Traditional Land Ownership and Access in Mamprugu*

According to the key informants interviewed, all land in Mamprugu generally belongs to the *Nayiri*<sup>1</sup> (paramount

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<sup>1</sup> The *Nayiri* is the King of the Mamprugu traditional area.

chief of Mamprugu traditional area) who holds it in trust for the people. However, the *Nayiri* delegates this responsibility to lower paramount chiefs/divisional chiefs and town/village chiefs under his authority. For instance, the chief of Wungu as a lower paramount chief under the *Nayiri* has jurisdiction over a certain area spanning several scores of settlements in the West Mamprusi District (including Walewale – the District Capital). But Walewale is under the direct jurisdiction of the chief of Walewale who is accountable to the chief of Wungu who in turn is answerable to the *Nayiri*. These findings corroborate and confirm the assertion of Kasanga (2003) that land ownership among the centralized political states of the Northern Region of Ghana is effectively delegated by the traditional authorities. This level of land ownership could be described as land ownership at the macro level in Mamprugu.

At another (micro) level most lands that have ever been cultivated or settled on belong to a family or a clan. Such ownership usually emanates from an individual or a family's ability to become the first known party to cultivate or settle on such pieces of land. When an individual or a family settles on or cultivates a virgin land, the individual or family owns the land at the micro level. After one or several generations of individual or family ownership, the land usually would belong to a clan as several families may trace their lineage to the initial individual or family owner. Like the case of the macro level above, all key informants were unanimous on this principle. A piece of land owned as result of first cultivation is referred to as "*Kpakyo*"<sup>1</sup> in Mamprugu.

The informants and group discussants further indicated that the rest of the (virgin) land belongs to the *Nayiri* and any person who intends to cultivate any part of it must first seek permission from the chief under whose immediate jurisdiction the land is. Usually, about 12 or 22 nuts of kola are presented to the chief<sup>2</sup> in the course of such a request. This procedure for accessing agricultural land applies to all persons irrespective of their status as men or women, old or youths, and natives or settlers. Since by principle the *kpakyo* is acquired through cultivation of a virgin land, at the individual, family and clan levels land can be owned by both natives and settlers. There are also no overt rules that bar women or strangers from such ownership. However, the *Nayiri* or his delegated authority still maintain the macro level ownership of even the individual/family/clan land and reserve the right to freeze such micro level ownership whether it involves natives or settlers/strangers.

Land ownership in Mamprugu tradition may therefore be classified at two (2) levels – the first being where the chief owns all the land, and the second is where individuals, families and clans own part of the total land of the kingdom. But ownership of the latter is still subject to the oversight of the chief and can be withdrawn even though the circumstances upon which such a withdrawal of the right to ownership seldom occur. Even when they do occur, the sanctions are not applied until all available channels for appeasement and amends are exhausted.

#### *Land Access for Agriculture*

The research found that, access to agricultural land can be acquired in two ways; (a) by clearing a virgin land and (b) access to *kpakyo* (obtaining land from land owners for an agreed number of years).

#### Access through clearing of virgin land (yo silli)

All the respondents indicated that by tradition land access for agriculture purposes can be obtained only through the chief if it is a virgin piece of land. This type of land can only be obtained by clearing a virgin land that has never been cultivated before. The person wishing to acquire such a land needs to go to the bush and identify the land. After this, he/she sends some kola nuts to the chief to express his/her intention to cultivate the land. After granting of permission by the chief to clear the land, the person goes ahead to clear the piece of land based on his ability and the availability of that virgin land.

However, most of the respondents acknowledged that, virgin land has become difficult to come by. They claimed that one needs to travel, at least 20 to 30 kilometers<sup>3</sup> before he can reach a virgin land. Due to population expansion and the pressure on agricultural land, virgin lands have become increasingly scarce.

#### Access to *kpakyo* (land previously cultivated)

But in case of land that has ever been cultivated, the owner at the micro level has to grant permission for its usage. Granting such permission by the individual, family or clan for agricultural purposes does not require endorsement by the chief. Seeking such permission requires a presentation of token gifts usually in the form of 12 or 22 nuts of kola like the case of seeking permission from the chief. It is remarkable to note that the responses from the interviews suggest that even chiefs usually observe this protocol with individual land owners and family heads before using their lands.

If access is through one's own family, permission is sought from the family head (who in consultation with other relevant elders of the family) grants permission for the use of the land. Seeking permission in such a case does not usually involve the token gifts of kola as described above. Permission for the use of land for agriculture may be time bound when granted to a party outside the family, but for those within the family permission may be granted indefinitely. But it is usually expected that the family member (user) will at a point in time allow the land to fallow when it loses fertility, and after a reasonable fallow period other members of the family would

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1 *Kpakyo* is a piece of land that has been cultivated before.

2 The *Nayiri* or any sub-chief under whose jurisdiction the land in question is needed.

3 This is the average distance between Walewale/Nalerigu (the urban communities) and the nearest virgin land.

have the right to use the land.

In modern times, the token gifts of kola nuts involved in land access may also include a token amount of cash or some alcoholic drinks. Furthermore, the responses indicate that the quantum of such gifts expected from the land owner depends on factors such as the size of land requested and the status of the person making the request. For instance, strangers will usually be expected to offer more gifts than permanent settlers who are also expected to offer more as compared to natives.

The case of a stranger who is not permanently settled is special and his use of the land is regarded as temporary. Therefore, the principle of “*kpakyoo*” does not usually apply to strangers who are not permanently settled even when they cultivate virgin land. The chief often grants such permission for a limited number of seasons and access is usually renewed upon request. The terms strangers and settlers are with reference to those from outside the specific community within which land is sought (irrespective of whether the persons come from within or outside Mamprugu).

In the case of natives, settlers and strangers (who are not permanently settled) homage in the form of a token portion of the harvest is expected at the end of the farming season. Hence, all these categories of people have access to land for agriculture except that it appears there is slight variation among them. Natives tend to have easier access than settlers who also have easier access than strangers who are not permanently settled. The variations in accessibility levels to land as revealed above confirms the assertion of Delville (2007) that customary land access is usually guided by factors like community lineage/membership, labour and continuous use, and status.

It was observed that, access to *kpakyoo* (land previously cultivated) for agricultural purposes has remained the largest option available for majority of people in urban communities. This was because *yo silli* (virgin lands/land never cultivated) have become difficult to acquire due to their distance from home, as well as requiring enormous physical and financial resources to cultivate.

The research also revealed that, urban farmers and women prefer *kpakyoo* to *yo silli* because the former lands are easier to cultivate and may be obtained within a reasonable distance. Many of these urban farmers do part-time farming or farm as a hobby, and therefore need the type of land tractors and bullocks can be used to plough. Also some of these farmers prefer to engage the services of casual labourers (by day) and when the farm is far away from home, it is difficult to get these casual labourers.

#### *Land Ownership and Access by Women*

From the responses of key informants and group discussants, it appears there is no open discrimination against women regarding land ownership and access. Nevertheless the conditions under which land can be owned as outlined earlier in the context of the general culture of the society of Mamprugu subtly precludes the women from land ownership. By convention, women’s role in agriculture is normally confined to assisting their husbands and male relatives in planting, harvesting and marketing of farm produce (Bonate, 2003). When women engage in cultivation, they do it for their personal farms, and it is usually for vegetables such as okra and African spinach (*biri*). In recent times, women in Mamprugu have also been engaged in the cultivation of groundnuts and cowpea but the general observation is that virgin lands are not suitable for all of these crops. There are also isolated cases where some women cultivate grains (such as maize, millet and guinea corn) which require more fertile lands and thus virgin lands could be suitable. But women rarely go for virgin lands. They usually cultivate already used lands because virgin lands are more difficult to cultivate. Virgin lands require relatively more capital and physical exertion, apart from being distant away from home.

When women cultivate virgin lands (under rare circumstances) the ownership would normally not go beyond a generation because of the leadership status of men over women. After the passing away of the woman, such land will belong to a family which is always headed by a man. These findings confirm that of IFAD (1998) that labour access places constraints on women’s access to land in the Upper East Region of Ghana. Since women have little or no control over the labour of their sons in Mamprugu, they rarely employ their hands for the cultivation of virgin lands. It is the husbands who have authority to use the labour of their sons. The findings further confirm that of IFAD (ibid) that decision making on land at the community level is dominated by males the outcome of which is the hindrance of women’s access to land. When women engage in agriculture, they are usually constrained to less fertile lands offered by the families of their husbands or fathers.

#### *Conditions under which one can lose an agricultural land*

The research found out that, there are certain conditions under which one can lose land for cultivation. Some of the reasons for which ownership at the micro level can be frozen by chiefs include:

- Protracted disputes over the same piece of land by two or more parties;
- Acts committed by the owner(s) of a piece of land that leads to his or their permanent banishment from the community;
- Breach of rules regarding the ownership of the specific piece of land (eg., the refusal to: observe sacred groves such as, pouring libation or provide the means for this ritual if it is required, or pay homage to the chief);
- For a *kpakyoo* cultivated by a non-family member, the land owner(s) may decide to collect back the

land for their own use;

- If the land owner(s) have any cause to believe that, the tenant uses bad methods of farming (felling or burning of economic trees such as shea trees, dawadawa trees, etc) that can destroy the land quickly.

### **Land for Residential Purposes**

For residential purposes, potential land seekers may want land within an existing settlement or a new settlement. The information from our field reports suggest that in the case of the latter permission is sought first from the chief after or before the identification of the site. If it is a virgin land, the chief can go ahead to grant permission. But if it is a land that has ever been cultivated and designated *kpakyo* then permission is sought from the individual or family owner before the chief's approval. Seeking permission from the chief and individual/family land owners require the offer of similar gifts as outlined earlier under access to land for agricultural purposes. But the gifts may be higher in value than those for agricultural purposes. Also, wider consultations and more careful considerations are usually carried out because of the political implications as the questions of leadership, homage and the limits of autonomy or independence of the settlement arise. Thus, the chief under whose immediate jurisdiction the land falls would usually seek the consent of the higher authorities through to the level of the *Nayiri* before granting such permission.

The most common phenomenon is the development of houses within already existing settlements. In this case, the land seeker may identify a site and find out the owner. He/she may also approach the chief or individual/family land owners to help identify a suitable site. Again, the chief can grant permission if the land identified has never been cultivate, being cultivated or a former settlement (*daboo*). But if the site is a former settlement, farm or ever cultivated land the chief would seek the consent of the family concerned before granting the permission.

Apart from instances where sites are former settlements, the quest for residential plots takes precedence over agricultural purposes and thus the chiefs would usually overrule and grant permission for development even if the family objects. Permission seeking by prospective developers involves similar gifts as outlined earlier. In general, the informants admitted that requests for residential purposes are considered more critically than those for agriculture. This is because the right to use agricultural land is less permanent than that for residential land. It was also indicated that whereas land for agricultural purposes could be granted by families to other users without seeking approval from the chiefs, permission for residential purposes cannot be granted without the approval of the chiefs.

It was observed by the key informants that these arrangements with regards to land access rarely encounter significant problems. Rather, it has been characterized by peace in spite of occasional conflicts which are often easier to resolve. Also, the financial cost has also been considered to be within the means of the average family or household in the locality. Hence, the financial cost of land access for housing in Mamprugu within the original traditional framework can be described as non-prohibitive to the residents of the area.

#### *Situation of Land in urban Mamprugu*

The discussion on land ownership and access in Mamprugu in the previous section is more or less applicable to the typical traditional set-up where only traditional institutions are involved in land ownership administration. This situation is reported to prevail in all the rural communities and one or two of the urban areas which have not yet been declared as planning areas. With urban development, the rise in demand for land in the two largest towns of Walewale and Nalerigu for residential purposes has led to the appreciation of the value of land. Besides, the declaring of these places as planning areas by the district assemblies imply that land ownership and access procedures could vary from the typical rural areas with only traditional institutional framework in land administration.

By the definition of the Ghana Statistical Service, there was only one (1) urban settlement (Walewale) in Mamprugu as at 1970 with a total population of 5,302. By 1984, the number of urban settlements increased to three (3), namely Walewale, Nalerigu and Gambaga with populations of 7,900, 7,546, and 5,771 respectively. As at 2000, the number increased to five (5) urban settlements. These included Walewale – 13,558, Nalerigu – 10,698, Gambaga – 7,887, Langbensi – 6,636 and Janga – 5,054 (Ghana Statistical Service, 2005).

Due to the relatively high pressure over land for residential purpose,<sup>1</sup> what pertains in the urban areas is becoming increasingly different from that of the rural areas. This study involved some case studies of the two (2) largest towns namely, Walewale and Nalerigu.

#### *Types of Land available for Residential Purposes*

The urban communities in Mamprugu were small towns in the past three decades. During this time, people had their back yard farms (*kukoku*) around their home and close to their communities. In recent times, Walewale for instance, has expanded not only to cover all the back yard farms, but also sprawled to engulf the nearby villages. As the towns grow, people continue to lose their farms and there must be some sort of compensation either in kind or in cash. The processes of acquiring a land to develop and the sort of compensation to be paid vary from

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<sup>1</sup> Residential purposes i.e. building a house, school, mosque/church, hospital/clinic, etc.

one individual to another depending on the persons' social status, and relationship to the land owner.

The research found out that, there are three types of land one can access for any residential uses. These include; skin/family land; abandoned home (*daboo*) and land acquired for resale.

#### Skin/family land

These are lands that belong to the skins, and were first cultivated by individuals who became "pseudo land owners"<sup>1</sup> by virtue of being the first to cultivate that piece of land. As we shall see later in this study, this type of pseudo land ownership is a major source of conflict between the chiefs and the 'land owners'. Any person who wishes to acquire this type of land for building must seek permission from the individual or family owner before the chief's approval. Seeking permission from the chief and individual/family land owners require the offer of similar gifts as outlined earlier under access to land for agricultural purposes. But the gifts are often higher<sup>2</sup> in value than those for agricultural purposes, because building on the land may forever deny the land owners the opportunity to cultivate on it. The research found out that, this type of land remains the largest option available for people who want to acquire land in urban communities.

#### Abandoned home (*daboo*)

The second type of land that one may acquire for building is *daboo* (abandoned home). People may abandon their homes due to death or resettlement. Such plots still belong to them or their families. Such plots can be acquired for building. However, this type of land is not common to acquire. When they are available, they may be reserved for family members to develop.

#### *Land for Resale:*

This type of land may be acquired purposely for building or for speculative purposes. In some instances, owners who intended to use land for building may be compelled by some financial needs to resell land to other parties. However, the key informants indicate that the acquisition of land for speculative purposes is increasing significantly.

#### *The Case of Walewale*

Information from the key informants revealed that the institutional framework for land ownership and access in Walewale comprise both customary and the state institutions (Town and Country Planning Office). Thus, apart from the traditional structure of individuals, families and chiefs, the District Assembly/the Town and Country Planning Department are also involved. For an identified piece of land for housing development, the district authorities must approve of the site as suitable for residence and the site must be demarcated to conform with planned layout of the town as desired by the district's physical planning authorities.

A potential developer of a house usually contacts a family head also seek permission for use of a desirable site or piece of land. He then goes ahead to contact the district office of the Town and Country Planning Department who inspects the site and if it is assessed to be suitable for residential development, demarcation is carried out. After the demarcation, a plot number is issued to enable the potential owner register the plot. The authorities also prepare a site plan for the plot. When the potential developer is a member of the family who owns the land, he does not usually pay any money but outsiders pay cash prices for land. Prices of plots ranged from 200 Ghana Cedis to 600 Ghana Cedis as at 2008 and these are paid to family owners. The procedures at the District Town and Country Planning Office also cost about 30 Ghana Cedis for a plot of land as at 2008.

The registration forms are designed by the Mamprusi Traditional Council in collaboration with district assemblies of the area that makes provision for the endorsement of family land owners, chiefs and the Traditional Council. The chiefs are three in hierarchy – the chief of Walewale town, the Wungu chief (a paramount chief to whom the Walewale chief is accountable) and the *Nayiri*. As at 2008, endorsement of the registration forms by each of the chiefs attracted a cash payment for kola which varied but hovered around 30 Ghana Cedis for the *Nayiri* and 20 Ghana Cedis for the other two chiefs.

With the significant expansion in settlements in Walewale, the town has extended to cover territories that are not under the jurisdiction of the chief of Walewale. These are the territories of the Kperiga and Loagri No.2 chiefs to the south of Walewale, and the Sayoo and Jaarigbani chiefs to the north. Plots acquired in these territories are endorsed by the respective chiefs instead of the chief of Walewale.

After obtaining the relevant endorsement for registration of the land, the owner then goes to the regional secretariat of the Lands Commission for leasing. To complete the process of registration, copies of the completed forms must be lodged with the district office of the Town and Country Planning Department. According to the Town and Country Planning Office, many plot owners do not return copies of the completed forms. Some land buyers explain that that is as a result of ignorance while others say it is due to their inability to complete the process because of the expenses involved. Apart from the *Nayiri*/Traditional Council, it was realized that none of the chiefs keep copies of endorsed forms or keep records of particulars of plots of land they endorse. This makes it very difficult for them to check multiple sales by landlords.

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1 They only owned such land for cultivation.

2 The gifts comprise kola, but could also comprise cash far greater than the value of kola donated in the acquisition of agricultural land.



The difference between Walewale and the rural areas is that there are significant disputes over land boundaries, multiple sales, claims and counter claims among family heads and members in the former than in the latter. For instance, there are allegations that some family members sell land without proper consultation with the family members and sometimes without rendering proper accounts to the head of the family. Some members of families also pose as heads to innocent land seekers and sell lands that are already sold. This sometimes happens with the alleged connivance of the Town and Country Planning Office. Conflicts over boundaries and claims by two or more persons over the same piece of land have resulted in chiefs taking over the disputed land as a way of settling the dispute. Boundary disputes between the Walewale chief and his counterparts to the north and south have also featured.

But the most noticeable conflict is that between the chiefs on one hand and the heads of families who own land on the other. While the chiefs contend that the family heads are taking an unfairly larger proportion of the proceeds of the land transactions, the family heads argue that they deserve that share because they are deprived of farming land when their land is used for residential purposes. The chiefs on the other hand do not understand why as authorities in whom land is vested take only a token amount out of the total proceeds of land sales. They also make comparison with their counterparts in Tamale, Savelugu and Yendi in neighbouring *Dagbon* whom they claim have the authority to sell the land and not family heads. The conflict is still pending after unsuccessful attempts by the *Nayiri* (the overlord of Mamprugu Traditional area) to resolve it. Hence, the status quo is currently being maintained. For government projects such as school buildings and offices, chiefs normally order landlords to give out any suitable land earmarked for such purposes. With regards to this the landlords argue that they need some compensation.

#### *The Case of Nalerigu*

What pertains in Nalerigu is similar to that in Walewale except that some elders of the *Nayiri* seem to exert more influence in land sale than the family heads. The elders are *Tarana, Sokpari, Sokpanaaba and Kpatiraana*. According to the elders, the town has been divided into four sections and each one of these elders has jurisdiction over a section. For residential purposes, the elder under whose jurisdiction the land is allocated the land and therefore receives the benefits on behalf of the *Nayiri*. Although plots are relatively cheaper in Nalerigu as compared to Walewale, land prices are still considered to be too high for the average family in the locality.

The elders of the chief also complain that the individual family heads were sometimes involved in sale of some lands that brought about conflicts because they (the elders) normally refuse to endorse such sale. They contend that the family heads do not hold the right to sell land merely because their forefathers cultivated it but that the chiefs are those with legitimate authority to allocate land on behalf of the *Nayiri*. But like the case of Walewale, the family heads submit that they must be adequately compensated for loss of farm land when plots are allocated for houses and also for government's infrastructural projects.

#### *Land Disputes*

Land disputes are becoming a common phenomenon in urban communities in Mamprugu, especially in Walewale which is a fast growing town. The common land conflicts in the study area involved disputes within the family and lineage members, disputes between individuals over land, disputes between church and muslim groups and individuals, disputes between pseudo land owners and chiefs, and finally disputes over land boundaries between chiefs or between families.

Disputes within the family and lineage members occur in situation where the family/lineage head unilaterally sells family/lineage land to private developers without the consent of the family/lineage members. The research revealed that land conflicts of this nature are normally not violent, and family members who feel cheated may grumble alone, and may not report the case for fear of the head of the family.

Another type of land dispute in the study is conflicts between individuals over land. Such disputes emanate from two or more people buying the same piece of land from one person or different persons. Disputes of this nature are common in Walewale where different or the same persons sell family/lineage land to different people. Potential developers may not realize this until anyone of them begins to develop the land. These types of dispute may also arise between individuals and religious groups.

Disputes between pseudo land owners and chiefs are an emerging phenomenon in the study area. This occurs when pseudo land owners sell land without the consent of the chief. While these pseudo land owners claim it is their right to sell the land, the chiefs on their part claim the land belong to them. These types of disputes are common in Walewale where there seem to be a high demand for residential land. For the past decade, the chief of Walewale, *Duurana* has sued these pseudo land owners at the court and at the palace of Wunnaba<sup>1</sup> over the sale of land. However, this situation is different in Nalerigu.

Finally disputes over land boundaries between chiefs, and between families do occur but these are not common. As we noted earlier, Walewale for instance has sprawled over the last three decades to engulf lands belonging to other chiefs such as: the Kperinaba (chief of Kperiga) and Gumrana (chief of Loagri No. 2) land to the south of Walewale, Wunaba (chief of Wungu) to the west, Bisienaa (chief of Tampulungu) to the north-west, Sayoorana

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1 Traditionally Duurana is a sub-chief under the Wunnaba who is the paramount chief of the area.

(chief of Sayoo) and Jaarigbandana (chief of Jaarigbani) to the north and Sibena (chief of Nayoku) to the east. The boundaries of all these chiefs were marked by trees and other natural or geographical features, which are fizzling out creating roller coaster relationship among these chiefs. In the past two decades, there have been land disputes between *Duurana* and *Kperinaba*, *Duurana* and *Gumrana* and between the *Kperinaba* and *Gumrana*. This issue of land boundaries also creates conflicts among families.

#### *Resolution of Land Disputes*

There are two channels of redressing land disputes in the study area. There are the formal/state courts and the informal/traditional dispute-resolution mechanisms. The state courts dispute-resolution channels are the courts while the traditional channels are the family elders, chiefs and traditional council. The research reveals that, the involvement of the formal/state court dispute-resolution mechanism was very minimal. Examination of records at the Walewale and Nalerigu District Magistrate Courts, and the Police Stations yielded little results of land disputes. Interviews with people who ever had land problems also indicated that they normally prefer to send land matters to the chiefs rather than the court. Disputes over land in the study area were predominantly settled through the traditional dispute-resolution mechanisms – mostly, elders and chiefs.

It was observed that, the nature of the dispute, the location of the disputed land, and the type of people (strangers, natives, family members) involved determined which of the chiefs to settle the dispute. For instance, two individuals quarrelling over a piece of land in the case of Nalerigu, may go to the one who sold the land to them (land owner) first, and if he cannot settle the case, it is taken further to the *Nayiri* (the Overlord of Mamprugu). In the case of Walewale, the case may first be taken to the land owner or to *Duurana* (chief of Walewale) or to the chief of the area where the disputed land is located. If the matter is not resolved, it is sent to *Wunnaba* (the chief of Wungu). If the *Wunnaba* is unable to resolve it, it is taken further to the final arbiter - the *Nayiri*. However, only a few land cases travel all these length. Most of the time, the cases are settled at the first or second stage.

Family land disputes are normally settled by the family heads. While title land disputes may be sent to *Wunaba* or the *Nayiri*. The most common land disputes in the area were multiple sale of land. Disputants are normally asked to provide documentary evidence of ownership.

#### Conclusion and Issues of Concern

From the discussion, it can be concluded that land ownership and access in Mamprugu is in transition as the settlements progress from rural to urban status. For instance, evidence indicates that what pertains in the rural areas is different from what pertains in Walewale and Nalerigu. From the harmonious system of land access for residential purposes in the rural areas, there is growing tension and conflict over the right to sell land in the urban areas. Apart from the boundary disputes among chiefs, there is growing tension between family heads and chiefs over issues of land transactions.

The commoditization of land appears to make land almost equally accessible to natives, settlers, strangers and women (with the financial capability remaining as the major determinant of land access). In this regard, the gap between the rich and the poor in land access is widening. The allegations that family heads sell land without consultation and accountability suggests that the access of the youth to land (in future) in their native lands in the urban areas is in jeopardy.

There is also inadequate knowledge on the part of private developers on the registration process in urban areas. Coupled with relatively high cost of land transactions, most people do not complete the registration process. This situation leads to poor documentation and increases the potential for conflicts. The chiefs who are very crucial in authorizing land access keep no written records of the transactions that take place, hence the resultant difficulties in resolving conflicts because of the inability to make authentic verifications.

It is therefore recommended that for a start, the three District Assemblies of Mamprugu initiate a programme to address the emerging issues of land in the urban areas. Such a programme should involve all the stakeholders and provide fora for education and exchange of views. It should aim at resolving/preventing boundary disputes among the chiefs and sectional elders of the urban areas as well as the disputes between chiefs and families over land sales. Since chiefs reserve the right to freeze family ownership of land and also over rule for housing development against the desire of families in the traditional framework, it implies that the chiefs obviously should have higher stakes in land sales than the families in the urban setting. However, there should be enough education and mechanisms for conformity with national policies and regulations for the entire community to benefit from the revenue accruing from land sales.

The suggested programme should be in collaboration with the Land Administration Project (LAP) of the Lands Commission and other organizations interested in land issues and should address the issues of documentation and build an efficient customary land secretariat for Mamprugu. In spite of the fact that the land issues emerging from urbanization in Mamprugu are not exclusive to the area, addressing them before they become complicated would be most useful.

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