An Exploration of the Relationship between Customary Land Tenure and Land Use Planning Practices in Sub-Saharan Africa: Evidence from Ghana

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Abstract

Sub-Saharan Africa (SSA) is urbanising at a phenomenal rate, although largely on unplanned and unsustainable basis. This has resulted in the creation of negative externalities of urbanisation such as slums with an estimated 7 in 10 urban dwellers living in haphazardly designed settlements. Whereas some commentators attribute this state of affairs to the customary land tenure practices, others cite institutional ineptitude as the cause of the failed state of planning delivery. The aim of this thesis is to search for a more comprehensive understanding of the linkages between customary land tenure systems and other factors such as the institutional framework, and how these contribute to the defective state of land use planning regime in SSA. The first part of the research methodology reviewed the relevant literature in order to identify the theoretical issues relevant to the aim and objectives of the study. The literature survey also provided the basis for designing a methodology for the empirical research. In conducting the empirical research, the mixed method strategy (thus both quantitative and qualitative methods) was employed. A combination of questionnaire survey, interviews, focus group discussion and documentary materials were employed to examine the nature of relationship between customary land tenure, the state of planning institutions and land use planning in SSA using Ghana as the case study.

In terms of the institutional setback for planning delivery, four challenges were identified as follows. Firstly, it was established that there is high incidence of political manipulation of the planning process for electoral gains. Secondly, it was also established that planning laws are generally obsolete and hardly ever relevant to the demands of modern conditions. Inadequate funding for planning activities was also found to be a major institutional setback for planning delivery. Finally, it was also identified that there is shortage of the needed human resource capacity to meet the growing demand for planning services. In terms of how customary land tenure practices contribute to ineffective land use planning, the study established that chiefs and tribal elites who are responsible for the management of customary lands unilaterally prepare 'land use plans' without the knowledge or endorsement of the designated planning authorities. In other instances too, chiefs alter duly prepared and approved land use plans. In both cases, they

rely on unprofessional planners and surveyors. Therefore, plans prepared by unprofessional planners become the basis for guiding human settlement growth. The study also established that land title under customary tenure is generally insecure. This is because duly acquired land which is vacant may either be encroached upon, or may be allocated to other prospective developers by customary landholders. Therefore, developers hurriedly build on their land in an attempt to secure their land rights. In the process, these developers generally fail to comply with existing land use planning regulations. Based on findings from the study, it has been argued that there is the need for culture change in order to improve planning delivery. In this regard, the study recommends that future planning reforms should be pursued through public-private land management strategy such as land pooling. Other recommendations to ameliorate the institutional challenges are also offered.

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List of Acronyms

ADR	Alternative Resolution Council
AFRC	Armed Forces Revolutionary Council
CLS	Customary Land Secretariats
CPP	Convention Peoples Party
DACF	District Assembly Common Fund
EJMA	Ejisu-Juaben Municipal Assembly
ERP	Economic Recovery Programme
GSS	Ghana Statistical Services
IMF	International Monetary Fund
KMA	Kumasi Metropolitan Authority
LAP	Land Administration Project
LPA	Local Planning Authorities
MMDCD	Metropolitan/Municipal/District Coordinating Director
MMDCE	Metropolitan/Municipal/District Chief Executive
NDC	National Democratic Congress
NLM	National Liberation Movement
NPP	New Patriotic Party
NRC	National Redemption Council
NUP	National Urban Policy
OMO	Organisation Management and Operations
PNC	Peoples' National Convention
PNDC	Provisional National Defence Council
PP	Progress Party

RCC	Regional Coordinating Council
SAP	Structural Adjustment Programme
SMC	Supreme Military Council
SMD	Survey and Mapping Division
S-NDA	Savelugu-Nanton District Assembly
SPC	Statutory Planning Committee
SSA	Sub-Saharan Africa
TCPD	Town and Country Planning Department
TMA	Tamale Metropolitan Authority

CHAPTER ONE

INTRODUCTION: SETTING THE RESEARCH AGENDA

1.1 Background and definition of Research Problem

Population growth in Sub-Saharan Africa (SSA) has been rapid since the 1950s. This trend has not changed as population is presently estimated to be growing at a rate of 2.33 percent per annum compared to 0.03 percent in Europe and 0.91 percent in North America (UN-DESA, 2011). As a result of the rapidly increasing population, urbanisation is rife. An estimated 37.4 percent of the population live in urban areas with this figure expected to rise to about 70 percent by 2030 (UN-Habitat, 2008). Demand for land is derived from population pressures especially as a result of urbanisation. Therefore, with increasing population, there is corresponding increase in demand for housing, agriculture, manufacturing and other economic activities. The supply of land is restricted despite the sustained rise in demand. There is the need to manage the environment in order to reconcile competing claims for the use of limited land. It is in this realm that land use planning or what Huxley Margo and Oren Yaftachel describe as 'spatial public policies and practices...as well as specific zoning and development controls, which mediate and shape urban and regional land use under the auspices of the modern state' (Huxley and Yaftachel 2000, p.334) becomes pertinent. Planning is primarily concerned with managing the layout of the environment by providing the right site at the right time, in the right place for the right people (Ratcliffe and Stubbs, 1996, p.2) so that the society can gain mastery over itself and shapes its collective future by the power of reasoning (Friedmann, 1959).

Ultimately, planning seeks to reconcile competing land uses to minimise negative externalities of urbanisation such as the springing up of slums. Towns and cities in SSA are however characterized by non-functioning infrastructural facilities, mostly poorly governed, intensively dotted with illegal structures, while physical growth and development of the cities have not been properly managed or controlled (Aluko, 2000). Falade (2003) has observed that the people of Nigeria do not live orderly, safe, convenient and healthy environment which are promised as the gains of land use planning. The city of

Lagos has been characterised as a bedlam, sprawling with filth and stench from uncleared refuse and drainage (Ipaye, 2001). Further commenting on the state of Nigerian cities, Abati (2006) noted that it is an "insult to the art of architecture and a disgrace to urban planning and development... the people live and conduct business in disorganized congested space, carved out into small empire" (Abati, 2006 cited in Okpala, 2009, p. 7). The situation in Tanzania is also a classic example of 'unmanaged spatial change' (Nnkya, 2007, p.9). Lamba (2005) commenting on the Kenyan case offered strongly that settlements need urgent upgrading to make them habitable. It has even been argued that true hope for African cities lies in starting afresh. Nairobi for example is certainly not a city. It is just one huge slum (Muluka, 2002). Aluko (2000) is therefore right with his assertion that physical growth and development of the cities in SSA are generally poorly managed. Within the developing regions in the world, SSA has the largest percent of urban slum dwellers. In 2005, it was estimated that 37 percent of the urban population in emerging economies lived in slum conditions. This was disaggregated as follows; Sub-Saharan Africa (62%), Southern Asia (43%), Eastern Asia (36%), South Eastern Asia (28%), Latin America and the Caribbean (27%), Western Asia (24%), Oceania (24%) and North Africa (14%) (UN, 2008). The situation in SSA worsened between 2005 and 2009 when the percentage of urban slum dwellers rose sharply to 72 percent. Stren and White (1989) describe high proportions of slums in SSA as 'urban crisis' and it has been established that "...the slum creation industry looks set to dominate urban development for the next generation" (Hague, 2005, p. 69). A recent analysis by UN-Habitat (2009, p.4) forecasts that, the percentage of urban slum dwellers could double within the next 15 years. Other recent reviews have also re-iterated the poor conditions of human settlements in SSA (e.g. UN-Habitat, 2010a; 2010b; 2010c). Efforts at land use planning have therefore generally been weak and ineffective.

Like other countries within the sub continent of Saharan Africa, land use planning in Ghana has been ineffective in exerting control over the growth of human settlement. Planning has generally been reactive, taking short-term measures to address the almost intractable problem of unplanned human settlement growth (Larbi, 1996). Antwi and Deankin (1996) note that urban areas are dominated by problems of unauthorised developments, lack of infrastructure, poor sanitation, health hazards, fire hazard, crime and squatter settlements. Planning in Ghana has been reactive rather than proactive and

does not "proceed on sustained basis" (Larbi, 1996, p. 212). More recently, Ubink and Quan (2008, p. 202) have described physical development in Ghana as 'haphazard'. Other issues include planners using off the cuff measures to resolve deep seated urban settlement problems such as inadequate water supply and sanitation facilities. According to Hammond (2001), the institution of planning has done little to improve the design and functioning of the towns and cities in Ghana. It is even believed that spatial planning in Ghana has been a 'complete failure' (Larbi, 1996, p. 213). In turn, 'the normal procedure of planning, servicing, building and occupation has now been mixed up in the sequence of occupation-building-servicing and planning without any reference to the law' (Adarkwa & Akyaw, 2001, p. 205). Several evaluations have also shown the deficit of effective urban management in Ghana (see Konadu-Agyemang 1991; Yankson and Gough 1999, Gough and Yankson 2000; Yeboah 2003; 2006; Grant 2009). Attempts at land use planning in Ghana and the rest of SSA have therefore been generally unsuccessful.

The poor state of land use planning across SSA continues to worsen despite various initiatives by governments and international development partners to arrest the situation. The United Nations for example established the UN Commission for Human Settlement in Kenya purposely to formulate policies for managing the rapid growth of towns and cities in SSA. In the 1980s, governments of Tanzania, Kenya and Zambia all embarked on extensive research and consultation which aimed at developing more effective strategies for managing the growth of cities in their respective countries (Halfani, 1994). A similar exercise was carried out in Ghana in 1993 where the state transferred all land use planning responsibilities from the central government to the local levels ostensibly to improve the state of planning practice. Such initiatives were replicated in Cameroon, Gambia, Guinea, and Uganda among others (Njoh, 2002). It is therefore fair to suggest that planning and the management of towns and cities in SSA have attracted some interest from both the domestic and international communities. Despite these efforts, the proportion of slum and slum dwellers is steadily rising. There are therefore grounds to conclude that the planning policies designed to manage the growth of human settlements have failed to deliver their stated aims. It may therefore be instructive to critically interrogate the basis on which such policy interventions were formulated.

1.2 Causes of Planning Inefficiencies

Planning is a product of culture (Cullingworth and Nadin, 1997) and culture permeates every sphere of human endeavour. Therefore, the inefficient planning regime in SSA in general and also the Ghanaian case is underpinned by different but intertwined issues. Preliminary background survey of literature brought to the fore that there are two principal causes of the planning failures in SSA. These are the customary land tenure practices and the institutional issues.

1.2.1 Customary land tenure practices

Planning is a spatial activity. Accordingly, some commentators, for example Olima (1993) and Larbi (1995; 1996), have argued that the prevailing land tenure system is ultimately the cause of the poor state of land use planning in Ghana. To such scholars, land tenure exerts a significant and dominant impact on land use. The processes of allocating land for various uses, accessibility to land for development, security of title to the acquired land are all regulated by the prevailing land tenure system. From the planning perspective, land represents a mosaic that ought to be regulated to ensure conformity and balance of the environment (Bailey, 1975; Ratcliff, 1976). It has therefore been concluded that whoever controls the landholding arrangements eventually controls the land market and determines the nature of urban land use and development patterns (Olima, 1993; Gareth, 1991).

In several SSA countries, land is dominantly owned by traditional/customary groupings which may be a clan, a tribe or a family. In the case of Ghana for instance, it is estimated that 80 percent of all lands are held under such arrangement (Kasanga and Kotey, 2001, p.13). Subsequently, the dominant prevailing land tenure is rooted in customs and customary practices. The customary land sector thus constitutes the single most important source of land for development.

Despite the dominance of customary land tenure, land use planning which encompasses all effort at regulating development is a state responsibility. Thus whilst lands are held mainly by the customary authorities (such as tribal chiefs), land use planning remains an activity

which is executed through designated state agencies such as the Lands Commission and the Town and Country Planning Department. The situation where land is mostly owned by customary groups is generally seen as having weakened the position of the state's institutions in executing their planning mandate. There are therefore tensions and contradictions between the customary land owning groups and the state. Earlier researchers have established this situation. Odame Larbi for example opines that the weakness of the planning system emanates from the dichotomy between the land use planning and land ownership (Larbi, 1996, p. 212). The position of Larbi has been re-echoed by Ubink and Quan (2008) when they concluded that behavior of customary landholder is a major cause of haphazard and unauthorized development in all statutory planning areas (Ubink and Quan 2008, p. 202). State land agencies are therefore involved in continuous struggle with traditional institutions with regards to land use planning (Larbi 1996; Kasanga *et al*, 1996; Asiama, 2004). It is in this light that urban planning and management failures have been blamed on customary land tenure and the traditional land management practice.

In order to appreciate the customary land tenure and land use planning nexus in contemporary SSA, a cursory look at the historical antecedent is instructive. People's rights to land in SSA have always been overlapping and interlocking, reflecting the communal philosophy which underpins most African tribes, clans and families. When SSA was colonized, the colonial authorities found the prevailing land tenure practices to be in sharp contrast with the situation in Europe where land tenure practices were individualistic and capitalist oriented, treating land as a tradable asset. Subsequently, the colonial authorities treated the indigenous land tenure as antithetical to the Eurocentric way of life. Accordingly, they sought to supplant the existing tenurial systems and structures with the European models and ideals. One of the key strategies for overhauling the customary land tenure as noted by Njoh (2006) was through the imposition of town and country planning on the colonies (this point is examined in detailed in the next chapter). Colson (1971) has noted that early European governments, intent on rapid economic development through European enterprise, recognized African land only with respect to land under obvious occupation thereby leaving large areas free for possible alienation to European companies. Such misconception of the notion of land had several impacts. Firstly it kept Africans off the most fertile lands. Secondly, it sowed the seeds of

racial segregation throughout colonial Africa especially in settler colonies as large European populations placed a high demand on the land for agriculture, settlement, industrial and mining activities whilst neglecting areas which were not endowed with natural resources. Exerting such control over the indigenous people was achieved through the implementation of land use planning (Home, 1997; Njoh, 1999; 2002; 2006). According to Home (1997) three principles inspired the Eurocentric model of land use planning. These were the ideology of state control, the capitalist ideology and the utopian ideology. Significantly, these ideologies were alien to the indigenous African land tenure practices to a large extent. To the colonial authorities, imposing the Eurocentric planning models on SSA colonies:

> "was socially necessary for the entrenchment and dominance of the capitalist mode of production" (Kiamba, 1989, p133).

In effect, there was a capitalist inspired superstructure in the form of planning which was imposed on a communalist foundation of landholding. Predictably, the indigenous land tenure struggled to effectively accommodate the colonialist ideals of planning. It has therefore been argued that:

> "the application of standards largely adopted from colonial times [has] resulted in a sprawling pattern of low density land use which neither articulated the values of traditional settlements nor exhibited the virtues of an economical and efficient layout" (Haywood, 1985, p. 192).

This dilemma has transcended the colonial era owing to the fact that post independent planners are either western trained or turn to adapt Eurocentric planning policy templates without any consideration to their peculiar context. It is against this background that the poor state of land use planning in SSA now has been attributed to the antagonistic relationship between customary land tenure systems and propositions of land use planning (detailed appraisal of this linkage is explored in chapter 3).

1.2.2 Institutional Challenges

Beside the customary land and traditional practices, other researchers have observed that the failures of land use planning result from the inherent weakness in the institutional

framework. The institutional framework for land use planning includes the totality of public and quasi-public agencies which are involved in formulating, implementing and evaluating planning policies (Njoh, 2003). This may include bodies at the local, regional and national levels which are linked for the purpose of planning delivery. It has been argued elsewhere that countries with stronger and efficient institutions are more likely to achieve optimum land usage especially in the area of settlement panning (e.g. North and Thomas, 1976, North, 1981). Acemoglu *et al* (2001) have recently modeled and simulated the causes of developmental gaps across countries. They concluded that once the effect of institutions is controlled, there is no discernable difference between the effectiveness of land use planning systems in Africa and the advanced economies. This result suggests that relative to the west, SSA is poorly planned not because of cultural factors, but because of worse institutions. In effect, there is a strong correlation between institutional efficiency and effective planning delivery. It is in this regard that the eminent African Urbanist Akin Mabogunje argued that there are problems with urban planning in Africa but these relate to institutional setbacks rather than conceptual weakness (Mabogunje, 1990). In the view of Akin Mabogunje and other researchers who share in his pattern of thought, (e.g. Clarke 1994; Topfer 2002) the poor results of planning is a reflection of the state of planning institutions. It is thus practically difficult to overstate the significance of institutional organization in the arena of planning policy and practice.

Attention has also been drawn to the fact that, blaming population pressures and the peculiar land tenure system for the weak state of land use planning has the merit of exonerating government and planning agencies from their responsibilities (Harris, 1988). Accordingly, Njoh (2003) has blamed 'institutional ineptitude' for the failure of planning. Njoh posits that 'plans take concrete form through the organisational or institutional bodies within which they are conceived, formulated and above all, implemented' (Njoh, 2003, p.29). Implicitly, he admits that an effective institutional framework should translate into well planned and managed growth of towns and cities. The role of the institutions in planning delivery cannot be overemphasized because:

> "[T]he impact of programmes aimed at urban shelter, services and infrastructure depend upon the quality of the institutions responsible for planning and implementing these projects. The institutional machinery provides the channel through which the urban sector issues and priorities are articulated, projects are

> planned and implemented... Institutions serve as the most critical intervening factors through which economic resources and skills are utilized for, among other things, promoting sustainable urban development" (Cheema 1987, p. 149)

It is within this context that Acemoglu *et al* (2001, p.1) concluded that "it is obvious that institutions matter'. Thus, while it is true that rapid population growth and the complexities in the land tenurial systems contribute significantly to the dire state of planning (Songsore *et al*, 1998), the inadequacies in terms of institutional capacity to plan and manage urban settlements cannot be over emphasised.

The causal factors of the poor state of land use planning impinge on land tenure practices and the institutional arrangement for planning delivery, based on the foregoing analysis. In as much as attributing the weak planning regime to the prevailing tenurial system or the institutional framework may be justified, Yeboah and Obeng-Odoom (2010) drawing from McLoughlin (1969)'s System Theory have recently re-echoed that effective planning regime in SSA should be a product of a synergistic relationship between several actors and agencies. To McLoughlin (1969), the design, development and functioning of cities is dependent on complex set of inter-connected factors which are in constant flux. This gives rise to mutual relationship between different but reliant issues. The relationship between these factors are constantly changing giving rise to different conditions; some beneficial, some deleterious (Allmendinger 2002, p. 43).

At the conceptual level, rigidly sticking to the position that the current inefficiencies of the planning systems in SSA are solely attributable to land tenure practices *or* the institutional failures may represents a partial appreciation of the land use problem. The two positions are not necessarily mutually exclusive but rather, complementary. A careful and reflective evaluation of how both customary tenure and institutional issues affect the planning process is therefore key to ameliorating the current problematic state of towns and cities.

Despite the growing consensus that customary land tenure contributes to the weak state of land use planning (Nnkya, 2007; Ubink and Quan, 2008; UN-Habitat, 2009), the central question of 'how exactly does customary land tenure affect land use planning' remains

heavily under explored. Answering this question adequately is however a prerequisite for any meaningful planning reform because of the significance of customary land tenure in the entire process. This is because:

> "Land is a multifaceted aspect of urban development, not simply serving as a neutral space or container of activities and objects but as an intrinsic part of virtually all aspects of urban life. Above all, land is the key to understanding two important aspects of urban development. First, it is vital in explaining the shape, layout and growth of urban forms. Second, it is at the centre of the city's activities, influencing economic development, conferring power and determining the relationships between social groups and activities" (Kivell, 1993, p.3)

A focus on empirical determination of how exactly customary land tenure impacts on the land use planning practices as well as the dynamics of the institutional framework for planning is therefore crucial to facilitating the design of realistic land use planning policy in SSA. It is against this background that the study primarily seeks to achieve the aim and the following objectives.

1.3 Aim and Objectives

The research is in search of a more comprehensive understanding of the linkages between customary land tenure systems and other, factors such as the institutional framework, and how these contribute to the defective state of land use planning regime in SSA.

In other to achieve this aim, the study has further been divided into five main objectives as follows:

1. To assess the challenges confronting land use planning
2. To evaluate how customary land tenure system affect land use planning
3. To examine the institutional challenges for land use planning

4. To assess the effectiveness of land administration reforms[1] in improving land use planning practices

5. To make recommendations which will help to address the current inefficiencies of land use planning

1.4 Justification of the research

As a factor of production, land represents the spatial dimension of economic development. Ironically, Carole Rakodi (1997) has noted that investigating the ownership and dynamics of land tenure has been peripheral in the development discourse in SSA. Subsequently, the scanty literature on Sub-Saharan Africa landholding systems and land markets often lack the analytical robustness to support the conclusive pronouncements and emphatic claims authors make, a situation Antwi (2000, p. 37) refers to as 'casual empiricism' [several examples of such claims abound e.g. Hardin, 1968; de Soto, 2000. A detailed evaluation of these misconceptions is presented in section 3.6, 3.7 and 3.8]. This has encouraged personal sentiments which are not supported by real world evidence to be packaged in literature as facts on which policies are based. It is therefore not surprising that various policies which are intended to improve the management of the rapid rate of urbanisation have often achieved paltry results.

Since Rakodi (1997)'s observation, researchers and commentators have responded positively by carrying out critical studies and reviews of land tenure in SSA. Toumlin and Quan (2000) have examined the implications of land tenure on economic growth and poverty reduction. They appraised the issues relating to land title registration, economics of land distribution and state intervention in the land market. They subsequently concluded that streamlining access to land is key to addressing livelihood and poverty

1: Under the joint auspice of the Government of Ghana and some development partners from advanced economies, Ghana is presently undertaking a reform of the existing system of land administration. This is being executed through the Ghana Land Administration Project (LAP). Land administration primarily involves the recording of landownership, land values and land use in order to improve land transfer and sustainable development. LAP does not expressly seek to alter or reform existing land tenure systems. However, experiences from other countries (Mecili *et al*, 2001 on Kenya; Adams *et al*, 2003 on Botwana) suggest that, land administration reform in the long run may shape the existing land tenure systems. The fourth objective of the study therefore seeks to evaluate the success or otherwise of the ongoing Ghana Land Administration Project whilst mapping out how these outcomes are likely to translate into improving land use planning. A detailed overview of LAP is discussed in section 4.3.3.4.1

reduction in the sub region. Yngstrom (2002), Whitehead and Tsikata (2003) have explored the gender perspective of the land tenure regime. They established that, females are generally disadvantaged in terms of access to land.

Their research findings also threw more light on the practice where female land rights are secondary and often derived from their male relatives. They strongly posited that various governments should adopt the posture of 'affirmative action' in formulating land policies in order to ameliorate this discrepancy. The urban anthropologist, Johan Pottier (2005) has introduced a new frontier to the scholarly debate on SSA tenurial system. He focused on interrogating the real meaning of 'customary' and subsequently, 'customary tenure'. He argued that the casual usage of 'customary' relating to SSA land tenure can be erroneous. He convincingly argued that what is perceived as customary land tenure represents an amalgamation of western values, statutory laws and the dictates of the dynamics of social changes.

Abdulai and Ndekugri (2007) have also explored customary landholding institutions and housing development in urban centres in SSA. They conclude that the customary land tenure system does not constrain individual ownership so as to be an impediment to housing development. Bugri (2008) introduced a new twist to the land tenure discourse by evaluating it from environmental degradation perspective. This study concludes that, contrary to the popular perception, the communal mode of land ownership in SSA does not contribute to environmental degradation. Abdulai (2006 and 2010) provided fresh evidence in relationship with the operation of traditional landholding institutions in SSA. He deconstructs several popular but factually incorrect views pertaining to the traditional land holding systems in the sub-continent of Saharan Africa. For example he establishes that the lack of formal land title is not an obstacle to obtaining credit from formal financial institutions.

This flurry of scholarly works has undoubtedly contributed towards greater understanding of the nature and dynamics of the operations of customary land tenure in SSA. They have examined an array of issues including the economics, gender and engaged in an

interrogation of the philosophical underpinning and the real meaning of customary land tenure. In as much as these reviews are helpful, none provides adequate insight into how customary land tenure impacts on land use planning. The relationship between land tenure and land use planning is however so important that more than a passing interest is required in order to develop a holistic appreciation of the two concepts. There is therefore a knowledge gap which this thesis primarily seeks to fill. Also, any efficient planning system requires strong institutional framework for formulating and implementing planning policies. The study also offers some thoughts for reforming the current institutional arrangement for land use planning.

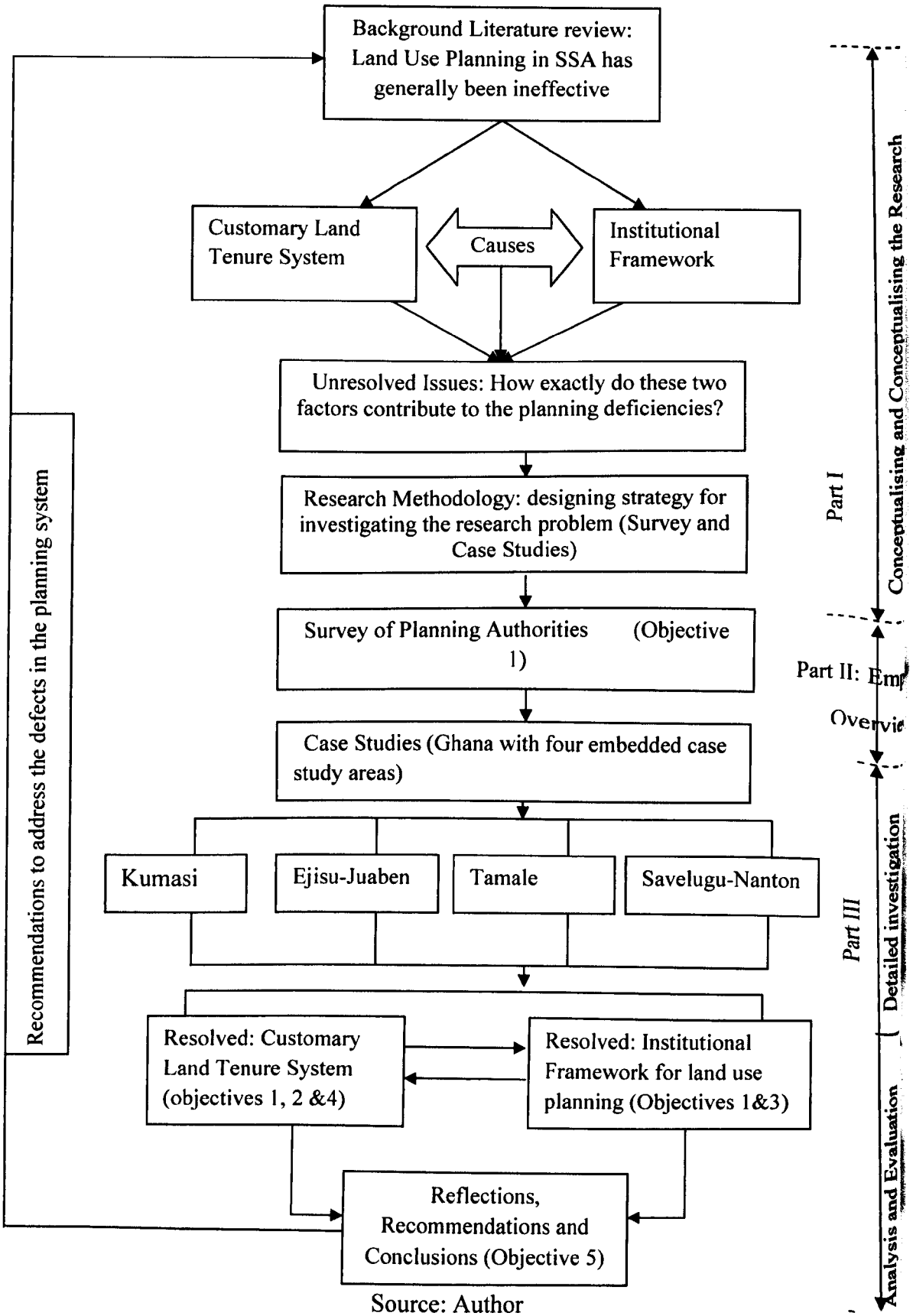
The output of this research is expected to be useful to officials of the Town and Country Planning Department and town/city managers at local, regional and national levels. It is also expected to contribute source of information bodies like the UN-Habitat and World Bank which are concerned with improving the quality of human habitation in SSA. An estimated 7 in 10 urban dwellers are trapped in slums. More importantly, the number of slum dwellers is expected to double within the next 15 years (UN-Habitat, 2009, p.4). The usefulness of study rests in the fact that it makes contributions towards curbing this situation. The object of the study also dovetails into the sixth target of the Millennium Development Goal which seeks to significantly improve the lives of at least 100 million slum dwellers by 2020 (UN-Habitat, 2010a). The output of the research is therefore a useful addition to efforts being made at addressing an otherwise intractable problem of managing human settlement.

1.5 Summary of Research Strategy and Structure of Thesis

It is often claimed by some academics (Ubink and Quan, 2008) and some international donor agencies (e.g. World Bank, 2003a) that customary land tenure is the single most important causal factor of land use planning inefficiencies in SSA. Beside land tenure, the institutional framework has also been cited as a contributing factor to the weak state of land use planning in SSA (Njoh, 2003). The task of this thesis is to provide a more detailed evaluation of these claims whilst offering some thoughts for improving the system of planning. To help achieve this, this thesis is organised into three broad

components which are further split into eight chapters. The three broader issues centre on the conceptual/theoretical component, the methodology for the research and the analysis and evaluation of the empirical evidence. The structure of the thesis therefore fuses these three issues in a way that addresses the tensions and contradictions that characterise the customary land ownership and land use planning. The conceptual linkages of the research are summarised in the diagram below.

Fig. 1.1: Research Strategy and Structure of Thesis



Source: Author

Chapter one sets the research agenda by detailing the background and nature of problem this study seeks to address. This chapter outlines the aim and objectives of the research. It also discusses the relevance of the research. It provides a summary of the research methodology whilst outlining the knowledge gaps and how this study contributes towards bridging them. The chapter concludes with a call for a critical review of relevant literature on land tenure and planning in SSA.

The second chapter focuses on examining the concept, origin and the institutional framework for land use planning in SSA. The concept of institutionalised planning in SSA is a remnant of colonialism. Analyses of the historical antecedents of planning are therefore crucial for a holistic appreciation of the current state of affairs. The evolution of planning during the industrial revolution and the introduction of the planning ideology in SSA are therefore examined. Planning is a product of culture situated within an institutional context. Therefore the underlining drivers of planning on which policies are often grounded are carefully appraised to identify the gaps which have often led to policy defects.

The third chapter principally engages literature and ongoing debates bordering on land ownership patterns and emerging property rights in Sub-Saharan Africa. The chapter contributes to the ongoing debates of the nature and operations of landholding in SSA by deconstructing some popular misconceptions on the subject. It also examines the spatial dimensions of customary land tenure whilst appraising the underlining drivers of state interventions for customary land tenure practices. The chapter concludes by highlighting that the claims that land use planning in SSA has generally been ineffective, as a result of the communal land ownership, is not wholly inaccurate, and therefore, a more reliable linkage should be established.

As Ghana is the country of study, chapter four discusses the background information of Ghana. The chapter examines the socio-cultural, economic and political characteristics of Ghana and how these have translated into shaping the landholding arrangement and the

planning system. It also analyses and discusses the results of the first stage of empirical research.

Chapter five outlines in detail the various methods which were employed as part of the empirical research. The study uses different strategies for data collection and each of them is discussed. The bases for designing each of the data collection tools are also examined. The limitations and strengths of each of the strategies are also analyzed. These are followed with a detailed account of the activities which were undertaken during the first and second stages of gathering all the empirical evidence. This chapter concludes by discussing the ethical considerations which guided the conduct of the entire research.

Chapter six is the first of the two chapters which analyses and discusses the primary data component of the research. This chapter examines the nature of relationship between customary land tenure and land use planning. It also appraises the reader of the implementation of the Ghana Land Administration Project and assesses whether the aspirations of LAP are likely to improve the state of land use planning in Ghana. The study also identified some threats which have the potential to ruin the successful implementation of LAP.

The seventh chapter empirically evaluate the institutional dimensions of land use planning in Ghana. A survey of local planning practitioners was conducted and discussed in chapter four. Results of the survey indicated that planning practitioners rated political interferences, inadequate funding, shortage in human resource capacity and the weak legal framework as the main institutional challenges for efficient planning delivery. Each of these four issues was investigated in detailed during the second state of empirical research.

The eighth and final chapter reflects on the research problem, aim, objectives and the entire methodology. The research ultimately seeks to offer some thoughts for improving planning delivery. This chapter synthesizes the theoretical underpinnings of the research and the empirical findings as part of efforts to offer evidence based recommendations. The

study subsequently recommends that the urban management tool of land pooling should be adopted to help address the challenges customary land tenure practices pose for land use planning. Other thoughts to address the institutional challenges are also offered. The chapter ends with a final conclusion of the study.

1.6 Conclusion

The above discussions have set the agenda and the context for the remaining part of the research. It has highlighted that land use planning in SSA has generally failed. With regards to the causes of the current state of play, opinions are divided between the customary land tenure and the institutional framework. Understating the dynamics of these two concepts and their relationship with land use planning is primarily an empirical exercise. Anthony King (1990) has strongly advised that in examining any aspects of the built environment, 'theoretically informed empirical research' is essential for policy purposes. Therefore it is instructive to take a critical and reflective look at the theoretical underpinnings as a foundation in order to arrive at more robust and pragmatic conclusions. It is against this backdrop that the next chapter engages relevant literature on the on the nature of institutionalised land use planning in SSA and how it has evolved since its introduction during the era of colonialism.

CHAPTER TWO

ORIGIN AND INSTITUTIONAL ARRANGEMENTS FOR LAND USE PLANNING IN SUB-SAHARAN AFRICA

2.1 Introduction

Contemporary urban planning[2] and management in Sub-Saharan Africa (SSA) is significantly nuanced with its colonial past although there are traces of the pre-colonial heritage as well as post-colonial experiences. Evaluating these historical stages is therefore important in the quest to better appreciate planning dynamics in postmodern time. In pursuance with this goal, this chapter examines how planning in SSA has evolved over the years after the indigenous systems and structures came in contact with the European colonial powers. The chapter first examines the meaning of 'planning' and then traces how it has evolved since the era of industrial revolution. Why was planning introduced in colonial Africa? How was it introduced? What have been the spatial and tenurial residual legacies of planning on SSA? These are all searching questions which are central to developing a deeper insight into the dynamics of planning in SSA and are therefore explored.

2.2 The Origin and goals of Land Use Planning

In popular usage, 'planning' denotes a deliberate attempt to use resources efficiently, so planning can be regarded as common sense. When the term is used in a more academic or professional sense, John Ratcliffe and Michael Stubbs (1996, p.2) claim "it is extremely difficult to define". The early planners like Diana Conyers, Peter Hills and Lewis Keeble emphasised the spatial aspects of planning. As such, planning was typically regarded as how the layout of the built environment is managed (Ratcliff and Stubbs, 1996).

2: 'Planning' or 'land use planning' as used in this chapter refers to the ''spatial public policies and practices...as well as specific zoning and development controls, which mediate and shape urban and regional land use under the auspices of the modern state' (Huxley and Yaftachel 2000, p.334)

This emphasis on land use planning is heavily influenced by its history, dating back to efforts to ameliorate the adverse conditions that emerged during the industrial revolution in the 19th Century. The industrial revolution and the concomitant health problems had prompted social reformers such as Edwin Chadwick and Friedrich Engels to step up their advocacy that, policy makers should be more attentive to the health implications of urban population growth. Chadwick's (1842) convincingly linked living conditions and amenities to health conditions in his 'Report on the Sanitary Conditions of the Labouring Population of Great Britain'. Engels's (1845) work, 'Conditions of the Working Classes in 1844' also reiterated the relationship between amenities and health. These works were influential and to a large extent led to the enactment of Britain's first Public Health Act in 1848. The central propositions of this Act were to improve housing, sanitation and environmental conditions as a prerequisite to improving the health and general wellbeing especially of people who lived in overcrowded cities.

In Max Weber's (1958) postulation about the city, he concluded that, the crowding of people bears with it tremendous increase in specialized demands. People need streets, public water supply, public sewage system, garbage disposal, police protection, parks, playgrounds, civic centres, schools, libraries, transporting system for meaningful living. A more complicated system of administration was necessary to handle the complex problems of housing, sanitation and general social welfare. The essence of the effort to plan human settlements was among other things to achieve these aspirations in order to enhance the cities' aesthetics, health and productivity.

From Ebenezer Howard's (1850-1928) *Garden Cities* to Patrick Geddes' (1854-1932) *Survey, Analysis, Plan,* through to Lewis Mumford's (1895-1990) *Utopian Ideals*, the meaning and scope of land use planning has undergone tremendous evolution over the years. The focus of planning in its early stages was very much fixated on what Nnkya (2007 p.3) calls "physical determinism" where much emphasis was laid on the physical design and outlook. The boundaries of planning in contemporary times have been pushed further to what is now known as spatial planning. According to the 'Torremolinos Charter' which was adopted by the European Conference of Ministers responsible for Regional Planning in 1983, spatial planning has been defined as the geographical expression of the

economic, social, cultural and ecological policies of the society. More recently, Tewdwr-Jones (2004) has defined spatial planning as being "a shift beyond a traditional idea of land-use planning to describe many aspects of planning practices that provide proactive possibilities for the management of change, involving policy-making, policy integration, community participation, agency stakeholding and development management" (p. 593). Spatial planning is at the same time a scientific discipline and administrative technique developed as an interdisciplinary policy which is directed towards the physical organisation of space. Land use planning thus represents a component of spatial planning. It tends to have narrower scope and tight boundaries with regards to issues which are addressed. Land use planning is thus primarily concerned with the physical organisation of spaces and uses. Land use planning tends to be vastly driven by local government and mainly topic based. These are the characteristics of the institutions which regulate land uses in SSA (Watson, 2002; Nnkya, 2007; Njoh; 2007; 2009).

Apart from land use planning, there are many other types of planning such as development and economic planning. These latter examples are based on the subject matter but planning could also be classified according to how it is done - as in participatory, process or blueprint planning (Riedar, 2004) - or its scope of influence as in urban planning, regional planning, and national planning among others. In spite of the different types of planning, there are broad areas which overlap: goal setting for the future, making decisions about which strategy to be used to achieve the goals and providing for possible consequences of the strategies to attain the goals, are some examples (Walterson, 1969).

From the origins of planning and its aspirations, it is often believed that planning is *ipso facto* for the good of society. As John Ratcliffe and Michael Stubbs (1996, p.2) put it, urban planning is 'concerned with providing the right site at the right time, in the right place for the right people' (Ratcliffe and Stubbs, 1996, p.2). An earlier view by Friedmann (1959) was that planning as a discipline equips the society to gain mastery over itself and shape its collective future by the power of reasoning. More recently, Lane (2006) has noted that planning seeks to reconcile competing claims for the use of limited land so as to provide a consistent, balanced and orderly arrangement of land uses in a sustainable manner. From this perspective, planning is a form of social action, directed at shaping the

physical environment, and driven by certain moral, political, sense of place and aesthetic values for the purpose of securing public interest (Taylor, 1998).

Despite the utopian aspirations of land use planning, the entire concept of organising space in order to guarantee all shades of interest has been criticised. Oren Yaftachel in his early works (e.g. 1995, 1998) noted, and rightly so that, planning enhances the position of politicians and ethnic elites, who often abuse the entire processes and propositions of planning at the expense of peripheral minorities and the marginalised. This dovetails into the thinking of George Bernard Shaw that the planning profession is a 'conspiracy against the laity' (cited in Rittle and Webber 1973, p. 155). Coupled with the fact that planning institutionalises government's control on the property market in capitalist economies, it has been claimed that 'planning is a historical mistake, a misconceived activity which should not have been invented at all' (Stretton, 1978, p. 4).

Such rather harsh opinions about the planning have attracted strong critiques and rebuttals. Planning stalwart such as John Friedmann (1987; 1988), Andreas Faludi (1973) and sociologists such as Karl Mannheim (1985) have strongly argued that the alternative to planning is anarchy. Therefore, despite imperfections associated with planning, they are unanimous that planning offers the logical framework for creating "... a more rational territorial organisation of land uses, that balances demands for development with the need to protect the environment, and to achieve social and economic objectives" (CEC 1997 p. 24). These goals have been the driving force behind all planning initiatives in SSA.

2.3 Colonial Rule and Land Use Planning in Sub-Saharan Africa

Colonialism developed from imperialism, which can be referred to as the highest stage of capitalism. Capitalism, imperialism and colonialism share the following definitions: political and cultural domination and economic exploitation. At a particular point in time it became necessary that the three processes exist together. In Africa, the starting point was the 1884/85 Berlin Conference, which set the rules of colonial occupation (Ndege, 2009). Together with the 1886 Anglo-German Agreement and other inter- European territorial arrangements, the conference was instrumental in not only erecting artificial

boundaries but also led to economic exploitation across the continent. Colonialism as a political system involves an external nation, taking control of another territory. Colonial rule thus represents the extension of one country's sovereignty over another jurisdiction often without the consent of the colonised state (Njoh, 2003). This terse appraisal of the concept of colonialism however masks a longer and more complex genealogy of the term. The modern map of Africa bears the hallmark of Berlin Conference of 1884 where rival European divided the continent among themselves in what has now become known as 'Scramble for Africa'. Colonialism often involves people from powerful states settling and ruling a weaker state. However, the practice of colonialism is characterized by more than simply immigration flows. Colonialism has come to refer to the conquest and control of other peoples and other territories (Barney, 2006). Particularly in SSA, colonialism shaped almost all facets of socio-cultural practices especially in the area of organising human settlement and land tenure practices. The impact of colonialism on spatial organisation has not been restricted to the era of colonial rule but has permeated into the modern way of life. Planning in contemporary SSA is thus richly linked to its colonial roots.

As a result of the close linkages between colonialism and contemporary planning, it has become a popular belief among commentators and researchers (e.g. Rapoport and Hardie, 1991) that there were no conscious efforts by Africans to plan and organise the settlements in pre colonial Africa. This is contrary to the conclusive proof that designing and planning urban systems in Africa date to antiquity. In this regard, the work of public health historian, George Rosen, (1993) is particularly useful. Rosen established that, the ancient city of Kahun (2100–1700 BC) had well laid out and complex drainage network built of stone masonry along the median of streets as well as an excellent potable water supply system. African towns and cities were often 'organically' ordered in terms of indigenous religion, political and social principles. However, there is the consensus that contemporary models of planning are remnants of colonial rule (King, 1990; Njoh, 2009b).

The introduction of Eurocentric planning models constituted part of the grand schemes to supplant traditional African land tenure and spatial management systems with ideals of Western states (Njoh, 2006). The colonial authorities' viewed land tenure in Africa as being flawed, primitive and backward and therefore antithetical to the socio-economic

growth models which were employed in Europe. To them, African land tenure systems compounded access to sound land management and urban planning (Hailey, 1946; Meek, 1946).

At the onset of colonial rule, many Europeans went and settled in a number of colonies and created what the historian Alfred Crosby (1986) called "Neo-Europe". The settlers tried to replicate European institutions, with great emphasis on private property (Acemoglu, *et al*, 2001). At the onset of colonialism, the property regime in Europe was heavily inspired by the nineteenth-century liberal philosophy. The ascendency of liberalism coincided with the decline of feudalism, a system of property ownership where land was concentrated in the hands of landlords who had superior rights to land. People accessed lands as tenants and in turn paid 'feud' of 'fee' in lieu of their tenancy (Payne, 1997). There was the overwhelming consensus that 'it is more than likely that joint-ownership, and not individual ownership, is the really archaic institution (Maine, [1861] 1963, p. 252). These beliefs helped to justify the passage of legislations designed to eliminate collective landholding rights and to authorize enclosures and the takeover of communal properties by individual proprietors (Ostrom, 2000). The superiority of individual property holdings was so well accepted in the legal literature of the early nineteenth century that, the possibility of other forms of property existing on the European continent was treated with disdain (Ostrom, 1990). Neoclassical Economic theorists subsequently established that the economic development of Western societies is strongly linked to the transformation of common property to private property (Johnson, 1972; North and Thomas, 1976).

Land in SSA has generally been collectively held under communal structures such as kingdoms, clans and families. As a result of the liberal biases, such common property was perceived as ineffective by the colonial authorities. There was therefore the need to redefine and reform the endogenous tenurial systems to suit the purpose and aspirations of the colonial authorities. This was vastly achieved through the introduction of land use planning.

2.4 Motives for introducing Land Use planning in colonial Sub-Saharan Africa

The motives of colonial rule were varied. We must therefore be cautious of a blanket and over generalised argument. However, there are enough commonalties, especially for the British and French colonies. First, it was a principal motive of the colonial authorities to instil what was perceived as 'modern' and 'civilised' life into the African way of life which was perceived as backwards. Secondly, planning was employed as a tool of social control which enabled the colonial authorities to pursue their agenda of exploitation. Each of these motivations is further examined below.

2.4.1 Modernising and civilising the perceived primitive colonies

As a result of the advancement of science and technology in Europe during the 19th century, the European way of life was considered to be superior and any culture that deviated from the Eurocentric standards was considered as wrong and backwards. Colonial understanding of customary way of life of Africans were premised on inadequate descriptions by European explorers, hunters and missionaries and later colonial administrators and commissions of inquiry into indigenous land tenure systems. This created a situation where the exact nature of land tenure in SSA has sharply divided opinions. A case in point is Charles Kingsley Meek's (1946) commentary on the in which he identified the following as the characteristics of African land tenure systems:

- Designed to meet the needs of a subsistence system of agriculture;
- Held on kinship, and/or community basis;
- Qualified by membership to a family, clan, lineage or tribe;
- Instituted chief as custodian of land;
- Applied usufructuary rather absolute rights; and
- Inalienable.

Such descriptions have then been replicated by other authors such as Hardin (1968) and (Johnson, 1972). There was therefore dominant consensus among the Europeans that land

tenure in the colonies represented the exact reverse of the situation in the western countries. Although aspects of such characterisations were contested by African scholars such as (Sarbah, 1904; Danquah, 1928), it nonetheless became the basis to formulate colonial land tenure reforms and policies.

The characterisation of the indigenous land as 'communally owned' and 'only supports subsistence agriculture' was the basis for one argument that individualization of tenure would facilitate better adoption of technology and encourage a general shift from subsistence to cash cropping (Meek 1946). It was further postulated that there was the need to accelerate the transformation of the primitive systems of holding and utilizing land in order to become more adjusted to the needs of a modern economy of production.

In terms of planning, the land tenure practices in the colonies were perceived as lacking the capacity to meet the demands of well planned settlements. Evidence however suggested that settlements in pre-colonial SSA had some elements of planning. Indeed cities like Timbuktu in current Mali and Zanzibar in current Tanzania existed as major trading centres with their own spatial configuration systems before the advent of colonialism (Mabogunje, 1990; Wekwete, 1995). Also settlement planning among the Akans, the largest tribe in Ghana dates back to 3,500 years or more ago (Farrar, 1996). A rendition by a Dutch explorer (Circa, 1602) on African human settlement in present-day Benin City in Nigeria is revealing that some form of human settlement planning was practiced before the onset of colonial rule. Circa noted that:

> "The towns seemeth to be great; when you enter into it, you go into a great broad street, not paved, which seems to be seven or eight times broader than Warmoes Street in Amsterdam; which goeth right out and never crooks;... it is thought that street is a mile long [a Dutch mile, equal to about four English miles] besides the suburbs when you are in the great street aforesaid, you see many great streets on the sides thereof, which also go right forth. ...The houses in this town stand in good order, one close and even with the other, as the houses in Holland stand.... The King's Court is very great, within it having many great four-square plains, which round about them have galleries, wherein there is always watch kept" (cited in Njoh, 2002, p. 400)

Despite such proofs, the colonial powers embarked on conscious effort to impose the western concept of planning based on assumptions that the indigenous tenure was inadequate to facilitate planning of the settlement of the native Africans. Jojola (1998) noted that the motivation to replicate the European planning models in the colonies

> ". . . was based on a simple but flawed premise: tribal people were uncivilised and therefore had no sense of community. Rather, their towns, villages and habitations were to be destroyed or removed and replaced by Christian compounds" (Jojola 1998, p. 104)

In 1922, C. L. Cox, the then Director of Public Works of Nigeria wrote that cities in Nigeria were

> "devoid of any features of interest or aesthetic merit ... [and there was] no weight to aesthetic considerations" (cited in Home, 1983, p.169)

Africans were therefore seen as living in

> "Simple look-alike agglomerations, scattered about without any appreciation for planning and design'' (Hull, 1976, back cover)

So right from the onset of colonial rule, the colonial authorities did not give adequate consideration to native concept of planning and architecture. The materials for the construction of European edifices in Africa were even imported. A case in point is more illustrative:

> "Pre-cast concrete walls were hauled from Holland across the seas to Accra's (Ghana) promontory, lowered to rocking canoes and paddled precariously by intrepid natives over pitching breakers to distant shore, where they were set up miles away to compose a few lonely monuments of the industrial age" (Burns and Grebler, 1977, p.230)

At the early stages of reforming the land tenure and planning systems in the colonies, Ebenezer Howard's Garden City concept had attracted global attention. There were therefore deliberate attempts to replicate the concept across the colonies as part of what was perceived as modernisation from the European perspective. In pursing this, the central aim of the 1907 issue of the planning journal, *Garden Cities* was that:

> "We [referring to the British planning practitioners and academics] want not only England but all parts of the Empire to be covered with Garden Cities" (King, 1989, 44).

In 1912, the then chairman of London County Council re-echoed this notion when he noted that:

> "We shall be able to show how those ideas which Mr Howard put forward... can be brought in to assist this first Capital created in our time. The fact is that no new city or town should be permissible in these days to which the word 'Garden' cannot be rightly applied" (King, 1990, p. 44)

In effect, there was an expressed goal to create clones of western towns and cities in the colonies. Besides wanting to civilise the colonies, land use planning was introduced to facilitate the exploitation of resources.

2.4.2 Land use planning as a tool for exploiting resources in the Colonies

Beside wanting to modernise the 'primitive' and 'backward' African land tenure and planning regime, the need to supplant indigenous tenure with European alternatives was necessitated by the desire to exercise power and dominion over the Africans as part of the general strategies to further the commercial and economic interests of the colonial powers through exploitation of natural resources.

Owing to the diversity of socio-cultural characteristics of the various colonies, there was no single colonial economic policy in place. Colonial administrators were therefore empowered to formulate policies which were responsive to their local context (Hull, 1976). Regardless of the diversity of economic policies resulting from the contextual variations of the colonies, two issues were mirrored across all colonial territories. First, the colonies were expected to be the producers and suppliers of raw materials (coffee, timber, gold, etc) to the industries in Europe. The right of pre-emption which existed between the colonies and their colonial masters meant that, producers of the raw materials were obligated to trade with their respective colonial master even if other buyers would offer higher prices. Also, the colonies were mandated to import processed goods such as cloths, cutlasses and wine from their colonial masters even if they could purchase similar goods

from elsewhere at a cheaper price. In effect, the relationship between the colonies and their colonial masters was exploitative in nature (Kaniki, 1985).

The need to exert control for the purpose of exploiting colonies was aptly captured in the speech by the then UK Prime Minister, Lord Salisbury to the UK Parliament where he posited that:

> "It is our business in all these new countries (referring to the British colonies) to make smooth the path for British commerce, British enterprise, and the application of British capital, at a time when other paths, other outlets for the commercial energies of our race are being gradually closed by the commercial principles which are gaining more and more adhesion. In a few years it will be our people that will be masters, it will be our commerce that will prevail, it will be our capital that will rule... My Lords, this is a tremendous power, but it requires one condition. You must enable it to get to the country where its work is to be done. You must open the path" (cited in Kaniki, 1985, p.382).

Within the German colonies, two leading lobbying groups, the West German Society for Colonization and Export (1881) and the Central Association for Commercial Geography and the Promotion of German Interests Abroad (1878) were very influential in exploiting the natural resources of the African colonies especially under the chancellorship of Otto von Bismarck (Henderson, 1948). Similarly, one principal motive of the French colonial authorities was to exploit natural resources to feed the metropolitan industries in Europe (Njoh, 1998; 1999; 2003). The policies of the British, the Germans, the French and other colonial powers hardly exhibited any differentiating characteristics. European imperialism and colonialism was essentially predicated on mercantile and then increasingly, industrial capitalism (Simon, 1992). All colonial powers were therefore driven by their voracious appetite for land as well as realising the objective of speedily supplanting the indigenous systems and structures for commercial expediency (see Njoh, 2003). Colonial SSA was therefore reduced to an extractive territory where much of the resources were transferred metropolitan Europe (Acemoglu, *et al* 2001).

The redefinition of African land tenure and the introduction of western styled planning machinery were thus integral part of the meticulous and multifarious agenda on the part of colonial powers to harness and reinforce their grip on the territories they had conquered in Africa (Njoh, 2009). It is against this background that Alonge (1986, p.72)'s view that the

colonial authorities adopted "a more decentralised 'laissez -faire' approach ..... and a mild form of light-handed paternalism in control of land and related matters" appears to be untenable. The essence of introducing the Eurocentric model of land use planning thus served two purposes which were capital accumulation and instilling civilised and modern way of living in what was considered a back society.

2.5 Institutional Arrangement for Land Use Planning in the Colonies

It is now a common knowledge that prior to colonialism, countries in SSA adopted indigenous practices to plan and manage their settlements. Upon annexing the sub continent as its colony, the European colonial authorities perceived the native planning and management of settlements as a source of real health and sanitation risk. In Mogadishu (Somalia) for example, the colonial authorities noted that the native settlements consisted of 'foul huts and constructions which were as irrational and unhygienic as to be unfit for habitation by Europeans (Areechi, 1984, p. 224). Mabogunje (1990, p. 137) has argued, it was improvement in sanitary conditions for the white population who were the resident agents of colonial capitalism that provided the rationale for the earliest attempts at planning. Therefore, when the chief colonial official, Lord Luggard, issued a memorandum on town planning in the British colonies, one objective was clear; ensuring better health conditions for the European colonial officials (Mabogunje, 1990). Boards were subsequently established with the mandate to ameliorate the poor sanitary conditions. It was these Boards which eventually metamorphosed into the machinery for land use planning. As underlined in Home (1997, p.170), "The precursors of town-planning legislation were the Trusts or Boards which introduced approaches to slum clearance into colonial cities".

Njoh (2003) has observed that, during the earlier stages of colonial rule, the French colonial authorities faced the challenge of fashioning out an effective institutional structure for the governance of its colonies. The initial governance structure adopted by authorities in Paris was the unitary and highly centralised system. In managing the heath and sanitation issues, the various territories which were under the control of the French colonial authorities were unified under a singular administrative unit with a governor in

charge. The governor was in turn responsible to the ministers of the colonies in France. In effect, the French adopted a classic top-down institutional structure to govern its territories. As the population of the territories increased, there was incidental increase in the resistance to colonial rule. Subsequently, governing the non-consenting populations proved difficult and in turn stifled the exploitation mission of the colonial French authorities. The centralisation of governance therefore proved to be both cumbersome and ineffective.

As a result of the practical difficulties, a decree was passed in 1920 which attempted to decentralise governance of the colonies. Two federations; the French West Africa and French Equatorial Africa were created with Dakar and Brazaville as the capitals respectively. In terms of land use planning, the centralised approach to governance informed the design of highly centralised institutional arrangements for formulating and implementing spatial policies.

In contrast with the structure of governance in the French colonies, the British adopted a more flexible and decentralised approach of governance by appointing governors for each of the colonies. The point of convergence was that, the British authorities were also preoccupied with the need to maintain health and sanitation in their colonies. Planning Boards were thus established in the British colonies to oversee the management of sanitation in the colonial settlements. The Board, which was often composed of a medical professional, the governor and a surveyor was a centralised body often located at the capital cities of the colonies.

Since the relationship between the local population and colonial authorities were mainly along the lines of servant and master, the native Africans were alienated from the planning process to a large extent. In effect, the Board operated along the lines of the rationalist/comprehensive planning model. Planning in the colonies therefore employed a top-down approach as a result of the lack of democratic consultation and participation of the planning process by the indigenous African population.

2.6 How Planning was employed to achieve the goals of the colonial authorities

The planning Boards or Trusts became the institutional vehicles through which the colonial agenda were executed. In this regard, the Boards employed two main strategies. First, planning was employed as a tool for land confiscation. Secondly, planning was employed to regulate human settlement. These are discussed below.

2.6.1 Planning as a Tool for Land Confiscation

One cardinal principle of land ownership in Africa is that there is no land without an owner (Ollennu, 1985). The abundance supply of land in the face of low population meant that vast portions of land were vacant or ineffectively occupied. There was a widespread misconception on the part of the colonial authorities that, unoccupied lands were 'free' or 'ownerless' and were subsequently seized without any recourse to the existing indigenous systems (da Rocha and Lodoh, 1999; Asante, 1975). Even lands which were allowed to lie fallow in order to rejuvenate were declared vacant and subsequently taken over (Ollennu, 1985). All unoccupied lands were treated as Crown Land and ownership subsequently transferred to the British colonial authorities. In countries like South Africa, Zimbabwe, Nigeria and Ghana, the colonial land policies and zoning ordinances effectively transferred large tracts of fertile lands to the colonial rulers. Significantly, no compensation was paid for the lands which were compulsorily acquired, a situation that amounted land seizure. In the French colonies, unoccupied lands were treated as ownerless lands' (terres vacantes et sans maître) and were subsequently transferred into property of the colonial state (Njoh, 2009), apparently to improve spatial mediation whilst achieving highest and best use of land (King, 1989; 1990).

After confiscating indigenous lands, the colonial authorities transferred the same lands to European entrepreneurs for free, or at give away prices. Lord Delamere, a British entrepreneur for instance was gifted more than 400,000 hectares of land in Kenya (Kaniki, 1985). Similarly, in southern Rhodesia (now Zimbabwe), by 1911, Europeans owned about 7,700,000 hectares and by 1925, they owned 12,500,000 hectares at give away

prices (Kaniki, 1985). Lands which were fertile for agricultural practices or were rich in mineral deposits were systematically confiscated until the indigenous were rendered landless in their own country. The various spatial interventions by the colonial authorities ultimately disadvantaged the local population by limiting their access to land.

2.6.2 Planning as a Tool for Human Settlement Control

Secondly, the introduction of planning in the colonies meant that all developments especially in the urban centres were subjected to municipal codes which were already in force in Europe. Subsequently, all building activities, including alterations to existing structures, had to be approved, through the granting of a building permit, by the colonial government (Njoh, 1999). Wekwete (1995) notes that the master plan, which had already asserted itself as a critical tool in government effort to regulate and control the growth and development of towns in Europe was also adopted throughout Africa. Zoning was initially employed in Europe in the 1800s as a tool to segregate incompatible land use activities. It was later introduced in the African colonies primarily for setting aside large tracts of land for colonial agricultural development, whilst herding the indigenous populations into densely packed reservations or urban areas (Njoh, 2003).

Master plans rigidly divide settlements into compartments of neighbourhoods of varying land uses. It effectively split towns and cities into zone of land uses such as residential, commercial, agriculture, industrial among others. Together with master plan and zoning ordinances, building codes and minimum standards were also introduced. Building codes and standards are a set of acceptable parameters which all developers were expected to comply with, supposedly to guarantee aesthetic values, convenience, health and safety as defined by the colonial authorities (Njoh, 2003). Land use regulations, space standards, services and amenities standards and building/housing materials codes were introduced to regulate housing development (Mabojunje, 1992; Njoh, 1998; 1999).

Land use regulations required that any proposed land use should be consistent with the provisions of the existing master plan. Residential and commercial land uses were thus to

be permitted in areas which have been earmarked for residential and commercial uses respectively. The goal of this regulation was to segregate incompatible land uses whilst fusing complementary ones. Besides land use regulations, service and amenities standards were introduced as part of the reforms to shape the urban space in the colonial territories. This requirement specified the minimum standards which were to be observed in order to achieve what was perceived by the Europeans as quality in services and amenities to support decent human habitation. For example it was mandatory for developers to provide the right of way not less than 8 metres with corresponding width of not less than 4.8 metres (Njoh, 2003; 2006). Beside these, prospective developers were required to provide a septic tank or a means of treating waste water (Njoh, 1999). The general objective of this requirement was to improve the aesthetics, health, convenience and liveability of the colonial territories. Together with the amenities standards, space standards were also introduced. The space standards controlled the amount of space as well as the way and manner such space could be utilised. Some indicators such as occupancy ratio (densities), number of buildings per unit area, minimum plot size, floor area ration and the total number of permissible storeys were used as the parameters to assess compliance with space standards (Wekete, 1995). These aimed at avoiding overcrowding, ensuring ventilation as well as general health and wellbeing. The final standard which the colonial authorities introduced in the colonial territories was acceptable building materials. The native Africans were expected to use steel, iron, cement and glass which were imported from Europe. Indigenous building materials such as wood, bricks and thatch and improved materials such as unrolled tin cans, corrugated aluminium and zinc sheets were often considered inferior and often rejected in favour of the imported ones. These policies had considerable impact on the morphology of human settlements. It is therefore instructive to unpack how colonial spatial policies played out and contributed to the creation of urban space in the colonies.

2.7 Impact of Land Use Planning on the Indigenous African Society

The Berlin Conference in 1884 which officially partitioned Africa for the purpose of colonial rule witnessed the emergence of 12 imperial states of which five - Great Britain, France, Spain, Portugal and the Germany were the major colonizers. Even among the five major colonisers, Britain and France were by far the most dominant. Out of the 48

countries in SSA, 21 and 17 were colonised by Britain and France respectively (Obanya, 2005). Therefore, in analysing the colonial implications for land use planning, emphasis will be laid on the British and French spatial policies.

Given the centrality of land for senses of identity and the close relationship of personhood to senses of identity (Strathern and Stewart, 1998), it follows that there are deep-seated and far reaching linkages between issues related to land and the general spatial outlook. In particular, the changes in native tenure which resulted from the introduction of alien planning ideologies resulted in housing shortages, variations in the spatial characteristics such as intra city segregation, rural-urban divide and deepening of coastal and inlands among others. Each of these is effect is discussed below.

2.7.1 Housing Deficit

The need to meet standards in order to obtain planning permission to develop was totally alien to the native population. Significantly, these standards and building codes were inspired by European ideals yet hardly reflected the native culture, local building materials, the skill of the people as well as local climatic conditions. It was therefore not surprising that the colonised populace were generally unable to comply with them (Wekwete, 1995; Njoh, 2003). In effect, there was a disconnection between the imposed planning ideals and the dynamics of the indigenous needs. For example the insistence on occupancy ratio as a check against overcrowding was at total variance with the aspirations of the native population. This was because the necessity to accommodate one's family relations far overrode all other considerations (Asiama, 1990).

The difficulty in complying with the imposed building codes and minimum standards also resulted from the high incidental cost and bureaucracies associated with the European planning systems. The requirement to produce architectural design to the space and amenities required the expertise which was not readily available among the indigenous population. Developing without complying with the building codes and planning standards attracted sanctions such as fines. This restricted the ability of the indigenous people to construct houses especially in the areas closer to the colonial settlements (Home, 1983; Wekwete, 1995). The building codes and standards aimed at ensuring a qualitative supply

of housing in the colonial territories. However, the inability of the indigenes to comply with the imported standards proved to be problematic. The unintended outcome of the introduction of the Eurocentric building codes was the quantitative drop of housing supply (Njoh, 2003, 2006 and 2009b). Beside the housing shortages, the manipulation of the land tenure system and introduction of European building codes and standards in the colonies resulted in intra town/city segregation based on racial consideration.

2.7.2 Variations in the Spatial Characteristics within each Colony

The policies of the colonial authorities created intra colony hetrogeneity in terms of the spatial characteristics. In a general sense, the areas where the Europeans settled within the colonies witnessed the introduction of western urban form into the indigenous spatial structures. There was therefore the spatial and cultural hybrid in terms of the spatial make up as such areas exhibited elements of both traditional and western ideologies. In contrast, the areas which had little or no contact with the Europeans maintained their precolonial systems and structures for managing spatial growth. In effect, there were large differences in population densities between areas of colonial elite and indigenous population, impacting life style, quality of life (King, 1990) and ultimately, the urban form.

The colonial city was the 'nerve centre' of colonial exploitation. Concentrated there were the institutions through which capitalism extended its control over the colonial economy- the banks, agency houses, trading companies and shipping companies (King, 1989; Njoh, 1998). In contrast, the rural areas were reserved for the production of agricultural products and raw materials. This resulted in spatial division in terms of economic activities, distribution of population, road, railways and other infrastructure. The variation in spatial characteristics across the colonies resulted from racial settlements policies, rural-urban divide and finally, the different spatial policies which were formulated for the coastal and inland areas of the colonies.

2.7.2.1 Racial Segregation of Residential Settlements

One purpose of introducing land use planning in the colonial territories was to provide the needed framework for segregating the indigenous population from the Europeans along racial lines (Frenkel and Western, 1988). Lord Lugard, the then governor of Nigeria for example noted that 'The British role here [in Nigeria] is to bring to the country all the gains of civilisation by applied science (whether in the development of material resources, or the eradication of disease, etc.), with as little interference as possible with native customs and modes of thought. He further wrote that it would be 'very desirable that Natives should as far as possible live in their own towns and suburbs' (cited in Home, 1983). These biases were informed by the popular view that Africans were not only racially inferior but were sub-human and dispensable (Njoh, 2009, p. 10). This resonated with the earlier assertion by the then French socialist, Leon Blum (cited in Njoh 2009) that 'it was a right, nay, a duty, of the superior races to show the light to those who have not evolved culturally'. Owning to these prejudices, it became customary for the colonial authorities to create "European-Only" enclaves. Therefore, as a matter of policy, colonial authorities effectively sought to minimize contact with the black race.

The black race was also perceived as a vector of various tropical diseases such as malaria. In the British colonies, the racial segregation was therefore camouflaged under health and safety concerns. A case in point was the situation in Sierra Leone, where from 1899 to 1900, a team of scientists, led by Dr Ronald Ross, then with the Liverpool School of Tropical Medicine, claimed that the anopheles mosquito as the vector for malaria and recommended the separation of the native from the European population as a means of protecting the latter against malarial infection (Njoh, 2009). A notable revelation of Dr Ross' study was that the anopheles mosquitoes could not cover a distance of more than 440 yards. Basing on these findings, the colonial spatial policy requiring that European districts be separated by a distance of at least 440 yards from the residential areas of members of the indigenous population was justified (King, 1989; 1990). The British colonial authorities thus overtly institutionalised and maintained (often extreme) social distance on the basis of race and ethnicity (Simon, 1992, p. 27).

In the Francophone territories, the racial segregation was more disguised. The colonial authorities attributed any separation of Europeans from the indigenous population to the differences in culture and not race. On the face of it, such explanations appeared convincing especially since the French colonial spatial organization policies contain hardly any obviously racist language. A careful examination of the French laws and spatial policies however reveals that settlements were created with racial undertones. It was characteristic of the French colonial authorities to adopt stringent and excessively restrictive building codes and other regulations that effectively excluded Africans from certain areas (Simon, 1992; Njoh, 2009).

The historical development of Guinea-Conakry reveals the situation where racial segregation was indirectly carried out. Through the Land Use Law which was promulgated on 14 September 1901, settlements were divided into three concentric zones with the seat of the colonial government (which was the Governor's Residence) at the centre (Njoh, 2009). The significance of these three concentric circles was that, it determined the material of constructions developers were expected to use. The materials of construction within the first were expected to be dominantly European. The cost associated with developing land was therefore highest in the central areas and then reduced significantly as one moved further from the centre. Accordingly, it was mandatory to for people wanting to develop within the first zone to express their capacity and willingness to spend an average of seven and one-half francs per square metre (7.5 F/m^2). For the second zone, one was expected to be willing to spend an average of four francs per square metre (4 F/m^2) whilst the cost of the third zone cost developers one and one-half franc per square metre (1.5 F/m^2) (Njoh, 2009, Hull, 1977). Beside the cost which was associated with each of the three zones, developers in the first zone were also expected to be very proficient in the French language. Together with these conditions, it was a prerequisite that all buildings should be completed in at most 2 years from the date on which the plan was approved (King, 1990).

The position of the French colonial authorities was that, whoever satisfied these conditions could live at the centre and indeed any other place of the cities. At the first instance, it was tempting to concede that these rules were free from racial biases. However, it was clear to

the colonial authorities that in practice, it was impossible for the indigenous people to meet the conditions which would allow them to develop in the inner cities. Effectively, the first concentric circle was reserved for the Europeans whilst the indigenes were pushed further from the centre of cities. Urban development in the French colonies was thus fragmented along the lines of 'European' and 'native' settlements similar to the British colonies (Rakodi, 1986). Carole Rakodi (1986) recounts that the white neighbourhoods were generously furnished with improved sanitary amenities. These included in-door plumbing, large residential units, gardens and well-maintained lighted streets. European settlements were also fitted with amenities such as golf courses, soccer fields, swimming pools, and so on that were commonplace in upper income neighbourhoods in Europe (Njoh, 2009). In contrast, the indigenous population continued to live in makeshift structures with poor sanitary conditions. "The structural inequalities of rigid social stratifications .... which were reinforced by the visibility of ethnic and racial phenotypes" (Simon, 1992: p. 26) was thus obvious. Racial segregation therefore created privileged enclaves of access, amenity and community for the Europeans. In effect, there were two categories of neighbourhoods in almost all the major colonial African cities.

2.7.2.2 The Rural and Urban Divide

It is worth recalling that the ultimate goal of the colonial authorities was exploitation of resources. The natural distribution of minerals and other cash crops within the colonies, therefore, to a large extent determined where the colonial authorities invested. Infrastructure such as roads and railways were constructed to transport raw materials. This resulted in a situation where building of improved infrastructure was concentrated in areas which were naturally endowed with resources.

Areas such Obuasi (in Ghana), Yaounde (in Cameroon) and Brazzaville (in Congo) which were of commercial interest to the colonial authorities witnessed dramatic infrastructural development such are railways and roads under the colonial spatial policy (Konadu-Agyemang, 1998). The exploitation of the natural resources created job opportunities in areas which were endowed with natural resources. The job opportunities and available infrastructure created a pull force on the rural population. This resulted in the rapid

urbanisation of the commercial and mining centres (Home, 1983). The resultant effects of this development were mixed. Whereas it provided readily available pool of labour, nonetheless, it escalated housing, sanitation and health problems in the urban areas akin to the situation during the industrial revolution. This development threatened the health of the urban dwellers especially the native ones who only had access to makeshift housing units and poor sanitary facilities. The need to safeguard the health of the native population was particularly important since they constituted the core supply of labour of the colonial economy. This prompted the colonial authorities to provide improved housing and sanitation facilities to the local population they employed. Even non-European employers were also mandated to provide housing units for their employees to standards which were defined by the colonial authorities.

As part of the efforts to improve health and sanitation, the colonial authorities were particularly keen on enforcing the municipal codes and standards in what were considered as urban and commercial centres. The Municipal Ordinance of 1859 by the British was principally enacted to improve the general sanitation in the main towns of the Gold Coast (now Ghana) such as Accra, Cape Coast, Kumasi and Sekondi-Tarkoradi. Similarly, the Land Use Law was enacted on 14 September 1901 by the French, to regulate human settlement growth in Conakry (Guinea). The application of this law was restricted to Conakry which is an urban area. It did not cover villages/rural areas. This and other similar legislations eventually contributed towards entrenching the spatial differentials between the urban and rural areas.

The enactment of building codes and planning standards were not national in character. Emphasis was placed on the urban areas where the magnitude of health and sanitation problems was particularly significant (King, 1989; 1990). Significantly, these minimum building codes and standards did not extend to the rural areas which were barely inhabited by the colonial authorities. This situation created a dual system in terms of managing human settlement growth. On the one hand, the urban areas and places which were the colonial administrators lived were governed by Western inspired codes and standards. On the other hand, the rural areas and other places which did not have direct contact with the

colonial administrators employed indigenous systems and strategies to govern spatial growth and the incidental challenges.

2.7.2.3 Deepening the Coastal and Inland Divide

Besides being responsible for creating a dual system for urban and rural areas, colonial rule and the subsequent spatial policies which were imposed contributed to create a sharp distinction between the coastal areas where the Europeans mainly settled and the inlands which had a minimal contact with the colonial authorities. In the western and southern Africa, this translated into north- south divide. In the eastern coast of Africa however, there was the east and west variations.

When Europeans first entered African as missionaries and merchants, they settled in the coastal areas (Njoh, 2003; Konadu-Agyeman, 1998) as a result of relatively favourable climate and access to water transport with effectively linked Africa and Europe (Mabogunje, 1992). Roads, railway lines, churches, forts, castles and schools which were built by the Europeans were therefore skewed in favour of the coastal areas. The inlands and more land locked areas therefore had restricted contact with the Europeans.

The movement of the colonial authorities within the colonies was dictated by the availability of raw material. The northern areas of West Africa generally had poor soil fertility and less favourable climatic conditions for agriculture. Not only does rainfall decreases as one moved from the coast to the northern part of West Africa, but the rain is also concentrated in shorter periods with characteristic torrential rains. This led to higher run-off, and coupled with soils poor quality, cultivating cash crops such as cocoa, timber, coffee and palm oil was not practical. Moreover, the northern parts of the West African colonies were generally not endowed with of minerals deposits like gold, diamond and crude oil in commercial quantities. These characterisations of the north was represented the exact contrast of the southern belts which generally rich in minerals as were as producing cash crops to feed the European manufacturing companies (Konadu-Agyeman,

1998). In Ghana for example, as a result of the spatial divide between the north and south, the British colonial authorities administered these two areas based on two separate policies. The southern parts of Ghana became the Gold Coast Colony while the northern parts were administered separately as the Northern Protectorate. Consequently, the colonial authorities perceived people from the north as amiable but backward people, useful as soldiers, policemen and labourers in the mines and cocoa farms. In short, they were fit only to be hewers of wood and drawers of water for their brothers in the south (cited in Botchway, 2001). The north was seen as a labour reserve and was subsequently treated as such. The exploitative motives of the colonial authorities meant that developing infrastructure such as roads, railway, schools and hospitals followed the distribution of the natural resources. The northern parts of the colonies were subsequently disadvantaged in terms of the distribution of the colonial infrastructure. Colonial spatial policies in SSA effectively created dual nations in one country (Konadu-Agyeman, 1998). This approach of planning and the outcomes of the colonial spatial policies have had residual effect on urban forms and territorial dynamics in contemporary times (Njoh, 2003).

Although the struggle for independence in colonial Africa was characterised by pronouncements which condemned imperialism and promised to eliminate the vestiges of European domination, the post-colonial leaders, almost without exception decided in favour of adopting Eurocentric models of urban planning and land management (Njoh, 2003). Therefore, the rhetoric of African nationalism, Pan Africanism, African socialism and Marxism Leninism political philosophies which were the main drivers for decolonisation had marginal impact on the inherited formal town and country planning codes after independence (Simon, 1992). This situation prompted Obeng-Odoom (forthcoming) to conclude that land management policies in during the post independence era is a case of the emperor's new cloth. Prior to Obeng-Odoom's characterisation, Patrick McAuslan (2000) had noted that only the name of the country changes after independence with the colonial land laws and spatial policies remaining intact. The planning typologies and the institutional arrangements for land use planning in the post independent era are effectively derived from the colonial policies.

2.8 Planning typologies and Institutional drivers in post independent SSA

To a large extent, the system of land use planning is significantly shaped by the overarching political dispensation. Therefore, the transition from colonised states to independent countries should at least in theory have witnessed some changes to mode of planning. However, this was not the case. Two main planning methodologies have been dominant in the post independent era. These are the comprehensive/Master and public participatory planning and each of them have traces of colonial antecedents. These two planning typologies are examined below.

2.8.1 Comprehensive/Master Planning

The relationship that existed between the colonised and colonisers was authoritarian in nature and this translated into the planning models which were designed for the colonies. As it has already been highlighted, planning was the sole preserve of the planning boards (under section 2.5) which were established by the colonial authorities with practically no representation from the indigenous population.

Immediately after independence, this approach of planning was almost copied verbatim by the African leaders. Thus the attainment of independence only shifted the locus of political decision making from metropolitan to ex-colonial capital cities. Arthur Lewis succinctly captures this trend when he argued that statement of the issues

> "...for most of the governments of newly independent African states independence meant merely that they have succeeded to the autocracy vacated by British and French civil servants" (1965, p. 32-33).

There was therefore a remarkable continuity of colonial policies which failed to engage the natives in the planning process.

Okpala (2009) describes the Comprehensive/Master Planning approach as being based on the conventional procedural model ("survey-analysis-evaluation- plan – implementation") which is a highly analytical and technical form of planning. The nature of perception,

especially by the bureaucrats, planners, architects, and politicians, whose world view represents the new dominant ethos, was therefore central to the process of social production and reproduction of urban form (Simon, 1992, p. 157). Through maps and text, a comprehensive urban master plan was envisaged to describe the proposed future land-use and infrastructure patterns for the urban area over a 15 – 20 year period. It provides a broad and relatively comprehensive context and framework to guide city development by delineating major land uses and other activities locations.

It is important to note that during immediate post independent period, there was an acute shortage of supply of indigenous planners, architects and other land management professionals. Therefore, it became customary for governments of the newly independent states to import professionals for the purpose of planning their settlements. The case in Nigeria is illustrative. The first post independent government (led by Nnamdi Azikiwe) engaged the then renowned architect and urban planner Maxwell Fry and his wife, Jane Drew to design the master plans for several towns and cities including Abjua. In Dakar, the city's 1967 town planning scheme was compiled by the French planner Michel Ecohard (Simon, 1992). Also, by 1984, the entire professional staffs of the Town Planning Agency of Abidjan were French who were employed under the terms of French foreign aid (Attahi, 1989). In effect, the continuous reliance on European professionals after independence helped to perpetuate master/comprehensive planning ideology.

The European planning experts designed and built settlements which, in their view, represented the best interest of the indigenous population. What appeared to have eluded the leaders of the newly independent African countries was that towns and cities do not comprise of neutral arrangement of adobe, wood, corrugated iron, bricks concrete, steel and glass structures. Rather, they are cultural artefacts which reflect the economic systems, functional requirements, cultural values and social norms of the designer and builders (Simon, 1992). These new plans avoided the colonial segregation along racial lines. Nonetheless, dominance of Europeans in the planning of African settlements created a situation where "the social production of urban form in the built environment reflected imported European value systems without embodying any significant local elements" (Simon, 1992 p.7 4). Architecture, urban layout and planning reflected European styles,

fashions and norms with occasional concessions to the local environment, climate and colonial requirement. African cities were therefore generally based on external utopian idealism rather than local drivers.

Perpetuating such top-down model was inevitable because immediately after independence, almost all African states did not have any genuinely democratic governments. Indeed most of the countries were ruled by autocratic military regimes. Therefore, the planning process was hardly disposed to undertake public consultation. Moreover, the high incidence of illiteracy and ethno-tribal barriers meant that only the few bureaucrats and the elites were better placed to appreciate the intricacies of spatial mediation. In line with the approach of planning, a classical top-down institutional arrangement was designed. The institutional arrangement for planning assumed the shape of a pyramid with all the agencies involved in the planning process originating from the presidency of the respective countries. In practice, the central institutional bodies, which were mostly the designated ministries, exercised monopoly over planning decision making. Only the most trivial actions and decisions were delegated to the sub-national agencies.

This model of planning started to attract criticisms, when despite the considerable final investment, the settlements based on the master plans hardly exhibited any discernable differences with the other settlements. The comprehensible planning model was criticized for being too rigid, too complex, too detailed and static, that it took too long to prepare, was too costly and largely ineffective. They were criticized for not usually offering an evaluation of the costs of the implementation of the project it proposed or how they would be financed. Community leaders, politicians and potential implementing agency executives were seldom meaningfully involved in the master planning process, being mostly prepared by professional planners in consultancy firms or working in agencies cut off from community perspective of the problems (Okpala, 2009). Therefore, the master plans which were prepared by the European experts ceased to be implementable on account of their inappropriateness and lack of correspondence to the existing challenges of rapid urban growth (Simon, 1992). The concerns about the complexities associated with master planning and its inability to effectively respond to the overwhelming urban

problems in SSA coincided with greater push towards the democratisation of the planning process. Subsequently, there was a shift towards a more participatory approach to land use planning in several SSA countries.

2.8.2 Participatory Planning

By mid of 1980s, most of the SSA countries started to move towards the path of democracy after some political turbulences which were characterised by frequent military coup d'états. The turn towards participatory planning witnessed the laying of foundations of a new approach which focused on the themes of accountability, markets, democratization and decentralization (Urban Futures 21: 2000, p. 33), re-echoing the paradigmic shift towards the Washington Consensus. This new turn in political ideological inclination resulted in a change towards the participatory approach to planning.

The turn towards the broad participatory approach of planning aimed at creating sustainable development in urban centres which was envisaged as improving the living conditions in informal settlements, alleviating poverty, stimulating economic growth and employment and improving the urban environment (Rutsch 2001). As more elaborately described by Diaw *et al* (2002, p. 341), the participatory planning process entailed continuous awareness-raising, and consultation at city/municipal/ward in order to allow stakeholders to participate in the process of identifying and prioritizing issues of concern, negotiation of strategies and formulation of action plans for addressing the issues, and institutionalizing of the process (Okpala, 2009).

Community consultations through direct participatory techniques and feedback of findings to all stakeholders were very critical factors. The role of the planning officials therefore moved away from the technical experts to facilitators of discursive consultations aimed at identifying and prioritizing specific objectives and outputs. Outcomes of the consultations are used to generate indicative physical development plans to guide, promote, and regulate land-uses. Such a package of investments projects incorporates the quantified demands on resources and institutional capacities and entails decision-making for financial allocations,

resource mobilization mechanisms, the distribution of implementation responsibilities and activity schedules. In effect, land use planning became a democratic activity (at least at the conceptual level). Several countries including Ghana, Zambia, Tanzania, Uganda, Kenya, Zambia, the Gambia and Nigeria - have embraced the decentralised and democratic approach by opening up and broadening the urban planning process to increasingly wider spectrum of stakeholders and popular participation (Okpala, 2009).

The institutional arrangement for executing the participatory planning was structured along the bottom-up logic-local, regional and national levels. The powers of planning and implementation are concentrated at the local and sub national levels with the regional and national planning institutions playing coordinating functions. Planning remains dominantly a state led activity. Therefore, the institutional arrangement for participatory planning includes the relevant Governmental ministries, Local Government councils/Authorities, civil society stakeholders and other interest groups. Personnel such as town planners, land surveyors, cartographers, draughtsmen, development control officers, sanitary inspectors are subsequently central in the planning process. It is within this context that sectoral coordination, institutional collaboration and involvement of stakeholders in the public, private and popular sectors becomes pertinent. The institutional arrangement is subsequently referred to as "Urban Development Corporations", "Urban Development Boards", "Urban Development Authorities", or "Planning Authorities", among others.

2.9 Conclusion

It has been established that land use planning as a discipline evolved to arrest the complexities which were incidental on the industrial revolution in the 19th century. It was subsequently packaged and exported to the colonial territories as a means of tightening the grip on the colonized whilst pursuing the goal of unfettered exploitation of natural resources. The resulting effect of land use planning on the SSA urban and social forms has been enormous. Significantly, it created intra colony spatial variations. This ranged from racially segregated residential areas within cities, a shape divide between rural and urban

areas as well as the coastal and inlands. In Ghana for example, the colonial policies led to the deepening of the rural-urban as well as a north and south divide.

Whereas planning was imposed on the colonies during the colonial period, it continued to be framed based on European perspectives in the post independent era. Therefore, the imprints of western land use planning standards continue to be felt, even in the post independent political dispensation. This is in spite of the fact that these western spatial policies have achieved marginal results.

Some analysts (Njoh, 1999; 2009; Simon, 1992) have questioned the rationale for continuously adopting Eurocentric planning models despite the overwhelming evidence that they are unsuitable for the native African arrangement. Hardoy and Satterthwaite (1989) have expressed similar sentiment when they observed that:

> "Many colonial governments...put in place a range of laws, norms and codes governing housing, building and planning which remain today, largely unchanged...[These were developed] at a time when the nation's economy was predominately agriculture and rural based, and people's right to move to urban centres was often restricted. Not surprisingly, they are very poorly suited to an independent nation where rapid urban growth and increasingly urban societies have become the norm" (p. 20)

Planning responds to the needs of local land management needs. The land tenure practices in Europe are generally inspired by capitalist ideals whereas the communalistic philosophy dominates land holding in SSA. Applying the same spatial policies in SSA which tend to have different landholding ideology from Europe for example has been cited as been a principal cause to the planning inefficiencies in SSA. Some commentators (de Soto, 1989; 2000) have subsequently argued that a structural transform of the land tenure principles and practices of the indigenous tenure towards the capitalist tenure models is a prerequisite to any meaningful planning reforms. In line with such propositions, the next chapter examines the nature of land tenure in SSA by critically interrogating the claims that planning inefficiencies in SSA mainly result from the imposition of capitalist spatial policies on a foundation of communal land tenure practices.

CHAPTER THREE

CUSTOMARY LAND TENURE PRACTICES IN SUB-SAHARAN AFRICA: NATURE, DYNAMICS AND IMPLICATIONS FOR LAND USE PLANNING

3.1 Introduction

Customary land tenure systems in SSA are generally underpinned by the communal philosophy. As a result, multiple land rights may concurrently co-exist on the same piece of land. Such collective means of holding land has been criticised and has even been described as 'tragic' (Hardin, 1968). As a result of the perceived inherent flaws associated with customary land tenure, almost all post independent era in SSA has witnessed a flurry of state interventions ostensibly to align land tenure systems in SSA with the neoliberal ideals of the west. Indeed avid critics of SSA land tenure (e.g. de Soto, 2000; World Bank, 2006) have emphatically concluded that unless there is a structural transformation from communal tenure to the capitalist inspired land landholding regimes, Africa will continue to be characterised by unregulated and uncontrolled developments. At the heart of these claims are the perceptions that land tenure in SSA is anti market, anti private property rights and fails to offer adequate security of title. This chapter interrogates these claims in order to ascertain their veracity or otherwise. The chapter concludes by highlighting the gaps in policies and literature which have inhibited the various land reform programmes in SSA from successfully translating to improving the state of land use planning in the sub continent. As a precursor to interrogating these issues, it is important to first examine the nature and dynamics of customary land tenure in SSA.

3.2 Nature of indigenous land tenure in SSA

Recent estimates suggest that between 2 and 10 per cent of land in Sub-Saharan Africa is held under freehold title (Deininger 2003, p. 62). Of the remaining 90 per cent, the largest proportion is held under what is commonly termed 'communal' or 'customary' tenure. This means access to land in most of Sub-Saharan Africa continues to be determined by indigenous systems of land tenure (Cheater 1990; Bruce 1993; Palmer, 2003; Benjaminsen

and Lund 2002). Land tenure systems in SSA are both complex and delicate subject. In several cases, two researchers examining the same tenure systems often come out with sharply contrasting position which are so entrenched that questioning the other's position is seen as a sign of reduced intelligence (Acquaye, 1984, p. 11). What partly accounts for this situation is the casual description or reference to SSA land tenure 'customary', 'communal', and 'traditional' without carefully examining the actual meaning of these adjectives. In this regard, Noronha (1985) and Nkwae (2006) deserve some commendation for their efforts at shedding light on the meaning of these three terminologies. The terms 'customary' and 'communal' cover fairly wide range of spectrum of situations and land arrangements ranging from individual to group rights. They advise that 'customary tenure' should be understood as a tenure deriving its legitimacy from customs. 'Communal tenure' on the other hand refers to a tenure situation whereby group rights are predominant, but not exclusive. 'Traditional tenure' encompasses a tenure situation consisting or drawing from tradition, with a connotation of history or antiquity. As Walker (2002) notes, the terms 'customary', 'communal' and 'traditional' tend to be used interchangeably, yet do not necessarily have the same meaning. It is possible, for example, 'to have communal tenure systems that support poor people's livelihood strategies, that are neither based on customary law, nor dependent on traditional institutions for their administration' (p.5). Both supporters and critics of communal tenure sometimes elide these meaning, but for analytical purposes they should be seen as distinct.

Referring to 'communal tenure' as 'customary' could be problematic and misleading. Customary rules can be recognised and enforced using formal law as in Botswana and Fiji (Nkwae, 2006). The Islamic shari'a and the Hindu law share many characteristics of 'customary tenure' and both laws are 'customary', 'traditional', 'modern' and very 'formal' (Payne, 2001). Further still, customary rules can be incorporated into statutes as the case in Ghana (Yeboah, 2011). Therefore one must exercise greater caution when qualifying SSA land tenure as 'customary'. Noronha (1985) also advises commentators to avoid the issue of time dimension in their attempts to describe customary tenure as this evokes an image of an unchanging, antiquarian, and immutable normative system. However, historical and anthropological research has revealed that customary land tenure is dynamic (Benjaminsen and Lund 2003). For example, 'customary tenure' which is

practised by the sheep farmers of Fieschertal community in the Swiss Alps region, although relatively modern, is 'communal' (Noronha, 1985).

Significantly, what constitutes 'custom' has been profoundly shaped by colonial attempts to codify the indigene code of practices and judicial precedents. What is therefore referred to as 'customs' presently represents a cross fertilisation of indigenous African practices, colonisation and western ideals which are rapidly assimilated into the scheme of affairs. Lynch and Harwell (2002, p.3), writing from an Asian perspective, suggest that the term 'community-based property rights' be used, since the distinguishing feature of these forms of property rights is that they derive their authority from the community in which they operate, not from the nation-state. This would also be an acceptable term in the African context, but of course would require clarity as to what constitutes a 'community'. In recent South African law and policy, this has proved to be difficult and contentious at times (Cousins, 2003). In fact Moore (1973) and Johan Pottier (2005) have challenged the very notion of customary law as a system capable of definition because 'when today we refer to customary land tenure, we may be referring in part to a feat of social engineering that allowed western legal concepts to slip in through the backdoor' (Pottier, 2005, p. 59). Customary' land tenure should rather be seen as the mode of landholding systems which have evolved locally as opposed to tenure practices which were imposed by external institutions. 'Customary' land tenure as used in this thesis denotes a body of rules founding its legitimacy in traditions and cultural norms. These rules are usually explicit and generally known, as a result of the linkages of local cultural practices (Dadson, 2006). Customary land tenure systems are thus mixed tenure regimes, comprising variable bundles of individual, family, sub-group and larger group rights and duties in relation to a variety of natural resources Bruce (1993).

As a result of the influence of culture on customary land tenure, there are variations across tribes, clans and families. As a result of cultural differences, land tenure may for example be matrilineal or patrilineal depending on the succession systems. Nonetheless, there are some common characteristics across all social groupings. For example the fact that land is usually held by clans or families is shared across SSA (see section 4.6.1). Such rights are accessed on the basis of group membership and social status, and used through complex

systems of multiple rights (Cotula, 2007). Another feature of customary land tenure system in SSA is that, land access typically involves multiple and overlapping rights over the same parcel of land.

The rights to occupy, to use land for annual and perennial crops, to make permanent improvements, to bury the dead, and to have access for gathering firewood, wild fruit, thatching grass, minerals, rights to transact, give, mortgage, lease, rent and bequeath areas of exclusive use all co-exist on a given piece of land (Abdulai, 2006; 2010; Ollennu, 1985). However, such rights may be vested in different members of the land owning group concurrently. It is therefore possible that on the same piece of land, one member of the land owning group may have the right to cultivate, another may reserve the right to harvest fruits and fire whilst another joint member of the land may have the right to draw water. As a result of the concurrent existence of these multiple rights, customary tenure in SSA has variously been described as fuzzy, anti market, anti private property rights and does not offer security of tenure (Swynnerton, 1954; Wilson, 1971; de Soto, 1989; 2000 and World Bank, 2003b).

3.2.1 Customary Land Tenure in SSA and Security of Tenure

Scott (1981) and MacGee (2006) opine that land title under traditional arrangement is not secure because of absence of formalised land rights. Security of tenure has been defined by Roth and Haase (1998, p. 1) as 'the individual's perception of his/her rights to a piece of land on a continuous basis, free from imposition or interference from outside sources, as well as the ability to reap the benefits of labour or capital invested in the land, either in use or in alienation'. Commentators who argue that land tenure in SSA is insecure therefore claim that a land holder may lose his/her land rights without any legitimate basis. Central to this argument is the claim that, the security of title is better guaranteed when land rights are formalised or registered.

This pattern of argument has its antecedents in colonial rule. The German colonial authorities introduced the public land record keeping document of *Grunbunch*. The British colonial authorities perceived land rights under indigenous tenure as fuzzy and lacked

security (Abdulai, 2006). In the Gold Coast, as Ghana was then called, the British first introduced land title registration through the promulgation of the Land Registration Ordinance 1883, (No. 8). This was followed by the Land Registry Ordinance of 1895 (Cap 133) which was revised in 1951. These legislations eventually mandated all land transactions to be evidenced through the issuance of formalised instrument such as a deed or land title certificate as part of the efforts to secure land rights (Abdulai, 2006).

3.2.2 Customary Land Tenure in SSA and Land Market

Also, literature on SSA land tenure is inundated with the belief that land is a spiritual entity and cannot be alienated for valuable consideration (Danquah, 1928; Busia, 1951; Posner, 1981). It has long been cited that land ownership in SSA is closely linked with cult ancestral worship and believes. Therefore, alienating land is often considered as sacrilegious. To the colonial authorities, indigenous tenure 'often makes lands, practically inalienable by recognition of the right of every member of a family on an undivided share in property (Branney, 1959, p.210). Access to land has often been reduced to ones membership of the land owning group, a situation that negates any other form of land access especially purchase. This view of SSA land tenure has become deeply ingrained in the land policy discourse. As a U.N. Report (1973) for example claimed that 'it is paradoxical to note that although most African countries have very low population densities and land speculation is intense, there exists practically no urban land market (p.3)'. The perception that land tenure in SSA does not support land market has therefore been cited for being the principal cause of the flaws associated with land use planning (de Soto 2000; World Bank 2006).

3.2.3 Customary Land Tenure in SSA and Individual Property Rights

Finally, discourse on SSA customary landownership system is replete with the notion that the system does not permit individual ownership of land (see Hardin, 1968; Johnson, 1972). Land tenure in SSA is 'communal' where ownership collectively vests in social groups such as families, clans and tribes. As a result of the structure of land ownership, it has been claimed that private property rights do not exist within the SSA context. Hailey (1946) for example claimed that all belonged to the community and there was no

individual ownership. Meek (1946) also reiterated that land is collectively owned and cannot be alienated. It has even been argued that the lack of private property rights has provided little motivation to judiciously utilise land resources and thus facilitate environmental degradation (Hardin, 1968). It has also been argued that a lack of clearly defined individual property has contributed to the development of slums (de Soto, 1989; 2000). Proponents of this argument posit that individualised title stimulate investment in housing and property development and eventually curbs the creation of poor housing and sanitary conditions (World Bank, 2003a). In effect, the characteristics of customary land tenure have some relationship with land use planning.

3.3 The Interface between Customary Land Tenure Practices and Planning

Since whoever controls and manages land eventually shapes the nature and function of urban form (Gareth, 1991; Kivell, 1993; Olima, 1993), it is legitimate to admit that customary land management principles and practices are closely linked with land use planning practices. Therefore, examining the principles and some aspects of customary land tenure management practices is pertinent as it helps to lay the foundation for subsequent analytical reasoning. In this regard, the doctrine of trusteeship, the role of chiefs (trustees) in land delivery and the nature of customary land boundaries are significant aspects of customary management and are subsequently examined below.

3.3.1 The Doctrine of Trusteeship and Land Ownership in SSA

Land permeates almost all facets of the socio economic practices of the SSA society. It is a source of livelihood and a source of tribal identity. How land is owned and managed is subsequently woven around the cultural practices of the respective tribal groupings across SSA. The generic principle that continues to guide land management and administration under the customary tenure practices has been that land should be utilised to the benefit of all members of the land holding group. A now popular saying by a Nigerian chief below aptly encapsulates the overarching principle of customary land holding in SSA.

The chief noted that:

> "I conceive that land belongs to a vast majority of whom many are dead, a few are living and countless hosts are still unborn" (Njoh, 2006, p.74)

The land owning group therefore has the responsibility to manage land in order to ensure sustainable development. The management of customary land is carried out by chiefs or a leader who is duly designated in accordance with the tenets of customary practices. Chiefs hold customary in the capacity of trustees. Chiefs are therefore expected to hold and manage land for the benefit of the entire membership of the landholding group. The doctrine of trusteeship in customary land tenure practices has remained a cardinal principle since time immemorial. As far as 1904, the eminent Gold Coast Lawyer John Mensah Sarbah had this to say:

> "The village community is a corporate body of which the members are families or family groups residing in several household . . . at most the King or Chief is but a trustee, who is as much controlled in his enjoyment of the public lands by his subordinate chiefs and councillors as the head of a family by the senior members thereof" (Sarbah, 1904, p.100).

Distant observers such as Hailey (1946) and Meek (1946) have rather erroneously claimed that chiefs own lands under the customary land tenure arrangement in SSA. It is important to note that

> "The stool occupier [who in most cases is the chief] is in common parlance, or by courtesy, referred to as *owner* of the land; but he is only so in so far as he represents the sovereignty of the people, giving due respect to the sacredness of the stool. ..... chiefs hold the lands and other stool property in trust for the Asamanfo [ancestors] and to the benefit of subjects to the stool" (Danquah, 1928, p. 200).

Under the current dispensation, the position of chiefs as custodians or trustees of communal lands has been enshrined in various statutes. In Ghana for instance, Article 36(8) of the 1992 Constitution states:

> "the state shall recognise that ownership and possession of land carry a social obligation to serve the larger community and, in particular, the state shall recognise 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"

Chiefs and other traditional leaders in SSA are therefore not land owners. Rather, they are trustees who hold land in fiduciary capacity in relation to all other members of the land owning group. Therefore, land management decisions such as alienation should therefore be made with the ultimate goal of securing the greater benefits of the entire land owning group. In some cases, the landowning group may be people who dwell within a clearly marked boundary although the current existence of customary and formal boundaries means this is not always the case.

3.3.2 Customary versus Formal Internal Boundaries

Prior to the annexation of SSA as a colony of metropolitan Europe, the chieftaincy institution remained the governance machinery for the indigenous society. The society was structured along ethnic/tribal groupings with chiefs being at helm of all governance affairs. Each of ethnic groups and tribes had a clearly demarcated territory over which chiefs exercised their powers. In broad terms, when the various colonial powers eventually took their territories in SSA after the Scramble for Africa, the existing boundaries were not annihilated. Rather, the colonialists partitioned their respective colonies for the purpose of facilitating administration (Coleman, 1971).

The colonial authorities had one motivation; maximising profit through unfettered exploitation. Accordingly, all initiatives were geared towards tightening their grips on the colonised people and ultimately furthering the goal. In the administrative front, the colonial metropolis of Gold Coast was demarcated to facilitate governance whiles achieving the highest and best use in terms of commerce. It is instructive to highlight that the only considerations for the demarcation carried out by the British colonial authorities were capital accumulation and social control. Therefore no consultation was held with the indigenes prior to the demarcation (Bening, 1999). Subsequently, no attention was paid to the existing traditional boundaries and geographical contiguity. This created two set of demarcated boundaries concurrently; the existing customary boundary and the imposed colonialist boundaries. Worth noting is the fact that hardly ever did these two boundaries

fall in line (Njoh, 2006). The result was that areas falling under two or more ethnic/tribal groups with distinctive chiefs were grouped as a single administrative unit. The case in the present day northern Ghana illuminates this observation. For example upon bringing it under its control, the British declared it 'The Northern Protectorate' (Konadu-Agyeman, 1998). The Northern Protectorate was a single administrative unit although the north was the home to over 20 ethnic groupings. To the colonial authorities, all ethno-tribal boundaries were dissolved. In some areas however, a single community was split into two or more administrative units. This meant that whilst one chief was responsible for governing such area basing on customary norms, the British colonial authorities had two or more representatives (who were often called commissioners) in charge at the same area. This approach to boundary demarcation continues to infiltrate policy circles presently. The issue of internal boundary demarcation is pertinent since it has far reaching implication for the roles of customary land holders in planning delivery.

3.3.3 The role of Customary Landholders in Planning delivery

An estimated 90 percent of all lands in SSA are held under customary land tenure arrangement (Deininger, 2003). This makes the customary sector a significant source of land for development. The dominance of customary land means, the statutory body for land use planning effectively have no direct control in terms of land ownership. Therefore, despite the legal mandate to plan and implement plans for their respective jurisdiction, the extent at which they can operate is largely dependent on the cooperation of the customary land holders (Larbi, 1996; Ubink and Quan, 2008). Planning decisions such as determining which area could be zoned for which land uses should therefore be taken in consultation with the customary land holders. In effect, the consent of customary land holders is required before planning authorities enter and plan for any area within their jurisdiction.

The central role of land holders in the planning process is further strengthened by the fact that, as trustees of customary lands, they are responsible for making land management decisions especially in terms of allocating land to prospective developers. Land use planning is ultimately a spatial activity. Therefore, how one gains access to any parcel of

developable land is key to the success or otherwise of the entire planning process. As a result of the direct role they play in land delivery for the purpose planning and development, customary landholders are integral to the planning process.

3.4 State Interventions in Customary Land Tenure

Several authors and commentators (e.g. Swynnerton, 1954; Wilson, 1971; de Soto 2000) have cited the communal characteristics of land tenure in SSA as being an obstacle to development and effective land use planning. To such authors, land use planning has its roots in capitalist land tenure systems. The three key characteristics of capitalist land tenure which are secured land rights, private property rights and tradable land rights are seen as a prequisite for effective land use planning (Feldman 1974; Chanock, 1985; King, 1989; 1990; Mabogunje, 1990, de Soto, 19899; 2000). However, the above authors are a few examples of commentators who have argued that the land tenure systems in SSA lack these attributes. Therefore, the failure of land use planning in SSA (see UN-Habitat, 2009; 2010a) has often been attributed to land tenure practices (Ubink, 2006; Ubink and Quan, 2008).

The perceived inherent weaknesses associated with the customary land tenure systems in SSA (inalienable property rights, lack of private property rights and lack of tenure security), have often been cited as the cause of the poor state of land use planning in SSA. The Peruvian economist and neoliberal land policy advocate, Hernando de Soto (2000) aptly posits that in SSA and other emerging economies, land is held outside the 'bell jar' of capitalism and thus has had dire consequences in the area of maximizing wealth creation, liberating the poor and facilitating sustainable urban planning models. At the thrust of this thesis is the argument that the prevailing property right regimes in the west are secure, privatized and tradable. As a result of these characteristics, western land holders almost in all cases carry out significant capital investments to improve their lands and landed assets. What explains this pattern of behaviour is not farfetched. The ability to trade one property rights provides the added incentive to comply with development regulations and land use planning requirement as means of maintaining or enhancing property values. De Soto therefore boldly asserts that the significant success in the area of

town and country planning in the west is underpinned by the triumphant reign of capitalism and the liberal political ideology.

De Soto contrasted the land tenure practices in west and SSA (including other emerging economies) and concluded that, SSA economies have failed to be meaningfully integrated into the global economy, liberate their people from the shackles of abject poverty and instil some sanity in the rapid growth of human settlement as a result of the anachronistic land tenure practices. According to de Soto and others who find his claims persuasive (e.g. World Bank, 2006), the prevailing land tenure systems in SSA and the former communist states are characterized by title insecurity, lack of individualized property ownership and virtually non existing land markets. As a result, there is little motivation for people to undertake capital improvement in the property and comply with planning regulations. This is because, as a result of title insecurity, people's land could arbitrarily be altered without any due process or compensation.

Capital improvement and complying with planning regulation come with a cost which cannot be recouped because trading land rights is almost seen as a taboo in SSA. As a result of the claim that capitalist land tenure is non operational in SSA, Harnando de Soto is not surprised that:

> "nobody can easily identify who owns what, addresses cannot be easily verified,..... descriptions of assets are not standardised and cannot be easily compared, and the rules that govern property vary from neighbourhood to neighbourhood or street to street" (de Soto, 2000, p. 14).

Before de Soto made these rather bold claims, other commentators had earlier concluded that, the development gap between SSA and the west especially in the area of planning is attributable to the extent at which capitalism is engrained in the socio-economic fibre of the society. A claim by Britton (1980) is illustrative:

> "An inherent feature of underdeveloped economies ..... is the fact that national economic, social and spatial entity is a composite and expression of the historically specific way in which the integration of capitalism with traditional society occurred" (Britton 1980, P. 252).

These supposed inherent weaknesses of African tenurial systems have been pronounced so frequently and so loudly by western commentators that it is widely accepted as a fact and to question it is taken by proponents as 'proof of reduced intelligence' (Acquaye, 1984, p. 11). It is therefore not surprising that some indigenous African commentators have taken turns to re-echo the perceived flaws of SSA land tenure practices. A.J.B Hughes, a native of Swaziland in Southern Africa for example described the SSA land tenure as 'mostly inefficient and is becoming more so every year. Something must change and must be soon' (Hughes, 1962, p. 253). La Anyane, (1962), Asabere (1994) and Pagiola's (1999) have variously described land tenure in SSA as offering inferior security of title and contributing to environmental degradation. La Anyane in particular was eloquent in his characterisation of SSA land tenure as being deficient. According to him, the tenure system is not adequately equipped with the structures to grapple with the challenges associated growing population and commercial agriculture (p. 13). Ferguson (1958), an avid critic of the land tenure system in SSA was rather straight to the point, arguing that the customary land tenure system lacks the basic requirements of a good land holding system. Like other commentators, La Anyane (1962) and Ferguson (1958) have made a call that the customary land tenure in SSA must be replaced with a more settled and functional landholding systems in order to keep pace with modern demands.

Various post independent states' interventions in customary land tenure have been premised on the above characterisations. The World Bank (1974) led land reforms across SSA were based on the notion that the indigenous tenure lacked the ability to facilitate commercial agriculture, facilitate economic development and ensure effective spatial organisation. The policy recommendations contained in World Bank (2003) all hinged on the claim that African tenure was inefficient. As a result, it has become a condition for financial assistance that post independent African governments reform the indigenous tenure. Therefore, when the World Bank aided Malawi Land Reform, the then president, Dr Hastings Banda had this to say:

> ".....our custom of holding land in this country, our methods of tilling the land.....are entirely out of date and totally unsuitable for economic development of this country"

President Banda further stressed that:

> "The government came to the conclusion that the first thing we had to do to ameliorate this situation or lessen the seriousness of the problem by changing our methods of land holding or land tenure"

The Government of Ghana through the Ghana Land Administration Project aims at "simplifying the process for accessing land and making it fair, transparent and efficient, developing the land market and fostering prudent land management" (World Bank, 2003a, p.3). Among other means, this aspiration is being pursued by "registering systematically all interests in land (World Bank, 2003a, p.6) as a means of curing the perceived malaise which is associated with customary land tenure systems. More recently the illustrious Ghanaian diplomat and former Secretary-General of the United Nations, Kofi Annan joined the chorus by asserting that "without rules governing contracts and property rights; without confidence based on the rule of law; without trust and transparency – there could be no well functioning markets.' (cited in Blocher, 2006, p. 166). Asumadu (2003) has also reiterated that the various forms of tenure in SSA are anachronistic and in need of urgent reform. He further claimed that and tenure system impedes the country's socio-economic development, and is completely out of place in a modern, progressive country.

From the above, it is apparent that some indigenous policy makers, experts, and influential commentators have continuously lent credence to these claims by reiterating claims that SSA land tenure is anathema to the aspiration of the modern African state. It has therefore become customary for western donor partners to mandate countries of SSA to radically reform their basis of landholding and transactions as a precondition for loans and other financial assistance. Perhaps, the era of structural adjustment reforms witnessed the peak of this situation when the World Bank and the IMF pressed SSA countries to embark of neoliberal inspired land reforms in exchange of economic and technical assistance (Platteau, 1992). The liberal democratic economic and political philosophies in contemporary times are therefore not exported under the mantle of colonial rule but through the dynamics of the international economy.

Also, it is useful to recount that the economists, politicians and policy makers who have spearheaded Africa's economic renaissance since independence have generally been trained in Europe or North America. Accordingly, several of them are firmly rooted in the neoliberal and capitalist paradigm (Constant and Tien, 2010). Scholarship exchange between the West and SSA is one directional with SSA often consuming knowledge (in the form of journals publications, books, and conference proceedings) developed in the advanced economies (Schuurman, 2000; Escobar, 2004). The values and perception of planning professionals and other policy experts therefore tend to reflect western definition of modernity rather than the indigenous African traditional values. As a result of this imbalance, SSA has been ... "reduced to a residual entity, which does not contribute anything to the knowledge of the world or the human condition in general" (Mbembe and Nuttall, 2004: p. 351). In turn, even locally trained policy experts are generally biased in favour of western ideals and accordingly turn to the advanced capitalist economies for policy templates to grapple with local land tenure challenges despite the vast contextual variations (Simon, 1992; Watson, 2006). As a result of the imbalance in economic and educational powers, various SSA countries have voluntarily or otherwise sought to reform the operations and administration of customary land tenure practices in their respective countries in order to align them to western standards.

3.4.1 Land Tenure and Land Administration Reforms

Several societies in SSA have struggled to balance the often-conflicting demands for land and this has often led to social upheaval in countries such as Zimbabwe whilst it has facilitated poor planning in almost all countries. As a result, various countries have devoted efforts at developing systems to reform and administer land rights. The African Union Land Policy Framework (2009, p.10) defines land administration as involving the structure and processes for the determination, archiving and delivery of land rights, and the systems through which general oversight on the performance of the land sector is managed. Land administration mainly focuses on reforming and strengthening the policy, legal, and institutional frameworks for landholdings. Such reforms may also upgrade survey and record keeping technologies; capacity building— all in an attempt to develop more efficient and effective land administration services.

Land tenure reforms on the other hand involve comprehensive restructuring or redesign of at least three components of the land system; namely its property structure, use and production structure and the support services infrastructure. Land reform encompasses a planned change in the terms and conditions the adjustment of the terms of contracts between land owners and tenants, or the conversion of more informal tenancy into formal property rights (African Union, 2009). It is worth highlighting that land administration reforms and land reforms are link. However, they are two distinguishable aspect of state intervention on customary land tenure holding arrangement. Whereas land tenure reforms involve a structural change in the tenurial arrangement and redefinition of rights, land administrations primarily centre on the processes of determining, recording, and disseminating information about tenure, value, and use of land.

Under the auspices of the World Bank and other donors, countries such as Ghana, South Africa, Namibia, Mozambique and Uganda among others have reformed their systems of land administration to varying extents. Such reforms have often resulted in the formalisation and nationalisation of customary land rights. In both cases, such interventions have sought to stimulate economic development, reduce poverty and promote social stability by improving security of land tenure, simplifying the process for accessing land and making it fair, transparent and efficient, developing the land market and fostering prudent land management and urban planning (World Bank, 2003a). In as much as these aspirations are welcome, they are premised on the implicit assumption that customary land tenure systems in SSA are defective and there require radical re-alignment in order to support more dictates of life, a claim which is subject to debate.

3.4.2 Formalisation of Customary Land Rights

As noted by Benjaminsen *et al* (2008) the term 'formal' is today usually and implicitly associated with official and written documents. Therefore formalisation may be construed to mean 'to make official' with written rules and statutes, and a formal tenure system. Drawing inspiration from de Soto (2000), Benjaminsen *et al* (2008 p. 29) describe the formalisation of property rights as being procedural activity, structured in three stages as follows:

> "First, formalisation of property rights involves the provision of legal representation of property in the form of title deeds, licences, permits, contracts or the like. Second, these representations must receive official sanction and protection from legitimate national authorities. And, third, the information contained in these representations should be integrated in an accessible national registry" (Benjaminsen *et al,* 2008, p. 29)

The influential policy document of the World Bank, the World Development Report (2006, p. 165) conclusively claimed that formalising land rights have 'potentially large benefit'. These expected benefits have elsewhere been outlined by Place *et al,* (1994), Quan, (2000) and Deininger, (2003). They perceive formalised land rights as having the ability to stimulate a more efficient use of the land. This is because it has long been held that formal title to land increases tenure security and removes disincentives to invest in the longer term management and productivity of the land. Moreover, formalisation of land rights enables the creation of a land market, allowing land to be transferred from less to more dynamic land users. They have also argued that formalised land rights provides landholders with a title that can be offered as collateral to financial institutions, thereby improving farmers' access to credit and allowing them to invest in land improvements. Finally, formalised land rights provide governments with information regarding landholders and land uses. The land information subsequently provides the basis for a system of property taxes and land use planning. Formalising land rights is therefore perceived to facilitate the highest and best use of land as well as helping to improve the operations of land planning system.

Formalising land rights to manage human settlements is based on two main perceived advantages of a formal tenure. Firstly, security of tenure is seen as a precondition for investment such as capital improvement in their housing conditions. This thinking has led to the long running hypothesis that slum dwellers and people who live in shacks and other makeshift housing forms and do not invest to improve the conditions of their houses because they lack title security to their land (de Soto, 1989; 2000). In effect, slum and other poorly planned settlements are seen as a direct outcome of the tenure insecurity. Formalising land rights is seen as a means of enhancing tenure security which will in turn stimulate slum dwellers to carry out improvements to upgrade the overall quality of their houses and neighbourhood.

Secondly, there has been a long standing hypothesis that, a formal land title is a prerequisite for obtaining credit from banks and other formal financial institutions. Therefore, formalising the land rights of slum dwellers will enable them to obtain credit which could then be invested to upgrade their poor housing and sanitary conditions. As a result of these two hypotheses, it has become customary for post independent government in SSA to formalize the title of urban dwellers as a means of improving poor housing conditions. Countries such as Senegal, Ghana, Kenya, Ethiopia, Botswana and Uganda have all embarked on formalisation of land rights as a means of improving the operation of land use planning in their respective countries. However, people in these countries, almost without exception, continue to dwell in poorly planned settlements which are characterised with poor sanitation (UN-Habitat, 2009; 2010b).

3.4.3 Nationalisation of Land Rights

In general sense, nationalised land belong the entire state. Therefore, land nationalisation involves all the processes of bringing private lands under state ownership. Nationalization of land rights has colonial antecedent. It was a British colonial land policy to declare all unoccupied land as Crown Lands. These lands were subsequently vested in the British Monarchy. The French likewise declared unoccupied lands as vacant and ownerless (*terres vacantes et sans maître*) and subsequently transferred them into the colonial state. In the process of confiscating indigenous lands, there were resistance from the local institutions. Accordingly, the amount of land which was confiscated by the colonial authorities depended to a large extent on the degree of local resistance. In this regard Hammond *et al* (2006) have argued that the western coast of SSA offered the highest resistance whereas the eastern countries posed the least. This was as a result of the strong and formidable chieftaincy institution and civil society groups such as the Aborigines' Right Protection Society in countries such as present day Ghana, Nigeria and Ivory Coast. Rimmer (1992) recounts a historical moment where a cross-section of Ghanaian chiefs went all the way to England to vehemently protest to the English Parliament and the Monarchy regarding the confiscation of their and other policies which adversely impacted their livelihoods. At one point, as the local resentment heightened, it resulted in the then governor, Sir Charles McCarthy being beheaded as protest to the land the confiscation of the lands belonging to the Ashantis (Korboe and Tipple, 1995). Such oppositions

effectively helped to minimize the extent of land confiscation in western Africa. The situation in eastern Africa was however different. Strong local groups such as chiefs and civil society was minimal and this eventually translated into the weak degree of resistance to the colonial policy of unfettered land confiscation. This invariably created fertile platform for the confiscation of almost all lands in countries such as Kenya, Ethiopia and Uganda (Hammond *et al*, 2006). After attaining independence, all lands which were confiscated by the colonial authorities were transferred to the newly independent states. These lands were vastly treated as state, public, or nationalised lands (Njoh, 2000; Larbi *et al*, 2004).

In contemporary times, nationalisation of land rights is through the exercise of the state's power of eminent domain. The principle of distributive justice provides that property should be held to maximize the flow of total social benefits to the majority (Iwarere and Megbolugbe, 2008). Therefore when, in the view of the state, neither the market nor the customary land ownership structures is efficient in managing land for the collective welfare, then the state expropriate and vests all land rights in itself. Hence, an individual's or the community's property rights could be violated or re-assigned by the state in pursuance of the national interest. The concept of national interest is difficult to define (Rittle and Webber, 1973). However, section 20 (1a) of the 1992 Constitution of Ghana outlines the following defence, public safety, public order public morality, public health, town and country planning or the development or utilization of any property in such manner as to promote the public benefit as falling within the context of national interest. Accordingly, various countries in SSA (such as Ethiopia, Kenya, Uganda have, see Nnkya, 2007) have nationalise private land rights to facilitate land use planning. After land nationalisation, the former land holders are either compensated, resettled, become tenants of the state or a combination of them (Iwarere and Megbolugbe, 2008).

The rationale behind land nationalization as a tool for urban management is premised on the claims that planning is more effectively executed on state held lands (Barratt, 1976; Asiama 2008). Asiama (2008) elaborates this point by arguing that planning is dominantly a state initiative to mediate the use of private lands. This makes coordination between the state and the private land holders paramount for planning success. However in practice,

this coordination has remained elusive (Larbi, 1996; Ubink and Quan, 2008). Accordingly, it has been posited that by nationalizing land, both ownership and the duty to plan and manage land would be transferred to the state. Land nationalisation accordingly simplifies the process of land acquisition. Among other stated reasons, lands which are nationalised to help improve the state of land use planning (Barratt, 1976; Asiama 2008).

Despite these interventions, recent reviews have highlighted that the dire state of land use planning in SSA has not witnessed any significant improvement. Indeed the UN-Habitat (2009; 2010a) has consistently expressed doubts about the SSA's ability to attain the 7.D target of the Millennium Development Goal which seeks to significantly improve the lives of at least 100 million slum dwellers by 2020. The critical question therefore remains: Why have the efforts of the state at reforming customary land tenure fail to achieve the stated objectives? To effectively evaluate why states interventions have continuously failed, it is instructive to interrogate the underlining assumption upon which they were based. Such evaluation however requires a theoretical framework as a guide in order to ensure analytical rigour and consistency in the pattern of thought.

3.5 The Theoretical Framework

A framework is the structure of the idea or concept and how it is put together. A theoretical framework can therefore be construed as a composition of interrelate theories which provide a logical explanation of the key variables for research. Eisenhart (1991) described a theoretical framework as 'a structure that guides research by relying on a formal theory...constructed by using an established, coherent explanation of certain phenomena and relationships' (p. 205). In the view of Sekaran (2000), a theoretical framework is a conceptual model of how one theorizes or makes logical sense of the relationships among several factors that have been identified as important components of a stated problem. In essence, a theoretical framework attempts to integrate key pieces of information especially variables in a logical manner. A theoretical framework of a research does not only help to provide the logical link of the variables of the research but also helps the study to draw from common paradigm and propositions from other scholars which helps to situate ones research in the existing body of related literature.

At the heart of the study are the land tenure and property rights regime in SSA. Property rights are 'the rights of individuals to the use of resources (Alchian, 1965, p. 129). Property rights include but are not limited to the rights to use, to earn income from, and to transfer or exchange the assets and resources (Libecap, 1989). In the fundamental sense, property is a complete legal institution that governs the use of things be it corporeal or incorporeal (Barnes, 2009). The nature and dynamics of a property system therefore has far reaching influence on human behaviour especially with regards to land use and development. It is against this background that the theory of property rights is of practical significance.

The eminent economist and noble prize winner, Elinor Ostrom (1990; 2000) has identified four broad strands of property rights. These are private, common, public and open access property rights. With private property right, the exclusive authority to use and enjoy land vests in private individuals (Alchian, 1965). The private individuals reserve the unrestricted rights to exclude all other members. One can therefore use and enjoy his or her land rights as long it is within the limits imposed by the state. With regards to communal property rights, members of a clearly demarked group have a legal right to exclude non members of that group from using a resource (Ostrom, 1990). Access to such rights is collectively controlled by the land owning group. Public property rights on the other hand are held by the state. The right to access, use and enjoy such rights are vested in the state (Demestz, 1967). The final type of property rights is open access where no one has the legal right to exclude anyone from using a resource (Ostrom, 2000).

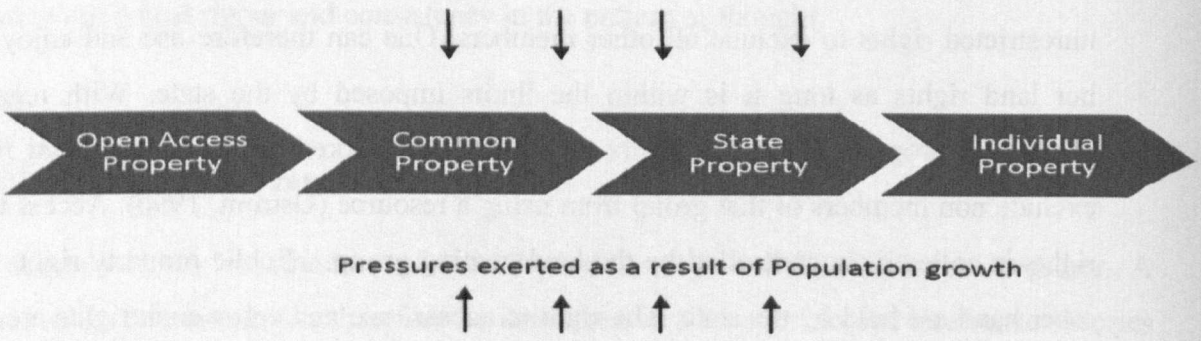
Private property rights have been at the core of law and economics scholarship pioneered by the University of Chicago (the "Chicago School) and most notably through the seminal work of Harold Demsetz (1967) and Posner (1981). According to this postulation, individualisation of land ownership invariably leads to the emergence of efficient land market in which land is transferred to the highest and best land users. The theory posits that communal property rights are undesirable as they have greater incidence of externalities and the gains of internalizing such rights are much less than the case with

individual property rights (Demsetz, 1967; Johnson, 1972; Posner 1981). There is therefore the argument that all forms of property rights regimes evolve towards private property rights in order to achieve greater efficiency (Ostrom, 1990). Three models have been propounded to explain the process involved in the evolution of property rights towards individual property rights. These models are the Bromley model of the property-rights gradient, Interest Group Model and the Demand Driven Model.

The Bromley Model of the Property Rights Gradient

Bromley (1991) posit that private property rights yield the highest and best economic returns followed by common property, the state property and open access in that order. Bromley predicts that property rights evolve towards the regime which has economically efficient returns as presented below.

Fig. 3.1: Bromley's Property Rights Model



Source: Author based on Bromley's propositions

Therefore, all things being equal, property rights move from open access to state property to common property before eventually to private property rights as a result of population pressures.

The Interest Group Model

This model was propounded by Eggertsson (1990). Eggertsson argues that property rights are the outcome of the interactions between interest groups in a political market. As a result, individuals tend to change their demands for property rights through interest groups, organizations and institutions which regulate property rights. Eggertsson, (1990) aptly summarized this as follows:

> "the interest group theory of property rights takes the fundamental social and political institutions of the community as given and seeks to explain the property rights in various industries in terms of interaction between interest groups in the political market" (Eggertsson, 1990 p.275-276)

Property rights are thus creation of institutional systems and their operations. In turn, the nature and characteristics of property rights are dependent on these institutions. Therefore, as these institutions change, the various property rights regimes change accordingly (Libecap, 1989).

The Demand Driven Model

The Demand Driven Model draws extensively from the central theme of neoclassical economics which argues that market forces efficiently allocate land to the best users. Thus market forces should prevail to ensure the efficient use of land. Within this school of thought, Coase (1960) and Johnson (1972) have been particularly influential. Together with Barzel (1989), they have postulated that under the impact of increasing population pressures, land rights spontaneously evolve towards individualization or privatisation. This evolution eventually leads to redistribution of land uses in order to achieve the highest and best use of land. The demand driven model is therefore based on the allocative efficiency of the market.

It is worth acknowledging that the demand driven model has not been free from criticisms. Swallow and Kamara (2000) for example note that the demand driven model incorrectly assumes that private property is the only institutional arrangement that facilitates the internalization of negative externalities and efficiency in land use. Therefore, it ignores circumstances in which common property may be more efficient than private property (Bromley 1989). Moreover, the model ignores the high transaction costs associated with

the creation and enforcement of private property (Bromley 1989; Plateau 1996). In effect the model has some inherent weakness.

Despite these downsides, even critics admit that the Demand-Driven Model agree on two key issues. First, critics admit the property rights regimes in SSA are responsive and changes with changing demands. This changing trend results from local forces such as population growth as well as exogenous forces such as the integration of SSA into the global economy as producers of raw materials. Secondly, there is a general trend in contemporary Africa towards more individualised property rights in densely populated areas (Plateau 1996). The Demand-Driven Model of property rights theory therefore helps to explain the mode of property rights evolution in SSA. It is subsequently employed as the analytical framework to evaluate the claims that customary land tenure system in SSA is anti market, anti private property rights and fails to guarantee title security.

3.6 Is Customary Land Tenure in SSA Anti Market?

Those who hold the view that customary land tenure in SSA is anti-market often cite the close association of land to religion as being the cause. Accordingly, some commentators have noted that land is worshipped as a feminine goddess-"asaase yaa" among the Akans. Water bodies are likewise treated as sacred spirits among the Gas (Busia, 1951). In turn, expressions such as "evil forest", "river goddess" and ancestral land /heritage are replete in the discourse of SSA tenurial practices (Achebe, 1958). Such religious linkages have been seen as conclusive proof that land in SSA is an object of worship. Inextricably linked to religious values is the consideration of land as being the habitation of ancestral spirits (Asante, 1975). Eye-Smith (1940) argues that the communal land ownership in SSA is grounded in religious attachment which regards land as having been bequeathed to the living by the dead. To Madjarian (1991), land is the support and the mediator of a community, between the generations, between the living and the invisible.

Customary land tenure does not only see land as a spiritual entity, it also recognises land as a divine heritage, in which the spirits of the departed ancestors are expected to be

preserved and handed down to future generations (Ollennu, 1985). Thus, land has been said to belong to "a vast family of whom many are dead, a few are living and a countless host are still unborn" (Njoh, 2006, p.74). It is a heritage entrusted to the community, and the responsibility to ensure its preservation and subsequent enjoyment by future generations rests on the whole community. The living is only considered as joint owners with others who are dead or yet unborn.

Toulmin and Quan (2000) effectively summed up the various views when they posited that

> "Land remains an asset of great importance to African economies, as a source of income, food, employment and export earnings. As well as its economic attributes, land continues to have great social value – as a place of settlement, providing a location within which people live and to which they return–as well as symbolic and ritual associations, such as burial sites, sacred woodlands, and spiritual life" (Toulmin and Quan, 2000, p. 1-2).

As such, "an absolute sale of land is not simply a question of alienating realty but it is a case of selling a spiritual heritage for a mess of pottage, a veritable betrayal of ancestral trust, an undoing of the hope of posterity" (Danquah 1928, p. 212).

What commentators and analysts have failed to do is to interrogate the logic for associating land with religious beliefs. Religion is a social control mechanism because adherents of a religious belief are expected to comply with a set of rules and regulations. It is believed that, failing to observe these rules may attract sanctions from powerful invisible being (Achebe, 1958). Land is often linked to beliefs of African traditional beliefs in order to persuade people to comply with rules relating to land use which are often aimed at achieving sustainability (Bujo and Muya 2006). For example evil forests are believed to be the abode of deadly spirits. People are subsequently warned that they farm or hunt in such areas at the peril of their lives (Achebe, 1958; Mbiti, 1990). The real logic in such situation is that, such forests may be the home to several species of plants and animals which need to be protected to prevent them from extinction.

Among the Akans, land is seen as a goddess who rests on Thursdays. It is therefore sacrilegious to disturb the peace of the goddess and ill-fate befalls whoever dares (Busia, 1951). All farming activities are thus banned on Thursdays. The underlining logic of this myth is not farfetched. It was devised by Osei Tutu I as a strategy to ensure that the peasant farmers had at least a day off to rest (Rottary, 1923, cited in Abdulai, 2010).

Also, rivers and water bodies are portrayed as being the habitation of spiritual beings which have the power to bless or curse people and communities which interfered with their environment-often referred to as sacred groove (Dorm-Adzobu *et al*, 1991). Again, this linkage of land and water to spiritual beings underpinned by environmental management principle that farming closer to the banks of water bodies reduces the protective vegetation cover and eventually leads to the drying up of the water body (Yembila *et al*, 2009). From the ongoing illustration, it is obvious that linking religious mythologies to land is rooted in the quest to attain effective land use and environmental practices through native strategies.

Under the current dispensation of spatial governance, ensuring that land users comply with standards of sustainable environmental practices is the mandate of institutions such as the Environmental Protection Agency, Land Commission, Town and Country Planning. People who fail to adhere to prescribed land use standards are accordingly sanctioned through the Police and Court systems. Therefore, where the formal systems and structure for environmental management is strong, land owners resort to authorities for ensuring sound land use practices. Landholders in urban areas generally do not resort to religious and mythical considerations to enforce efficient environmental practices, but rather they turn to the government institutions. This practice has elsewhere been reiterated by Mahama (2008) when he argued that there are two categories of land management models across Africa; one which is closely intertwined with religious beliefs (in the rural areas) and the other which is associated with formal agencies and market dynamics.

It is important to note that every market or trade oriented activity is determined primarily by the forces of demand and supply. Demand for land is derived from human's economic

activities and therefore linked with population pressures. Long before the Europeans arrived in Africa, land was bought and sold in areas where demand was high. As far back as 1860, the Krobo and Akuapem oil palm farmers in Ghana bought land from chiefs to expand their production (Grischow, 2008, p. 75).

As the indigenes freely traded in land, the rich acquired and assemble large tracks for plantation. Such large plantation farmers were perceived by the colonial authorities as having the propensity to raise formidable opposition to colonial rule. There were therefore concerns on the part of the colonial authorities that:

> 'Alienation of African land to the white capitalist is not the greatest danger'... 'a far greater danger lies in the acquisition of large estates by individual African natives' because the result is the same: the privileged few can live on the product of the labour of the many' (cited in Cowen and Shenton 1991, p. 162).

Therefore, the apprehension of the colonial authorities that acquiring land through purchase was threat further to their ambition lends credence that trading land rights was rife.

Prior to the colonial era, clans, tribes, families and kingdoms were governed under a single legal order with chiefs and other recognised heads as leaders. These leaders exercised executive, judicial, legislative and military powers (Busia, 1951) as well as holding all lands although in fiduciary capacity (Kasanga and Kotey, 2001). In effect, there was the existence of clearly defined governance structure at the time of annexing the British colonies in Africa. The British governed several of their colonies such as Ghana, Kenya, Sierra Leone and Nigeria through the native chieftaincy institutions and systems under the Indirect Rule. This form of governance structure allowed the British colonial authorities to rule the people through their own chiefs thereby minimising the extent of resistance.

One main source of power that cemented the relationship between a chief and the subject was the mode of land access. Subjects were granted parcels of land by chiefs on condition that they perform some specified customary rites and a pledge to observe any conditions

imposed. The power relations between the chiefs and the subjects were thus woven around land access. As long as the chiefs enjoyed a monopoly of granting land rights, the customary governance structure remained useful. By extension, allowing individuals to freely acquire land through private transactions would have created a parallel mode of land acquisition which would have undermined the chieftaincy institution on which the colonial policy of Indirect Rule was premised.

It was therefore in the interest of the British colonial authorities to suppress commercialisation of property rights since the:

> "Acceleration of progressive land transactions and individualization may hasten the disintegration of the present social structure and thus weaken the basis on which the institutions of local self government are now being built" (Hailey 1946, xix)

So clearly, land was a tradable asset even during the era of colonial rule. Presently, granting of land under traditional arrangements is subject to the payment of 'drink money' or 'cola money' which is equivalent to the open market value (Abdulai, 2010, p. 168). In South Africa, acquisition of customary land is subject to the payment of the market value known as the 'homage payment' (Benoît and Pienaar, 1998).

What determine the tradability of land rights are the market forces of demand and supply which to a vast extent depends on population pressures. Continuously tagging land tenure in SSA as anti market is therefore a sign that such authors do not appreciate the intricacies and dynamics of African landholding. This has elsewhere been reiterated by Shipton (1989) that:

> "Loan, swap, inheritance, devolution inter vivos, gifts, barter, pledge, share contract, encroachment, rental, or sale. These English terms do not reflect the variety, the flexibility and inventiveness, and the possible re-negotiability inherent in land dealings in many parts of rural Africa. Terms like "market" can become cognitive straightjackets for the analyst. Across the continent, local people do engage in land deals, whether by sale or not; and frequently these fail to show up in survey results because researchers are not asking the questions in the right way, or in enough different ways" (Shipton, 1989, p. 58).

Similar sentiment has been expressed by Christian Lund (2000, p.7) that land markets on communal lands tend to be disguised and the transactions are 'often not through organised and well-prepared actions, but through the daily pursuit of individuals and a common sense negotiation of their situation. These claims reiterate the propositions of the Demand-Driven Model of the theory of property that in the face of population growth, the rising value of real estate, and the expansion of urban residential areas and the development of new commercial export agricultural sectors, customary lands are commoditised and subsequently traded. Customary lands are therefore tradable. However in line with fundamental principles of economics, land markets are determined by demand and supply forces.

3.7 Is Customary Land Tenure in SSA Anti Private Property Rights?

An interest in land is a bundle of rights. One owns land when these rights are vested in him or her. Honore (1961) posits that ownership is the ability to exercise 'full control' over the uses associated with proprietary rights. Honore (1961) has outlined 12 strands of rights which are summarised below:

Table 4.1: Types of Rights in Land

Type of Right	Description
The right to use (usufruct)	That is, to personal enjoyment and use of the things without interference as distinct from the third and fourth strands below
The right to manage	That is, the liberty to decide how and by whom a thing shall be used
The right to income	That is, to the benefit derived from foregoing personal use of a thing and allowing others to use it
The right to capital	That is, the power to alienate or transfer the thing and to consume, waste, modify, destroy it
The right to security	That is, immunity from expropriation
The right to transmissibility	That is the power to devise or bequeath
The right to divisibility	That is the power to divide the property in whatever way desired
The prohibition of harmful use	That is, one's duty to forbear from using the thing in certain ways harmful to others
The absence of term (duration)	That is, the indeterminate length of one's ownership right
The liability to execution	That is, liability to having the thing taken away for repayment of a debt or the duty to surrender the property when it is taken away to satisfy a lawful action
Residual character	That is, the existence of rules governing the reversion of lapsed ownership rights
The right to possess (exclusive control)	That is, to exclusive physical control of the thing owned. Where the thing cannot be possessed physically, due, for example, to its 'non-corporeal' nature, 'possession' may be understood metaphorically or simply as the right to exclude others from the use or other benefits of the thing

Source: Honore (1961)

When these rights are vested in a collective entity such as a kingdom, tribe, clan, family or any other corporate body, common/ communal property rights result. Conversely when these rights are vested in a single person or individual, it generates private property rights.

Literature on SSA customary landownership system is replete with the notion that the system does not permit individual ownership of land (see Hardin, 1968; Johnson, 1972). As earlier indicated, one type of customary land right is the usufructuary which is derived from the allodial interest. The usufruct right is carved out from the allodial interest and this gives an individual the right to possess and enjoy part of the allodial land (Asante, 1975; Ollennu, 1985; Abdulai, 2006; 2010). In the case of *Kotei v Asere* Stool, the Privy Council stated that "native law and custom in Ghana has progressed so far as to transform the usufructuary rights [...] into an estate or interest in the land" which an individual could sell "so long as he does not prejudice the right of the paramount Stool to its customary services" (Date-Bah, 1998, p. 401). This has elsewhere been re-echoed by Mabogunje, (1992) the individual has the rights to use a particular parcel free from undue interference.

Within the communal landholding context, individual rights guarantee easy access to land for every household. As long as the usufruct remains in occupation, the parcel cannot be treated as a communal land unless there is an alternative arrangement. Any violation of the usufruct's rights presents grounds to seek redress. Therefore where an individual can lay claim to the all or some of the 12 threads of rights outlined earlier on, ownership of private property rights arises. The individuals' right in land is thus embedded within the community's rights.

African tenure systems are dynamic and non-members of the land owning group may negotiate to acquire interest in the communal land subject to the payment of agreed sum of money (Asiama, 2004; 2008). Allot (1960) and Agbosu (2000) have noted that among the Akans in Ghana, after an agreement to purchase has been reached, the land has been inspected, the price fixed, the boundaries identified and marked with special trees (themselves as evidence of the extent of land conveyed), the parties return from the forest. The purchasing ceremony then takes place before many witnesses from both parties of the sale.

The vendor and purchaser each provides a representative usually a young boy to perform a customary gesture known as *guaha*[3]. Purchaser finally offers drink, money and sheep to the vendor in the presence of the witnesses. After such ceremony, the subject parcel land metamorphoses from communal land to individual land. All incidental rights on the subject of land of land are transferred to the purchaser. The individual purchaser who becomes the owner of the subject parcel acquires the right to use, enjoy and excludes others from interfering with the land (Acquaye, 1984; Ollennu, 1985; Njoh, 2006; Abdulai, 2006).

In illustrating how private property rights are embedded in the communal landholding arrangement, Chanock employed this analogy. 'A cultivator might say 'mine' when title was challenged, or if it was advantageous to sell or mortgage, may think in terms of 'ours' – in terms of nuclear family – when asserting a right of inheritance against a larger group of kin, or 'ours' in terms of a lineage – if the claimant was outside the lineage (Chanock, 1991, p. 72-73). The nature and relationship between the communal and private should be likened to apartment houses and individual family dwellings. There are individual property (apartments) which exist along with communal areas such as recreational facilities, and other joint facilities. While individuals can buy, sell and exercise other rights over their individual housing units. These individual rights concurrently run alongside with the shared rights to use and enjoy all the rights which are incidental on communal areas. Therefore, under the customary landholding arrangement, private property rights are embedded in the collective rights of the landholding community. Customary land tenure in SSA is therefore not antithetic to private property rights.

3.8 Does Customary Land Tenure in SSA fail to provide secure Land Title?

Security of title is broadly defined as the perceived right by the possessor of a land parcel to manage and use the parcel, dispose of its produce and engage in transactions, including temporary or permanent transfers, without hindrance or interference from any person or

[3]: The guaha was a set of identical cowries which were tied together. During the sale, two young boys would sever the guaha. Each party kept a part of the severed guaha. In times of dispute, each party was expected to provide his part of the guaha as evidence of a previous sale. In as much as the two guahas provided were identical, it was conclusive proof that there has been valid land transaction between the parties in the past.

corporate entity, on a continuous basis (Atwood, 1990). Security of title thus guarantees continuation of current use and enjoyment by insulating ones property rights from claims and counter claims. John Locke's ([1689] 1960) State of Nature where man's behaviour was subject to natural laws, multiple claims to a particular or interference with ones use and enjoyment of land were non-existent, because supply of land far outstripped demand levels (Otsuka, 1998). Title insecurity is therefore rooted in the demand levels of land to a considerable extent, in line with the propositions of the Demand-Driven Model of the theory of property rights. Customary land tenure in SSA has long been portrayed as lacking the capacity to secure the rights of landholders (Johnson, 1972) and the general lack of formalized land rights often cited as the cause (de Soto, 2000; World Bank, 2003).

Abdulai (2006; 2010) provides a useful framework to evaluate security and certainty of property rights to land. Abdulai posits that the ingredients of secure property rights are as follows:

- Recognition of the individual's land right by the community;
- The availability of land rights enforcement institutions;
- Clear definition of the nature and duration of property rights; and finally,
- Clear demarcation of boundaries of land.

First, do communities in SSA recognise rights of individuals' who hold land under customary land tenure? Before addressing this question, it is useful to ascertain whether or not customary law is a recognised source of law. Customary law continue to be enshrined in the constitutions across SSA. In Ghana, Chapter Four of the constitution outlines the sources of laws by which the country is governed. These laws include the constitution, laws which have been enacted by parliament, common law which were inherited from British colonial authorities and customary law. In South Africa, Chapter Twelve of the constitution duly acknowledges traditional leaders and customary/traditional laws as legitimate and integral component of the legal regime. Other countries such as Niger (Lund and Hesseling, 1999) have codified customary laws. Subsequently, customary laws are treated as part of the legal systems and are in turn applied in the courts (Cotula, 2007).

Admittedly, customary law has been subjected to statutory law and judicial precedents. Article 11 (6) of the Ghanaian constitution for example provides that when customary law is at variance with the constitution, such customary laws must be modified and reinterpreted in order to ensure consistency with enacted legislations. Nonetheless, customary laws continue to be heavily applied in areas such as landholding (Ubink and Quan, 2008).

Customary law is dynamic. It has long been reinvented and redefined since SSA came into contact with Europeans and continuous to adapt to changing trends in socio-cultural practices. As noted in the judicial decision involving *Lewis v. Bankole,* as reported in Nigerian Law Reports (1908) one judge remarked that 'one of the most striking features of native custom is its flexibility; it appears to have been always subject to motives of expediency, and it shows unquestionable adaptability to altered circumstances without entirely losing its character. More recently, the Constitutional Court of South Africa, in the case *Alexor Ltd v. The Richtersveld Community* re-echoed: 'it is important to note that indigenous law is not a fixed body of formally classified and easily ascertainable rules' (cited in Cotula, 2007). By its very nature, it evolves to accommodate the socio-cultural and economic changes of a given society.

Customary law is therefore resilient and has continuously evolved into a fully fledged legal system. The legitimacy of customary law and its resilience are rooted in the socio-cultural practices and have been applied since ancient times by the respective tribes, ethnic groups and other communities. Customary law and by extension customary land tenure is a recognised legal system at local communities, in the courts, in state constitutions and other formal state institutions. The rights of landholders under customary land tenure are therefore recognised in almost all SSA states.

The second determinant of secure Land rights is the availability of functional enforcement institutions. Bentsi- Echill (1964) illustrates the concept of property rights with this scenario:

> "X has a right to farm on Blackacre: 1) that X is at liberty to farm on Blackacre, 2) that others are enjoined by the system of moral and juridical relations operative within the particular community not to interfere with X's exercise of this liberty or privilege, and 3) that persons infringing this prohibition will have "wronged" X and may incur the reactions flowing from the type of remedial machinery available in that community" (p. 119).

From Bentsi- Enchill's definition, it can be deduced that overarching machinery that enforces ones property right is the key component of a secure tenure. In the absence of such enforcement institutions, ones right may be violated without appropriate redress. Within the formal sector, disputed land rights are adjudicated by the courts.

Under customary arrangement, all members are mandated to observe each other's property rights. In cases where the rights of landholders are contested, the disputing parties are expected to first resolve the dispute by themselves. In case efforts by the disputing are unsuccessful, the case may be forwarded to the leadership of the land owning group for amicable settlement. It may be recalled that prior to the annexation of Africa as a colony of Europe, traditional leaders such as chiefs, heads of families and clans exercised executive, legislative and judicial powers. Admittedly, the organs of a modern state such as local government authorities, police and courts have progressively eroded the powers of the customary leaders. Nonetheless chiefs continue to exercise judicial powers in the form of Alternative Dispute Resolution (ADR).

Court settlement of dispute is usually costly, adversarial and time consuming. The World Bank (2003) shares in this observation when it noted that the pervasiveness of distrust and the latent and sometimes open conflict over land highlights the need to encourage the use of ADR mechanisms which, in many cases, already exist within the customary system. Prior to the call by the World Bank, a prominent King in Ghana, the Asantehene Otumfuo Osei Tutu II upon assumption to office in 1999 requested that land related cases pending

before the law courts in his jurisdiction be withdrawn and settled using the customary systems and structures (Abdulai, 2006). In situations where parties are not satisfied with the outcome, they may use the customary appellate structures by appealing to their paramount chief and the Overlord should the need be. As a result of the successes attained under the Asantehene led initiative, the judiciary in Ghana has prepared an Alternative Dispute Resolution Bill which is currently before the Parliament of Ghana, pending approval to become a law.

It has also been reported in Mozambique that, the government could only achieve a quick resettlement of about five million people after a peace agreement, because the government relied heavily on local institutions to mediate land related conflicts (Negrao, 2002, cited in Abdulai, 2010). As a result of this, and other developments, there is a call for greater push towards integrating customary dispute resolution mechanisms into the judicial structures. This continuing support for local solutions based on customary adjudicating principles is rooted in the fact that they are relatively cheaper, less adversarial and more responsive to local customs and cultural practices. In contrast, state interventions in conflict adjudication especially through the court system tend to introduce new rules that are not seen as legitimate by local stakeholders (Abdulai, 2006, p. 17). From the foregoing, it is clear that under customary tenure arrangements, there are inherent dispute resolutions mechanisms which mediate contested land rights. Such customary based land systems are flexible and adapt to local developments (Peters, 2004; Sjaastad and Bromley, 1997).

Thirdly, Abdulai (2006) further posit clarity of rights is a key component of secure title. When contracting for property rights under formal arrangements such as lease, the nature of interest and the length of such rights and interest are expressly stated and agreed up. Under customary landholding practices, rights are generally not documented and this has prompted claims that the nature and duration of such rights are not secure.

Some examples of interests under customary tenure are the allodial title, customary freehold (usufructuary right), and tenancies (da Rocha and Lodoh, 1999). The allodial title (also known as the paramount title, absolute title or radical title) is the ultimate or the

highest form of interest in land beyond which there is no other interest. The allodial interest vests in the entire land owning community (Ollennu, 1985). The allodial title is free from any encumbrances and has perpetual duration. All other forms of rights and interests emanate from the allodial title. The allodial title is managed by chief or a designated traditional leader who act in the capacity of a trustee. Next to the allodial title is the customary freehold or usufructuary interest which confers the right to use and enjoy land on a member of the land owning group. The usufructuary interest is derived from the allodial interest. In areas where land is not scarce, the usufructuary interest was acquired by settling and farming on previously vacant land. As land became scarcer, the usufructuary interest was acquired with the approval of the chief and with the full knowledge of other members of the land owning group. The usufructuary right is perpetual in nature. It can be terminated only when the usufruct (holder of the usufructuary interest) violates key terms such as transferring part of his/her land to a stranger (da Rocha, 1999). It may also be extinguished in the absence of a bona fide successor in the line of the original usufruct. Under such circumstances, the residual right reverts to the land owning group.

Other rights such as tenancies farming rights are often obtained by strangers (i.e. non members of the land owning group). Such tenancies are granted for a specified duration and purposes. Continuous occupation and use of land under such arrangements is subject to the continued observation of agreed terms and conditions such as payment of rent. From the example above, it is obvious that all rights and interests held under customary tenure are clearly defined in terms of the nature and duration of such rights.

Finally, Abdulai (2006; 2010) also posits that clearly demarcated boundaries are an ingredient of secure property rights. Under the customary arrangement, there are two levels of boundary demarcations. First, there are boundaries shared with other land owning groups. The second type of boundary is shared among land users belonging to the same landholding group. In both instances, the boundaries are marked by streams, particular trees or other natural objects. In sparsely populated areas, such a mode of boundary demarcation has proved effective (World Bank, 2003a). However in densely populated areas, this mode of boundary demarcation has proved to be porous, contentious and

created ambiguous boundaries. In cases where rivers or streams are used as the object of boundary demarcation, it becomes practically indeterminable in situation where these water bodies dry up. This ambiguity has sometimes led to dispute between landholding individuals as well as between two or more landholding groups.

As a result of the inherent weaknesses associated with boundary demarcation under the customary arrangement, more permanent objectives such as reinforced concrete pillar are becoming popular. Under this arrangement, the adjoining landholders agree on the boundaries and in the presence of witness erect concrete pillars. This innovation is an improvement over the use of conventional objects such as plants and streams. Boundaries of land held under customary are therefore determinable.

In summary, the customary land tenure in SSA generally has many of the ingredients of a secure tenure. As a result, when African land tenure experts converged at Sunningdale in 1999 under the auspices of DFID, the overwhelming consensus was that adequate security could be provided by customary tenure systems (Quan and Toulmin, 2004). Abdulai (2006) nicely encapsulates this view in the following words: 'Insecurity of tenure is not – contrary to the oft-repeated claims of pundits – inherent in customary land regimes. It was a colonial creation, which like many other colonial creations was attributed to customary system'. The simple assumption that customary land tenure is inherently insecure and uncertain and that a panacea lies in supplanting it with a regime of land title registration modelled on Western tenure systems is clearly untenable. As a result of these developments, Abdulai has made the call for a revision in policy direction with reference to tenure security under customary tenure. In one of its Policy Research Report on land tenure, for instance, the World Bank conceded that customary tenure offer adequate security and thus a legal recognition of existing rights and institutions, subject to minimum conditions, is generally more effective (Deininger, 2003, p. xxvii). Any efforts at enhancing title security should therefore be channelled to building on customs and not supplanting them with imported models (Blocher, 2006).

Notwithstanding these positive reviews, recent research outputs have illuminated that security of tenure under customary is volatile especially in the peri urban interface. Land in the peri urban areas continue to be converted from agriculture use to residential and commercial uses. In the process, rights of the original holders are lost without appropriate compensation as a result of the activities of the chiefs and other trustees (Ubink and Quan, 2008). This is what Wily and Hammond (2001, pp. 44, 69–73) describe as 'curtailment of communal property rights, through a form of feudalisation of land relations'. As a result of such allocations, the original land users, with weaker bargaining power, frequently lose their land, their employment and their income base (Kasanga and Kotey 2001). Such developments have undermined the security of title of the indigenous peri urban dwellers who in some instances result to violence as a means of safeguarding their interest in land (Asiama, 2004). Although customary land tenure offers security of tenure, the behaviour of some chiefs and trustees of customary land in some instances render land rights under customary tenure insecure (Ubink and Quan, 2008).

Although customary land tenure may not offer definitive and conclusive security of title especially in some urban and peri urban areas and places where demand of land is high, formalized land title cannot claim victory either, since it does not offer any significantly improved alternative. Recently, Abdulai (2010) investigated 1, 211 landownership conflicts filed at both Circuit and High Courts in Ghana. Of these cases, 206 (representing 17 percent) sought to contest the ownership of lands with formalized title (p. 206). In the process of adjudication, it is instructive to note that courts did not automatically decide cases in favour of parties with registered title. Abdulai recounted several cases where holder of a title certificate lost his/her parcel of land through civil litigation. Therefore, contrary to the generally held view that formalisation of property rights provides an indefeasible title, one can lose one's land with registered title through civil litigation.

This is consistent with the earlier development in Burkina Faso where legal standing of documentary evidence of land ownership, did not prevent the legitimacy of land purchases being contested by those with prior claims based on kinship or ethnicity claims (Gray and Kevane 2001, in Burkina Faso). In Senegal, land titling has been implemented for a sufficiently long and Payne *et al* (2009) have recently assessed the medium- as well as

short-term impacts of the programme. One principal finding of their study was that, shack owners had received formalized title and subsequently transferred the entire costs of tenure regularization and the physical upgrading to the tenants. Accordingly, rental values rocketed without commensurate rise in income levels of tenants. This resulted in a market-driven displacement of tenants who could not afford the new rent rendering them homeless.

One main characteristic of customary land tenure in SSA is the existence of multiple and overlapping rights over the same resource. For a given piece of land, customary systems may cater for multiple resource uses (e.g. pastoralism, farming, fishing) and users (farmers, residents and non-resident herders, agro-pastoralists; women and men; migrants and autochthones; etc), which may succeed one another over different seasons (Cotula, 2007). From experience (eg Miceli, *et al*, 2001 on the Kenyan experience and Payne *et al,* 2009 on the Senegal case), formal titles are issued to the primary land users. This inadvertently extinguishes the secondary and seasonal user rights with its associated livelihood implications. Indeed attempting to improve land title security through blanket formalisation of land rights have therefore led to the displacement of land users who held secondary and tertiary land rights. Formalisation of land rights thus disregarded the distributive issues underlying tenure security in SSA. Elsewhere, in Afghanistan (World Bank, 2006) and India (Sukumaran, 1999), where city managers resorted to forced eviction as a means of urban management, landowners with formalized land rights were not exempted. Policy makers and commentators who equate formalised title with secure property rights should therefore exercise greater caution.

Registering one's interest in land is mainly a record keeping strategy which facilitates land administration. Overlapping rights and boundary disputes have to be resolved before land rights can be confirmed and subsequently registered and not the reverse. Sjaastad and Bromley (1997) argued that certain types of investment in land are legitimate way of claiming more secure rights to the land. Empirical evidence suggests that in many cases building brick houses, irrigation infrastructure, tree-planting and continuous use of land are in reality ways of securing land in many regions of Africa. Migot-Adholla *et al.* (1991, p. 269) have shown that in Kenya and Ghana a major consideration for such investment is

the ability of the occupant to bequeath the land to offspring, an aspect often guaranteed under communal tenure arrangements. Neither customary nor formalize land tenure guarantees absolute title security in SSA. On the other hand, when these four ingredients are available under customary or formalize tenure, then title to land should be secure. Security of tenure should be understood as continuum. It may range from formalised title at one end to endogenous tenure systems.

3.9 Discussions and Conclusion

From the foregoing analysis, it is obvious that several authors hold straightjacket opinions that land tenure systems in SSA are anti market, anti private property rights and do not offer security of tenure as a result of its communal tendencies. Land use planning as practised in SSA is strongly interlaced with the European models which derive its roots from capitalism where the trilogy of land market efficiency, secured property rights and individualised tenure are guaranteed. Planning in SSA has generally being less successful and people continue to live in haphazardly mediated space. Among other causes, the perception that customary land tenure in SSA is anti market, anti private property rights and does not offer security of tenure have generally been highlighted.

It has also been established that contrary to the popular position, customary land tenure can effectively accommodate land markets and private property rights whilst offering adequate security of tenure to landholders. Therefore, blanket statements to the effect that land tenure systems in SSA are anti market, anti private property rights and do not offer security of tenure are conceptually loose and generally inadequate. Using the Demand Driven Model of the theory of property rights as the analytical reference point, it has been established that whether customary tenure provides adequate security of title and facilitate land markets and private property rights are dependent on the interaction of demand and supply forces which are significantly influenced by demographic pressures. So whereas land is vastly commoditised and traded in the urban and peri urban interface, where demand for land far outstrips supply, land in rural areas is less likely to be bought and sold as a result of low population numbers.

These characteristics of customary land tenure in SSA suggest that, the nature of landholding share some similarities with the land tenure systems in the capitalist economies of Europe and North America. It is therefore overly simplistic and superficial to conclude that the planning failures in SSA result from the acute distinctions between the capitalist tenure regime in Europe and the communally oriented tenure in SSA. Therefore for policy purpose, it is imperative to develop insight into how exactly customary tenure in SSA impact on the planning process is however an empirical question which is explored later on in the in chapter six.

In exploring the linkages between customary land tenure practices and land use planning in SSA, Ghana has been selected based on considerations which are discussed in chapter four (section 4.2). Ghana is representative of the various cases in SSA because of similar historical, social, economic, legal, demographic and political characteristics. These issues effectively define the context of planning practices in Ghana. The next chapter situates the research in context by examining the principal spatial characteristics of the case study country which is Ghana.

CHAPTER FOUR

LAND USE PLANNING PRACTICES IN GHANA: FROM COLONIAL ERA TO CONTEMPORARY TIMES

4.1 Introduction

This chapter focuses on situating the research in context as a precursor to a detailed empirical appraisal of the research problem. In this chapter, attempts will also be made to trace the historical antecedents of land use planning particularly during pre-colonial, colonial and post independence eras before examining the state of contemporary planning practice through a nationwide survey. To recap, the research is primarily in search of a more comprehensive understanding of the linkages between customary land tenure systems and other factors such as institutional framework and how these contribute to the defective state of the land use planning regime in SSA. The scope of the research therefore encompasses the entire SSA. A detailed analysis and evaluation of the nature of relationship between customary land tenure and land use planning practices in the entire area of SSA is not practically feasible as a result of resource (time and money) constraints. The research therefore employs a case study research strategy to inductively examine the state of planning in SSA, using Ghana as the case study.

The study focuses on customary land tenure and land use planning practices which are real life phenomena within a highly contextualised setting. When there is the need to examine a problem of this nature, Patton (1987) offers that the case study research strategy is the most ideal because it offers the researcher the opportunity delve deeper into the issues which in turn help to generate rich information. Yin (2003) has suggested that, the case study research strategy is particularly useful when causal relations are to be established, when multiple evidences are used, and when the investigator has little or no control over the events that are happening. Case study is therefore an empirical inquiry that investigates a contemporary phenomenon within its real life context using multiple sources of evidence (Yin, 1989).

Benbasat *et al* (1987) and Yin (1994) provide a useful set of parameters to evaluate whether

or not a particular research problem can be examined using the case study approach.

These are as follows:

1. The type of research question: typically to answer questions like "how" or "why"
2. Extent of control over behavioural events: when investigator has a little/no possibility to control the events
3. General circumstances of the phenomenon to be studied: contemporary phenomenon in a real-life context

The research first seeks to address the question 'why has land use planning in SSA been generally ineffective' before turning to evaluating 'how exactly does customary land tenure contribute to the inefficiencies of the planning system. The planning problem in SSA is both systematic and endemic with an array of actors and agencies contributing in diverse ways to the current inefficiencies (Okpala, 2009). The researcher thus has no control over the events of planning in SSA since all activities are situated within a natural setting. Finally, planning is a product of culture within a contextual setting (Cullingworth and Nadin, 1997) and it evolves in response to the dynamics of social change. The nature of the research problem therefore meet the criteria set out by Benbasat (1987) and Yin (1994) thus, making case study the most ideal strategy for the empirical enquiry.

4.2 Justifying Ghana as the Case Study Area

When employing the case study research approach, one crucial issue rests with the choice of the study area. Indeed case study research has long been criticised for being unscientific because the case study areas are often small and not adequately reflective of the population (Miller and Brewer, 2004). Patton (1987) argues that this flaw could be minimised if the researcher is more diligent with the choice of case study areas. Yin (1994) therefore cautions that it is not appropriate to use an opportunistic approach, thus using whichever site is available purely on the grounds that it is available. The choice of Ghana as the case study country within the sub region of Saharan Africa was therefore arrived after careful and reflective consideration.

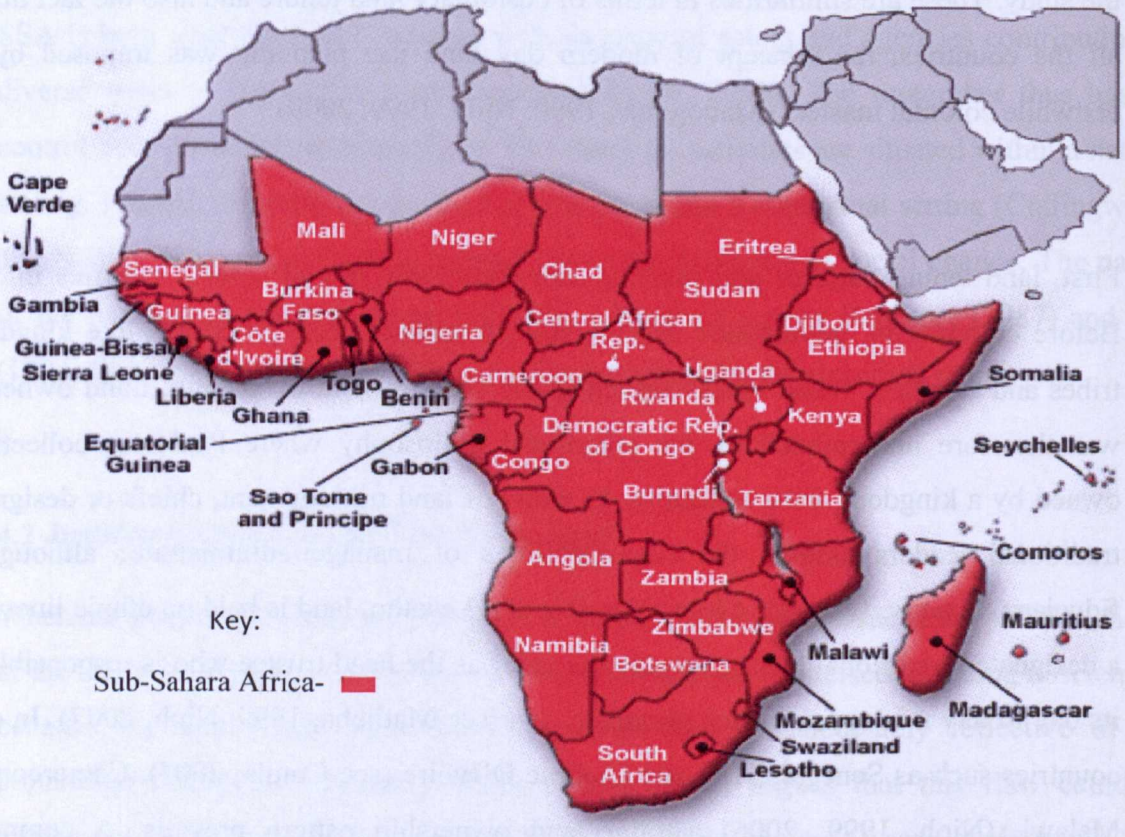
It is instructive to point out that Sub-Saharan Africa is highly diverse. The study therefore in no way assumes SSA to be a homogenous unit. There are 48 individual countries within the sub region (Egbu *et al*, 2006; Abdulai, 2010) and evidence alluding to their heterogeneity in terms of socio-economic make up and geo-political outlook abound (Mamdani, 1996; Diaw *et al*, 2001; Watson, 2002; Njoh, 2006). Therefore, treating SSA as a homogenous unit is overly simplistic and can be misleading. Indeed Vanessa Watson describes such efforts as 'dangerous over generalisation' (2002, p.29). Each of the countries of SSA is thus unique in some particular sense.

What makes some generalisation legitimate is rooted in the fact that, SSA was almost a homogenous region until it was arbitrarily split up by the western powers in what is known as 'Scramble for Africa' for the purpose of colonisation. Therefore certain characteristics are mirrored across the countries. Two of such similarities are pertinent to the study. These are similarities in terms of customary land tenure and also the fact that, in all the countries, the concept of modern day land use planning was imposed by the erstwhile colonial masters (Mabogunje, 1990; Njoh, 1999, 2009).

First, land tenure patterns and practices are commonly shared across countries in SSA. Before colonialism, governance in SSA was structured along groupings like kingdoms, tribes and families. These blocks served as the basis of land ownership. Land ownership was therefore underpinned by the communal philosophy where land was collectively owned by a kingdom, tribe or family. In terms of land management, chiefs or designated traditional leaders assume the responsibilities of manager/administrator although in fiduciary capacity. In South Africa, Namibia and Lesotho, land is held on ethnic lines with a designated traditional leader, usually the chief as the head trustee who is responsible for its day to day management and administration (see Mathuba, 1999; Njoh, 2007). In other countries such as Senegal, Mali and La Cote D'Ivoire (see Cotula, 2007), Cameroon and Malawi, (Njoh, 1999; 2006), similar land ownership pattern prevails. A communal arrangement of land ownership is therefore common to countries in SSA.

The second significant commonality is rooted in the colonial past of SSA. Almost all countries in SSA were colonised (Njoh, 1999). During colonial rule, several western ideals, philosophies and values were imported and imposed on the indigenous African societies. One of such ideals was the introduction of what has evolved into land use planning in contemporary SSA. The modern day land use planning is therefore inherited from colonial rule. Accordingly, its practice in each country is richly laced with the values and planning ideologies of the country's former colonial masters (Njoh, 1998). Although some variations may exist, they do not alter the fact that planning in either Francophone or Anglophone SSA is dominantly an imposition of western ideals and values on the local/traditional systems. The communal nature of customary lands and the inherited concept of land use planning are generic. Therefore some form of generalisation across SSA is safe. Below is the map outlining the boundaries of SSA.

Map 4.1: Map showing the outline of Sub-Saharan Africa



Source: www.africamap.com/default.asp [accessed 2/09/10]

Within the context of SSA, Ghana is purposively selected as the country of study. The choice is influenced by several considerations. First, land ownership in Ghana is dominantly communal where chiefs, family heads or appointed traditional representative are responsible for overseeing land allocation to all prospective developers. Also, Ghana is a former British colony. Land use planning was subsequently transplanted on the indigenous structures by the imperial British colonialists. Ghana is thus a reflection of the general situation of SSA in terms of land ownership and the evolution of land use planning.

Secondly, the research empirically evaluate the ambivalent relationship between the customary dynamics of land holding and the inherited concept of land use planning over a period which coincide with the post independent era. Ghana was the first country in SSA to attain political independence which was on 6th March, 1957. Since Ghana is the first country in SSA to attain political independence, fusing customary land tenure and land use planning has been experimented sufficiently long enough to enable the assessment of the short, medium and long term impacts and outcomes based on which lessons could be learnt. To a large extent, planning reflects the prevailing political dispensation. Until 1988, Ghana had a period where planning was structured along the classical top-down model and this mirrored the generally autocratic military regimes which ruled the country. The post 1988 era has however witnessed a shift to participatory planning as a result of the turn towards democratisation of local governance. By the virtue of its status as the first independent country in SSA, Ghana has the longest post independence land management experience. Coupled with the fact that it has experimented with both centralised and decentralised planning models, Ghana effectively reflects almost all the countries in SSA.

Thirdly, Ghana is representative of the SSA because there are marked distinctions in terms of the socio-economic and cultural characteristics between the rural and urban as well the coastal and inlands. Spatial variations also exist in Burkina Faso (Brasselle *et al*, 2002), Nigeria (Ikejiofor, 2006) Kenya and Botswana (Adams *et al*, 2003). This situation further strengthens the Ghanaian case as being more reflective of the sub continent of Saharan Africa.

Fourthly, after attaining independence, almost all countries in SSA have attempted to reform the operations of customary land tenure by integrating some western land management concepts. In Botswana, Zambia, Togo and South Africa, there have been such interventions on indigenous land tenure (see Adams *et al*, 2003). In Ghana too, there have been such state interventions. Depending on the ideological orientation on the political scale from left to right, various post independence governments have sought to alter customary land tenure by either tightening state grip and control over such lands or pushing towards greater efficiency of the operations of the land market. Presently, Ghana is embarking on land administration reform under the auspices of the World Bank. The choice of Ghana as the case study country provides the opportunity to examine the implication of such state interventions on customary land tenure and how the outcome of such interventions impact on land use planning.

The final justification which makes the Ghanaian case representative of the case in SSA centres on population growth and the urbanisation dynamics. Population growth and its resultant urbanisation have far outstripped the capacities of designated authorities to adequately plan and control the growth of human settlements. In turn, slum rampantly spring up whist existing ones burgeon (see UN-Habitat, 2009). The ultimate focus of this research is to offer some policy interventions which will help to arrest the situation. The choice of Ghana is influenced by the fact that it is one of the fastest urbanising countries in SSA. The urban population of Ghana constitutes 51.5 percent which is higher than the situation in Western Africa (44.9 percent) and the entire SSA (37.2) [see UN-DESA, 2011]. Accordingly, the country is saddled with the problems of unplanned settlements, pollution, environmental degradation, congestion and lack of social infrastructure. Significantly, all countries in SSA are faced with these challenges (see UN-Habitat, 2008; 2009). The Ghanaian case therefore reflects the developments in the sub continent of Saharan Africa. Given these shared similarities across countries in SSA, it is expected that findings and recommendations from this study could be applied across SSA with little or no modification. Since Ghana is the case study area, it is instructive to trace how its land use planning system has evolved over the years.

4.3 Planning History of Ghana

4.3.1 Planning Prior to Colonial Rule

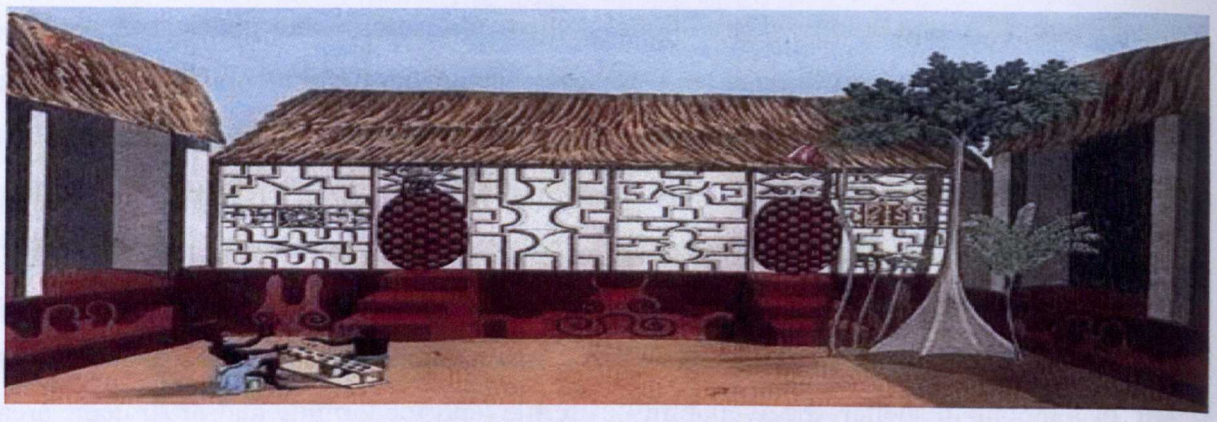
Before SSA was colonised, traditional settlements patterns and physical structures were mainly shaped by traditional land use system and land tenure practices as well as by kinship and religious order of villages (Okpala, 2009). These settlements were generally described as being formally "unplanned" but meaningfully "ordered" (Bodwitch 1817 cited by Okpala, 2009). Quacoopome (1992) for example, recounts that the choice of a site for settlement, whether a village or town, was influenced by such important consideration as a source of good drinking water, good defensive features such as a ridge or a mountain shelter, the availability of fertile land for farming and of strategic areas for the building of the palace or seat of authority and other buildings for the elders and other important officials of the group. Plots were allocated and people of the same kindred were localized to form an identifiable quarter or section of the settlement. Spaces were provided for shrines and other sacred objects, durbar grounds and the market square. Settlements in pre-colonial Ghana therefore reflected traditionally established arrangements and ways of life of the indigenous Africa society. Activities had their places – markets and market squares, religious groves, farms, communal assembly places, playgrounds, and of course roads and footpath patterns. Although the morphology of pre-colonial Ghanaian traditional settlements exhibited some variations along ethnic/tribal group lines, there was always a recognized and accepted form to the settlements providing for all forms of necessary land uses.

Thomas Bowditch, the head of an 1817 expedition sponsored by the British-owned African Company of Merchants, admired the town of Kumasi:

> "The cleanliness of Kumase impressed most visitors. The red and white clay of the buildings was frequently renewed and polished during peaceful times, and the streets were swept and cleared at the King's orders before important visitors were permitted to enter the city" (Mcleod, 1991, pp. 46–47)

Bowditch subsequently provided a visual impression of the king's palace in the now popular drawing below.

Plate 1: Thomas Bowditch's impression of Planning and architecture in pre-colonial Ghana



Source: http://en.wikipedia.org/wiki/File:Ashant_architecture.jpg [assessed 10/04/2011]

4.3.2 Planning during colonial rule

As it has already been discussed in section 2.4, land use planning was employed as a key strategy by the colonial authorities to tighten their grip of the people of the colonies. In the Gold Coast (as Ghana was known until independence) the British authorities main interest was to help the British colonial government's goal of economic exploitation and subjugation of the colonised people and all planning decisions and policies were formulated along this line. Accordingly, there was limited involvement in planning and local administration by the local people or the colonised. The closest that the British colonial authorities came to involving the natives in the planning process was through the enactment of the Municipal Ordinance of 1859 which established municipalities in the coastal towns of the Gold Coast (Ghana). Under this arrangement, the native authorities were appointed as part of the decision making structure of the local authority.

In 1924, the then Governor of the Gold Coast, Gordon Guggisberg introduced the Municipal Council reforms which vastly revisited the Municipal Ordinance of 1859. This reform was designed to give 'certain populous municipalities a voice' by linking the metropolitan styled governance in Europe with the native order (Gockling, 1999). This was particularly a topical issue owning to the fact that it became increasingly difficult for the traditional authorities to govern people who did not own allegiance to the chiefs and traditional authorities of the urban areas where they resided (Gockling, 1999). There was

therefore the need to introduce municipal corporations with an elected town council with a native as the mayor. These municipalities were subsequently empowered to levy property rates or increase the existing rates for the purpose of maintaining sanitation of their respective urban centres.

Prior to reforming the structure and composition of the municipal councils, Governor Guggisberg had prepared a 10 year development planning for Ghana. The development plan reflected the extractive motive of the British imperialist as the plan sought to open up the hinterlands for the purpose of exporting timber, cocoa and other natural resources. In pursuance with this goal, there was unprecedented construction of rails and tarred roads. An estimate 230 miles and 260 miles of railways and tarred roads were subsequently constructed (Wraith, 1967). A harbour at Takoradi was constructed to facilitate goods between the Gold Coast and metropolitan Europe. In effect, the Guggisberg development plan was primary directed towards opening up the colony through the provision of transport links. Despite the urban growth implications for the development plan, little emphasis was placed on the area of urban planning and management. Predictably, this led to rapid urbanisation of the port and other coastal cities without any properly defined plan. The only effort at improving physical planning was the Mining Areas Health Ordinance which was passed in 1925 to direct and control the development of towns. With the departure of Governor Guggisberg in 1927, concrete measures to advance land use planning had to wait until 1945 when a new Town and Country Planning Ordinance was passed.

The Town and Country Planning Ordinance (Cap 84) drew substantially from the Town and Country Planning Act of 1932 in Britain. One significant feature of this legislation was that it expanded the traditional scope of planning from the sanitation and public health consideration to ensuring orderliness in terms of the physical growth of human settlements. The Gold Coast Town and Country Ordinance (cap. 84), thus 'took broader view of planning... orderly and progressive development of land, town and other areas, whether urban or rural to preserve and improve the amenities thereof and other matters connected therewith' (Amankwa, 1989). Another highlight of the Ordinance was that, it re-constituted Town and Country Planning Board (also known as the Board). The Cap 84

provided for the appointment of the heads of Public Works and Lands Department or their representatives together with the Head of Medical Department [section 3(1)] as members of the Board.

Significantly, the Cap 84 was national in character and did not target selected urban centres as the Municipal Ordinance of 1859 had done. However, the Cap 84 maintained the top-down approach to planning by entrusting all planning functions in the Governor. For example, the mandate to initiate and execute Town Planning Schemes was vested in the Governor. The Governor was however expected to hold consultation with the Town and Country Planning Board and the respective Native Authority [section 9(1)]. Although section 23(2) of the Ordinance provided that planning functions could be delegated to an *ad hoc* the local/municipal planning committee. However in practice, planning continued to remain to highly centralised with little involvement by the native population.

4.3.3 Planning in the post Independent Era

Ghana gained political independence from the British on 6th March, 1957 and was the first country in SSA to have done so. The push towards independence was characterised by nationalist sentiments and the need to cleanse the country of all traces of the imposed values and ideologies of the colonial authorities (Nkrumah, 1970). During the delivery of the penultimate statement of the evening of Ghana's independence, the first post independence leader of Ghana, Dr Kwame Nkrumah emphatically declared that:

> "... [the] new African is ready to fight his own battles and show that after all, the black man is capable of managing his own affairs. We are going to demonstrate to the world, to the other nations, that we are prepared to lay our own foundation, our own African identity... we are going to create our own African personality and identity. It's the only way that we can show the world that we are ready for our own battles..... Today, from now on, there is a new African in the world!" (Nkrumah, 1957, p.1)

Observers (e.g. Afrifa 1966 and Danquah, 1970) were therefore puzzled when the newly independent Ghana continue to pursue the British colonial models especially in the area of spatial policies. The Town and Country Planning Ordinance of 1945 remained and indeed

continue to remain the principal legislation for land use planning. The only amendment to this legislation was the official abolishing of the Planning Boards and the subsequent transfer of their mandate to the Town and Country Planning Department. This amendment was effected through the enactment of the Town and Country Planning (Amendment) Act 1960 (Act, 33). In effect, the colonial paradigm of planning permeated the post independence era under Dr Nkrumah.

The directly correlation between the prevailing political paradigm and the nature of planning system is well documented (Parson 2003; Dye 1998). The post independence era has witnessed Ghana swinging between socialist, autocratic and recently, democratic political dispensations and their concomitant implications for land use planning practice. In order to effectively examine the nature of planning systems which sprung up within each of the different political ideologies, the political history of Ghana has been divided into four stages as follows for the purpose of analysis and discussion. These are as follows:

- The era of socialist inclination (1957 – 1966);
- The era of political turbulence (1966 – 1981);
- The era of Structural Adjustment and Economic Recovery (1981 – 1993); and finally,
- Political dispensation under the Fourth Republic (1993 to present).

How planning practice was shaped by each of these periods is examined below.

4.3.3.1 The era of Socialist Inclination (1957 – 1966)

Dr Kwame was the charismatic leader who successfully championed Ghana's course to independence. When Ghana attained political independence in 1957, Dr Nkrumah assumed the leadership of the country. Dr Nkrumah was so influential and charismatic that he his philosophical and ideological inclination became the basis for organising his political party, the Convention People's Party [CPP] (Rimmer, 1992; Rathbone, 2000). Ghana attained a republican status in 1960 and Nkrumah became the first president. As a

government, it was the CPP's philosophical leanings and by extension, Nkrumah's ideologies significantly shaped the governance system in Ghana.

Dr Nkrumah was famed for his close alliance with the Marxist and Communist philosophical traditions and subsequently exhibited strong inclination towards socialism (Rathbone, 2000). The socialist political ideology advocates the vesting of the ownership and control of the means of production and distribution in the state (Taaffe, 2008). Thus all the factors of production –labour, capital, entrepreneurship and land are subject to social control. There is emphasis on collective ownership rather than private ownership especially in terms of holding property rights. This thinking vastly influenced Nkrumah's policies especially in the area of land management.

Based on his beliefs in socialism, the Nkrumah regime embarked on a mission to bring lands in Ghana, which have always been held predominantly under by customary institutions, under state control. During the launch of the seven-year development plan (1963- 70), Dr Nkrumah noted that:

> "...the state will be controlling on behalf of the community the dominant share of the land ... without ever having to resort to such expedients as nationalisation" (cited in Larbi, 1995, p. 42).

Land is a source of wealth and power and to a large extent defines the status of traditional authorities. Therefore, it was predictable that Nkrumah's position to unilaterally manage all lands without due recognition for customary practices created a backlash with the traditional authorities. Nkrumah subsequently vowed that all chiefs who resisted his land policy will be crushed till they "runaway and leave their footwear behind" (Kasanga, 2002 cited in Hammond *et al*, 2006, p.26). In blatant disregard for customs, Nkrumah through legislations removed chiefs who were not sympathetic enough to his ideological leanings (Rathbone, 2000). The Nkrumah led government through enactments for example the Ashanti Stool Lands Acts of 1958 and the Akim Abuakwa (Stool Revenue) Act of 1958 fully assumed the financial management of stool lands thereby effectively stifling chiefs of any power and influence. Besides infiltrating and weakening the traditional control of

land, the 9 years of Nkrumah's tenure witness the expropriation of 210 different parcels of land representing 41.9 percent of all lands compulsorily acquired since independence (Larbi *et al*, 2004). In short, Nkrumah's regime radically transformed Ghana into a classical leftist society where land ownership was concentrated in the hands of the state.

Planning in the colonial era was centralised as a result of the master - servant relationship which existed between the British colonial authorities and the Ghanaian society. Therefore, it became convenient for the Nkrumah regime to perpetuate the colonial policies. Indeed all the planning laws remained intact. The Town and Country Planning Ordinance for example remained the principal legal basis for planning. It only witnessed a minor amendment in 1960 when 'Planning Board' in section 3 of the Ordinance was replaced with 'Planning Department'. Planning was executed through autonomous urban development Corporations, Boards or Authorities (e.g. Tema Development Corporation) which had upwards accountability to the ministries of Housing and Local Government. These Boards and Corporation were directly responsible for planning and other development-related aspects of the cities. Planning under the Nkrumah's regime was therefore generally centralised with very restricted public involvement. There was therefore little change from the colonial model of planning.

Dr Nkrumah's regime was characterised with autocratic tendencies. He dedicated considerable efforts at crushing his political opponents whether perceived or real. (Hammond et al, 2006). Highlights of Nkrumah's dictatorial strategies included the ban on opposition political parties and subsequently declaring himself life president (Rathbone, 20000; Gockling, 2005). Dr Nkrumah also passed the inimical Preventive Detention Act which allowed perceived opposition elements to be imprisoned without trial. As a result of Nkrumah's high-handedness and repressive style of governance, there was no chance for a change of leadership through democratic means. A forceful overthrow was therefore the only way out and this eventually happened on 24th February, 1966 when Dr Nkrumah's regime was removed from power through a military coup d'état.

4.3.3.2 The era of Political Turbulence (1966 – 1981)

The coup d'état was organised under the umbrella of the National Liberation Council (NLC) with Colonel E.K. Kotoka, Major A.A. Afrifa, Lieutenant General (retired) J.A. Ankrah, and Police Inspector General J.W.K. Harlley as the architects. The coup was fuelled mainly by the anxiety among the citizenry who had anticipated a significant welfare gain after attaining independence (Sender and Smith 1986). The overthrow was also attributed to Nkrumah's autocratic use of power which had led to the systematic abuse of individual rights and liberty. Nkrumah ruled in a capricious manner and the rule of law was frequently violated to the advantage of his favourites. Indeed he was accused of "running the country as his own personal property" (Gocking, 2005, p.147).

The 1966 coup was the start of Ghana's chequered political history. The turn to socialism had alienated the populace from being involved in the development process, something which provided the impetus for corruption, cronyism and nepotism. The NLC therefore concentrated on policies geared towards what Gocking (2005, p.147) refers to as "rolling back the socialist policies". All connections to the socialist countries were broken and technicians from USSR and China, who were in Ghana, were repatriated. The NLC subsequently turned to the West and the liberal political ideology.

The NLC promised to return the Country to democratic constitutional rule. The NLC subsequently appointed a cabinet of civil servants as part of the strategies towards returning to democracy. These efforts culminated in the appointment of a Representative Assembly to draft a Constitution for the Second Republic of Ghana. Political party activities were allowed to commence with the opening of the Assembly.

In terms of planning, the NLC did not deviate from the Nkrumah policies which were inherited. The principal focuses of the NLC were returning the country to democratic rule and also to tackle the poor micro and macro economic performance it inherited. Worth noting is the fact that the Nkrumah's regime almost copied the colonial laws without any modification. The NLC effective maintained Nkrumah's spatial policies which were largely remnants of colonial rule. The colonial planning laws and policies therefore

successfully filtered through the first two governments of the Ghana. The NLC successfully organised a national election in 1969 and later returned Ghana to constitutional rule.

The 1969 election was convincingly won by Progress Party (PP) with Dr Busia as the Prime Minister. The PP was more dedicated to the liberal ideology and attempted to resort to the market for the allocation of resources. However, analysts (e.g Larbi *et al*, 2004; Aryeetey and Harrigan, 2000) have noted that, the state continued to maintain a central role and attempted to turn to the market economy on gradual basis. Therefore, whilst the PP professed and touted its liberal credentials, in practice it generally employed the centralised approach of planning. The PP was short lived (August 1969–January 1972) and it was overthrown through another military coup d'état. The National Redemption Council (NRC: January 1972–September 1979)[4] under Colonel I.K. Acheampong thus brought the civilian government of PP to an abrupt end.

The NRC unilaterally repudiated some of the country's external debts in what became popularly known as 'yentua' to wit: 'we will not pay any external debt' (Aryeetey and Harrigan, 2000) and also did not pay the domestic debt. The NRC like almost all military governments exhibited strong inclination towards autocracy. The NRC embraced the philosophy of self-reliance especially in the area of agriculture. Economic policies were centrally formulated in the spirit of authoritarian rule. The Local Administration Act of 1971 was enacted and this "attempted to balance a system of quasi autonomous selected councils and administration by agencies of central government Ahwoi (2010, p. 23). The National Redemption Council passed the Local Administration (Amendment) Decree, 1974, NRCD 258 with the view of decentralising local governance and in turn, land use planning. The Decree abolished elections for local councils. Instead, the central government appointed two-thirds and traditional authorities chose the remaining one-third. The system however suffered severe setbacks like cronyism and further centralisation (Obeng Odoom, 2009a). Before this Act could be implemented, the NRC government was

[4] It is important to note that the NRC later metamorphosed into the Supreme Military Council (SMCI) and SMCII through internal coups (known as the Palace Coup)

overthrown through another military coup d'état. As a result, the top-down model which was bequeathed to Ghana from colonial rule continued to remain the basis for planning.

The repudiation of US$90 million of Nkrumah's debts to British companies, and the unilateral rescheduling of the rest of the country's debts for payment over fifty years meant that Ghana had carved for itself a poor reputation in the sight of development partners and donors. External economic support which was a key component for balancing Ghana's budget was almost truncated *en bloc*. Coupled with the challenge of high inflation and depreciating currency, it became practically impossible for Ghana to engage in international trade which was the main source of acquiring life essential like milk, soap, medication, cloths among others. Coupled with the high incidence of corrupt and abuse of human rights and personal liberties, the NRC/SMCI/SMCII was subverted through a counter military coup that ushered in the Armed Forces Revolutionary Council (AFRC) on June 4, 1979 under the leader of Jerry John Rawlings. The AFRC lasted for four months and voluntarily handed over power to the democratically elected People's National Party (PNP). Owing to the transient nature of the AFRC, the government did not offer any new direction to the system of land use planning. The colonial arrangement for planning which was structured along the top – down model continued to persist.

The People's National Party (PNP, September 1979– December 1981) was under the leadership of the then international diplomat, Dr Hilla Limann. The AFRC handed over the leadership of Ghana to the PNP with a clear mandate to correct the economic mess which was left behind by the NRC/SMCI/SMCII. The combination of official corruption, Rawlings's continued political activities, and deteriorating economic conditions doomed the Limann government. On December 31, 1981, Jerry John Rawlings resurfaced on the Ghanaian political scene with a successfully executed coup which effectively terminated the mandate of the PNP government. The PNP like its predecessors was short lived and therefore did not have adequate opportunity to imprint its policies and ideals on the Ghanaian society. Effectively, the same colonial spatial policies continued to be the basis of planning with the Town and Country Planning Ordinance 1945, (Cap 84) still serving as the principal legislative framework for planning.

Undoubtedly, the 15 years after the overthrow of Dr Nkrumah's regime witnessed a sustained turbulence on the political scene both in terms of ideology and mode of acquiring political power. The democratically elected governments (CPP and PP) of the first and second republics oscillated between radical left and the conservative right respectively. Apart from this, military leadership consistently subverted civilian governments and accordingly deprived Ghana of stability which is a principal requirement for formulating responsive and long term policies. It is therefore not surprising that the colonial spatial policies and legislations continued to remain the basis for planning. Thus notwithstanding this rhythmic alternation between military and democratic rule, Ghana did not witness any significant change in the spatial policy directions (Hutchful 2002). The period between 1981 and 1993 however witnessed some stability and continuity in terms of governance in Ghana.

4.3.3.3 The Era of Structural Adjustment (1981 – 1993)

The Armed Forces Revolutionary Council which handed power to the PNP in 1979 reorganised itself and metamorphosed into the Provisional National Defence Council (PNDC). The PNDC later overthrew the same PNP it had handed over power to in 1979. At the start of 1980, the problem of colonial exploitation and poor terms of trade were further aggravated by the high incidence of corruption and these collectively pushed Ghana into serious economic difficulties. The severity of this phenomenon was so enormous that it left the economy of Ghana almost at the point of collapsed (Theobald, 1997). As observed by the World Bank and IMF, the annual gross domestic product (GDP) growth rate in Ghana declined from 2.7 per cent during 1970-80 to 0.7 per cent in 1982 and reached a record low of 0.2 per cent in 1983 (IMF, 2002). All these developments triggered a steep decline in the quality of life for an increasing large proportion of the population. Under such circumstance, offshore borrowing from the World Bank, International Monetary Fund and other Britton Wood institutions was the only viable option towards avoiding the imminent collapse of the economy.

In the 1980 where Ghana continuously turned to the international financial bodies for assistance, neoliberalism had become a secular religious doctrine with the World Bank and IMF becoming something like the Vatican of the neoliberal church (George and

Sabelli 1994). Therefore, in return for economic and technological aids, the World Bank and the IMF increasingly introduced neoliberal programs to solve the problems of the Ghanaian economy. As Aryeetey and Tarp (2000) observe, reforms were designed on the basis of the neo-liberal orthodoxy, with a particularly optimistic view about the efficacy of the market mechanism as a vehicle for promoting efficient resource allocation.

The World Bank and the IMF introduced two programmes to arrest the declining economic conditions. These were the Structural Adjustment Programme (SAP) and Economic Recovery Programme (ERP). These programmes employed a two prong approach to tackle the challenges of Ghana by reforming the economy and political administration. Economically, the SAP and ERP signalled a change in the national orientation of economic policies. These programmes aimed at renewing economic growth and subsequently translating the gains of economic growth into increased employment opportunities to ensure that the majority of the people will reap the benefits of the growth (Aryettey and Tarp, 2000). The first phase of these programmes focused on stabilization which was to be followed by a phase of rehabilitation and these were followed with liberalisation of the markets (Hutchful, 2002). These policies generally help to steer Ghana's economy back on track and subsequently led to an average economic growth at the rate of 5 percent between 1985 and 1990 (Aryettey, *et al,* 2001). (For a full review of the impact of SAP and ERP, see Aryettey and Harrigan 2000; Aryettey and Tarp, 2000)

In terms of political administration of the country, Ghana was under a military authoritarian regime under Flight Lieutenant Jerry John Rawlings. Political parties were banned and freedom of speech was generally suppressed in what became known as the 'culture of silence' (Baffour, 1987). However, building strong and deep forms of democratic governance at all levels of society was seen by the World Bank and the IMF as the best way to achieve human development objectives and all who held contrary views were considered "wrong" (UNDP, 2002, p. v). Inspired by this hegemonic claim, the World Bank and IMF pushed for the return to democracy and decentralisation of public decision making. This culminated in the legislation of the Provisional National Defence Council (PNDC Law 207, 1988) under the aegis of the international community and this law aimed at decentralising and democratizing governance and decision making.

The PNDC Law 207 provided the framework for the creation of 110 local government units. The rationale behind their creation was to devolve power to the local and community levels to enable grassroots to participate in governance, including decision-making that shapes their very lives and livelihoods (Mahama, 2009). This law provided the foundation for the election of local councillors, the election of presiding members from council members, the appointment of a District Chief Executive (DCE) by the president among others. In terms of planning, the newly created decentralised local government agencies were mandated as planning authorities. The task to formulate and implement local plans was for the first time since independence transferred from a centralised bureaucratic agency to the local level. Land use planning therefore became a local government led activity in 1988 through the passage of the PNDCL 207.

The push towards decentralisation coincided with a surge in the call for return to civilian rule. A referendum was held on April, 1992 and 92.6 percent voted to return Ghana to multi party democracy. The military government of the Provisional National Defence Council (PNDC) metamorphosed into a political party, the National Democratic Congress (NDC) and was subsequently elected in 1992 and 1996 national elections. The NDC took over the reins of Ghana in 1993, a land mark that represented a turn to democracy and public participation in decision making.

4.3.3.4 Recent Planning related Policies (1993 to present)

The current Fourth Republic came into existence in 1992 and is the longest period of uninterrupted civilian rule in Ghana's history. This breeze of stability has been accompanied by unprecedented emphasis on decentralization and public participation. Subsequently, all planning and planning related policies have been designed with greater emphasis on popular involvement in decision making.

By the earlier 1990s, one could outline the litany of challenges that characterised the land and environment sectors without any effort. The challenges included rapid environmental degradation, multiple sale of land, and lack of adequate title security of land among other issues. Such developments in the land sector provided the basis for the springing up of

'land guards' (World, 2003a; Abdulai, 2010). Land Guards are effectively thugs or quasi militia groups who are armed with offensive weapons with the sole instruction to prevent counter claimants to a particular parcel of developable land. Predictably, several rival gangs of land guards clashed and resulting in deaths and destruction of property. In effect, the land sector was in a chaotic state.

The 1992 constitution of Ghana which provided the basis for a return to constitutional rule attempted to tackle the challenges of the land sector. Subsequently, one of the cardinal directive principles of state policy enshrined in the constitution of Ghana requires the state to "take appropriate measures to protect and safe guard the national environment for posterity" (Article 36:9). This constitutional requirement comes with the clarion call to formulate, implement and enforce various policies towards creating a liveable and sustainable built environment, along with sound land management principles. In pursuance to this, two main reforms have been initiated to help arrest the dire state of the land sector. These are the Ghana Land Administration Project and the National Urban Policy and these are discussed below.

4.3.3.4.1 Land Administration Project

In response to the land challenges, the Government in 1999 made the effort to complement existing strategies towards addressing the spatial challenges. National Land Policy (NLP) was formulated in 1999 to provide a coherent and systematic approach to addressing the problems. The Ghana Land Administration Project (LAP) is the principal program for implementing the proposals of the National Land Policy. Land Administration involves the processes of identifying existing tenures, rights and interests in land and subsequent registration of these, often for the purpose of improving the operations of land markets (Adams and Turner, 2005). LAP is a 15 year programme, phased into three stages in a band of five years. The long-term goal of the LAP is to stimulate economic development, reduce poverty and promote social stability by improving security of land tenure (World Bank, 2003). LAP also aims at simplifying the process for accessing land and making it fair, transparent and efficient, developing the land market, installing sanity and orderliness in property development and fostering prudent land management.

This aim is split into four objectives which are referred to as components. These are

a.) Harmonizing land policies and the legislative framework with customary law for sustainable land administration;

b.) Reforming and developing the institutions for land management and administration;

c.) Improving land titling, registration, valuation and information systems; and

d.) Project management, monitoring and evaluation.

Each of these components is discussed below.

There are several lands laws and policies which are concurrently operational in Ghana. The World Bank (2003a, p.6) for example identifies 166 land related laws. Besides the formal laws and policies, customary practices also constitute a major source of land law under the constitution of Ghana. Predictably, several of these laws are either contradictory or obsolete although they continue to remain in the statutory books and also in land policy discourses. The first component of LAP therefore sought to harmonize land policies and the legislative framework with customary law for sustainable land administration. The implementation of this component of LAP started in October, 2003 and was expected to have been completed in October 2008. This deadline was however not achieved until August, 2009. In the long run, component one of LAP aims to streamline all land related laws and policies and make them clear, unambiguous and consistent with customary practice and the 1992 Constitution (World Bank, 2003a).

The second component of LAP principally aims at reforming and re-aligning the institutional arrangement for land administration in Ghana. This component was developed against the backdrop that the activities of the six formal institutions (these are Lands Commission, the Land Valuation Board, the Survey Department, the Office of the Administrator of Stool Lands, the Land Title Registry and the Town and Country Planning Department) for land management were often uncoordinated. This created a highly fragmented institutional framework with overlapping responsibilities which often results in duplication of functions and avoidable bureaucracy. The institutional reform under the project comprises of revising the mandates and roles of the six public land agencies, streamlining and restructuring their mandate. LAP also seeks to explore the possibilities

of bringing all the Land Sector Agencies (LSAs) under one land administrative umbrella and decentralizing their operation for delivery of timely and efficient land administration services. Under this component, LAP also seeks to modernize the operations with improved use of technology, record systems and information management will be an integral aspect of the institutional reform.

The central theme of the third component is to improve land titling, registration, valuation and information systems. Contested claims of ownership resulting from multiple sales of a single tract of land, indeterminate boundaries among other issues, have created a situation of tenure insecurity. Roth and Haase (1998, p. 1) define security of tenure as 'the individual's perception of his/her rights to a piece of land on a continuous basis, free from imposition or interference from outside sources'. The socio-cultural view of land as a heritage which should not be sold coupled with the sentimental attachment to land is thought to have contributed to prevent open transactions in land Madjarian 1991). Activities within the land market are mostly shrouded in secrecy creating a dearth of information. With this background, developing land information systems has been identified as being crucial to the overall success of the land administration reform.

The final component of the Land Administration Project centres principally on the management, monitoring and evaluation of the project. This component comes after the implementation of the first three components. It takes the form of monitoring and evaluation after implementation, feedback and project planning-action (World Bank, 2003a). Key principles underlying the monitoring and evaluation approach include enhancing partnerships between the different stakeholders. This stage is expected to be cyclical where LAP will continuously receive feedback on the first three components, analyse the responses and incorporate the feedback into the project where appropriate. Every component of LAP has its internal monitoring and evaluation mechanisms. However, the fourth component takes a holistic appraisal of earlier components. Besides the Ghana Land Administration Project, the National Urban Policy (2010) has recently been launched to complement the existing spatial strategies and policies.

4.3.4.4.2 National Urban Policy

The National Urban Policy (NUP) is expected to serve as a guide in making specific decisions at the national and local levels and which affect the pattern of urban growth in the nation. The draft NUP was prepared in September, 2010 and as at the last quarter of 2011, it was being discussed and validated through regional workshops. The lack of a complex national urban policy framework has undermined the policy coherence of the various departments and agencies which are involved in addressing the challenges of unmanaged urbanisation. This situation has affected institutional coordination and harmonization of urban development. In addition, the absence of an urban policy has resulted in a situation where the responsibility for urban development seems to have been subsumed and thinly spread among several ministries, leading to a duplication of effort, inefficiencies in urban management and development, and weak public expenditure patterns for effective urban infrastructure growth (NUP, 2010). The National Urban Policy (NUP, 2010, p. xii) therefore seeks to "promote a sustainable, spatially integrated and orderly development of urban settlements with adequate housing and services, efficient institutions, sound living and working environment for all people to support rapid socio-economic development of Ghana". The NUP thus "makes a bold statement to promote socio-economic development of Ghanaian urban centres" (NUP, 2010, p.ii).

However, whether this policy offers an adequate solution to arrest the current ineffectiveness of planning is open to debate. This is because it is inundated with sketchy implementable prescriptions. For example to address the land problems associated with rapid urbanisation, the policy recommends that:

> "Land development planning for the purposes of human settlement will have to make adequate provision for the population density, growth and distribution pattern; physical growth, including direction of such growth" (NUP, 2010, p.46)

With regards to laws related to land use planning, the policy suggests that:

> "[Efforts] must be directed at searching for and adopting new and innovative means of promoting development control and enforcement of regulations in our towns and cities" (NUP, 2010, p. 47).

Again, the policy recommends that:

> "Laws regarding access and rights to land must be reviewed to avoid discrimination on basis of gender and social status" (NUP, 2010, p. 47)

These aspirations are welcome. In general terms, policies should offer pragmatic direction towards achieving the stated goals. However, it appears that the NUP has fallen into the same pitfall of lamenting on the problem of unplanned urbanisation whilst offering little in the way of solutions. The challenge is therefore to think through possible ways of achieving the stated goals.

In line with the current democratic dispensation, both LAP and NUP are formulated based on a participatory and integrated approach. The principles of participation, rule of law, transparency, responsiveness, consensus oriented, equity, effectiveness and efficiency, accountability, and a strategic vision are the guidelines for these policies. Despite its inadequacies in terms of offering pragmatic direction for spatial management, the policy nonetheless re-echoes the call to pay particular attention towards effectively dealing with the high rates of demographic growth and urbanisation.

4.4 Demographics and Urbanisation

Ghana's population and the rate of urbanisation have witnessed a sharp and sustained rise since 1921, when a formal census was first introduced into the country. A summary of this is presented in the table below.

Table 4.2: Ghana: Total Population and Percentage Urbanized, 1921-2010

Year	Total Population	Percentage Urbanized
1921	2,298,000	7.8
1931	3,163,000	9.4
1948	4,118,000	12.9
1960	6,727,000	23.1
1970	8,559,000	28.9
1984	12,296,000	32.0
2000	18,912,000	43.8
2007	23,000,000	49.0
2009	23,800,000	50.0
2011	25, 000, 000	51.5

Source: Compiled from National Urban Policy (2010) and DESA-UN (2011)

The current population is estimated at 25 million, an inter-censual growth rate of 2.7 % per annum. This is lower than the rate for West Africa (2.9%), but higher than the global rate (1.5%). Ghana has a land size of approximately 230,000 km^2 which gives a population density for the entire country of 109 people per square kilometre. The rapid increase in population has had far reaching implications for urbanisation. In 2010, Ghana crossed the land mark where more than half of the population were officially classified as urban dwellers (DESA-UN, 2011). Therefore within a period of 90 years (1921-2011), Ghana has shifted from being a purely rural country (92.2 percent of settlements classified as rural) to an urbanized society (where 51.5 percent of the population are urban dwellers). Ghana can therefore be described as an 'urbanized society'.

The causes of urbanization are generally noted to be the result of rural-urban exodus (net migration) and natural increases in birth rates. Ghana has a birth rate of 28 per 1,000 population compared to 13 per 1,000 in the UK and 14 in the USA (CIA, 2011). Although Ghana's rate of natural increase is relatively lower compared to other SSA countries such as Zambia (45/1,000 population) and Mali (46/1,000 population), natural increase represents a major contributor to rapid population growth and urbanisation.

Besides natural increase, rural and urban drift has also played a significant role in the rapid urbanisation of Ghana. Urban bias has been a major feature of the distribution of development projects and other infrastructure especially in the post independent era. Good schools, health facilities, electricity improved water and sanitation among others are generally found in the urban area areas (Songsore, 1989). Coupled with perceived job opportunities, urban centres have continuous served as a magnet or a pull force on the rural population. The combined effect of natural increase and net migration are summarised in the table below.

Table 4.3: Migration and Natural Increase Contributions to Urbanisation, 1960-2000

Year	1960	1970	1984	2000
Total Urban Population	1,551,174	2,473,641	3,934,746	8,283,491
Urban Population (%)	23.1	28.9	32.0	43.8
Intercensal Year	1960-1970	1970-1984		1984-2000
Growth Rate (%)	4.7	3.3		4.6
Migration (%)	54.5	25.0		37.4
Natural Increase (%)	45.5	75.0		62.6

Source: National Urban Policy (2010, p. 8)

The table above indicates that after 1960, the single most significant contribution to urbanisation in Ghana is natural population growth in urban areas, accounting for as high as 75 percent of urban growth for the period 1970-1984, and about 63 percent for the period 1984-2000. This conclusion on natural increase as the single significant

contributing factor to urbanisation in Ghana is supported by a UN (2007) study on urban population growth in various regions of Sub-Saharan Africa, which showed that natural growth accounted for 59 percent to urbanisation in West Africa for the period, 1995 to 2000.

One artificial cause of Ghana's rapid rate of urbanisation is the redefinition 'urban' as a settlement with a threshold population of 5,000 (Babayerebir, 2009). This means that villages and towns attaining this threshold are reclassified from 'rural' to 'urban'. As a result of the redefinition of the urban based on the population threshold, the number of urban settlements in the country increased greatly from 98 in 1960 to 364 in 2000 with a corresponding increase in the proportion of the urban population from 23 percent to 43.9 percent (National Urban Policy, 2010). Owing to the population threshold of 5,000, several areas which are classified as urban settlements in Ghana remain small by world standards.

Recent off-shore oil discovery in the western part of Ghana has led some analysts to postulate that the process of urbanisation is likely to increase significantly and the pace intensify, due to what they described as an 'oil-induced urbanisation' process. Based on historical accounts of oil discovery and production elsewhere, it can be argued that the oil discovery and production in Ghana will induce rapid pace of urbanisation in both the immediate locality of the oil find (that is, the Western Region) as well as in other parts of the country, as more people are drawn from the countryside in search of direct and indirect opportunities offered by the oil industry.

4.5 Economic Context of the Research

Ghana is an emerging economy which is endowed with natural resources such as crude oil, gold, diamonds and timber. Ghana is also an exporter of cash crops such as cocoa. Within the global economy, Ghana main role is thus a producer and supplier of raw materials. Economic mismanagement and corruption which characterised almost all post independence government means Ghana continuous to be a poor country despite all its natural resources. Ghana is ranked 130 on the Human Development Index with an estimated 54 percent of the population living on less than $2 a day. Twenty eight percent

of the population are subsequently trapped below the poverty line (UNDP-HDI, 2011). This situation coupled with the rapid expansion of human settlements has created a situation known as 'urbanisation of poverty' (Songsore, undated).

Ghana has had a long standing balance of deficit issue. As a result, it has become customary for leaders to seek financial assistance from advanced economies and institutions such as the World Bank and the IMF. Ghana admitted being poor in 2002 and subsequently joined the league of Highly Indebted Poor Countries (HIPC). The impact of HIPC was two folded. First, Ghana enjoyed series of debt cancellation which save the country several millions of dollars in loan repayments. Secondly Ghana enjoyed a period where loans were available at concessionary rates (IMF, 2002). The HIPC initiative coupled with other factors such as favourable terms of trade for cocoa and gold on the world market resulted in a rapid improvement in the economic conditions. This was evidenced by the various microeconomic indicators. Inflation dropped from 48 percent in 2000 to 14 percent in 2006. Gross domestic product rose steadily from 3.7 in 2000 to 8.4 percent by 2008 (Budget Statement, 2011).

Notwithstanding these gains, Ghana's economic continuous to remain vulnerable. This is because the economy is mainly built on external financial assistance and foreign exchange from the export of raw materials. Significantly, both sources of inflows are largely determined by the dynamics of global economy. The various ministries, departments and agencies such as the Lands Commission, the Town and Country Planning Department, the National Development Planning Commission among others are considerably funded by central government. The unpredictable nature of revenue allocation has the potential to adversely impact on various ministries, departments and agencies especially in terms of the planning and implementation of programmes.

4.6 Categories of Landholding Arrangements in Ghana

There are three (3) categories of landholding arrangements in Ghana. These are as follows:

- Customary lands,
- State lands and
- Vested lands

4.6.1 Customary Lands

Customary lands encompass all lands which are owned by kingdoms, tribes families, and in some, instances individuals. These lands are, almost in all instances, regulated by the prevailing customary tenure practices. Customary lands are usually owned collectively although management and administration are often vested in a chief, an elder or a designated leader, who is appointed in accordance with customs. Customary lands are a principal source of land for development. They constitute an estimated 80 percent of all lands in Ghana (Kasanga and Kotey, 2001, p.13).

4.6.2 State Lands

Also known as public lands, State lands are those lands which are collectively owned by the entire membership of Ghana. All state lands are vested in the President who is mandated to manage and administer these lands along the principle of fiduciary trusteeship for the benefit of the entire population. State lands constitute an estimated 18% percent of all lands.

State lands include lands which have been compulsorily acquire for public interest and lands which were confiscated by the British colonial authorities and handed over to the government immediately after independence. Such lands include airport strips, police/military installations, roads/ railways, hospital, cantonments and Ridge areas in Accra and the ministries area in Kumasi. State lands are managed by the Lands Commission (which has recently been renamed the Public and Vested Land Division).

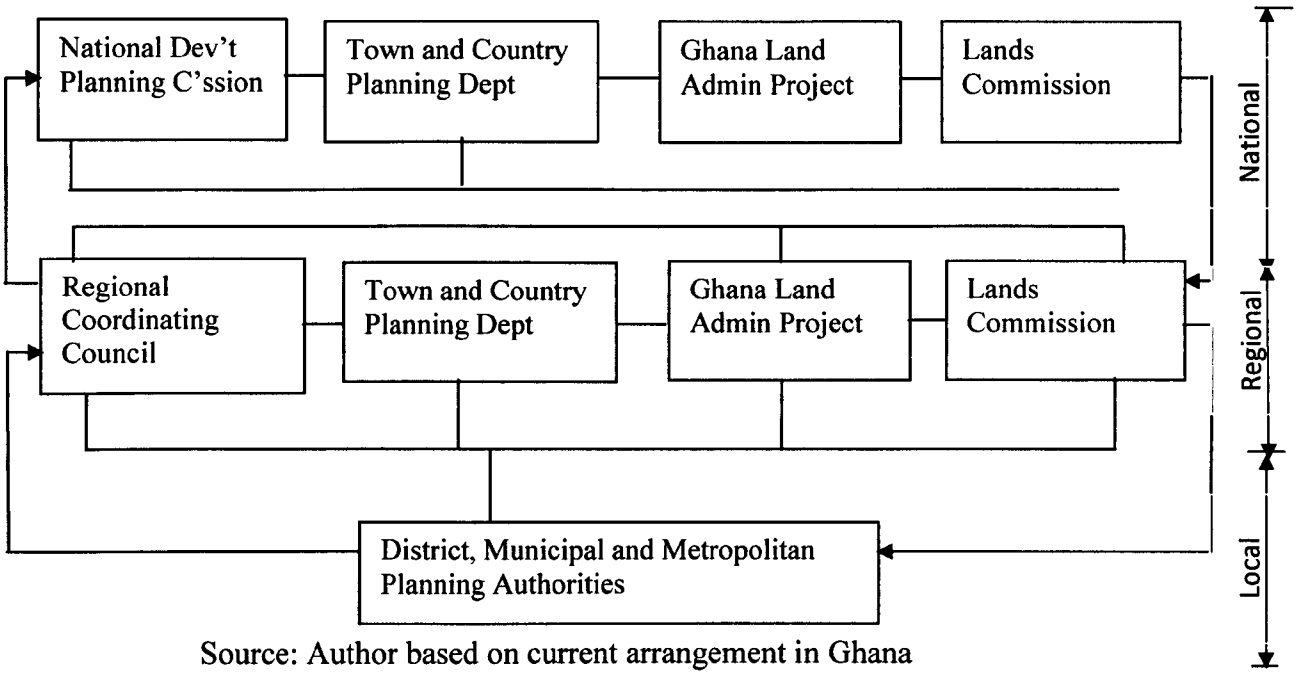
4.6.3 Vested Lands

Between state lands and customary land is another variant of land ownership known as vested lands. The guiding framework for vested lands is derived from the common law arrange that split land into two components: the legal rights and beneficiary rights. Holders of the beneficiary rights are entitled to use and enjoy the stream of benefits which arise out from land ownership. The legal rights on the other hand provide the basis for landholder to alienate, exclude and take other management decisions. Vested lands therefore encompass all lands which are owned by the customary landholders and subsequently enjoy benefits such as rents. The Lands Commission is however responsible for making all management decisions. The ownership and management of vested lands are thus split between the customary landholding group and the Lands Commission. Vested lands constitute 2 percent of all lands in Ghana.

4.7 Institutional Framework for Land Use Planning and Management in Ghana

Ghana has a three tier structure for governance – national, regional and local and land use planning is built along this structure. At each of the three levels are actors and agencies which are involved in planning delivery. At the national level there is the Lands Commission, the Town and Country Planning Department, the National Development Planning Commission and the Ghana Land Administration Project are all the principal agencies which are involved in the planning process. At the regional level, the Lands Commission, the Town and Country Planning Department, the Regional Coordinating Council and the Ghana Land Administration Project operate. At the local level, districts, municipal and metropolitan assemblies are mandated to formulate and implement plans for their respective areas. The institutional arrangement for land use planning in Ghana is summarised in the figure below

Fig. 4.1: The Institutional Framework for land use planning in Ghana



Source: Author based on current arrangement in Ghana

Planning decision making in Ghana follows a bottom up approach. There are 170 and 10 local and regional planning authorities. The map below shows the 10 region and some key towns and cities authorities.

Map 4.2: Map of Ghana showing the 10 regions and some key towns and cities

Source: ww.mapsofworld.com/ghana/ghana-political-map.html [02/04/2011]

Land use plans and policies are expected to be formulated at the local level with the full participation of the public. At the regional level, all local plans are coordinated and harmonised before they are eventually synthesised into the national planning policy. It is important to highlight that there are other land sector agencies such as the Office of the Administrator of Stool Land (OASL) involved in the land management process. The OASL for example is tasked with the collection of all stool land revenues such rents, dues, royalties, revenues or other payments whether in the nature of income or capital, and to account for them to the beneficiaries (Section 267: 2:b-c) and therefore not directly

involved in the planning process. However, the primary focus of the study is on land use planning. In turn, land sector agencies which do not have direct land use planning functions are not treated here (for a comprehensive review of all land sector agencies in Ghana, see Kasanga and Kotey, 2001). The next section examines the planning functions of the agencies which have been outlined in the figure above.

4.7.1 Institutions for Land Use Planning at the National Level

Ghana Land Administration Project

The Ghana Land Administration Project (LAP) is a creation from the National Land Policy (NLP, 1999). The Land Administration project seeks to lay the foundation for a self-sustaining land administration system that is fair, efficient, transparent, cost effective and which guarantees security of tenure. LAP also seeks to enhance record keeping of rights and interests in land and land transactions whilst improving adjudication and resolution of conflicts as part of the grand strategy to achieve efficiency, equity and optimal service delivery in support of land market operations (see section 4.3.3.4 above for a more detailed overview).

Lands Commission

Section 258 of the 1992 Ghanaian Constitution provides that there shall be established a Lands Commission which shall, in coordination with the relevant public agencies and governmental bodies, perform some stipulated function such as managing state and public lands. One of the functions of the Lands Commission centres on collaborating with other land sector institutions to ensure effective land use planning of places and their subsequent management. The State holds an estimated 18 - 20 per cent of lands in Ghana. As the body responsible for the management of state lands, the Commission also allocates public lands for use by individuals, private and state institutions and the management of such lands.

Town and Country Planning Department

Established by the British colonial authorities, the Town and Country Planning Department (TCPD) is the main state institution responsible for land use planning in

Ghana. The main enactment establishing it is the Town and Country Planning Ordinance, 1945 (Cap 84). However the Local Government Act, 1993 (Act 462), National Development Planning Commission Act, 1994 (Act 479), National Development Planning (Systems) Act, 1994 (Act 480), and the National Building Regulation, 1996 (LI 1630) are consequential legislations which grant further powers and define additional responsibilities for the TCPD. The TCPD is principally responsible for the preparation of land use plans to direct the growth of human settlements in the country. Such settlements should be harmonious and sustainable, cost effective and in accordance with sound environmental and planning principles. The TCPD is also tasked with creating awareness within the property developing public on the need to obtain planning and developments permits.

The National Development Planning Commission

The National Development Planning Commission (NDPC) was established as part of the institutional framework when Ghana started to migrate towards decentralised governance in 1988. The NDPC was provided for by sections 86 and 87 of the national constitution and establish by the promulgation of the National Development Planning Commission Act, 1994 (Act 480). The NDPC is the main institution responsible for developing policy at the national level. The NDPC coordinates and regulates the activities of all other decentralised agencies and harmonising them into national plan. The NDPC is expected to integrate economic, spatial and sectoral plans of ministries and agencies in order to ensure that these plans and strategies of the ministries, departments and agencies are compatible with national development objectives.

4.7.2 Institutions for Land Use Planning at the Regional Level

Lands Commission

Lands Commission at the regional is a decentralized body of the Lands Commission at the national level. The Lands Commission at the regional level is responsible for managing all state lands within their respective regions. At the regional level, the Lands Commission also advises local authorities and traditional authorities on the policy framework for the development of particular areas of Ghana to ensure that the development of individual

pieces of land is co-ordinated with the relevant development plan for the area concerned. The Lands Commission at the regional level is also expected to formulate and submit to national office of the Commission recommendations on national policy with respect to land use and management. .

Town and Country Planning Department (TCPD)

The TCPD at the regional level is derived from the TCPD at the national level. The TCPD at the regional level is primarily responsible for guiding and overseeing the operational activities of all local planning authorities within its respective jurisdiction. The regional TCPD therefore plays a coordinating and supporting role for the TCPD at the local level in order to enhance the planning of human settlement.

Land Administration Project

The Land Administration Project at the regional level is the decentralized agency of the Land Administration Project at the national level. Like the national level, LAP at the regional level seeks to lay the foundation for a self-sustaining land administration system that is fair, efficient, transparent, cost effective and which guarantees security of tenure at the respective region. The aggregate success of LAP at the regional level should yield the national goal of harmonizing statute and customary laws to facilitate equitable land access and enhance security of tenure of land, through registering systematically, all interests in land (World Bank, 2003a)

Regional Coordinating Council

Each of the 10 regions in Ghana has several local authorities under their jurisdiction. Each local planning authority is a development and planning agency and is therefore expected to formulate and execute plans and development projects. As a result, some development projects may be complementary, whereas others may be deleterious to each other. The Regional Coordination Council (RCC) is therefore the body which is mandated to mediate and coordinate the various activities of all the local planning authorities in order to enhance the health, safety and convenience of development. The RCC consists of

representatives from all the local government authorities in the region. The functions of the RCC include monitoring, coordinating and evaluating the performance of the District Assemblies in the region. The RCC also serves as the conduit through which the National Development Planning Commission relays guidelines to, and receives feedback from the local government authorities.

4.7.3 Institutions for Land Use Planning at the Local Level

District, Municipal and Metropolitan Assemblies

The first tier of the decentralise hierarchy is the local government authorities (LGAs) which may be a district, a municipal or a metropolitan authority depending on the characteristics[5] of the area involved. The legal basis for the creation of local government authorities, and their subsequent powers is principally drawn from the Constitution of Ghana, the Local Government Act 1994 (Act 462), National Development Planning Commission Act, 1994(Act 479) and National, Development Planning (Systems) Act, 1994 (Act 480).

The Local authorities are the bodies responsible for the overall governance and development of their respective areas. They have subsequently been referred to as planning authorities (section 12 (1) of Act 462). Among other issues, the local government authorities are responsible for ensuring that the respective areas are economically thriving, property development is well regulated whilst ensuring a fair balance between the built and the natural environments. The planning authorities are expected to regulate development by granting planning permits to prospective developers and sanctioning those who do not adhere to planning regulations.

The Berlin Declaration on the Urban Future (Global Conference on Urban Future, Berlin 2000) recommended as one of the most urgent actions, among other things, that planning should integrate the social, economic, environmental and spatial aspects of development.

[5] In accordance with article 295 (1) of the Constitution of Ghana and section 1 (1) of the Local Government Act of Ghana, Act 462, the term 'district assemblies' refers to local governments which have the responsibility to manage ordinary districts (settlements of 75,000 people), municipal areas (settlements of 95,000 people), and metropolitan areas (settlements with 250,000 people or more).

Prior to this call, the Local Government Act, 1993 (Act 462) had acknowledge the importance of multi-disciplinary approach to planning by providing for the establishment of the Statutory Planning Committee (SPC). Membership of the SPC is drawn from the heads or representatives of the following departments at the district, municipal or metropolitan level – health, electricity, water, fire, roads, environment protection, education, security, and elected councillors among other. The SPC is effectively a technical unit of the local planning authorities with the mandate to formulate plans and evaluate planning applications. The SPC is chaired by the district/municipal/metropolitan chief executive who is appointed by the central government[6]. The planning officer attached to the planning area acts as the secretary of the SPC. The SPC is composed of experts from varied background and thus represents an effort to move away from the earlier physical determinism approach to the integrated approach of planning.

The phenomenal rates of population growth and urbanisation are not commensurate with economic growth thereby facilitating the urbanisation of poverty (see section 4.4 and 4.5 above). This has created a situation where a significant proportion of urban residents are trapped in poverty. The market forces of demand and supply determine land values in urban areas. The urban poor are practically priced out of acquiring and developing suitable houses as a result of the cost involved. With the state's intervention in the area of affordable housing provision virtually non-existent, the poor have continuously resorted to the constructing and dwelling in shacks, kiosk and other temporary structure often without any decent supply of portable water and sanitation. In turn, the urban areas in Ghana are generally dominated by slum conditions (UN-Habitat, 2008; 2009a). The high rate of expansion of this poor human settlement conditions has been so rapid that the institutions which are mandated to control the growth of human settlement have failed to keep pace. It is therefore not surprising that about 70 percent of the urban population in Ghana are slum dwellers (UN-Habitat, 2008; 2009a).

Local government authorities are mandated to plan and implement policies for controlling the sprawling of slums. Therefore understanding current planning practices and the

[6] The Government's appointment is subject to the approval of at least two thirds of all local councillors [see section 20:1 of Local Government Act, 1993 (Act, 462)]

operation of the planning system at the local level is integral in the search of more sustainable planning models. Ideally, a critical review of recent research and document on land use planning practice should have been adequate for this purpose. However, research into town and country planning in Africa is complicated by the lack of recent publications on the subject (Wood, 1970) and this has not seen any significant improvement in recent times. Bower, (1993), Rakodi, (1997), Adarkwa, (2000) and Abdulai, (2010) have subsequently bemoaned the lack of critical and up to date publications on land management and planning in Ghana and indeed the entire SSA.

Therefore, there is limited secondary material to provide the needed insight into planning practice in Ghana. Gagnon (1982) has advised that in the absence of reliable secondary data, it is always advisable to obtain first hand insight from the context within which the research is conducted. Such activity does not only provide useful and reliable sources of information for the study but also direction for subsequent empirical research. It is against this background that an initial empirical research into the state of land use planning practice in Ghana becomes inevitable. The next section of the chapter examines the first stage of the empirical research.

4.8 Background to Empirical Overview of Land Use Planning Practices in Ghana

The preliminary empirical research seeks to establish the present state of planning by exploring questions such as 'what is the state of existing land use plans', 'what is the nature of composition of planning committees' 'how regularly do planning authorities meet', 'what is the state of planning permitting and compliance with planning regulations' and finally, 'what are the challenges of the planning system at the local level?'. These questions are examined across all local planning authorities in Ghana.

For a study of this nature, administering the questionnaire through e-mail would have been the most ideal. However, internet penetration is low in Ghana; often restricted to some regional capitals. Administering the questionnaire through e-mail was thus not appropriate for the Ghanaian context. An alternative to the e-mail survey was telephone interview of the local planning officers across the country. Telephone interviews would have been an

alternative but high cost of telephone calls from the United Kingdom to Ghana however rendered this strategy unfeasible. The study therefore resorted to postal questionnaire despite its known inherent weakness. Kane (1985) and McQueen & Knussen (2002) for example have argued that postal questionnaire often yield low response rate. Moreover, using postal questionnaire restricts the researcher's ability to further probe answer. It has therefore been suggested that a postal questionnaire should always be used with great care (Kane, 1985).

Reflecting on the positive side of postal questionnaire usage, (Patton, 1987; Robson, 2002; McQueen and Knussen, 2002) all agree that postal questionnaires are effective in covering a wide geographic area in a cost effective manner. Postal questionnaires provide the respondents with ample time to think and reflect upon the questions thereby increasing the possibility of providing richer answers. For the purpose of providing an overview of the state of land use planning in Ghana, a postal questionnaire survey was employed.

The purposive sampling approach was employed for this stage of the study. This approach allows the researcher to select respondents who in his judgement have the requisite experience which is of relevance to the study (Silverman, 2000). This first stage of empirical research focuses solely on bodies which are statutorily mandated as the planning authorities at the local level. There were effectively 138[7] of such local authorities at the time of designing the research. However, 51 of these local planning authorities had neither planning officers nor a town and country planning department. This situation significantly restricted the usefulness of these 51 authorities for the study. The remaining 87 local planning authorities which had either planning officers, or planning offices or both were therefore purposively selected across the 10 regions of Ghana.

A dataset containing local authorities with offices and officers was obtained from the National Town and Country planning Department[8]. The contact details of these authorities

[7] At the time of designing the research, there were 138 local planning authorities. Additional 32 local planning authorities were created later bringing the total number to 170. At the time of the survey, processes leading to the creation of the new planning authorities were ongoing. The study was therefore conducted based on the 138 authorities. Almost all the then newly created local planning authorities were to depend on adjoining authorities for their planning needs. Therefore in effect, the 138 authorities were responsible for the planning needs of the 170.

[8] http://www.ghana.gov.gh/ghana/town_and_country_planning [accessed 02/01/2007]

were from http://www.ghanadistricts.com/home/ which is a repository of all local government agencies in Ghana. In all, a questionnaire was administered to 87 local authorities; 7 during the pilot stage and 80 during the main nationwide survey. The pilot questionnaire yielded a response rate of 57 percent (4 out of 7) whiles the main survey was 51 percent (41 out of 80). Therefore the response rate for the entire survey was 52 percent (45 out of 87) across the nation. Below is a breakdown of the response rate on regional level

Table 4.4: Regional distribution of Survey Response

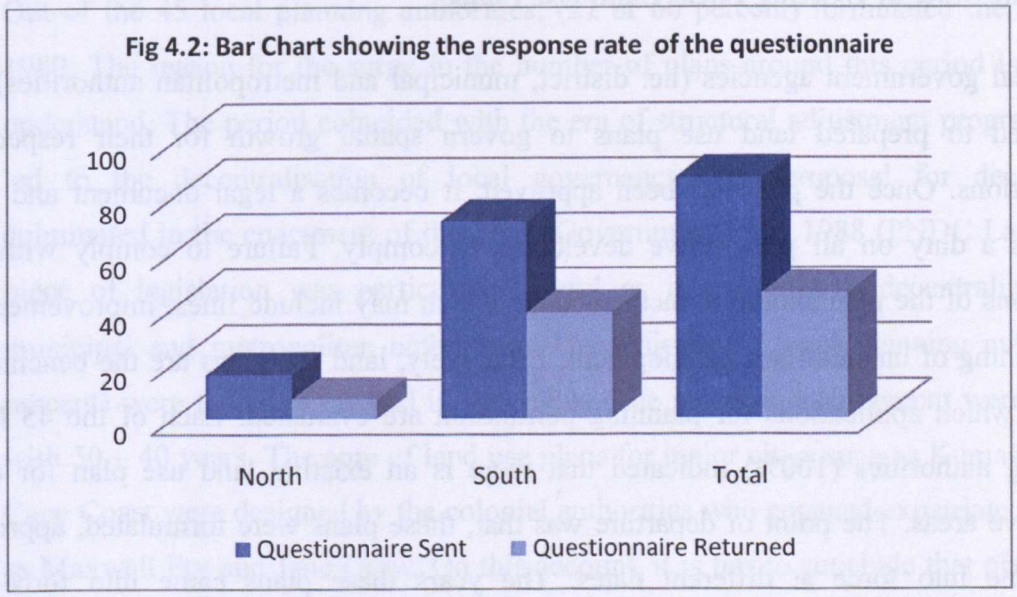
Regional	Number of questionnaire sent	Number of questionnaire returned	Percentage returned questionnair
Southern Ghana			%
Ashanti	15	8	53
Brong Ahafo	10	6	60
Western	11	5	46
Eastern	13	6	46
Greater Accra	5	3	60
Central	7	4	57
Volta	10	6	60
Northern Ghana			
Upper East	6	3	50
Upper West	3	1	33
Northern	7	3	43
Total	**87**	**45**	**52 %**

Source: survey, 2009

The response rate from the postal survey was fairly high and it is therefore instructive to explain the strategy which contributed to the success. Prior to enrolling on the PhD programme at the University of Liverpool in December 2007, the researcher had lived and was schooled entirely in Ghana. Accordingly, he has social connections dotted across the country. This includes family, friends and classmates from primary to University. Although the questionnaires were administered through the post, there were followed up

either in person or through telephone by members of his network of social relations. This strategy contributed to the high response rate of the postal survey.

A quick glance through the table above reveals that the distribution of local planning authorities is biased in favour of the southern part of Ghana. Thirty two (32) of the 138 local planning authorities (23.2%) are in the three northern regions whiles the remaining 76.8% (106) are in the south. The imbalance in the geographical distribution of local planning authorities was naturally translated into the total number of questionnaires administered as well as the response generated on the north-south divide. The criterion for selecting LPAs for the survey was the availability of planning department. Basing on this, 16 local planning authorities (LPAs) out of the possible 32 in the north were selected while 52 were selected in the south. The northern sector yielded a response rate of 7 out of 16 whiles the southern sector was 38 out of 71. This is graphically summarised below.



Source: Based on survey response

4.9 Analysis and Discussion of Survey Response

The objective of the study was to establish the state of planning practice in Ghana. After background literature review (Njoh, 2003; 2006; 2009; Ubink and Quan, 2008; Larbi, 1996), four (4) themes emerged and these were employed as the parameters for evaluating the state of play. The study among other things therefore sought to achieve the following

i. Examine the state of existing land use plans
ii. Assess the composition and activities of the Statutory Planning Committee
iii. Evaluate planning permitting issues
iv. Establish the challenges of land use planning for local planning authorities.

The questionnaire explored these thematic issues and the responses are analysed and discussed below.

4.9.1 The State of Existing Local Land Use Plans

The local government agencies (i.e. district, municipal and metropolitan authorities) are mandated to prepared land use plans to govern spatial growth for their respective jurisdictions. Once the plan has been approved, it becomes a legal document and thus imposes a duty on all prospective developers to comply. Failure to comply with the provisions of the plan should attract sanctions which may include fines, improvement or demolishing of unauthorised development. Effectively, land use plans are the benchmark against which applications for planning permission are evaluated. Each of the 45 local planning authorities (100%) indicated that there is an existing land use plan for their respective areas. The point of departure was that, these plans were formulated, approved and came into force at different dates. The years these plans came into force are summarised in the table below.

Table 4.5: Year Land Use Plan came into force

Year	Frequency
Before 1950	0
1950-1959	4
1960-1969	2
1970-1979	6
1980-1989	13
1990-1999	9
2000-2009	5
Unspecified	6
Total	45

Source: Field Survey, 2009

Out of the 45 local planning authorities, (27 or 60 percent) formulated their plans after 1980. The reason for the surge in the number of plans around this period is not hard to understand. The period coincided with the era of structural adjustment programme which led to the decentralisation of local governance. The proposal for decentralisation culminated in the enactment of the Local Government Law, 1988 (PNDC Law 207). The piece of legislation was particularly useful as it created 110 decentralised districts, municipal and metropolitan authorities. The majority of local planning authorities (29 percent) were therefore created in the 1980s. The remaining 40 percent were formulated with 50 – 40 years. The core of land use plans for major cities such as Kumasi, Accra and Cape Coast were designed by the colonial authorities who engaged expatriate experts such as Maxwell Fry and Jane Drew. On this account, it is fair to conclude that plans in Ghana are fairly old and perhaps no longer fit for purpose.

Plans are not static documents. Best practice suggests that land use plans should be updated periodically (usually between 3 to 4 years) (see GIZ, 2011, p.149). New socio-economic, geospatial information often obtained through aerial survey and remote sensing and socio-economic data through surveys often serve as the basis for updating plans. It

was therefore instructive to ascertain how frequently these plans are updated. The responses are presented in the table below.

Table 4.6: Year Land Use Plans were last updated

Year	Frequency
Less than 1 year	3
1-5 years	6
6-10 years	4
11-15 years	10
16 years +	7
Never	11
Unspecified	4
Total	45

Source: Field Survey, 2009

Despite the need for periodic update of plans, 11 out of the 45 local planning authorities surveyed (or 25 percent) have never updated their land use plan, despite these being at least 10 years old. Another significant number, 7 out of the 45 planning authorities (15.6 percent) last updated their plans more than 16 years ago whilst 10 out of 45 planning authorities (22.2 percent) last updated their plans between 11-15 years ago. The same number of planning authorities (10 out of 45 or 22.2 percent) last updated their plans between 1-10 years.

Admittedly, not all parts of a land use plan need to be updated within the same time period. Land use plans generally consist of different plans with different degrees of detail which requires that some of aspects of the plans require more frequent updates. What is inimical to the entire planning process is that a quarter of all planning authorities in Ghana have never updated the land use plans and therefore continue to rely on obsolete frameworks for evaluating planning application. Only 3 out of the 45 (6.7 percent) had updated their plans within a year at the time of the survey. Effectively, plans are not updated on regular or systematic basis and therefore not likely to capture changing social-economic and demographic patterns.

Plans are expected to be formulated for the entire area of jurisdiction of each local planning authority. Indeed the National Development Planning Commission Act 1994, (Act, 479) mandates the planning authorities to not only to prepare plans for their entire area but also to encourage public participation in the plan formulation processes. Besides the challenge of plans not being frequently updated, existing plans do not usually cover the entire geographical area under the jurisdiction of the respective local planning authorities. The table below illustrates the estimated areas which are covered by existing land use plans.

Table 4.7: Estimated Local Planning Areas covered by plan

Estimated area of plan coverage	Numbers of Plans
0-24	8
25-49	14
50- 74	11
75-99	4
100	0
Unspecified	8
Total	45

Source: Field Survey, 2009

Out of the 45 local planning authorities, only 4 (8.9 percent), had plans which cover between 75-99 percent of the area under their jurisdiction. Fourteen (14) local planning authorities (31.1 percent) had plans which cover between 50-74 percent of their respective areas whilst 8 (translating into 17.8) of local planning authorities had existing plans which only covered between 0-24 percent of the area under their jurisdiction. In a general sense therefore, existing land use plans do not cover the entire planning areas. This has a crucial implication for making planning decision especially since land use plans are the benchmarks against within planning applications are evaluated. Karl Mannheinn (1940), the eminent philosopher and sociologist has argued that implementation without plans and law breeds arbitrary decision making which in turn gives rise to anarchy. In the face of plans which are hardly updated and only cover only parts of the part of the local planning areas, especially the urban or urbanising areas, it is not surprising that human settlements across the various planning authorities vastly expand without and defined pattern.

4.9.2 Composition and activities of the Statutory Planning Committees

Local planning authorities (LPA) are the mandated bodies for formulating and implementing plans. The LPAs mainly carries this mandated through a specialised unit which is the Statutory Planning Committee. The SPC should be a technical body made up of representatives from the following departments; health, security, fire services, environmental protection, transport among others. The SPC in practice is the main unit responsible for plan formulation and development control. Therefore, the success or otherwise of the operation of the planning system especially at the local level is dependent on the efficiency of the SPC. Therefore, the activities of the SPC, together with how often members meet, provide an indication of the likelihood of planning efficiency, at least at the local level.

All planning related legislations are silent on how regularly the SPC should meet. However, the section 8(1-2) of the National Building Regulations provides that decision on applications for planning permission should be made within a period of three months after the planning application has been received. Implicitly therefore, SPCs are expected to meet at least once in every three months. It was therefore important to establish how regularly SPCs at the various local planning authorities meet. Responses to this question are summarised below.

Table 4.8: How often SPCs meet

Meet once every	Number of Planning Authorities
0-3 months	10
4 - six months	16
7 - 11 months	8
1 - 2 years	2
2 years +	0
Unspecified	9
Total	45

Source: Field Survey, 2009

Only 10 (22.2 percent) of planning authorities met at least once every three months. Twenty percent of respondents failed to answer this question. Therefore, 26 out of the 45 local planning authorities (57.8 percent) authorities failed to meet at least once within three months. What makes the issues of infrequent SPC meetings at the local level more problematic is rooted in section 8(1-2) of the National Building Regulations (LI1630). This section provides that:

> "Where a person submits an application for a building permit, the district planning authority... shall thereafter notify the applicant within a period of three months whether the application was granted or refused. An applicant not informed of the granting or refusal of the application may after the expiry of the 3 months commence development on the basis that the application is acceptable to the district planning authority" [National Building Regulation, 1996 8(1-2)]

Essentially, this provision legitimises all unauthorised developments which were commenced 3 months after submitting application for planning permission. In a country where the survey has revealed that only 22 percent of SPC meet once within 3 months, it is difficult to justify the usefulness of such provision. It was therefore not surprising when respondent 14 noted that

> "It is difficult to estimate the number of illegal propertied which spring up. In fact the buildings which to not have [planning] permits are still legitimate because the owners [or developers] applied [for planning permit]only that it was not approved in 3 months" (Qualitative response from survey, 2009)

The planning duties of the SPC are plan formulation, implementation and assessment of planning applications. How much emphasis the SPC places on each of these functions has far reaching ramifications for the efficiency of the planning system. It was therefore instructive to map out the key planning activities SPC undertake especially during meetings. The table below summarises the various responses.

Table 4.9: Main Planning Activity discussed during SPC Meetings

Main planning activity during meeting	Number of planning authorities
Formulating, reviewing and updating plan	12
Assessing planning applications	25
Other (please specify)	2
Unspecified	6
Total	45

Source: Field Survey, 2009

Respondents were also asked to indicate the agenda which is likely to dominate the next meeting of the statutory planning and below are the responses which provided.

Table 4.10: Likely Agenda for next Meeting

Likely agenda for next meeting	Number of Planning Authorities
Formulating, reviewing and updating plan	10
Assessing planning applications	21
Other (please specify)	3
Not sure	6
Unspecified	5
Total	45

Source: Field Survey, 2009

Response to both questions suggests that planning authorities are preoccupied with assessing planning applications. Subsequently SPCs generally meet only when there is the need to evaluate planning applications. Out of the 45 respondents, 25 (55.6 percent) often meet to assess planning applications and 21 (46.7 percent) also indicated that evaluating planning applications is expected to be the main agenda item during their next meeting. Relatively lower numbers of planning authorities (12 out of 45 or 26.7 percent) meet to formulate, review and update existing plans. Also, 10 respondents (22.2 percent) indicated

that they are more likely to formulate and update existing plans during their next meeting. In effect, much effort is channelled to controlling development rather than forward planning. This situation resonates with the earlier observation by Larbi (1996) that "Planning [in Ghana] takes short-term measures to address the almost intractable problems" (Larbi 1996, p.213).

4.9.3 Planning Permitting and Compliance Issues

The study also sought to gauge the volume of planning applications local planning authorities received during the 2008/2009 planning year. The responses from the various local planning authorities are summarised in the table below.

Table 4.11: Planning Applications received during the 2008/2009

Number of Planning Applications	Number of Planning Authorities
0 - 19	6
20 - 39	11
40 - 59	6
60 - 79	3
80 - 99	4
100 - 199	0
200 - 499	0
1, 000 +	0
Unspecified	15
Total	45

Source: Field Survey, 2009

In general sense, the numbers of planning applications recorded at the various local planning authorities were low. This may result from the poor culture of record keeping which may have accounted for 15 respondents (33.3 percent) failing to respond to this question. Six (6) local planning authorities (13.3 percent) received less than 20 planning applications. Eleven (11) authorities (or 24.4 percent) recorded between 20 and 39 planning applications whereas 6 or (13.3 percent) of respondents received between 40-59

planning applications. Three (3) or 6.7 percent of the planning authorities recorded between 60 – 79 planning applications whereas 4 (9 percent) of planning authorities. None of the authorities surveyed received more than 100 planning applications. For a country that is experiencing a population growth of 1.84 percent annum and the rate of urbanisation estimated at 1.34 per annum (DESA–UN, 2011) the low number of planning applications recorded is a testament that development in Ghana general proceeds outside the scope of the formal planning institutions.

By inference from section 8 (1-2) of the National Building Regulations, planning decisions should be made within a period of three months. In case any planning authority is unable to make planning decision on a received application within this period, it is interpreted under the same section as implied approval of the planning application. Prospective developers accordingly obtain the right to commence development. Under such circumstance, the development becomes 'authorised' despite lacking 'planning approval'. How long planning authorities take to make decisions on planning applications therefore has far reaching implication for planning practice. How long it usually takes for planning application to be made by the various local planning authorities is summarised in the table below.

Table 4.12: Usual duration for making Planning Decisions

Duration	Number of Planning Authorities
0-3 months	17
4 - 6 months	9
7 - 11 months	7
1 - 2 years	1
2 years +	0
Unspecified	11
Total	45

Source: Field Survey, 2009

From the table above, 17 local planning authorities (37.8 percent) indicated that they generally make decisions on planning applications within the stipulated 3 month period.

Also, 20 percent and 15.6 percent of the respondents noted that they generally make decisions on planning applications within (4 -6) and (7 -11) months respectively. It is worth noting that how regularly local planning authorities meet has already been established in table 4.8. Also the main agenda during planning committee meetings have been ascertained in tables 4.9 and 4.10.

When the response of table 12 was contrasted with the response of table 7, there were both corroborations and contradictions. Whereas 22.2 percent of local planning authorities met ones within three month a more significant percentage (37.8) claimed that they generally assessed planning applications within three months. What is puzzling is that this inconsistency suggests some planning applications may have been approved outside planning committee meetings.

In other instances, the responses in table 12 were consistent with table 8. For example no respondent indicated that it takes over two years for the planning committee to meet and this was translated into a situation where no planning authority takes up to two years to evaluate planning applications. Also, 8 local planning authorities indicated in table 8 that they meet within 7 -11 months. It was therefore consistent when 7 respondents indicated in table 12 that they often make planning decisions within 7 -11 months.

Based on the responses above it was not surprising that 41 (91.1 percent) respondents said they were aware of some instances where people started development without obtaining prior planning approval. There was almost a consensus among respondents that unauthorised developments are rampant. As it has already been indicated, an approved land use plan is a legal document that imposes a duty of compliance on all developers. Failing to adhere to the proposals of a land use plan is therefore sanctionable. Section 52(1a & 2) provides that 'where physical development has been or is being carried out without a [planning] permit..... the District Planning Authority may carry out the prohibition, abatement, alteration, removal or demolition and recover any expenses incurred from the owner of the land'. Against this background the survey attempt to map

out how the various local planning authorities react to unapproved developments. The responses are summarised in the table below.

Table 4.13: Sanctions issued by Local Planning Authorities

Nature of Sanctions	Number of Planning Authorities
Fines + Issuing permit retrospectively	11
Demolishing	4
Warning (stop work, produce permit)	24
No Action	0
Other	0
Unspecified	6
Total	45

Source: Field Survey, 2009

According to the responses, it may be concluded that local planning authorities make some effort to sanction developers who fail to comply with planning regulation. In terms of fines and issuing planning permits in retrospect, 11 local planning authorities (24.2 percent).

What appears to be popular among planning authorities is warning non-complying developers. Out of the 45 local planning authorities' survey, 24 or (53.3 percent) indicated that they warned non-complying developers. This warning often takes a form of inscribing 'stop work, produce permit' being painted on ongoing developments.

Plate 4.2: "Stop Work", Local Planning Authority warns a developer to acquire planning permit

Source: Field Survey, 2009

The sanctions for non-compliance of planning regulations have therefore not been effective enforced to ensure deterrent.

4.9.4 Challenges for Land Use Planning Practice in Ghana

Planning has generally been ineffective in Ghana (Larbi, 1996; Ubink and Quan, 2008) and this state of affairs is as a result of some challenges. Among other things, the survey sought to establish the challenges local planning authorities face in the performance of their duties. As part of the efforts to design a questionnaire which will enable this goal to be achieved, relevant background literature was engaged. The Ghanaian planning system mimics the UK case at all levels and this is partly rooted in the colonial history of both countries. Indeed planning laws and policies in Ghana were formulated using the UK as a template. With this background, it was instructive to establish what enables the planning system in the UK to function better than the Ghanaian case. In this regard, the works of Cullingworth and Nadin (2006), Kitchen (2006), Berke and Godschalk (2006) as well Tewdwr-Jones (2002) were particularly useful. All these authors were unanimous that the key drivers for an efficient land use planning system are adequate funding, adequately skilled human resource, responsive and proactive planning laws as well as the political will to take and implement strategic decisions. Collectively, (Okpala, 2009, p. 8 and p. 18) describes these ingredients as institutional factors. By inference, the planning system in Ghana is inefficient as a result of the lack of political will, weak laws, funding and human resource shortages.

Earlier on, Kasanga *et al* (1996), Larbi (1996) and Antwi (2000) have all agreed that customary land tenure practices have adversely impact land use planning practice in Ghana and other SSA countries. Planning challenges are effectively grouped into two categories – customary tenure practices and institutional challenges. The survey investigated these challenges from the Ghanaian context whilst exploring other challenges which inhibit planning practice. Respondents were asked to indicate the challenges they faced and the response are summarised below.

Table 4.14: Challenges Local Planners face

Challenges	Frequency
Customary land tenure practices	34
Funding	37
Human Resource Capacity	40
Planning Laws	24
Political Intervention	29
Others (Low salaries for planning staff)	5
Lack of planning awareness	7

Source: Field Survey, 2009

Besides these challenges, 7 out of the 45 respondents (15.6 percent) indicated that there was an inadequate level of awareness of the various planning laws among the private property developers. In turn, these developers do not comply with existing laws and plans. Five (5) respondents (11.1 percent) noted that there is low salaries and motivation for planning staff. They cited low income levels and poor working environment as challenges planners face in the discharge of their responsibilities. These two challenges - lack of awareness and low incentives are rooted largely in the issue of inadequate human resource capacity and funding respectively. They are subsequently treated as part of the human resources and funding challenges.

4.9.4.1 Customary Land Tenure Practices

Larbi (1996) and Ubink and Quan (2008) had earlier established that customary landholding arrangements have continuously inhibited land use planning in Ghana. It was therefore consistent when 34 out of the 45 respondents (75.6 percent) indicated that land tenure practices under the customary system are antithetic to land use planning. Out of the 34 respondents, 7 elaborated how customary land tenure practices impact on the process. Respondent 19 noted that:

> "We [as planners] do not have control over the land we plan for. It makes it difficult for implementation"

Respondent 23 was also of the view that:

> "If the chief is on your side [and support the proposals of the plan] then you can easily implement what has been planned already. The difficulty lies with getting the support of the chief"

Respondent 31 recounted that:

> "Planners do not have the final power to determine how land should be used. The land owner has a big say and this makes it complex and time consuming to prepare and implement plans"

The remaining 4 respondents alluded to the fact that landholders exercise real control over their lands like any other personal asset. This situation has continuously impeded the institutions designated by the state to employ the need for effective implementation of the content of plans.

4.9.4.2 Institutional Challenges

The challenge of customary land tenure practices has its source in the dichotomy between private land owners and the state's mandate to plan and implement the content of plans. However in some cases, the challenges faced by the state's planning institutions are internally generated. Institutions are defined as the "rules" in any kind of social structure, i.e. the laws, regulations and their enforcement, agreements and procedures (Capitani and North, 1994). Therefore, issues such as unresponsive planning laws, inadequate supply of human resource, political interference and inadequate funding constitute the key institutional dimensions of planning (see Okpala, 2009). The next section of the chapter analyzes and discusses the various institutional challenges faced by planning authorities at the local level.

4.9.4.2.1 Funding

Local planning authorities require funds to meet their fixed and recurring expenditure in the discharge of the responsibilities. Facets of the planning process such as plan formulation, implementation, enforcement, monitoring and evaluation have their

respective incidental costs. Funds for the activities of the local planning authorities should be provided by the respective district, municipal or metropolitan assembly and the central government. The budgets for planning activities are subsequently submitted annually for funds towards land use planning activities. However in practices, only a limited percentage of the requested budget is ever approved. The table below brings to the fore the percentage of expected funds which were approved and this highlights some of the issues for delivering effective planning activities.

Table 4.15: Percentage of Expected Planning Expenditure Granted

Percentage of funds granted	Number of Local Planning Authorities
0-24	19
25-49	10
50-74	6
75-99	2
100	0
Unspecified	8

Source: Field Survey, 2009

Out of the 45 local planning authorities, almost half (19 translating into 43.2 percent) received less than 25 percent of their proposed budgeted expenditure for planning activities. Ten out of the 45 (or 22.2 percent) local planning authorities received 25-49 percent of their proposed budget expenditure with only 6 (13.3 percent) receiving approval for between 50-74 percent of the expected expenditure. Only 2 (4.4 percent) local planning authorities indicated that between 75-99 percent of the amount requested to fund planning activities received approval. None of the local planning authorities surveyed had received 100 percent approval of their expected expenditure whereas 8 (17.8 percent) failed to specify their circumstances. In all, planning authorities at the local level did not receive adequate funding to meet their mandated responsibilities.

4.9.4.2.2 Political Interference

Besides the challenge of funding, 24 out of the 45 (53.3 percent) local planning officers also indicated that they face the challenge of political interference in the discharge of their

planning responsibilities. Politics encompasses the various activities which are involved in governing people (Leftwich, 2005). Planning also seeks to govern or mediate land utilisation. Therefore essentially, planning and politics are inextricably intertwined. Respondents who indicated that political interference adversely impacts on the planning provided some indications about the linkages.

Respondent 31 argued that:

> "Politicians have a big say in what we do [as planners]. In most cases they do not have the technical knowledge and this has always been a major setback"

Respondent 34 was also of the view that:

> "Although [as planners] we have the power from the law, in practice you need the support of people like the chief executive before some decisions are taken and implemented"

Respondent 39 also opined that:

> "The chairman of the planning committee is a politician. He is a busy person. When he is not available we are not able to meet as a [planning] committee"

This response was corroborated by respondent 43 who averred that

> "Because of politics and politicians, we are [referring to the SPC] not able to meet as frequent as possible because of their busy schedule"

As a result of these issues, majority (53.3 percent) of planners at the local level were convinced that the politics and political interference are major contributing factors to the inefficiencies associated with land use planning in Ghana.

4.9.4.2.3 Human Resource

Planning is both an art and science (Keeble, 1969) and draws knowledge from multiple disciplines, such as economics, geography, demographics among others. Therefore some level of training and analytical reasoning are required in order to appreciate the complexities involved in balancing effective land utilisation and sustainable development. To qualify as a planner in Ghana, one should have undergoing a four year training at University and should have obtained a degree before being certified by the Ghana Institution of Planners. The survey sought to establish the educational background of the various planners and this is summarised below.

Table 4.16: Educational Background of Officials responsible for Planning at Local Authorities

Qualification	Frequency
Diploma	6
Graduate	22
Post Graduate	4
Other	3
Unspecified	10
Total	45

Source: Field Survey, 2009

The planning officials who hold the various qualifications above have different areas of specialisation within the field science disciplines. These are summarised below.

Table 4.17: Area of Specialisation of Officials Responsible for Planning at Local Authorities

Area of specialization	Frequency
Planning	17
Land Economy	4
Estate Management	5
Geography	4
Other	2
Unspecified	3
Total	45

Source: Field Survey, 2009

Out of the 45 respondents, almost half (22 representing 48.9 percent) have been educated to the bachelors degree level. What appears problematic is that only 17 (37.8) received training which primarily focused on land use planning. Admittedly, academic programmes such as Land Economy, Geography and Estate Management entail some components which are related to how human settlements are organised. The eminent geographer David Harvey has observed that 'planners are . . . taught to appreciate how everything relates to

everything else in an urban system' (1985, p. 176).Therefore, the Bachelor of Science degree programme at the Kwame Nkrumah University of Science and Technology, Kumasi (which happens to be the only university that offers programmes in planning) has the following as its key modules - Social Aspects of Development, Population and Development, Environment and Development, Development Planning Process, Housing Policy Planning, Settlement and Neighbourhood Design, Ecology and Environmental Planning, Spatial Dimensions of Development and Spatial Development Policy, Planning (Settlement Structure Transportation, Technical Infrastructure) among others (Inkoom, 2009). Undoubtedly, these are some of the key modules which are required for effectively mediating growth of human settlement and these are not covered in other disciplines such as Land Economy or Geography. Therefore although geographers and land economists may possess some skills and knowledge related to planning, nonetheless planners are the professionals who have specifically been trained to carry out planning duties. Therefore, not only is there shortage in the number of planners but also, those who are currently in charge of planning lack the requisite training and capacity to a large extent. In effect, the available human resource for planning is inadequate in terms of the required numbers, skill and competence to meet the growing complexities in human settlement growth.

4.9.4.2.4 Planning Legislations

Legislation is important to the planning system as it defines the remits, the powers, the mode of operations of the local planning authorities and the nature of the planning system. It is therefore imperative to ensure that the planning legislation is not decoupled from practical reality. Out of the 45 respondents, 24 indicated that the set of planning laws has been problematic in planning delivery.

Respondent 12 observed that the sanctions prescribed by planning laws are not effective

> "The fines which are spelt out in the Act are largely ineffective because they are not deterrent enough"

Respondent 32 also argued that:

> "One area of the law that needs immediate revision is the issue of fines. It is out of date and must be amended"

The National Building Regulation (LI 1630) legislation effectively serves as the basis for development control in Ghana. It gives the technical details on how development should be planned, executed and maintained. One provision of this legislation which in the view of respondents has hindered the effective operation of the planning process at the local level is section 8(1-2) which provides that:

> "Where a person submits an application for a building permit, the district planning authority... shall thereafter notify the applicant within a period of three months whether the application was granted or refused. An applicant not informed of the grant or refusal of the application may after the expiry of the three months commence development on the basis that the application is acceptable to the district planning authority" [National Building Regulation, 1996 8(1-2)]

Respondents expressed that this provision has severed as a considerable source of challenge for the planning process. Respondent 4 contended that this provision:

> "Priorities speedy development at the expense of ensuring that decisions are made on every planning application before development"

As a result of this provision, respondent 14 therefore opined that:

> "It is difficult to estimate the number of illegal properties which spring up. In fact the buildings which to not have [planning] permits are still legitimate because the owners [or developers] applied [for planning permit] only that it was not approved in 3 months"

This observation is valid. Planning institutions at the local planning authority levels are generally weak. Indeed there are no planning officials and officers in about 37 percent of districts/municipal/metropolitan authorities which are expected to act as the planning authorities. The survey also established that only 22 percent of Statutory Planning Committees met once in every 3 months. The provision is therefore not responsive enough to practical realities.

4.10 Second Stage of Empirical Research

The second stage of the empirical research centres on an in-depth investigation of the relationship between customary land tenure and land use planning practices in SSA using the Ghanaian case as the case study. Some commentators (e.g. Watson, 2002; Egbu *et al* 2006) have described as planning as being 'context specific' in nature. This attribute of planning imposes the responsibility on every planning researcher to pay particular attention to the possible intra country variations in terms of spatial characteristics. As a result of this guiding principle, it is instructive to explore the operation of the planning system in a way and manner that will capture the variation in terms of socio-economic characteristics across the Ghanaian context. It is against this background that embedding case study areas within the Ghanaian context becomes pertinent. Embedded case study areas are parts of the main case study area which are isolated for a more detailed level of enquiry (Yin, 1994; 2009). The choice of the embedded case study areas was therefore to capture the varying spatial characteristics which are of significance to the study.

4.11 Guidelines for selecting the Embedded Case Study Areas

Embedding case study within the broader Ghanaian context is to enable the study to achieve the following:

1. It has been establish earlier on that there are differences in the spatial characteristics in terms of the urban and rural areas. The choice of the embedded case study areas was therefore to help capture the distinction between urban and rural areas with the aim of establishing whether or not there exist some variations in the operational efficiencies of the planning system between these areas.
2. The choice of the embedded case study areas was also to help take into consideration the socio-economic differences between the north and south of Ghana
3. The embedded case study areas were selected to enable particular attention to the differences in customary land tenure arrangement between the north and south of Ghana

Finally, the four embedded case study areas were selected to enable an assessment of the impact of the Ghana Land Administration Project's on improving land use planning practices. The four guiding considerations are expounded below.

4.11.1 Spatial variations within Ghana

4.11.1.1 Urban versus Rural Consideration

There are differences in the makeup of the urban and rural areas. In Ghana, the functional definition of a 'rural' is a settlement with a population of under 5,000 (Songsore, undated). This conventional definition can problematic since a settlement of 5,000 (e.g. Nanton in the Northern region of Ghana with an estimated population of 5,000) is classified into the same category as Accra (with estimated population of 3 million). The population threshold of 5,000 alone was therefore inadequate as a distinguishing factor between urban and rural areas. This is because there are settlements with population of more than 5,000 although such areas may be purely farming communities without any amenities such as electricity and piped borne water (Songsore, undated).

The following parameters were subsequently introduced in an attempt to distinguish rural from urban areas. First, the dominant form of economic activity was taken as an additional indicator of how urban or rural an area is. In general sense rural areas are closely associated with agriculture whereas commercial activities tend to be the dominant economic activity in the urban areas.

Secondly, population density was employed as additional indicator of how urban or rural each local planning authority is. Population density measures the number of persons per square area. Urban areas are relatively densely populated and often characterised by incidental challenges such as congestion and poor sanitation. Conversely, rural areas are usually less densely populated. Therefore the two different areas should present different challenges for the planning system. Watson (2002) admits that there are distinctions in terms of the planning challenges face in rural and urban SSA. However, like other researchers (e.g. Larbi, 1995) she restricted her analysis of the importance of planning theory in SSA solely to cities and urban areas. Such an appraisal implicitly negates the

significance of rural areas and the potential linkages to the urban places. Such approach represents an obvious pitfall because outcomes are partial and not all encompassing. The study therefore moves away from this by attempting to provide a more holistic situation of the operation of the planning system in both rural and urban areas. The choice of case study areas is therefore to reflect the rural and urban divide.

4.11.1.2 The North and South Divide

There exist some differences in the socio-economic and cultural characteristics between the northern and southern parts of Ghana. The variance in spatial characteristics is so pronounced that some development analysts have described it as "gaping gorge (Phebih-Agyekum, 2006).

Tsikata and Seini (2004, p. 47) note that:

> 'Spatial variations in the level of economic development have been found around the world at different levels. In Ghana, the most striking of these is a north-south dichotomy in development which has geographical and cultural features, but which is largely socio-economic and political, and has been nurtured and reinforced by discriminatory colonial and post-colonial policies'

Tsikata and Seini (2004, p. 16) further elaborated that:

> 'the decline of the north started when the trade routes northwards were reoriented south to the coast. These have translated into acute poverty, low educational level, low standard of living and ethnic conflicts among others".

Issues like differences in socio-economic characteristics, educational level, cultural practices are factors which are rooted in culture and thus have the potential to shape how planning operates at the local level. With reference to the south, the northern part of Ghana falls short of all the development indicators (Ghana Budget 2007; Al-Hassan & Diao 2007; Ghana Statistical Services, 2000; Kasanga, 1995). Al-Hassan & Diao (2007) has subsequently described the northern regions as 'blighted'.

Ghana is a tropical country which is generally humid and moist. There are however differences in the climatic outlook between the north and south. The southern areas

dominantly forest zones with regular rainfall. The southern part of Ghana is relatively cooler with temperatures ranging from 10 to 30°C. Rainfall ranges between 800 and 1600 mm per annum. Conversely, the northern part of Ghana is dominantly covered with semi-desert with trees sparsely dotted. Rainfall is generally sporadic, averaging 75mm to 1000mm per annum. In turn, the northern belt is drier with temperature ranging from 15 to 40^{oc}. Undoutedly, these socio-economic and climatic conditions have implications for the architectural style, building materials and possibly, the operation of the planning system. Examining embedded case studies from the north and south therefore provides the basis to ascertain the possible implications of these north-south variations for the planning system.

4.11.2 Differences in Customary Land Tenure Systems

Another material variation that exists between the north and south is the distinction between the customary land tenure patterns and practices. In the south, land holding is primarily maternal. Land is communally owned, with chiefs or designated traditional authorities acting as trustees. These characteristics sharply contrast with the situation in the north. Land tenure is dominantly paternal. Under the cultural arrangement, land is held in trust for the community by the tindaana/tindambas or the earth priest who are different from the chiefs. According to the historical account by Abdulai (2010), the whole of Dagbon traditional area (which is in the northern region of Ghana) was once owned by the tindaana/tindambas. Prior to the 14th century, the tindambas doubled as land owners and earth priest. As earth priests, they offered sacrifice to gods and deities in line with traditional African religion practices. However at the beginning of the 14th century, the Dagombas were invaded and conquered. The conquerors were referred to as Nabihi. The Nabihis became the ruling class leaving the tindambas with only the management roles. This duality of traditional leadership in the Northern according (Obeng-Odoom, 2009b) has persisted till present times. The earth priests are responsible for making allocation to prospective developers who may either be a member of the land owning group or a stranger (Abdulai, 2010; Obeng-Odoom, 2009c). The study seeks to contrast the north from the south as a result of these variations in land tenure arrangements.

4.11.3 Land Administration Project

The ongoing land reform under LAP is currently being piloted across the country. One cardinal objective of the study is to appraise the extent to which LAP is likely to address the land problems and the degree of likelihood that this will be translated into effective land use planning. Areas where LAP is being piloted are therefore significant. In order to determine how effective or otherwise LAP has been in addressing the land problem, it is imperative to undertake a comparative analysis of the era that preceded the introduction of LAP and the post LAP era. Such evaluation is useful as it will provide the basis to gauge the effectiveness, or otherwise, of the land administration reform process. In summary, the variations in spatial characteristics in terms of urban, rural, north and south should exert some influence on planning practices in these areas since planning is context specific. In order to develop a more holistic picture of the nature and dynamics of planning in Ghana, four embedded case were selected. This was to provide the opportunity to closely examine the operation of the planning system across the country. The guiding parameters for the selection of the embedded case studies are summarised below.

Table 4.18: Framework for Selecting Embedded Case Study Areas

Embedded Case Study	Population*	Population** Density (persons/km^2)	Dominant Land Use	Pilot Centre of LAP?	Number of planning applications received in 2009***	Remarks
Kumasi Metropolitan Auth (87.7*% of settlement classified as urban)	1,625,180	6398	Commercial	YES	96	Urban area in the south
Ejisu-Juaben Municipal Auth (69.8*% of settlement classified as rural)	144,272	226	Agriculture	YES	18	Rural/ peri-urban area in the south
Tamale Metropolitan Auth (67.1*% of settlement classified as urban)	450,000	488	Commercial	YES	49	Urban area in the North
Savelugu-Nanton District Auth (80*% of settlement classified as rural)	109,442	64	Agriculture	YES	12	Rural Area in the North

*Figures obtained from the Ghanadistricts.com (2009). ** Calculations based on figures from Ghanadistricts.com (2009). *** The figures available represented planning application made from January to July/August, 2009

Basing on the above criteria, four embedded case study areas were selected. These are as follows

i. Kumasi Metropolitan Authority (Urban area in the southern part of Ghana)
ii. Ejisu-Juaben Municipal Authority (Rural/peri-urban area in the south)
iii. Tamale Metropolitan Authority (Urban area in the north) and
iv. Savelugu-Nanton District Authority (Rural area in the north)

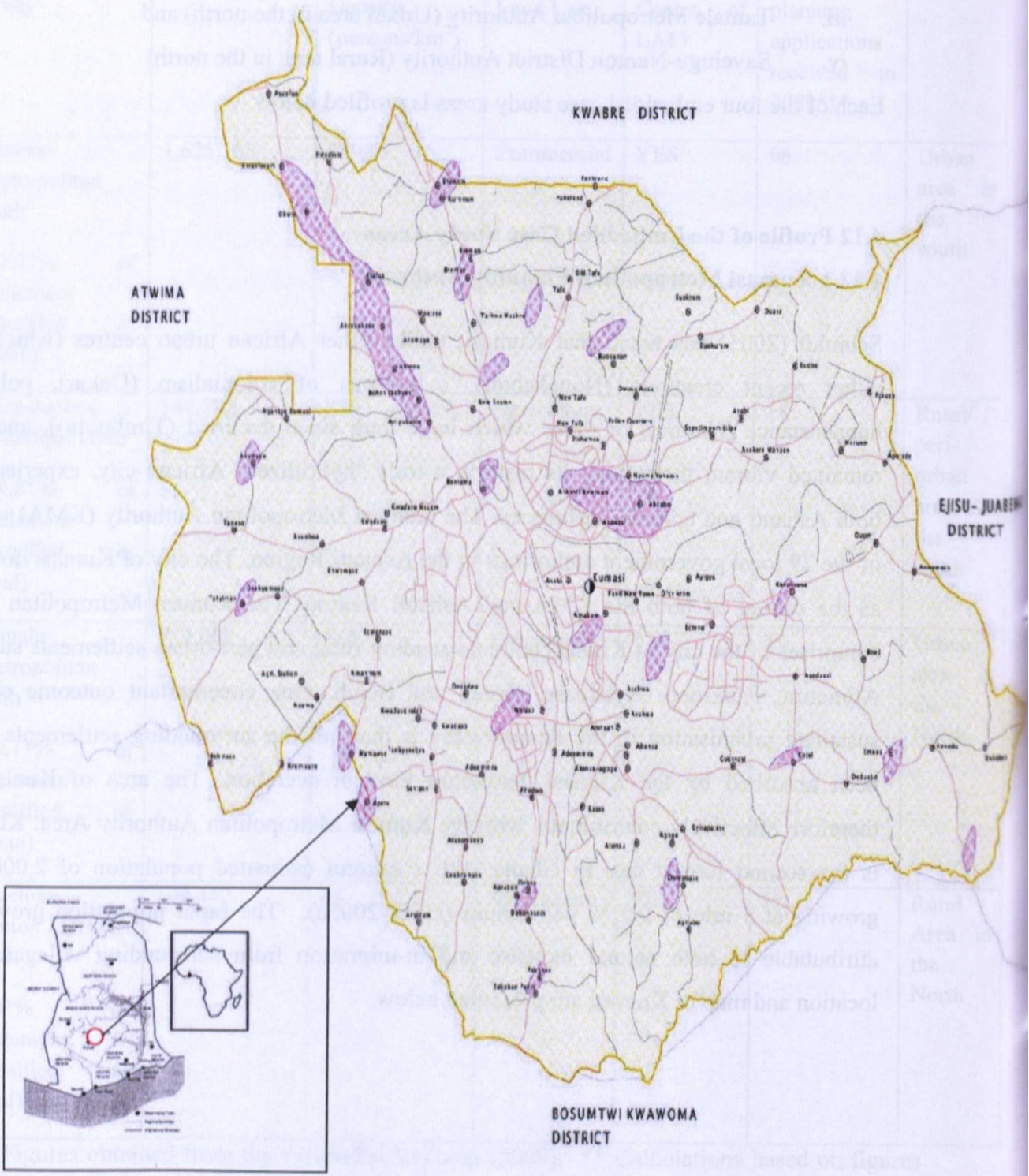
Each of the four embedded case study areas is profiled below

4.12 Profile of the Embedded Case Study Areas

4.12.1 Kumasi Metropolitan Planning Authority

Schmidt (2005) has noted that Kumasi, unlike other African urban centres (which are either recent creations (Nouakchott), a product of colonialism (Dakar), political happenstance (Harare), or those which have long since declined (Timbuktu)), and has remained vibrant throughout its history, a truly 'hybridized' African city, experiencing both Ashanti and colonial influences. The Kumasi Metropolitan Authority (KMA) is one of the 27 local government authorities in the Ashanti Region. The city of Kumasi doubles as the capital of both the KMA and Ashanti Region. The Kumasi Metropolitan Area comprises of the city of Kumasi and surrounding rural and peri-urban settlements such as Atimatim, Pankrono, Ayeduase, Kotey and Boadi. One concomitant outcome of the sustained urbanisation in the Kumasi area is that, all the surrounding settlements have been absorbed by the Kumasi Township through accretion. The area of Kumasi is therefore effectively coterminous with the Kumasi Metropolitan Authority Area. Kumasi is the second largest city in Ghana with a current estimated population of 2,000,000 growing at a rate of 5.5 % per annum (GSS, 2005a). The rapid population growth is attributable to both natural increase and in-migration from surrounding villages. The location and map of Kumasi are presented below.

Map 4.3: An outline of Kumasi area as traced from the maps of Africa and Ghana



Source: Assembled from NDPC (2011)

Kumasi is located in the transitional forest zone and is about 270 km north of the national capital, Accra. It is between latitude 6.35° – 6.40° and longitude 1.30° – 1.35°, an

elevation which ranges between 250 – 300 metres above sea level with an area of about 254 square kilometres. The unique centrality of the city as a traversing point from all parts of the country makes it a special place for many to migrate too.

The economy of Kumasi is mainly informal, employing an estimated 80 percent of the workforce (Ghana districts, 2011). The economy is mainly distributive (wholesaling and retailing). Light industrial activities like timber milling and breweries which are also dotted around the city. The burgeoning nature of commercial activities continues to ensure that residential accommodation along the roads and streets are converted into commercial uses (shops) in response to the economic principle of highest and best use of land. The central business district of Adum and the central market are the most concentrated spots for commercial activities.

Traditionally, Kumasi has a formidable chieftaincy setup which has evolved over the years into a formidable governance body. The chieftaincy/traditional institutions presently complement formal local government institutions in development especially in the areas of Alternate Dispute Resolution. The present day Kumasi Traditional Council (KTC) was established under section 12 of the Chieftaincy Act, 1971 (Act 370). The King of Kumasi is the occupant of the golden stool which symbolizes the unity of the Asante Kingdom. The current occupant of the golden stool is the Otumfour Osei Tutu II.

Originally, all lands in Kumasi were held by the King. However, the advent of colonialism distorted this arrangement. Presently, there are three variants of land ownership in Kumasi. These are lands which are owned by the stool, land which are owned by the state (also known as public lands) with the third category being the vested lands. The vested lands are owned by the customary owners although the government holds these lands in trust through the Public and Vested Lands of the Lands Commission. These classifications are also referred to Part I, Part II and Part III lands.

Historically, Part I lands represent lands which were confiscated or compulsorily acquired by the colonial authorities. Lands described in the Kumasi Town Boundary (Cap 143) of 1928 used to be under the management of the Golden tool as custom dictated. The Gold Coast Government took over control and management of the Kumasi Town Lands in 1902 after the Yaa Asantewa War in 1900. In 1943 the government vested the Kumasi Town Lands (KTL) in the Asantehene under the Kumasi Lands Ordinance. The Administration (Ashanti) Ordinance, 1902 as amended by Section 2 of the Administration (Ashanti) Ordinance, 1935 (No 2 of 1935) provided that:

> "the ownership in all lands, premises and buildings which were on the 31st day of December, 1924, held and occupied as government property is hereby declared to be vested in absolutely in His Majesty the King, free from all competing estates, encumbrances, titles, interests, liens, charges and claims of whatsoever nature and by whomsoever alleged to be held or claimed"

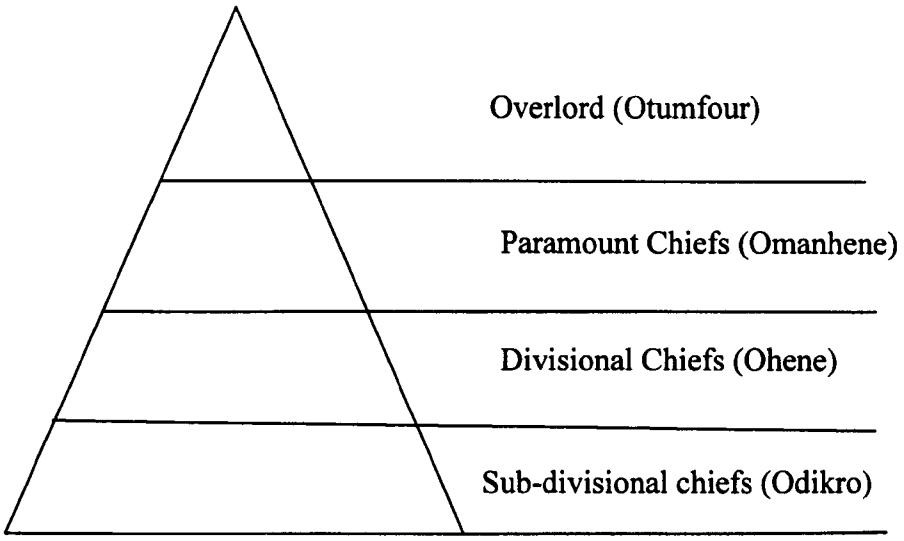
With particular reference to Kumasi, the ordinance provided that

> "It is hereby declared that land ownership of all the land within limits of the Kumasi Town Boundary Ordinance is vested absolutely in His Majesty the King [of United Kingdom]"

After gaining independence in 1957, all these lands were transferred to the government making them state lands. Presently, Part I lands have been vested in the President of the Republic of Ghana in trust for the people of Kumasi. Part I lands now constitute the prime areas of peri-urban Kumasi and includes the Central Business district. The Lands Commission is responsible for managing all Part I lands.

Part II Lands are the stool owned and stool managed lands in Kumasi. The allodial title in this land is vested in the Otumfour who is the Asantehene (King of the Ashanti Kingdom). The daily administration and management have been devolved to the sub chiefs. Land ownership among the Asantes is structured along the political arrangement of the chieftaincy institution. The political system among the Asantes is a decentralised one in the form of a pyramid. The arrangement is summarised in the figure below.

Fig 4.3: The structure of Chieftaincy System among the Asantes



Source: Author

Under the Asantehene are the paramount chiefs (Omanhene), followed by the divisional chiefs (Ohene), then the sub-divisional chiefs (also referred to as Odikro) who are often the head of a village. These chiefs and their respective elders are mandated to manage and administer their land. The chiefs and their elders collectively take decision such as allocating parcels of land to prospective developers. This arrangement in Kumasi largely reflects this chieftaincy arrangement across the country.

A third category (Part III Lands) are lands which are acquired by the state but continue to be under the control and management of the traditional authorities. However, when considered to be in the interest of the state, the government takes over these lands without any compensation to the traditional authorities except for existing improvements such as building or farms. These lands are called 'prominent lands'. These Prominent lands

include 300 feet both directions from the centre line of Kumasi – Offinso, Kumasi – Mampong and Kumasi – Sunyani trunk roads which have been vested in the state by the Road Appropriation Ordinance of 1902. Another category of lands under public ownership includes right of ways, sanitary sites, railway reservations, open spaces and public school lands. The stock of state lands has significantly dwindled as a result of land utilisation in the interest of the public, allocating to private developers or as the consequence of sustained encroachment. Private land acquisition is therefore mainly through negotiation with caretaker chiefs. The Table below shows the current composition of lands in Kumasi.

Table 4.19: Proportions of State, Vested and Customary Lands in Kumasi

Land ownership type	Area	Percentage of the city's area
State Land (Part I)	62.5Km^2	25%
Stool/Customary Lands (Part II)	170km^2	68%
Stool Land Vested (Part III)	17.5km^2	7%
Total City Area	250km^2	100%

Source: Lands Commission, 2009

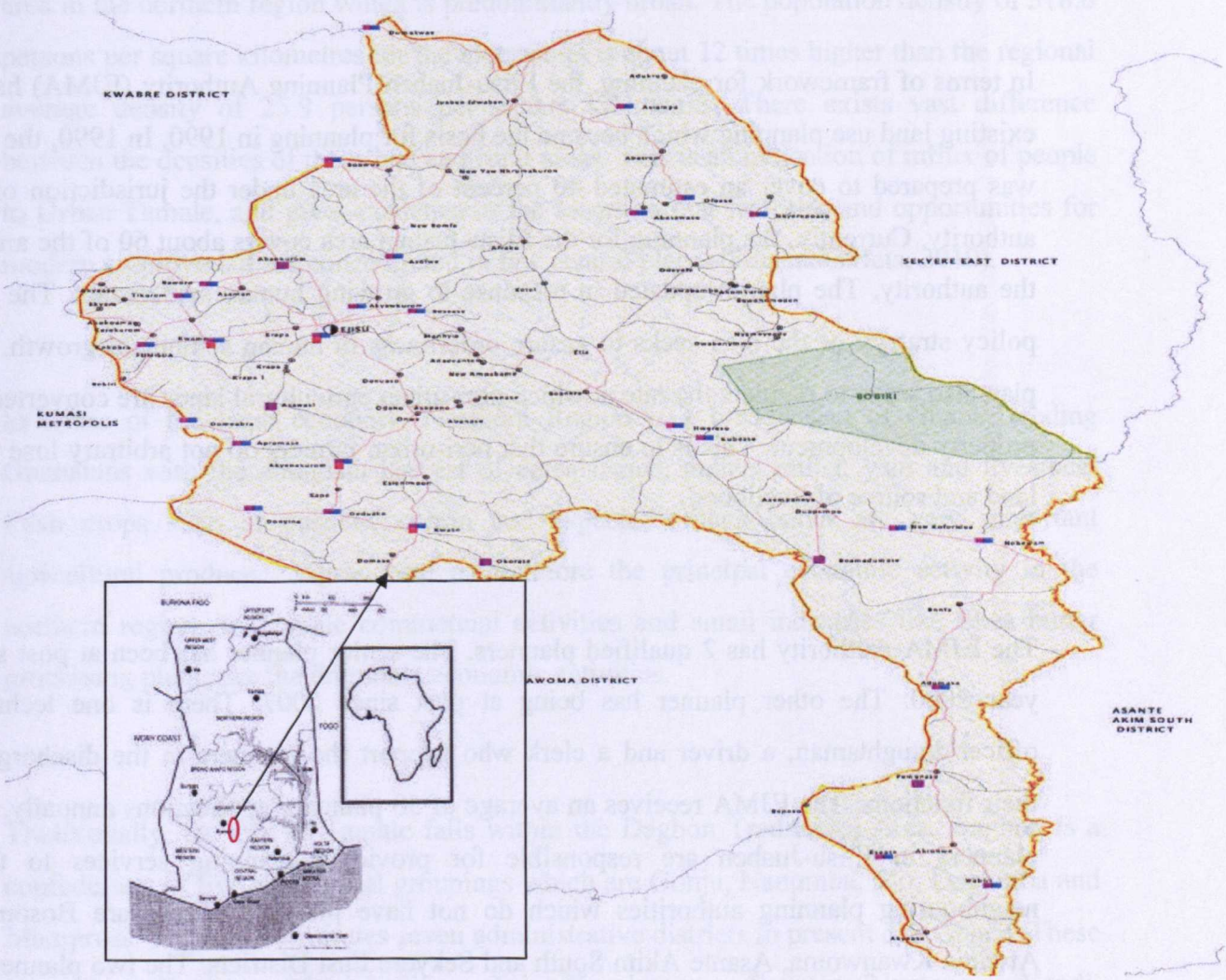
In terms of machinery for planning delivery, there is is an existing land use plan which came into force in 1960. In 1960, the plan covered only an estimated 50 percent of the area of Kumasi Metropolitan Authority. Currently, the plan covers about 80 percent of Kumasi. The planning authority prepares plans in response to growing human settlements. The core planning strategy of the land use plan in Kumasi seeks to ensure orderliness in the expansion of settlement by providing plans especially for the peri-urban where urbanisation is very rife. One accolade of Kumasi is 'the Garden City' and this is because of the large tracks of green areas which once dotted across the city. These areas are currently experiencing rapid conversion for development. As a result, the planning strategy also seeks to protect these areas. Currently, there are three 3 qualified planners, 7

with the TCPD technical officers, 4 draughtsmen, a driver and 3 Clerical/Administrative Assistants. On the average, the planning the planning authority receives between 80-100 planning applications each year.

4.12.2 Ejisu-Juaben Municipal Planning Authority

Ejisu-Juaben Municipal is one of the 27 administrative and political Districts in the Ashanti Region. It lies within Latitude 1° 15‟ N and 1 ° 45‟ N and Longitude 6° 15‟W and 7° 00W. It lies about 15 km south of Kumasi. The population of the area is currently estimated at 144, 270 (projected population for 2006) as against 124,176 as at the year 2000 (2000 population and housing census) (GSS 2005a). The proximity to Kumasi makes Ejisu a peri-Urban commuter zone. This partly accounts for the growth in the area.

Map 4.4: An outline of Ejisu-Juaben area as traced from the maps of Africa and Ghana



Source: Assembled from NDPC (2011)

Economically, agriculture is the main activity and this is because of a favourable climate and abundant supply of fertile land. The area is also the home to small scale cottage industry like weaving of traditional cloth (the kente cloth) and crafting of ornaments. The tourism potential results mainly because Lake Bosumtwe, a popular crater lake situated in this place.

In terms of chieftaincy structure and landholding arrangement, both Ejisu and Juaben are paramount traditional authorities which fall under the paramount category. These two traditional authorities are therefore next to the King of the Asantes (Asantehene) in terms of customary hierarchy. The Ejisu and Juaben traditional authorities have about 35 sub chiefs under their jurisdiction. All lands within these traditional areas are held by the chiefs of Ejisu and Juaben. All the sub chiefs are subjects of the paramount chiefs of Ejisu and Juaben and they according manage all lands under their jurisdiction on behalf for the paramount chiefs.

In terms of framework for planning, the Ejisu-Juaben Planning Authority (EJMA) has an existing land use planning which became the basis for planning in 1990. In 1990, the plan was prepared to cover an estimated 40 percent of the area under the jurisdiction of the authority. Currently, the planning for the Ejisu-Juaben area covers about 60 of the area of the authority. The plan is updated in response to growing human settlements. The core policy strategy of the plan seeks to ensure orderliness in human settlement growth. The plan also seeks to regulate the rate at which peri-urban agricultural lands are converted for property development. This is to ensure that peri-urban farmers do not arbitrary lose their land and source of livelihood.

The EJMA Authority has 2 qualified planners. The senior planner has been at post since year 2000. The other planner has being at post since 2007. There is one technical officer/draughtsman, a driver and a clerk who support the planners in the discharge of their functions. The EJMA receives an average of 50 planning applications annually. The planners in Ejisu-Juaben are responsible for providing planning services to three neighbouring planning authorities which do not have planners. These are Bosomtwe Atwima Kwanwoma, Asante Akim South and Sekyere East Districts. The two planners in

EJMA effective serve an estimated population of 650,000 across the four districts. This yields a planner: population ratio of 1:325,000.

4.12.3 Tamale Metropolitan Planning Authority

The Northern Region is the largest Administrative Region in Ghana covering a total land area of 72,855 sq-km, about 30% of the total land mass of Ghana. Tamale is the regional capital of the Northern Region and also doubles as the administrative capital of the Tamale Metropolitan Authority. Tamale is centrally located in the region and hence serves as a hub for all administrative and commercial activities in the region. The population of the Tamale Metropolis is estimated 450,000 with an inter-censal growth rate of 3.5%. This is far higher than the national and regional rates of 2.7% and 2.8% respectively (GSS 2005a). With an urban population of 67.1%, the metropolis is the only local government area in the northern region which is predominantly urban. The population density of 318.6 persons per square kilometres for the metropolis is about 12 times higher than the regional average density of 25.9 persons per square kilometres. There exists vast difference between the densities of the urban and rural areas. This is an indication of influx of people to Urban Tamale, and gives credence to the assertion that facilities and opportunities for modern employment are concentrated in few central places (Ghanadistricts, 2010).

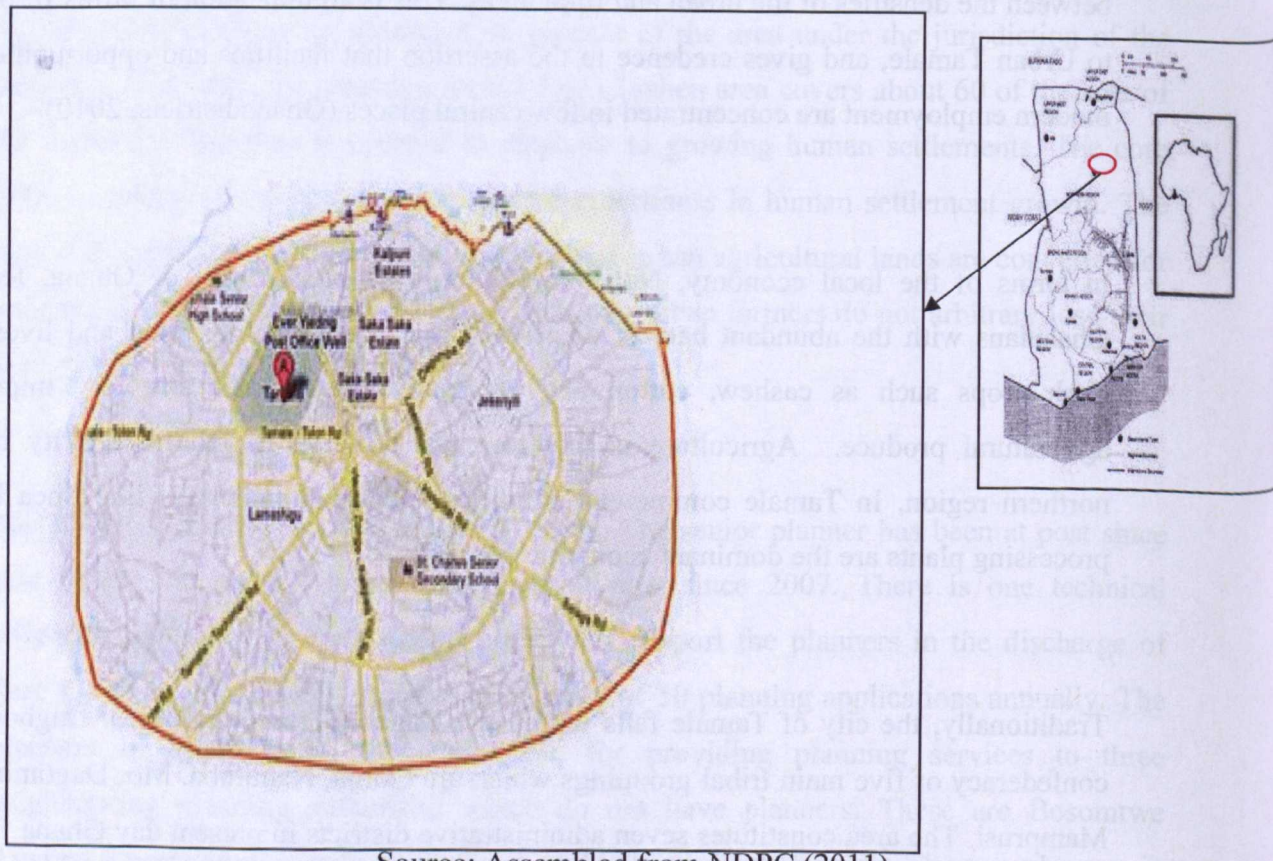
In terms of the local economy, Northern Region is a breadbasket of Ghana, feeding Ghanaians with the abundant harvest of cereals, rice, maize, millet, yam and livestock. Cash crops such as cashew, cotton and especially Shea butter are very important agricultural produce. Agriculture is therefore the principal economic activity in the northern region. In Tamale commercial activities and small industries like Shea butter processing plants are the dominant economic activities.

Traditionally, the city of Tamale falls within the Dagbon Traditional Area. Dagbon is a confederacy of five main tribal groupings which are Gonja, Nanumba, Mo, Dagomba and Mamprusi. The area constitutes seven administrative districts in present day Ghana. These are the Tamale Municipality, Tolon/Kumbungu, Savelugu/Nantong, Yendi,

Gushegu/Karaga, Zabzugu/Tatali and Saboba/Cheriponi. The overlord the Dagbon Traditional Kingdom is the Ya- Na, whose court and seat is at Yendi. Yendi is about 10km eastern of Tamale. Tamale however is the regional and administrative capital of the northern region.

In terms of land ownership, history has it that the whole of Dagbon Traditional Area was once owned by the traditional authority with the Tindambas as the general overseers. Prior to the 14th century, the tindambas doubled as earth priest. As earth priests, they offered sacrifice to deities in line with traditional African religious practices. However at the beginning of the 14th century, the Dagombas were invaded and conquered. The conquerors were referred to as Nabihi. The Nabihis became the ruling class leaving the tindambas with only the management roles. In effect, the rulers of Dagbon (Nabihis) are strangers while the tindambas are the actual land holders (Abdulai, 2010). The king of Dagbon sits on skins of animal (such as goat and sheep) as symbol of authority. All land in the area is referred to as *skin land.* The location and outline of Tamale is shown below.

Map 4.5: An outline of Tamale area as traced from the maps of Africa and Ghana



Source: Assembled from NDPC (2011)

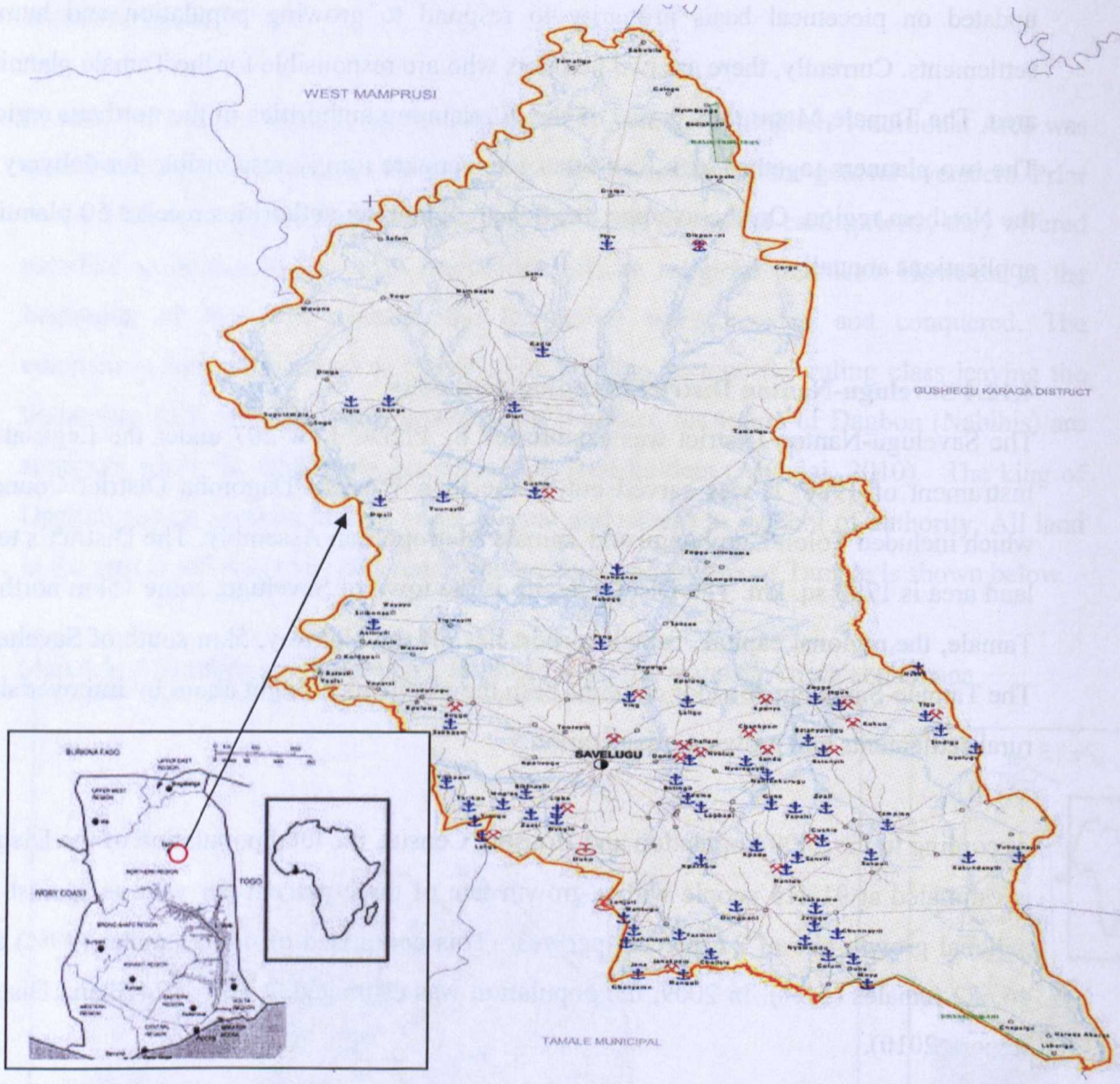
In Tamale, the land use plan was prepared in 1970 and although it was last updated comprehensively in 1985, it still covers about 60 percent of the area. The plan provides the framework for guiding development whilst protecting the environment. The plan is updated on piecemeal basis primarily to respond to growing population and human settlements. Currently, there are two planners who are responsible for the Tamale planning area. The Tamale Metropolis is one of the 20 planning authorities in the northern region. The two planners together with four other planners are jointly responsible for delivery in the Northern region. On the average, the Tamale planning authorities receive 50 planning applications annually.

4.12.4 Savelugu-Nanton District Planning Authority

The Savelugu-Nanton District was established by PNDC Law 207 under the Legislative Instrument of 1988. It was carved out of the then Western Dagomba District Council, which included Tolon/Kumbungu and Tamale Metropolitan Assembly. The District's total land area is 1790 sq. km. The District centre is the town of Savelugu, some 15km north of Tamale, the regional capital. Tamale airport lies off the highway, 5km south of Savelugu. The Tamale-Savelugu corridor contains both the problems brought about by impoverished rural settlements and growing urbanization.

According to the 2000 Population and Housing Census, the total population of the District is estimated at 91,415 people with a growth rate of three percent per year as against the national growth rate of 2.6 percent per year. This comprised of 44,793 males (49%) and 46,622 females (51%). In 2009, the population was estimated at 109,442 (Ghana District Report, 2010).

Map 4.6: An outline of Savelugu-Nanton area as traced from the maps of Africa and Ghana



Source: Assembled from NDPC (2011)

The land use plan for Savelugu-Nanton came into force in 1997. Currently, the plan covers only an estimated 20 percent of the jurisdiction of the district. Efforts at planning in the district is concentrated in areas such as Savelugu, Nanton, Zion and Tampion which are areas experiencing relatively high rate of human settlement growth in the district. The core objective of the plan is to order human settlement growth as well as ensuring that agricultural lands are protected.

Before 2008, there was no resident planner in the area. Therefore, the planners in Tamale exercised oversight responsibility over the area. There are no other supporting staffs such as draughtsman or clerical assistant in the area. This makes the planner solely responsible for managing the activities of the Town and Country Planning Department. On the average, the planning department receives 20 planning applications annually.

4.11 Conclusion

> "The Gold Coast people have become planning minded and in this lies hope for the future. Many difficult problems lie ahead but the fundamental common sense of the ordinary citizen coupled with better education and living standards can help solve them" (Town and Country Planning in the Gold Coast (1954) Bulletin 3 citied from Chronicle newspaper[9], 2007).

There was therefore much promise and optimism regarding how planning will operate in Ghana shortly before independence. However, after over five decades of independence, this promise has largely remained an illusion. Undoubtedly, this is partly attributable to the chequered political history of the country. The frequent change of government has had adverse effect on the policy, institutional, and the regulatory frameworks for the entire land use planning and management system.

The turn to democracy in 1993 has breathed a new life into the political history and Ghana has subsequently enjoyed the longest spell of political stability which is characterised by smooth transition of power from one civilian government to the other. One offshoot of this stability is the emphasis on public participation in policy formulation. The design of the Ghana Land Administration Project and recently, the National Urban Policy has been driven by the principle of community engagement ostensibly to help instil greater sanity into the how human settlements are mediated.

An empirical overview of the current state of play in terms of the effectiveness of the planning system reveals that little has been achieved in the area of improving the state of

[9] http://allafrica.com/stories/200708200996.html [accessed 12/08/2010]

planning practice. The survey was also part of the attempts to 'hear the voices' of local planning officials in order to identify what they consider as the pertinent hindrances to effective planning. Respondents identified funding, human resource, political interference, nature of planning laws and the customary land tenure practices as the major challenges which constraint the planning process. These challenges will further be investigated in detailed in the second stage of the empirical research.

Further pragmatic investigation of the planning challenges is key to because how customary land tenure practices impact the efficiency of land use planning system in SSA for example is primarily an empirical question which cannot be adequately be resolved based on theoretical propositions and analysis of secondary materials. This is especially so because Yeboah (2011) has recently noted that scant literature on SSA land landholding systems and land markets often lack the analytical robustness to support the conclusive pronouncements and emphatic claims authors make, a situation Antwi (2000, p. 37) refers to as 'casual empiricism'. It is within this context that empirical research, analysis and discussions of the interplay between customary land tenure and land use becomes paramount.

In order to effectively achieve this goal, four case study areas have been embedded within the broader Ghana and the guiding parameters for their selection have been examined. The selection of the case study areas is a precursor to the conduct of the empirical research aimed at establishing the linkages of customary land tenure system and other factors such as institutional challenges and the effectiveness of land use planning in Ghana and the broader SSA context. Such empirical research however requires a robust and coherent methodology which systematically defines the procedure or process involved. The next chapter therefore discusses the methodology and research strategies which were employed.

CHAPTER FIVE

METHODOLOGY FOR EXPLORING CURRENT LAND USE PLANNING PRACTICES IN SUB-SAHARAN AFRICA

5.1 Introduction

This chapter is made up of two sections. The first section situates the study into its philosophical paradigm. It also engages in a debate surrounding qualitative and quantitative research methods before arguing that, neither of the methods is superior. It concludes with a call that qualitative and quantitative methods are not mutually exclusive and could therefore be mixed. Building on this premise, the second section discusses the various methods and strategies which were employed during the empirical research. The strengths and weaknesses of these methods, as well as, the strategies which were employed to address the flaws are discussed. The chapter concludes with a reflective consideration of the ethical implications of research, whilst highlighting the limitations of the study.

5.2 Situating the Research in a Philosophical Context

A research philosophy is a belief about the way in which data about a phenomenon should be gathered, analysed and used. Dainty (2007) has offered that it is pertinent to construct and align any empirical investigation to a philosophical position to ensure theoretical and philosophical consistency. It has therefore been strongly suggested that, the philosophical background and paradigm of inquiry should be clearly defined at the initial stages of the research (McCallin 2003). Guba and Lincoln (1994, p. 105) define a research paradigm as "the basic belief system or worldview that guides the investigator, not only in choices of method but in ontologically and epistemologically fundamental ways". A research paradigm is thus made up of a trilogy of ontology, epistemology and methodology. Ontology is concerned with the form and nature of reality. It accordingly focuses on theory of what exists and how it exists. Epistemology is concerned with the nature of knowledge and considers the relationship between the subject of the research (the researcher) and the object (which is the phenomena being investigated) (Guba and

Lincoln, 1994; Schwandt, 2001). Methodology on the other hand seeks to unearth and rationalize "research assumptions as far and as practicably as possible, and in doing so to locate the claims which the research makes within the traditions of enquiry which use it" (Clough and Nutbrown (2002, p.31).

These three issues are crucial to the entire processes of knowledge development. Failure to to effectively observe these issues may reduce a given piece of research to a mere data dredging exercise. Accordingly, Amaratunga and Baldry (2001) have cautioned that ignoring them can have a detrimental effect on the quality of the final output of the research. Historically, two paradigms have dominated discourse within the sphere of philosophy of knowledge. These are positivism and interpretivism. These two distinct paradigms have been the subject of a long-standing debate.

5.2.1 Positivism

The positivist research paradigm dwells on the assumption that there is an objective world/knowledge which exists independently from people. This in turn creates a duality where objective realities exits separately from the researcher. Researchers within the positivist paradigm therefore task themselves to measure, calibrate and gauge existing reality. Positivism, therefore, subscribes to the application of natural science methods and practice to the social sciences (Denscombe 2002, p.14). Positivist knowledge is therefore seen to be verifiable and free from speculation and superstition. As a result, evidence obtained through the positivist tradition is often seen as 'hard' and 'rigorous'. Accordingly, positivism is seen as the surest pathway in pursuing scientific truth and absolute knowledge (Delanty, 2005). The positivists employ methods such as experiments, regression; Likert scaling and structural equation in their enquiries. It has been customary for critics of the positivism to contrast this paradigm with the proposition of Interpretivism.

5.2.2 Interpretivism

Interpretivism borders on the belief that knowledge/reality is a construction of actors and agencies within a given social context. Attention is therefore focused on developing understanding and meaning of the linkages between these actors and agencies as well as their context (Gerphart, 1999). This logic directly challenges the propositions of the positivist tradition which claims that, objective realities exist and can be measured. Interpretitivsm emphasizes the meaningful nature of people's participation in social and cultural life. In turn, the interpretivist data gathering techniques include observations, interviews, documents and audiovisual materials which generate data mostly in the form of words (Creswell, 2003).

Fundamentally, positivism is distinct from Interpretivism because, whilst the former is concerned with explaining human behaviour, the latter places emphasis on understanding it. These two ontological positions continue to shape the epistemological underpinnings of any empirical enquiry be it quantitative or qualitative research method.

5.2.3 Quantitative Research Paradigm

The quantitative research paradigm is premised on the belief that reality exists and thus the relationship between concepts, phenomena and variable can accurately be measured. To the quantitative researchers "...the world is made up of observable, measurable facts" (Glesne & Peshkin, 1992, p. 6) though such claims that "social facts have an objective reality" and "variables can...be identified and relationships measured" (p. 7) have often been criticised by other research methodologists such as (Golafshani 2003). The quantitative research logic is closely associated with the propositions of positivism where the pattern of enquiry is often structured with the belief that there is objective reality against which researchers compare their claims. Quantitative researchers dwell on information in the form of numbers which can be quantified and summarised (Charles, 1995). The final results are often presented in the form of charts and graphs whilst using terminologies such as 'population and 'results' (Creswel, 2003).

Quantitative research continues to remain popular owing to some inherent strength. Sympathisers of the quantitative paradigm claim that the structured approach of gauging existing facts eliminates all forms of subjective judgement and prejudiced positions. Outcomes of quantitative research is thus seen as being 'hard evidence', scientifically more robust, more reliable and valid (Silverman, 2000; Robson, 2002; Creswell, 2003).

5.2.4 Qualitative Research Paradigm

Qualitative research represents a direct contrast to the proposals of the quantitative paradigm. It is thus any kind of research that produces findings not arrived at by means of statistical procedures or other means of quantification (Strauss and Corbin, 1990, p. 17). In explaining qualitative research, Denzin and Lincoln (1994) opine that, qualitative implies an emphasis on processes and meanings that are not so strongly reliant on statistical analysis. Thus, there are instances, particularly in the social sciences, where researchers are interested in insight, discovery, and interpretation rather than hypothesis testing (Merriam, 1988). The general underlying assumption of qualitative research rests on the belief that reality is a social construct. Accordingly, understanding the meaning of the dynamics of social interaction is a prerequisite to defining reality (Delanty, 2005). In turn, the actors and agencies within a given context constitute the principal focus when investigating any phenomena. Qualitative research primarily employs case-studies and social contexts instead of variables and hypotheses which are closely associated with the quantitative research paradigm. The qualitative research leans more towards to the logic and propositions of the interpretivist paradigm where investigations focus on describing meanings and understanding members' definition of situations (Gephart, 1999). The key data collection tools employed for qualitative research include interviews, focus group discussion and observation. Qualitative data is usually analysed using content/textual analysis strategy. Qualitative research is useful for studies which are exploratory in nature. Such studies enable new discoveries of social phenomena and concepts owing to the flexible and iterative nature of this approach.

Critics of the qualitative paradigm are often quick to point to the fact that, this approach is usually small-scale and non-representative, often generating results that cannot be

generalised beyond the cases investigated (Grix, 2004). Also, the qualitative researcher tends to be overly immersed in the whole research process, a situation which exposes the final outcome to subjective biases and preconceived positions. Owing to these weaknesses, output of qualitative research is seen as 'soft' and 'less scientific'.

The quantitative paradigm has likewise been criticised. Critics argue that the quantitative approach often strips the context from the entire research process, a situation which has the propensity to create a disconnection between outcome and practical realities (Gerphart, 1999). This is because quantitative data collection tools like the close ended questionnaire restrict respondents from selecting from a set of predetermined answer (Guba and Lincoln, 1994). In this regard, the quantitative researcher assumes a reductionist posture by forcing respondents to operative within his/her preconceived ideas which in many cases are inadequate. Participants of quantitative research therefore operate within limits which are imposed by the researcher. As a result, the likelihood of discovering new ideas and insight is highly suppressed.

Against the background of these inherent flaws associated with both methods, mixing the quantitative and qualitative paradigms is fast becoming popular among social scientists (Johnson, et al, 2007). This is because the strength of each method crosses out the weaknesses of the other to a large extent.

5.2.5 Mixing Methods: Combining Qualitative and Quantitative Methods

Several researchers (e.g. Antwi, 2000) selected their methodology based on the documented advantages and disadvantages of the quantitative and qualitative research paradigms. To them, opting for the qualitative or quantitative approach represents a commitment to either the positivist or interpretivst epistemological position. These two positions are therefore seen as mutually exclusive without any chance of convergence. Researchers who attempt to fuse these two paradigms are often criticised for lacking the capacity to recognise the glaring distinctions between the positivism and interpretivism (Guba and Lincoln, 1994). The danger of such strict allegiance to research paradigm

means, researchers eventually pigeonhole themselves, a situation which results in lack of flexibility in the research process. Such situation often risks subordinating understanding to dogma (Lin, 1998).

This study avoids this obvious pitfall by drawing from the experience of Creswell (2003) and Robson (2002) who posit that the single most important determinant of any research methodology is the nature of the research problem to be investigated. They convincingly argue that the researcher should be committed to effectively addressing the research questions using the most suitable strategy rather than religiously sticking to philosophical positions. This means in a single piece of research, some aspects may be better explored using the quantitative strategy whereas in others cases, qualitative methods may be best suited. Indeed some earlier researchers have backed such flexible approach to empirical enquiry. Robson, (1993) and Creswell, (2003) for example recognise that there is much to be gained from a fusion of quantitative and qualitative methods in a single study of social phenomena since the weakness of each strategy is cancelled out by the strengths of the other. Denzin (1989) has also opined that, there is no rule that instructs researchers to dutifully stick to one method. Robson (1993) admits that combining quantitative and qualitative methods could be challenging. However, when effectively executed, the output of such method could be more robust than using the conventional quantitative or qualitative approach. Bryman (2004) also notes that, the methods themselves should be viewed as mere tools for collecting data and should not be looked upon as being automatically rooted in epistemological and ontological commitments. In summary, combining the qualitative and quantitative methods has the potential of yield stronger research outcome.

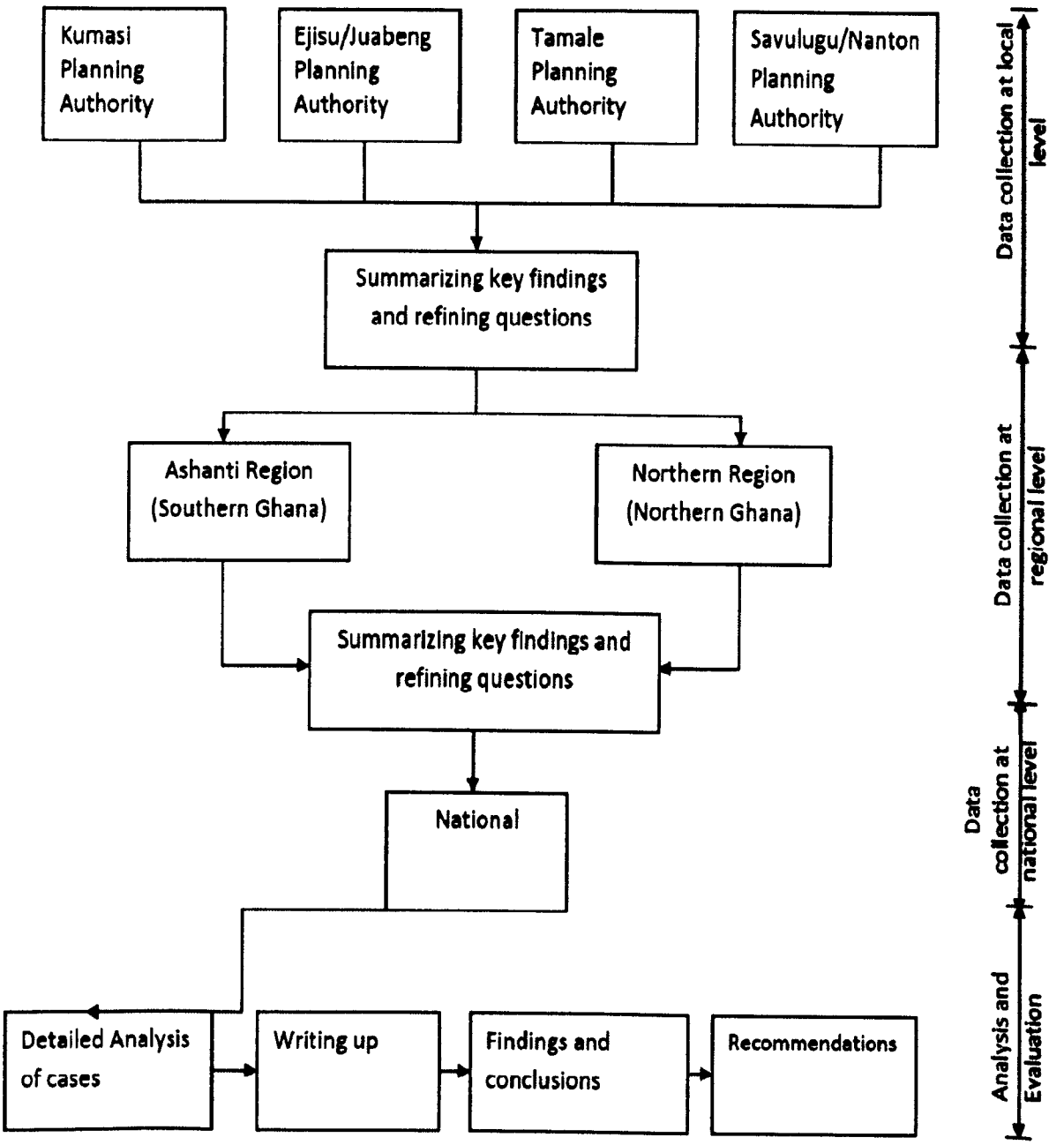
The quantitative and the qualitative research methods should therefore be seen as complementary strategies rather than competing ones, as long as you are aware of how you are employing a specific method, what this method is pointing you towards, and how this relates to the ways you employ other methods. Grix (2004, p.84) argues that mixing quantitative and qualitative methods 'should be no problem'. Grix (2004) further reminds researchers that, it is generally a good idea to use more than one method of enquiry to improve the chances of getting better, more reliable data and to minimise the chances of

biased findings. The combination of method has been referred to as "mixed methods research" by (Creswell, 2003), "multiple methods" by (Robson, 1993), "multi-strategy research" by (Bryman, 2004), and "methodological pluralism" by (Dainty, 2007). To Cohen and Manion (2000), attempts to map out, or explain more fully, that the richness and complexity of human behaviour is effectively achieved by studying it from more than one standpoint along the quantitative and qualitative continuum. Therefore, neither qualitative nor quantitative method should claim to be superior to the other. The relationship between the two methods is therefore akin to mortar and blocks. Both are needed together to construct a strong wall. It is against this background that the study employs the mixed method approach.

5.3 Framework for the in depth Empirical Research

Ghana has a three tier governance system; the local, regional and national levels. The planning system is built around this structure. Plans are formulated at the local level. All local plans are coordinated at the regional level. Finally, regional plans are harmonised and synthesized into the broader national plan. Section 46 of the Local Government Act, 1993 (Act 462) therefore delegates all planning functions to the local planning authorities. The process involved in collecting evidence across the three levels are summarised as below.

Fig 5.1: Framework for the Empirical Research



Source: Author

5.4 Target Respondent

Local level

The study targeted the three main stakeholders who are involved in land delivery and development processes. These are the local planning authorities, private property developers and customary landholders[10].

Local planning authorities

Local planning authorities may be a district, municipal or metropolitan assemblies who have been mandated to prepare and implement plans for areas under their jurisdiction. Planning authorities are by law required to constitute an interdisciplinary team known as the Statutory Planning Committee. It should be made up of the chairperson [who must be the chief executive officer) and the secretary (who must be the planner attached to the authority). Other members of the committee are drawn from heads or representatives of the various utility services providers, health directorate, security, environmental protection, traditional authority among others. The local planning authorities are therefore the focal point of land use planning at the district/municipal/metropolitan level.

Private Property Developers

These are people who should have undergone the processes involved in applying for planning permission for their development. Under the National Building Regulations 1996 (LI 1630), formalising ones land title is a prerequisite to obtaining planning permission. A developer who has received planning approval should have also registered his or her land rights. The private property developers who were engaged in the study had experienced the processes involved in formalised land acquisition as well as applying for planning permission according to their respective local planning authorities. Conversely, developers who did not go through the processes of registering their land rights and applying for development rights were excluded.

[10]In Ghana, there are state lands and customary lands (see section 4.6). It is important to note that in some rare cases, state land may be allocated to private individual for development. In such case the state agencies double as land grantors and planning authority. State land allocation for private development is not the focus of research. Landholders as used therefore refers to the customary landowners

Customary landholders

Customary landholders are the traditional authorities who are involved in the management of customary lands. They do not own the land but as trustees, they are responsible for making land management decisions. Customary landholders are the dominant suppliers of land for development. It is estimated that they control 80 percent of all lands in Ghana (Kasanga and Kotey, 2001, p. 13).

Regional level

The institutional arrangement for land use planning at the regional level has been examined in section 4.7.2. The following respondents were drawn from each of the institutions.

Lands Commissioners

The Lands Commission is the parastatal body that is mandated to manage all land records in Ghana. The Lands Commission also liaises with the customary landholders in the land delivery processes. It is also mandated of the Lands Commission to manage all public lands.

The Regional Coordinate Councillors

The Regional Coordinating Council (RCC) is made up of representatives from all local planning authorities together with the regional heads of representatives of all parastatal bodies. The RCC is the body that is responsible for harmonizing the plans and activities of all local planning authorities which are situated its jurisdiction.

Town and Country Planning Officials

The Town and Country Planning Department (TCPD) at the regional level is the link between the national and local levels. It supervises the activities of the district/municipal/metropolitan offices of the department.

The Land Administration Project Officials

The implementation of the Ghana Land Administration Project is decentralised and the regional offices are responsible for carrying out the various strategies towards achieving the holistic aim and objectives of the land reform process. Since LAP is institutionally cross-sectoral, the regional unit is composed of experts from the Lands Commission, Town and Country Planning Department and other allied land sector agencies.

National Level

At the national level, respondents were selected from the Land Administration Project, the Town and Country Planning Department and the Lands Commission. Also, respondents were drawn from the National Development Planning Commission (NDPC). The NDPC is the highest body responsible for formulating planning and development policies in Ghana. The NPDC is responsible for coordinating economic and spatial policies and programmes across the country.

5.5 Sampling Techniques

In several social science researches, it is practically impossible to embark on a complete survey of the entire target population. In such instances, it becomes instructive to study selected observations in a way that will enable conclusions to be drawn for the entire population. Samples were constructed from the population of the various actors and agencies who are key in land use planning and land management in Ghana. Robson (2002) advises that the sample drawn from a population should effectively reflect the entire population and this was a cardinal guiding principle. In all, four sampling techniques were employed. These are discussed below.

5.5.1 Purposive Sampling

The study focuses on examining the relationship of customary land tenure and land use planning. Purposive sampling allows the researcher the flexibility to choose respondents based on some specific attributes (Silverman, 2000). In this case, there was the need to engage people who have experience with land management and land use planning.

At the local level, planning officials and customary landholders were purposively selected. All respondents at the regional and national levels were purposively selected based on their experience with land management and land use planning.

5.5.2 Snowball Sampling Technique

In some cases, it is practically impossible to effectively identify all potential respondents within a given population. In such scenario, it is advisable to identify a few of the members who will then suggest other ideal people who could be drawn as respondents. Selecting respondents through this approach is known as snowball sampling (Silverman, 2000). Snowball sampling was employed in selecting participants for the focus group discussion which was organized in the Ejisu-Juaben Municipal area.

When enquiries were made in the palace of the chief of Ejisu, the researcher was directed to one elder of the traditional area who doubles as the Senior Lands Surveyor of the Ejisu Traditional Area. When the purpose of the study was discussed with him, he suggested seven (7) other elders who were subsequently contacted for the purpose of holding a focus group discussion.

5.5.3 Stratified and Simple Random Sampling Techniques

Finally, the stratified was used together with the simple random technique in selecting private property at the local level. Stratified sampling involves the grouping of individual observations of the same or similar characteristics into a stratum of categories before samples are subsequently selected from the stratum or clusters (Robson, 2002; Creswell, 2003). Private developers were stratified into the period before the introduction of LAP and the period after the implementation of LAP.

After stratifying respondents, samples were selected using simple random sampling technique. With simple random sampling, each developer who has successfully applied for planning permission had equal chance of being selected for the study. After obtaining

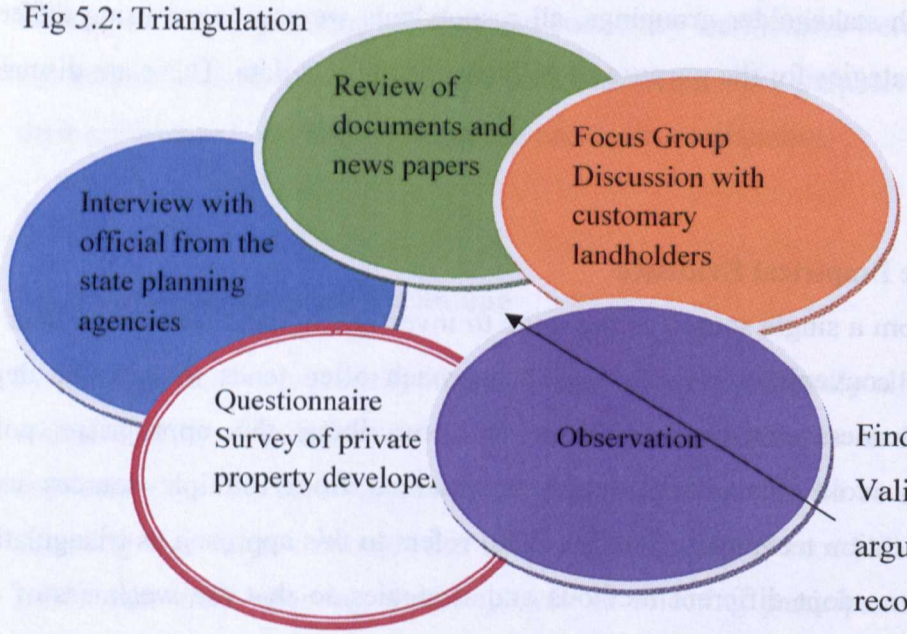
samples from each stakeholder groupings, all respondents were engaged using different techniques and strategies for the purpose of collecting empirical data. These are discussed below.

5.6 Collecting the Empirical Evidence

Obtaining data from a single source as the route to investigating land tenure and land use planning may be convenient. However, such approach often tends to lack the depth, insight and robustness required as basis for prescribing the appropriate policy interventions. To avoid this pitfall, data was obtained from multiple sources using different data collection technique. Denzin (1970) refers to this approach as triangulation. It is appropriate to adopt different methods and strategies so that the weakness of one method will be compensated for by the strengths of another. Velsen (1978) and Brannen (1992) have subsequently justified the use of triangulation on the grounds that data has been validated and therefore reliable to be used as the basis for pragmatic recommendations. Worth noting is the fact that even though a triangulation exercise may yield convergent findings, we should be wary of concluding that this means that the findings are unquestionable. It may be that all sources of data are flawed. However on the balance of probability, when different methods yield the same results, it exudes confidence that both the data and the methods employed are more likely to be appropriate.

Five different data collection strategies were employed in the study to investigate the same research problem of planning inefficiencies. Through triangulation, the research looked at contrasting discourses and responses with the aim to reconcile these discursive heterogeneities. De Sardan (2005) strongly advises that identified variations and inconsistencies should not be overlooked but rather emphasised and probed further as this provides the means to validate data for greater reliability and this was applied. Below is a diagrammatic illustration of all methods which were employed during the field research.

Fig 5.2: Triangulation



Source: Fieldwork, 2009/2010

The case study as a research strategy employs different techniques to collect evidence and this study employs five of these methods. These were interviews, questionnaire, Focus Group Discussion, observation and documentary review. How each of these was employed during the field survey is discussed below.

5.6.1 Interviews

Interview involves a respondent verbally responding to a set of questions asked by a researcher. Interviewing is a popular way of gathering qualitative research data because it is perceived as "talking," and talking is natural (Griffee, 2005). It is widely used in social science research because of the inherent strengths. Robson (1993) for instance notes that respondents are more willing to talk in an interview than the case would be if they were asked to write or fill out a questionnaire. The use of interview allows the researcher to further probe earlier answer. Therefore Freebody (2003) argues that technique is 'introspective' and allows respondents to report on themselves, their views, their beliefs, practices, interactions and concerns.

There are different variants of interviews- structured, semi-structured and unstructured depending on how open the interview questions are. In a structured interview, the

researcher asks explicit questions consistently of all participants. In an unstructured interview, the researcher asks open-ended questions. Whereas structured interviews ensure that the interviewer sticks to the predefined questions, unstructured interviews offer flexibility by allowing the issues which are raised in the process to be further interrogated.

A semi structured approach of interview was adopted for the study upon careful consideration. The choice is justified because a semi structured interview combines the strengths of both the structured interview and unstructured interview. During the conducting of the interviews, the advantages of semi structured interview were manifested. For example the fairly open framework nature of the semi structured interview ensured that the thematic areas of the research were adequately interrogated whilst allowing for further probing. This ensured that the researcher did not veer off the central issues and at the same time allowed discussion of issues which came up extemporaneously.

Designing and executing a good interview requires adequate skill and some reasonable degree of experience. The documented experiences of Brannen (1992), Creswell (2003) and the interview guidelines provided by Robson (2002) and Punch (2005) were very crucial in both the design stage and the conducting of the interviews. These authors were unanimous that the conduct of interview should be guided by the following factors:

- Develop an interview guides/questions which will effectively address the aim and objectives of the research;
- Avoid double barrelled or multiple barrelled questions;
- Avoid excessive use of jargon;
- Identify the possible respondents from a given population;
- Decide the mode of recording the interview (note-taking, tape recording or both);
- Seek permission from interviewees;
- Arrange a suitable time and place for the interviews; and,
- Validate responses by re-interviewing or by comparing with different sources.

In all, 41 interviews were conducted. The breakdown is presented in a table below

Table 5.1: Breakdown of Respondents who were Interviewed

Northern	**Local**	No. Of respondents
	Land Owners	4
	Local Planning Authority	4
	Sub Total A	**8**
	Regional Level	
	Town and Country Planning Department	2
	The Land Administration Project	2
	Regional Coordinating Council	2
	The Lands Commission	2
	Sub Total B	**8**
Southern Ghana	**Local**	
	Land Owners[11]	2
	Local Planning Authority	4
	Sub Total C	**6**
	Regional Level	
	Town and Country Planning Department	2
	The Land Administration Project	2
	Regional Coordinating Council	2
	The Lands Commission	2
	Sub Total D	**8**
National	Town and Country Planning Department	3
	The Land Administration Project	3
	National Development Planning Commission	2
	The Lands Commission	3
	Sub Total E	**11**
	Grand Total: Subtotal (A+B+C+D+E)	**41**

Source: Field Survey, 2009/2010

[11] Please note that one (1) focus group discussion was organised in the south.

Designing the interview guide

In order to pursue a consistent line of inquiry with fluid stream of questions, there was the need for an interview guide. The interview guide was a set of thematic questions which directly reflected the aim and objectives of the research. As part of the design of the interview guide, two mock interviews were organised. In each case, a research assistant was made to act as a prospective interviewee. The interview questions were then asked. This was to help generate some form of response to ascertain the degree of accuracy of the questions. Double and multiple barrel questions, unclear sentences, phrases and terminologies were all refined basing on the outcome of the mock interviews.

Conducting the Interview

After designing the interview guide, respondents were contacted for the purpose of booking appointment and arranging a place for the interview. There was visit to all targeted respondents first, to introduce the researcher and secondly, to negotiate an appointment for interview. After dates for the interviews had been agreed, notes reminding respondents were sent out together with the interview guide. In such correspondence, the intention to tape record the interview proceedings was brought to the attention of the respondents. And whilst some had no reservations, others objected to the idea of being recorded despite the fact that evidence of my status as a research student at the University of Liverpool was provided. For those who did not want to have their voices recorded, discussions were manually recorded. It is worth noting that, the appointment dates for some of the respondents had to be rescheduled on several occasions due to their unavailability.

On the day of the interview, the researcher arrived at the agreed venue ahead of time. Before the start of the interview, the researcher always introduced himself and my research interest. In line with research ethics, respondents were assured of their anonymity and confidentiality of their response. They were always informed of their right of voluntary participation as well. The interview always started with reference to well known problems within the locality which has resulted from land use planning failures. Attention of the respondents was then drawn to the fact that the research seeks to make contribution

to help improve such situations. This pattern of introduction proved successful as respondents appeared enthusiastic with their responses to questions asked.

During the interview, some mechanisms were introduced with the aim of ensuring internal consistency of the response. In most cases, same questions were worded and asked differently. In some instances, respondents contradicted themselves and their attention was drawn to it in order to resolve the inconsistencies. In several instances, respondents supplemented their interviews with reports, policy documents and in minutes of meeting of their respective agencies. The average duration of the 41 interviews was about 70 minutes.

Although the conduct of the interviews was generally successful, there were some issues which adversely affected it. First, a few respondents were not straight forward in answering questions asked. Rather, they preferred to narrate issues which were often off tangential to the research questions which were asked. Attempts to put them on track was often met with expressions such as 'let me land before I answer that question' or 'just listen, I will come to that question later'. In such cases, it became slightly difficult with regards to taking effective control of the interview process. It was not surprising though as Cotterill and Letherby (1994) had earlier cautioned that interviewing the elite or people in the position of power could be difficult.

In some instances too, the interviews were truncated by either telephone calls or intrusion by other people which affected the flow of discourse. Another observation was that, respondents in some cases were reluctant to clarify claims they had already made. Those who were prepared to elaborate and provide evidence to buttress their claims often requested the tape recorder to be turned off which was always complied with. In such cases, the response was manually recorded. Manually recording the response was difficult as at the same time, there was the need to write down notes and follow keenly in order to probe further in case there was the need.

These developments inevitably created some gaps in terms of the data which was generated. In order to fill these gaps, each interview was signed off with a polite request to contact the respondent should the need be. In all instances, the respondents were ready to address any unresolved issues. After each interview, the researcher went over the transcript (by either listening or reading the text depending on which was applicable). When any point required further explanation, the respondent was quickly consulted for clarification. Also, when two or more respondents provided different answer to the same issue, then there was further interrogation in order to resolve the issue. Responses were also validated by comparing them to secondary materials like reports and newspaper publications. In all, the interview as a data collection strategy helped to generate insightful qualitative information which was duly validated.

5.6.2 Questionnaire Survey of Private Property Developers

A questionnaire was designed to generate data from private property developers. The person or persons who negotiated purchase of the land and oversaw the acquisition of planning permission for development qualified as a respondent to be interviewed. This was either the property owner or his/authorised representative. The main aim of this questionnaire survey was to identify developers who have gone to land acquisition and had successfully applied for planning permission from the appropriate Local Planning Authority. The target respondents were therefore people who had experienced the processes of acquiring land as well as having successfully applied for planning permission.

A structured questionnaire was adopted for the survey. With structured/standardised/closed ended questionnaires, respondents are restricted to choosing from pre-set answers. The structured questionnaire was preferred to the open ended questionnaire because of the following justifications:

1. Since the questionnaire was to be administered by research assistants, there was the need to ensure greater consistency in the way questions were asked. The close ended questionnaire provided this consistency more than the open ended questionnaire;

2. Responses from close ended questionnaire are comparatively easier to handle, manipulate and draw statistical inference from. This also made the closed ended questionnaire the ideal choice for the study.

Notwithstanding the above reasons, the close ended questionnaire is not insulated from some inherent flaws. Using a close ended questionnaire is premised on the assumption that the researcher knows so much about the topic under consideration and can therefore comfortably predetermine all possible answers, a task which, at times, is not so realistic especially for an exploratory piece of research like this.
Two measures were however put in place to minimise these flaws associated with the use of close ended questionnaire. Firstly, extensive literature was reviewed during the design of the questionnaire. This further deepens the researcher's over all insight into the study. This helped to come out with a range of possible answers. Secondly, there was systematic piloting of the initial questionnaire. These efforts helped to test and refine the original questionnaire by incorporating new views and ideas.

The questionnaire was structured into four sections. The first focused on identifying the characteristics of the respondents who were surveyed. The second part focused on mapping out the experience of respondents in permit acquisition, the third was on land acquisition and the final section was dedicated to identifying the involvement of respondents in the plan formulation processes and the possible implication for complying with planning regulations.

The sample population consisted of developers who have planning permission for their development and this was obtained from the Town and Country Planning Department in the four case study areas. It is instructive to note that, the survey of the private property developers focused on two different time lines to give a basis for comparison. The sample frame was stratified into Pre-LAP era and LAP era. The sample was then drawn from each stratum.

Table 5.2: Break down of Private Property Developers Surveyed

Area	Case Study	Era	Number of Respondents
Northern Ghana	Urban: Tamale	Pre-LAP	30
		LAP	30
	Rural: Savelugu-Nanton	Pre-LAP	20
		LAP	20
Southern Ghana	Urban: Kumasi	Pre-LAP	30
		LAP	30
	Rural Peri-urban: Ejisu-Juaben	Pre-LAP	20
		LAP	20
TOTAL	**200**		

Source: Field Survey, 2009/2010

Four research assistants were recruited from the Centre for Land Studies and the Department of Land Economy to help in administering the questionnaire. The Research Assistants had been involved in similar assignments and they were, as such, fairly experienced. With the assistance from a Research Fellow at the Centre of Land Studies, two sessions of training were organised for the research assistants to help improve their overall skill and confidence in undertaking the exercise. The first session handled issues involving gaining access, health and safety and dealing with difficult respondents. The second session involved a practical moment where the researcher simulated a difficult respondent. The four researchers took turn to administer the questionnaire. At the end of it all, all the issues which came up during the 'mock questionnaire administration' were thoroughly discussed. After the training, the researcher went to the field to demonstrate to the research assistant in a real life setting before they were finally dispatched to undertake the questionnaire administration on their own.

Another vital issue which was strongly considered when selecting the research assistants was the ability to speak fluently in one or more of the local dialects, together with English

language, which is the *lingua franca* in Ghana. The language consideration was of particular relevance as there are over 30 dialects although over 40 percent of the Ghanaian populace speak *Akan.* With a generally low literacy component of the population, the ability of the research assistants to adequately communicate in other dialects was crucial. In all, 200 questionnaires were administered.

5.6.3 Focus Group Discussion with Landowners

Stewart and Shamdasani (1990) describe focus group discussion (FGD) as an interview that generally involves persons who discuss a particular topic under the direction of a moderator who promotes interaction and assures that the discussion remains on the topic of interest. Thus the hallmark of focus groups is the explicit use of the group interaction to produce data and insights that would be less accessible without the interaction found in a group.

Focus group discussion was the preferred technique for data collection with respect to customary landholders. This is because management of customary lands in Ghana rests with the chief and elders of the land owning group. According to customary land law, the decisions of traditional leaders are only valid when the elders of the community consent (Busia 1951). There is therefore collective decision making involving a chief and his elders. This results from the general principle of communal land ownership which places chiefs and elders in a fiduciary position. Making land management decision should therefore be collective and this informed the choice of focus group discussion. Four focus group discussions were planned - each with the customary landholder within each of the four embedded case study areas. However, only one was executed. The table below summarises why the focus group discussion could not be held as planned.

Table 5.3: Focus Group Discussion Organised

Case study area	FGD organized?	Remark
Ejisu- Juaben	Yes	Successfully held
Kumasi	No	Difficulty organizing discussants
Tamale	No	Volatile security situation as a result of severe chieftaincy disputes in Tamale[12]
Savelugu-Nanton	No	

Source: Field Survey, 2009/2010

During the design of the research, the researcher justified the suitability of focus group discussion although the potential practical difficulties were admitted. A contingency back up strategy in the form of interview was therefore put in place. Where the focus group discussion was not successfully organised, interviews were conducted as an alternative. The researcher was aware of the chieftaincy dispute in the Dagbon Traditional Area of which Tamale and Savelugu-Nanton Planning authorities are part. However, its intensity was underestimated during the research design. The researcher at the time of designing the research had been away from Ghana for almost 2 years. Knowledge about the chieftaincy disputes and conflicts in the Tamale area was premised on articles published on the internet which appeared not have reflected the actual intensity of the state of the conflict.

The Dagbon chieftaincy crisis is between two feuding factions who both claim to be heir apparent to the throne of the traditional area. The dispute between the Abudu and Andani has some historical roots. However, it was revisited in 2002 when the then king, Ya Na Yakubu Andani II (from the Andani gate) was killed and decapitated by people strongly believed to by sympathisers of the rival Abudu gate. It has also been widely circulated in

[12] The conflict in the Tamale and Savelugu-Nanton area has widely been reported in the Ghanaian media. Below are examples of the reports on the state of affairs.

http://mobile.ghanaweb.com/wap/comment.article.php?ID=161268 ; http://justiceghana.com/index.php?option=com_content&view=article&id=507:ya-nas-death-not-murder&catid=41:national-security&Itemid=83 ; http://www.africa-confidential.com/article-preview/id/531/No-Title ; http://www.dagbon.net/news.php?bo=showNews&ID=4373 ; http://justiceghana.com/index.php?option=com_content&view=article&id=507:ya-nas-death-not-murder&catid=41:national-security&Itemid=83

the media that forty (40) elders of the King were killed in the violent clash which lasted three uninterrupted days from 26-28th March, 2002 (Wuaku Report, 2002). Since then, the security situation in Tamale, Savelugu-Nanton and indeed the entire areas of Dagbon have been described as 'volatile' (Wuaku Report, 2002). This has led to a situation where the area has continuously been put under 'a state of emergency' resulting in the imposition of curfews in the area.

The killers of the King and his elders have so far not been found. Naturally, members of the Andani gate (the murdered king was from this faction) have continuously claimed that justice has been denied. Whoever is seen as not helping to find the killers of the king is generally seen as a traitor and subsequently treated as such. Indeed when the Court of Appeal recently (29th March, 2011) acquitted and discharged fifteen people suspected to have murdered the King, the President of Ghana was accused by the Andani gate of not doing enough to bring the criminals to book. Threats were subsequently issued to the President of Ghana and he was subsequently warned not to travel to Tamale and its environs. In a rather harshly worded press statement, titled 'Don't come to Tamale' the spokesperson of the Andani youth had this to say[13]:

> 'Tamale is not safe for his [referring to the president of Ghana] visit. We arrived at this decision after a careful study and consideration of what may result during his visit to Tamale. It appears as if the President has forgotten that, the people of Tamale voted for NDC [which is the ruling government] in 2004 and 2008 general elections based on the death of the Ya-Na.
>
> It seems also that, the president has forgotten his campaign promises and messages about the Ya-Na case. We therefore declare that, the President and his government have failed the Andani family. The youth of Tamale is not welcoming the President into the city-Tamale until the killers of Ya-Na are found'.

This warning was issued to the president in the midst of violence which was characterised by shooting and burning of houses. An account by some online media outlet is illustrative.

[13] http://news1.ghananation.com/politics/142225-don-t-come-to-tamale-ndc-group-tell-mills.html?print

Text box 1: Turmoil in Tamale

Tamale on fire: NDC party properties burnt down, one killed

The Northern Regional Security Council has imposed a curfew on the Tamale Metropolis as an interim measure to curtail rising tension which has already claimed one life. This follows the acquittal and discharge of 14 persons being tried for the killing of the overlord of Dagbon, Yaa Naa Yakubu II, a ruling that has angered members of the Andani Royal gate.

The curfew takes effect from 11:00pm on Tuesday March 29 2011, but it is not clear when it ends on Wednesday.

One person was killed around the Tamale Central Mosque on Tuesday night amidst rioting by angry youth..... The situation in Tamale as a matter of "life and death"

Angry youth burnt down the NDC regional Secretariat.

Early on in the evening, irate members of the Andani Royal Gate who are also members of the ruling NDC, set the Northern Regional office of the party on fire following the acquittal and discharge of the 14 persons being tried for the killing of the overlord of Dagbon, Ya Na Yakubu II..... a new building at Lamashigu in Tamale South put up by the Hon.Haruna Iddrisu as a new party office have also been set ablaze.

The Tamale Central constituency office was also attacked, but because it is a rented building, files and other documents were taken out and burnt by the irate party members.

According to Kwabena Ntow, a pavilion and bill board displaying the pictures of President John Mills and Lawyer Inusah Fuseini were all razed down.

[source: http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=205988](accessed on 22/03/2011)

Clearly, the chieftaincy dispute in the Tamale, Savelugu-Nanton and other parts of the northern region continues to remain volatile. Some security analysts in Ghana have subsequently advised that the situation in the north remains a time bomb (Ennin, 2011). Therefore, people who directly or remotely deal with the chieftaincy institution in the north should exercise greater introspection (Wuaku Report, 2002).

Given the state of security in the northern region and the fact that traditional authorities were central to the research, greater caution was needed. In order to conduct a focus group discussion under the situation where there is feuding faction, two main options were available. First, discussants could have been drawn from both sides of the divide. Secondly, discussants could have been drawn from one side of the claimants to the Dagbon throne. In both cases, the study was faced with real security considerations. It was practically not possible to assemble discussants from both divide since such attempts had the potential to escalate violence. Secondly, drawing discussants from one side of the divide would have implicitly meant that the research had recognised and legitimised one side. Again, such scenario was not in the interest of the study as it could have triggered possible disputes and possible clashes. In an area where 5,000 were killed in a war that was triggered by a missing fowl (Tsikata and Seini, 2004) one could not underestimate the far reaching implications of his actions no matter how trivial and tangential they may be. The researcher was subsequently advised by the regional lands officer to 'stay away from assembling the traditional people'. Other officials expressed similar sentiments. Basing on the overall security atmosphere, the researcher found this advice useful and subsequently resorted to interviews in place of focus group discussion. Interviews were subsequently conducted in place of a focused group discussion.

In Kumasi which is the administrative and traditional capital of Asantes, efforts to assemble the key traditional leaders proved difficult. Upon arriving in Ghana, contacts were made with the five (5) key elders who are involved in customary land management and administration the Kumasi traditional area in view of holding a focus group discussion. The response was very encouraging as each of these elders demonstrated considerable enthusiasm towards the project. What proved difficult was attempting to agree a date for the discussion. For each of the dates agreed, at least three of the elders communicated their unavailability at the last hour. Indeed the focus group discussion would have been held if three of the five elders agreed on a date. The issue of scheduling and re-scheduling continued for over a period of time and given the fact the researcher was in Ghana for a limited period, it became instructive to employ other forms of data collection. Interviews were accordingly held with two active players of customary land delivery in the north in place of the focus group discussion. In Tamale, Savelugu-Nanton and Kumasi, several pertinent questions were adequately resolved through interview.

There is therefore no ground to believe that the quality of information generated through interview is any way inferior to what would have been generated through focus group discussions.

A focus group discussion was successfully organised in the Ejisu-Juaben area. As part of the background preparation, 8 elders were contacted and the purpose of the study was clearly explained. The nature of focus group discussion was duly explained to each of them after which they all consented. The proposed venue and time was circulated and reminders were sent in between times. On the day five (5) turned up and all efforts to contact the remaining three (3) proved unsuccessful. The focus group discussion therefore involved five (5) discussants.

The focus group discussion started with an introduction of the research aim and objectives. Ethical issues relating to confidentiality, voluntary participation and anonymity were clearly explained to the participants. Background questions like 'how effective has land use planning been in the area' and 'why does land use planning work better in other places were first asked before narrowing it down to the central theme of 'how does customary land tenure practices affect land use planning'. When the first two questions were asked, two of the five discussants exhibited propensity to dominate the rest as they were the first to provide answers and spoke for quite a lengthy period. The researcher therefore politely asked the discussants to wait for a signal before responding to any questions. This ensured that all the participants were given adequate opportunity to contribute to the discussions. Four of the five discussants objected to the request to tape record proceedings. What transpired was therefore manually recorded with the aid of a research assistant.

5.6.4 Field Observation

Field observation represents one significant source of obtaining qualitative evidence particularly because phenomena are studied directly. Depending on the extent of the involvement of the researcher, field observation may be 'unobtrusive' (thus the researcher observes without getting involved in the set of activities) or 'participatory' (thus observing whilst involved) (Yin, 2003). Miller and Brewer (2004) also classify observation into

'overt' and 'covert' based on the degree of awareness of the subjects of the investigations. Observation is covert when the subjects of the investigation are not aware that they are being observed. On other when the objects are aware that they are being observed, it is 'overt observation'.

The research examines the relationship of customary land tenure and land use planning and not all aspects of this topic could easily be observed. However, issues such as 'building on the banks of water bodies' or local planning authorities warning developers to 'stop work, and produce permit' which were written on some ongoing developments without planning approval were observed. In most cases, photographs were taken.

Also, data was obtained by observing some activities (e.g. meetings) of some local planning authorities and other land sector agencies. In all, the researcher was involved in four stakeholder meetings as an observer. The researcher participated in 2 statutory planning committee meetings; one in Ejisu-Juaben and the other in Kumasi. The researcher was also involved in a meeting which sought to review the LAP report on Implementation Support Mission. The researcher also participated in the Goal Setting Session of the TCPD at the national level. During the deliberations, some key issues were noted. Further interrogation was carried out after each meeting through informal interactions with people who were identified as been resourceful and having ideas to contribute to the ongoing study. The study employed both 'unobtrusive and participatory' as well as covert observations. Observation provided a useful source of additional information for the study.

5.6.5 Documentary Review

The study also obtained data from secondary sources such as newspapers and electronic media, annual reports of the land sector agencies and minutes of meetings. Documentary evidence is particularly important because since documents are usually written about past events and by authors who know much about the subject under discussion, they often provide reliable and quality information. Creswell (2003) argues that documents enable researchers to obtain the language and words of participants, can be assessed at any time

convenient to the researcher. Secondary materials also represent data which are thoughtful in the sense that participants have given attention to compiling them.

Miller and Brewer (2004) have identified documents commonly used in social science research to include reports, periodicals, newspaper articles, photographs, letters, diaries and memoirs although the scope has been broadened to include other sources such as radio or film materials which are neither primarily in writing nor in documents in the traditional sense (Finnegan, 1996). Documentary materials for the study were obtained from newspapers, annual reports, TV documentaries as well as letters. Information from documents served as the basis for corroborating and augmenting evidence from other sources of data. In cases where what is contained in documents are inconsistent with what has been obtained through other means such as interviews, the identified inconsistencies were resolved through further cross checks from other agencies.

5.7 Ethical Consideration

Research ethics are the code of conduct or acceptable set of principles which guide the conduct of research (Reynolds, 1979; Wellington, 2000). Research ethics are therefore the norms of conduct which distinguish acceptable practices from unacceptable ones. Ethical concerns should be at the forefront of any research project and should continue through to the write-up and dissemination stages (Wellington, 2000). The entire research processes were guided by what have become accepted as ethical considerations. Issues which may be seen as 'ethical' could be divergent. Robson (2002) for example outlines 10 issues of ethical concern whilst Miles and Huberman (1994) provide 11-point ethical guidelines. Four of these ethical issues came up in course of the empirical research and how they were addressed are discussed below.

5.7.1 Sincerity

The complexity of land issues in Ghana means convincing target responding to divulge information could be a difficult assignment. In such situation, there is the temptation to misrepresent the very nature of the study in an attempt to attract respondents. Kane (1985) had however cautioned that, withholding information, misrepresenting the true nature of

the research, or otherwise deceiving people to participate in the research is unethical. Therefore, in all cases, respondents were informed that the study is part of ongoing academic exercise which ultimately aims at improving the state of land management and land use planning in Ghana and other SSA countries. During the postal survey, there was a cover letter that clearly outlined the purpose of the study. In effect, all respondents participated in the study knowing that information provided was solely for academic purpose.

5.7.2 Negotiating Access and Informed Consent

In the conduct of this study, access to all premises of the various land sector agencies, homes and communities was duly negotiated. Accessing the premises of traditional authorities in Ghana could be complex as a result of customary norms and practices. In all instances, access to such places was negotiated through 'the gate keepers' of the respective traditional authorities. In some cases, bottles of schnapps had to be provided as a gesture of 'knocking on the door of the chief', in line with customary practices.

Closely linked to access is informed consent. Informed consent centres on the logic that no respondent should be coerced into participating in the study. All respondents were asked whether or not they were prepared to participate in the study of which responded in the affirmative. The consent of respondents may be oral/verbal or written. Robson (2002) had however advised that where possible, written consent should be obtained as a means of insulating the researcher from possible future issues (Creswell, 2003). Attempts to obtain written consent were largely unsuccessful. The common reason was that signing a document would, as one interviewee put it 'tie their hands' and could be used as a basis to possibly implicate them. Yin (2009) had earlier noted that, the researcher should not engage in any act which may render respondents uncomfortable in divulging information. He noted that persisting with such acts may prompt respondents to withhold otherwise vital information. As a result, the idea of written consent was shelved. All respondents were asked whether or not they would participate in the study. In all cases, respondents answered 'YES'. They were then informed of their right to withdraw from the study in case there is a change of mind. Therefore, all respondents consented verbally/orally.

During interviews and the focus group discussion, the express consent of all respondents was sought before proceedings were tape recorded. Some objected to being recorded whilst others did not want some exact discussions to be caught on tape. All these, respondents' positions were duly respected. In summary all respondents voluntarily took part in the research with sufficient knowledge and understanding of the procedures, risks and benefits involved.

5.7.3 Confidentiality and Anonymity

Whilst the researcher knows who has provided data, it is imperative to ensure that this is not known by other people who are not directly linked to the research (Punch, 2005). Throughout the study, efforts were made to ensure that the views of people in the study are not traceable to their identities. As a means of ensuring anonymity among the private property developers, identifiers like names and property addresses were not solicited in the data collection instrument.

The study employed cross case data collection involving agencies at the local and regional authorities in both the north and south of Ghana as well as at the national level. In several cases, there was the need to further probe issues which were picked up from one context across the other case study areas. In such cases, great caution was exercised in order to avoid the possibility of tracing the source back to the provider of the original information. Names of the participants from each of the case study areas have been withheld and subsequently designated as 'Respondent '1', '2' or '3' in an attempt to mask the identity of the respondents. So despite the fact that the identities of respondents are known to the researcher, no unauthorised person can trace the views in this thesis to the personalities who provided the information.

Other than admonishing discussant to keep issues confidential, the researcher is generally handicapped in terms of ensuring confidentiality and anonymity of discussants of a focus group. This, according to Stewart and Shamdasani (1990) represent one major downside. During the focus group discussion, discussants were consistently reminded to keep

deliberations confidential. What provided a source of greater assurance that deliberations will be kept confidential is rooted in the fact that, as elders of Ejisu and Juaben, the discussants had previously engaged in similar discussions owning to their positions as community elders. There was therefore some degree of trust among the discussants that issues which were discussed will be kept confidential. Thus during the entire data collection exercise, steps were taken to ensure that information collected for the purpose of the study is not made available to any person or group of people unless it is directly linked to the study.

5.8 Limitations of the Research

The study was constrained by two issues which affected the breadth and depth of primary data used for the study. First, the research was affected by inadequate financial resources. Partial funding for the study came from the Overseas Research Scholarship Award Scheme and the University of Liverpool which paid the full tuition fees and provided a stipend of £1,000 for three out of the four years of the study for which the researcher is very grateful. Living expenses, fieldwork (including travel and accommodation, printing and photocopying of research instruments and other documents, payments at various offices and remuneration for field assistants) and other incidental costs were borne by family and friends. Efforts to secure additional funding from the Government of Ghana and Royal Institute of Chartered Surveyors were unsuccessful. Moreover, the Ghanaian currency is weaker relative to the UK pound. This created unfavourable exchange rate situation further made this study economically more expensive. For example the original idea of using two countries as the case study areas - one Anglophone SSA and another, Francophone had to be shelved because of financial considerations.

The second limitation of the study results from the methodology for the first stage of the empirical research. Postal questionnaire is a cheaper means of covering wide geographical area. Despite this, this strategy has some inherent weaknesses. For example asking follow up questions was not possible. Additional materials like annual planning reports and other documentary materials could also not be gathered because of the nature of postal questionnaire. Some of the questions were also returned unanswered especially those which required the respondents to undertake some sort of back ground research. For

example attempting to establish how many planning applications were processed during 2008/2009 achieved paltry results as most respondents did not answer.

5.9 Conclusion

This chapter has discussed the various methods and strategies which were used in collecting empirical evidence. These methods and strategies were first situated in their respective philosophical orientation before highlighting how these ideas influenced the conduct of the research. The chapter has also brought to the fore that several methods and respondents were engaged during the empirical research, re-echoing Yin (2009)'s assertion that one key strength of case study research is that, multiple methods can be used to examine the research problem from different perspective . The various data collections techniques and strategies which were employed for the empirical research have been discussed. The weaknesses of each of these methods and the strategies which were employed to address them have also been discussed. The next chapter analyzes and discuss the data which were collected during the field research.

CHAPTER SIX

IIMPLICATIONS OF CUSTOMARY LAND TENURE PRACTICES FOR LAND USE PLANNING

6.1 Introduction

The notion that customary land tenure practices in Sub-Saharan Africa (SSA) adversely impact upon land use planning has long been established (Larbi 1996; Ubink, de Soto, 2000 and Quan, 2008). Land use planning, as practiced in SSA, traces its roots to Europe where the capitalist and liberal political ideologies were dominant. Under the capitalist land tenure arrangement, property rights are generally secure, tradable and individualised (Kivell, 1993; de Soto, 1989; 2000). According to some property rights analysts, (de Soto, 1989; 2000; World Bank, 2003; 2006), this contrasts with the situation in SSA where landholding arrangements are generally dictated by communal considerations. Property rights in SSA are therefore generally believed to be insecure, not tradable and fail to recognise the rights of individuals (de Soto, 2000; World Bank, 2006). Planning inefficiencies in SSA have therefore been attributed to the situation where there is a capitalist superstructure of land use planning that has been imposed on a communalist inspired foundation of collective land ownership.

A critical and reflective literature survey (see sections 3.6, 3.7 and 3.8) has however established that customary land tenure in SSA shares striking similarities with land tenure practices of the capitalist and liberal traditions. This is because customary land tenure may offer secure and private land rights which can be traded. The study has therefore concluded that, attributing planning failures in SSA to the incompatibility of capitalist and quasi-communalist land tenure practices is therefore not wholly inaccurate. A critical empirical investigation of the exact nature of relationship between customary tenure practice and the operation of the planning is therefore required in order to bridge this gap, a task this chapter seeks to accomplish. As part of efforts towards achieving this goal, it is important to first map out the interface between customary land tenure and land use planning.

6.2 The Interface between Customary Land Tenure Practices and Planning in SSA

The prevailing land tenure systems continue to shape urban forms in Ghana (Ubink and Quan, 2008; Ubink, 2006). Land ownership under the customary sphere is underpinned by the philosophical tradition of communalism (Ollennu, 1985) where land belongs to all including the dead, the living and the yet unborn (these issues have previously been examined in section 3.3). With the customary land sector commanding an estimated 80 percent of all lands (Kasanga and Kotey, 2001, p.13), the sector serves as a major primary supplier of land to meet the demands of urbanisation such as housing development, commercial activities among others. It is against this background that customary land tenure systems are considered as a multifaceted aspect of urban development which is an intrinsic part of virtually all aspects of urban life (Kivell, 1993). There is therefore a close linkage between land use planning and land tenure practices. Therefore in SSA where customary land management practices are dominant, its influence on land use planning practices cannot be overemphasized.

Customary land in Ghana is managed by chiefs and tribal elders who are trustees under the traditional setup. As trustees, they are expected to manage all lands in the interest of all members of the land owning communities. The study established that this principle of trusteeship is being diluted and redefined to suit the interest of the chiefs and a few tribal elites and this is examined below.

6.3 Some Contemporary Twists to the Doctrine of Trusteeship,

It is important to remember that customary landholders are trustees and should hold and manage all lands for the benefit of the entire members of the landholding group (see section 3.3.1). Under the communal landholding arrangement, each member is guaranteed equal access to land. As Kasanga (1995) puts it with regard to land, no man is big or small. Even in instance where portion of the communal land is sold, the proceeds should be used in such a way that the entire community benefits. Thus in theory, equity and fairness are at the centre of the communal mode of landholding.

In recent times however, this principle of trusteeship is 'revealing its ugly sides' (BBC, 2006). The weak checks and balances and virtually non-existing machinery to ensure the accountability of chiefs (see Ubink and Quan, 2008) have created grounds for chiefs to fully utilise the proceeds for land transaction for their own personal benefits without much resistance from the broader landholding community. Chiefs and customary landholders have therefore become 'super landlords'. This is what Alden Wily and Hammond (2001, pp. 44, 69–73) describe as "curtailment of communal property rights, through a form of feudalisation of land relations." The fact that chiefs and the few tribal leaders and local elites are practically the sole beneficiaries of revenues which are obtained from land allocation to prospective developers has become something of a push factor on chiefs to rapidly convert farmland, in which indigenous community members or families have usufructuary rights, into residential land which they allocate to outsiders through customary leases (Gough and Yankson, 2000; Kasanga et 1996). Maximising financial gains for the tribal elites has therefore effectively replaced the need to uphold communal benefit. A case reported by the BBC is very illustrative of this new twist to the concept of trusteeship.

Ghana chiefs' land rows spook investors[14]

> ".... But a growing population and investor interest have increased demand for land in Ghana, so the chiefs, who hold much of the country's land in trust for future generations, can wield huge power. The country's unique system of land ownership, where chiefs frequently control the land for the benefit of the communities they represent, is revealing an ugly side. Some chiefs and their extended families are pushing for profit from their valuable asset, a profit which is not necessarily shared with the communities they represent.... In some parts of Ghana, chiefs traditionally got 'drink money' or a bottle of schnapps as a token offering to start negotiations on the terms of the lease. But as demand for land has grown, this drink money is no longer just a pre-negotiation icebreaker,... Instead, it can now be a request from the chiefs for hard cash, cash which may not be used to benefit the communities they represent, he says"

[14] (BBC, 2006) Ghana Chiefs' Land Rows Spook Investors http://news.bbc.co.uk/1/hi/business/4754331.stm [accessed 9/01/2011]

From the foregoing discussion, it is can be deduced that under the influences of population growth, rising demand for land and the increasing monitization of land transactions, maximising financial returns has effectively replaced the need to secure the collective good of the landholding group. The concept of trusteeship is therefore undergoing a shift from securing the interest of all members of the landholding group to benefiting the chiefs and a few tribal elites.

This chapter attempts to establish the nature and relationship between customary land tenure practices and land use planning within the context of changing concept of trusteeship. This is achieved by analysing and discussing empirical evidence which was collected during the field survey (November, 2009 to March, 2010). Such analysis however requires a clearly defined framework to guide the analytical processes involved.

6.4 Analytical Framework

When attempts were made to situate the research in a philosophical paradigm (see section 5.2), it was highlighted that both the qualitative and quantitative paradigms are not mutually exclusive. They can be combined to examine a particular research problem provided such combination is logically sound and theoretically coherent. With this as the guiding principle, the research investigates the challenge of planning inefficiencies in SSA from both qualitative and quantitative perspectives.

Qualitative researchers argue that knowledge is significant only if it relates to the general thinking and feeling of people. This view therefore requires of researchers to pay attention to endogenous social environment before turning to exogenous factors to explain social behaviours to aid policy initiatives (Creswell and Clark, 2007). In an attempt to develop in depth appreciation of the dynamic of the endogenous social environment, the researcher should be interested in insight, exploration for discovery, and interpretation rather than hypothesis testing (Merriam, 1988). Developing insights, exploration for discovery, and interpretation are essentially qualitative strategies and these were heavily employed. The research is therefore skewed towards the qualitative paradigm. However, where appropriate, analysis of qualitative responses is complemented with quantitative analysis.

The quantitative analysis is carried out by first coding responses from the questionnaire administered to private property developers and subsequently transferring the coded responses into the Statistical Package for Social Sciences (SPSS Version 18). Descriptive statistics such as percentages and chi square were subsequently used to explain the impact of the various variables whilst attempting to quantify the relationship between them. In this regard, it may be appropriate to conclude that the mixed method approach is employed in analysing the empirical data.

In analysing the qualitative data, Critical Discourse Analysis (CDA) is employed. Discourse refers to expressing oneself using words and it is an integral way of knowing, valuing, and experiencing the world (McGregor, 2003). However, it is a common phenomenon to read or hear other peoples' words without being conscious of the underlying meaning. Critical Discourse Analysis therefore challenges researchers to move from seeing language as abstract constructs (Fairclough, 2000). Rather, words should be seen as having meaning in a particular historical, social, and political condition (van Dijk, 2000). It is within this context that Fiske (1994) opined that our words are never neutral.

Given the power of written and spoken word, CDA is necessary for describing, interpreting, analyzing, and critiquing social life reflected in text (Luke, 1997). CDA aims to systematically explore often opaque relationships between discursive practices, texts, and events and wider social and cultural structures, relations, and processes. Furthermore, CDA tries to unite, and determine the relationship between, three levels of analysis: (a) the actual text; (b) the discursive practices (that is the process involved in creating, writing, speaking, reading, and hearing); and (c) the larger social context that bears upon the text and the discursive practices (Fairclough, 2000; Thompson, 2002). Converting qualitative evidence into textual form is therefore important when employing this technique. As a result, interviews were transcribed and typed into the MS Word Software. These were then printed to enable a micro or line by line textual analysis for the purpose of identifying key themes on which subsequent analysis will be premised.

Themes are dynamic affirmations which control behaviour or stimulate activity and these are key building blocks for discovering new insights into the dynamics of a particular social set up. Opler (1945, p. 198-199) has asserted that 'the activities, prohibition of activities, or references which result from the acceptance of a theme are its expressions... and the expressions of a theme, of course, aid us in discovering'. Identifying the themes from the transcribed qualitative evidence was crucial for the entire analysis. In indentifying the themes from the qualitative data, the excellent guiding framework recently propounded by Bernard and Ryan (2009) was employed. When looking for themes from oral or textual discourse, Bernard and Ryan (2009) have advised researchers to look for the following:

1. Repetitions: The more repetition the more likely it is to be a theme.
2. Indigenous Typologies or Categories: looks for unfamiliar words/terms or familiar words used in unfamiliar ways.
3. Metaphors and Analogies: people often represent thoughts, behaviours, and experiences as such.
4. Transitions: naturally occurring shifts in content, pauses, change of tone of voice.
5. Linguistic Connectors: causal or conditional relations e.g. 'because'/ 'cos'/ 'if'/ 'then'/ 'before'/ 'after'
6. Missing Data: reverse method not 'what is here' rather 'what is missing'....look beyond the immediately apparent/obvious.
7. Theory-related material: search for evidence that relates to theoretical perspectives: e.g. social conflict, power, status in the setting/context.

These guidelines were employed in finding the themes for the analysis. For example when interviewees from the formal land agencies were asked whether customary land tenure practices contribute to planning inefficiencies, the response in all cases was 'yes'. In probing further, the same respondents were asked 'how customary landholders contribute to planning inefficiencies'. In their responses, the following phrases were very reoccurring: 'customary landholders do their own thing', 'chiefs do not come to us', 'they

do it alone', 'customary landholders will not want us to be involved' among others. These expressions suggested that there is a disconnection between the customary landholders and the formal/state land management agencies, a situation which has provided a fertile ground for customary landholders to take unilateral decision relating to how their lands are utilised. As part of the effort to establish how customary landholding practices may affect planning, further critical discourse analysis established expressions such as 'before you are aware, they will say they have prepared a plan', 'they [customary landholders] sell land for any use'. 'They do not follow what the [existing land use] plan says'. Similar concerns such as 'they choose to do what they like [in terms of managing customary lands]', 'the way they sell the land harms our plans and programmes', 'you cannot help if he [referring to a chief or other customary landholder] allocates an open space or a market area for other use' among others.

Further examination of the text also revealed that customary land tenure system adversely impact on planning practices because some developers fail to comply with planning regulations for 'fear of losing their land' or 'to avoid encroachment'. Similar sentiments included that developers violate planning regulations in order to 'defend their land', 'ensure that there is safety [regard the title to the parcel of land for development] first before considering planning permit' and also to 'protect ones property'. These observations suggested that developers may fail to comply with land use plans in an attempt to protect their land, a situation which borders on land title (in) security. Additional issue which was repetitive through the various discourses was that 'the differences in traditional and local government boundaries is not helpful', 'it is difficult for one planner to serve two paramount chiefs', 'indeterminate customary land boundaries is a challenge' among others.

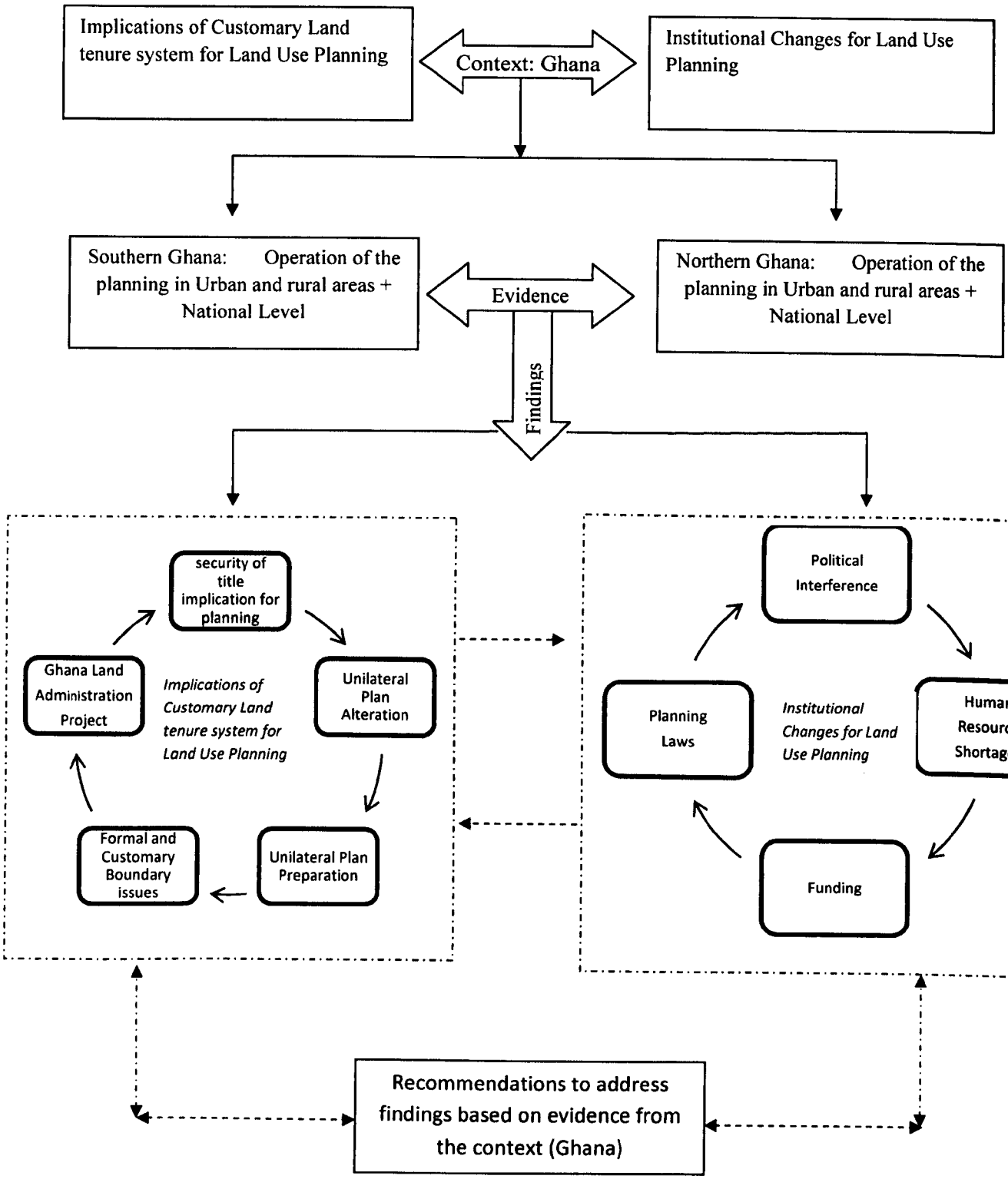
These observations were so recurrent across almost all respondents who were engaged in the study. Besides being reoccurring perspectives, respondents in most instances provided local evidence and examples for further illustration of how customary land tenure practices impact on land use planning practices. It is important to note that Bernard and Ryan (2009) have observed that when local issues are repetitive in a discourse and these issues are illustrated with evidence/examples which relate to the theoretical perspectives

especially in terms of social conflict in the setting/context, then there is a good chance that such issues are emerging themes for further analysis. After a careful examination of the micro text in line with Fairclough (2000)'s proposition, it was brought to the fore that four themes were dominant and reoccurring and these are as follows:

- Land title under customary tenure is generally not secure and this adversely impacts on developers' ability to comply with existing planning regulations.
- Customary landholders unilaterally prepare land use plans by conniving with unprofessional planners and surveyors.
- Customary landholders unilaterally alter existing land use plan and finally,
- The overlap between customary land boundaries and formal boundaries adversely impact on planning delivery.

To recap, when the state of land use planning practices was explored in section 4.10.4, the following institutional issues (funding, human resources, planning laws and political interference) were identified as the key challenges together with customary land tenure systems. Also, one of the objectives of the study is to evaluate the implementation of the Ghana Land Administration Project. These were subsequently employed as the subjects for in depth investigation during the second stage of the empirical research. These themes, together with those which were identified through critical discourse analysis above are employed as the building block for analysis. Therefore, drawing evidence from the customary land tenure practices and dynamics of the institutional framework for land use planning, the analytical framework can be summarised in the diagram below.

Fig 6.1: The Analytical Framework



Source: Author

It is worth recalling that 41 interviews and 1 focus group discussion were conducted during the field survey. Furthermore, 200 private property developers were surveyed using structured questionnaire (see sections 5.6.1 -5.6.3). Additional evidence was also obtained through observation and documentary/secondary sources. Having identified the themes and constructed the analytical framework, the next section analysis and discusses the empirical evidence. This chapter focuses on analyzing evidence relating to customary land tenure and planning practices whilst the next chapter (chapter seven) examines the institutional challenges of land use planning.

6.5 How Customary Land Tenure Systems impact on Land Use Planning Practices

Based on the themes which have been identified above, this section analyses and discusses empirical evidence from the field survey to address objective two which seeks to establish how exactly customary land tenure practices impact on land use planning. In this regard, analysis will focus on the four themes which have been identified above.

6.5.1 Land Title Security and Compliance with Land Use Planning Regulations

Title to land defines the extent and duration of interest one holds in land. Land title is secure when the landholder is confident that he/she will not be arbitrarily dispossessed of his/her land. It is the certainty that a person's rights to land will be recognized by others and protected by law in cases of specific challenges (Abdulai 2006; 2010). The issue of title security permeates every decision making sphere regarding land use. People with insecure tenure face the risk that their rights to land will be threatened by competing claims which may cause them to lose the rights and subsequently face eviction. Without security of tenure, households are significantly impaired in their ability to invest and improve their land (Bromley, 2008). It is therefore not surprising that, the subject has continuously attracted the attention of commentators, researchers and international development agencies (World Bank, 2003a; Bromley, 2008). When ones land is secure, it provides the needed incentives to invest and improve the subject parcel of land (Bromley, 2008; de Soto, 1989 & 2000). In line with this, several authors such as de Soto (2000) have argued that, the way of managing slums is by ensuring that slum dwellers are offered a secure title to the land on which their ramshackled dwelling units are situated.

It has been discussed earlier (in section 3.8) that land tenure in Ghana and other SSA countries are generally insecure. Some analysts (de Soto, 2000 and World Bank, 2006) blame the high incidence of land title insecurity to the low rate of formalised land rights. A critical and reflective review of literature (in section 3.8), however brought to the fore that formalised title in itself cannot claim victory over land rights which are not formalised because holders of formalised land rights are equally vulnerable and may lose their land rights through encroachment or civil litigation. Land title security in Ghana therefore largely remains elusive. Title insecurity generally arises from encroachment on existing developable land by counter claimants to the land which may result in civil litigation (Abdulai, 2006; 2010). Title insecurity may also arise from a situation where landholders allocate the same parcel of land to several prospective developers (Asiama, 2004). Each of these two causes of land title insecurity is examined below.

Encroachment and land title insecurity

Encroachment arises when people without the legal rights invade and settle on land belonging to another. Such invasion becomes a source of risk to the title security for the original owner. Ghana is a fast urbanising country with an estimated annual rate of urbanisation at 3.18 percent compared with the United Kingdom (0.17 percent) and United States of America where it is estimated at 1.2 percent (see DESA-UN, 2011). This phenomenal rate of urbanisation has not experienced a commensurate expansion in economic growth. This has in turn created high levels of urban poverty with an estimated 30 percent of the population surviving on less than $ 1.25 daily (Human Development Report [HDR], 2010). Access to land especially in the more urbanised areas is highly monetised. The supply of land is almost monopolised by traditional authorities in the face of exploding population and urbanisation. Predictably, land values continue to rise astronomically especially in the urban and peri-urban areas. The urban poor who are subsequently priced out of the land market resort to informal settlements for their housing needs. Such informal settlements are created by settling on previously unoccupied land and constructing makeshift structures for housing. This has been described as 'encroachment' (Asiama, 2004) and 'squatting' (de Soto, 2000). This, in almost all cases, occurs outside the realm of formal/state institutions.

In some instances, lands have been compulsorily acquired for the benefit of the entire country and these are known as state lands (see section 4.6.2). It has also been established that large areas of state lands have similarly suffered from massive encroachment by private developers (World Bank, 2003; Gough and Yankson 2000). Recently, state land with formalised title was allocated to the Judiciary Service for the development of court complex in Accra, which is the capital city of Ghana. Even with a powerful state institution like the Judiciary, some efforts were required in order to prevent encroachment (see plate 6.1 below).

Plate 6.1: Sign of Title Insecurity- the Judiciary warns encroachers to 'Keep off'

Source: Photograph by Author, Field Survey, 2010

So clearly, the threat of vacant lands being possessed by informal settlers is real regardless of whether the land is under customary tenure or state ownership. It is therefore not surprising that Otoo et al (2006) established that 60 percent of such informal settlers in Accra accessed lands through encroachment and squatting. Therefore, any developer who leaves his/her acquired land vacant faces a risk of encroachment by squatters and a potential lose of title to his/her land. Encroachment on vacant lands is therefore a major source of tenure insecurity in Ghana.

This trajectory of insecurity of title can be described as a natural symptom of the high level of poverty especially in the urban and urban fringes. Under certain circumstances however, insecurity of land title arises as a result of allocation of the same parcel of land to multiple developers.

Multiple allocation of the same parcel of land and land title security

When the same parcel of land is allocated by a legitimate owner to two or more prospective developers, the possibility that one developer may lose his/her land heightens. As it has been highlighted earlier, the principle of trusteeship has been diluted and maximising financial benefits from land transactions has become the driving force for making land management decisions by the customary landholders. It has subsequently become customary for some traditional landholders to allocate the same parcel of land to multiple prospective developers in an attempt to maximise revenue.

The issue of multiple sales is endemic in the land sector in Ghana. The large number of reported incidences of multiple sales of land means, a case by case appraisal is outside the scope of the study. Rather, a few high profile examples will suffice.

Minister bemoans multiple sale of land[15]

> "Sheikh Ibrahim C. Quaye, Greater Accra Regional Minister, has observed that the multiple sale of land to prospective buyers was not helping the cause of land administration. The effect of this is the negative impact on the socio-economic progress making it difficult for investors to locate the final authority in concessionary matters"

Another example of multiple sales reported in both print and the electronic media is summarised below.

15 Ghana news agency, 2007 Minister Bemoans Multiple Sale http://www.modernghana.com/news/140684/1/minister-bemoans-multiple-sale-of-land.html [accessed 18/03/2009]

Police Record 188 Land Cases

> "In April 2008, the "Ghanaian Times", a Ghanaian daily newspaper reported several incidents of fraud in land acquisition in Accra. A total of 188 land cases were filed at the Property Fraud Unit of the Police Criminal Investigation Department in Accra between January and March this year (2008). They are mostly cases concerning fraud and multiple sales of land. Assistant Commissioner of Police (ACP) Alex Amponsah-Asiamah in charge of the unit disclosed this to the Times yesterday (23rd April 2008). He said "every day, the unit receives complaints from either individuals, organisations or institutions in relation with land, adding that "such practices deter investors from doing business here."..... The Chief Registrar of the Land Title Registry, Mrs Rebecca Sittie, blamed multiple sales of land on some chiefs and family heads" (Tuffour, 2008, p. 1)

It is clear from the foregoing analysis and discussions that multiple sale and encroachment are rife in the land sector in Ghana. Planners and other land management experts who were engaged in the study were unanimous that in the face of land title insecurity, prospective developers, in most cases, opt to develop their land as a means of securing their land rights. In the process, there is little or no motivation on the part of prospective developers to observe existing planning regulations. In his response to the question 'do customary land tenure practices or the behaviour of customary landholders have any impact on the land use planning process', all respondents from the regional planning authorities in Ashanti Region responded in the affirmative. Respondent 15 from the Regional Lands Commission observed that:

> "Definitely yes! Our work will not be that difficult if the customary landholders are cooperative... As owners in charge of most land, their decisions go a long way to affect us [as planners] either directly or indirectly... When a chief sells land to three or four developers for example, you may think it is not your business but it is... At the end of the day, when chiefs are engaging in multiple sales, it triggers an unhealthy competition [among developers] ... At the peak of it, each developer tries to undo the other by building on the land... What happens at the end of the day? There is no regard for planning laws... and this goes on in all urban and peri urban areas"

Respondent 17 from Regional Office of the Town and Country Planning Department also corroborated this point by arguing that:

> "You do not need to be an expert in order to know that, laws on how customary lands should be managed are not working. For example the law frowns on issues such as trespass, encroachment and multiple sale of land which is effectively fraud. These are going on almost on daily basis but what do we see? The law lacks the power to bite. The law cannot protect citizens who even want to abide by the law... People generally want to develop first before acquiring permit... And in most cases, it is to protect their land"

Respondent 21 provided additional insight by arguing that:

> "If you want to protect your land, then you have to build immediately after obtaining your land before it is too late"

Again, responses from the Northern Regional Authorities also expressed the concerns: For example Respondent 23 from the Regional Coordinating Council noted that:

> "We receive reports from the local level [or districts] that people only make planning application when they are mid way or have even completed their building... If you ask them why they failed to apply for permit before developing their land, the response in almost all cases is that 'safety first'... we needed to protect our land first"

Respondent 25 also remarked that:

> "If we can ensure quality planning in Ghana, then the law should be hard on chiefs who are always selling the same land to so many people .... And causing these buyers not to observe the existing laws and plans because they fear the can be deprived off their land"

At the national level, the responses were no different from the observations made by various respondents at the regional level. The respondent 32 from the Lands Commission for example was of the view that:

> "If you think you are going to lose your land, then it is only a natural reaction that you protect it .....in most cases, they [developers] do [protect their land] by building [on it]..... As you can predict, not many of developers in such position go for any [planning] authorisation"

Respondent 37 from the National Development Planning Commission also argued that:

> "What may make someone to pay for thugs [which are popularly referred to as land guards] to protect their lands as they build? It is simple! If you are not careful, someone can easily take over a piece of plot you have genuinely paid for..... do you think that such a person will be prepared to go through the whole bureaucracies for obtaining a [planning] permit when the threat of losing his/her land is so imminent?"

In the view of Respondent 40:

> "People generally think that if the land is for you, then you should do something on it. Some place sign boards which often say keep off, this land is for this or that [see plate 6.1 above].... Others simply just go ahead to build.... no attention whatsoever is paid to the [planning] laws"

The emerging consensus from the various planners and other land management experts who were surveyed across Ashanti and Northern Regions as well as the National level is that when people fear that they may be unduly deprived off the land, they hurriedly build on the subject parcel of land and in the process, several developers fail to observe the existing planning regulations. To recap, the field work was conducted across four embedded case study areas (Kumasi, Ejisu-Juaben, Tamale and Savelugu-Nanton planning authorities). It is therefore instructive to drawn evidence from these areas to complement evidence from the regional and national levels as part of the efforts to establish the linkages between land title considerations and compliance with planning regulations.

Kumasi Metropolitan Planning Authority Area (KMA)

Section 4.12.1 has profiled the area under the jurisdiction of the Kumasi Metropolitan Authority. To recap, the population of Kumasi is growing at an estimated rate of 5.47 percent per annum. It is estimated that only 30 percent of the demand of housing stock is supplied annually (Ghanadistricts.com, 2010). Therefore, there is an acute deficit in terms of housing stock. As a result, encroachment on vacant lands for the purpose developing ramshackle and makeshift structures for the purpose of accommodation is almost a daily practice. Some recent developments are illustrative.

KMA Demolishes Illegal Structures on OKESS Land[16]

"The Kumasi Metropolitan Assembly (KMA) on Friday rallied to the aid of Osei Kyeretwie Senior High School (OKESS), pulling down illegal structures built on the school's land at Old-Tafo. About two-thirds of the school's land had virtually been seized by private estate developers.....Mr Samuel Sarpong, the Metropolitan Chief Executive, described the extent of encroachment as disturbing and intolerable. The exercise, he said, should send a powerful signal to all that the KMA would no longer sit down unconcerned and allow people to take over government lands with impunity. There should not be any illusion about the Assembly's resolve to get rid of all illegal structures and protect these lands from further encroachment. He said it was regrettable that previous warnings to the encroachers to stop their illegal activities were ignored"

Similar instance of encroachment has also been reported in Tafo, a suburb of Kumasi. Below are the details of this case:

Zongo Chiefs in Kumasi worried about Encroachment of Cemetery[17]

"Zongo communities in the Kumasi Metropolis have expressed dissatisfaction about the encroachment of a land earmarked for the burial of Muslims within the Tafo public cemetery. Addressing a news conference in Kumasi, attended by all the sectional chiefs in the communities on Monday, Chief Ahmed Ibrahim, President of Zongo chiefs in Kumasi, said construction work on the disputed piece of land had desecrated 73 graves.

He said the destruction of the cemetery, which was a sacred place for the dead, was unreligious because Islam forbids the tampering of tombs. Chief Ibrahim appealed to the Asantehene, Otumfuo Osei Tutu II, the Ashanti Regional Security Council and the KMA to stop the encroachment to avert bloodshed. Mr Joseph Frimpong, the caretaker of the cemetery had confirmed that an unknown land developer was encroaching upon the land, although he had not received any official notice. He said the KMA had instructed him to cause the arrest of anyone behind the encroachment. Mr Frimpong said the Tafohene, Nana Agyin Frimpong visited the cemetery and promised to report the matter to the Asantehene for the necessary action to be taken"

Besides the reported case of encroachment, there is high incidence of multiple land allocation by some customary landholders. A widely reported case is illustrative.

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[16]: Kumasi Metropolitan Assembly (2010) KMA demolishes illegal structures on OKESS land http://ghanaweb.com/GhanaHomePage//education/artikel.php?ID=177479 [accessed on 20/10/2010]

[17]: http://www.modernghana.com/news/71534/1/zongo-chiefs-in-kumasi-worried-about-encroachment-.html
[accessed 02/0/2011]

Otumfuor Destools Chief over multiple land sales[18]

> "In a landmark case at the Manhyia Palace in Kumasi on Monday, the Chief of Atwima, near Kumasi, Nana Kofi Agyei Bi III, was accused by 12 people, including the popular actor Adu Kofi, alias Agya Koo, of indulging in multiple land sales. The submissions of the plaintiffs were upheld after the deliberations, subsequent to which the Asantehene, Otumfuo Osei Tutu II, announced the Destoolment of Nana Agyei Bi.
>
> Agya Koo had told the meeting of the Kumasi Traditional Council (KTC) at the Manhyia Palace that he had bought four plots of land from Nana Agyei Bi for a hotel project, only to realise later that the land had been sold to other people. All the other victims who appeared before the KTC also made various allegations against Nana Agyei Bi, claiming that they had lost huge sums of money as a result of his actions"

Although these examples of encroachment and multiple allocation of land are in no way exhaustive, they nonetheless provide useful insights in terms of how insecure ones interest in land can be. In the face of rife encroachment and multiple allocation of land, prospective developers often tend to demonstrate physical possession as a means of securing their land rights. This situation has had adverse impact on the operation of the planning system. In Kumasi, Respondent 1 from the Town and Country Planning Department made this observation:

> "Land is very expensive now. It can cost anything from [£2,000] up to [£50,000]. So you see it is a lot of money... There are some people who specialise in fishing for bare land and taking over [its ownership]. They can be very lawless. So if you leave your land without close monitoring, events will take you by surprise..... people can erect kiosk and even tents overnight.... Eventually you [the original owner] can lose you land... As a precaution, people erect some structures right after acquiring land.... What concerns me is that in almost all cases, these people [who are developers] make no attempt to obtain [planning] permit"

In terms of the implication of multiple sale of land for planning compliance, the same respondent observed that:

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18 Daily Graphic, 2009 Otumfuor Destools Nana Agyei Bi III
http://www.graphicghana.com/news/page.php?news=5114[accessed 04/09/2010]

"…. [Most of] our chiefs [and other holders of customary lands] are not helping matters. How can you sell one plot [of land] to three or four people?... Because people are constantly afraid that their land may be sold again, the first thing that goes into their mind [after acquiring land] is to dig the foundation and get some quantity of sand and gravels [all in preparation towards commencing development]. Coming to us [for planning permission] is not their priority"

Respondent 2 from the Town and Country Planning Department also expressed similar sentiments:

"You will be surprised how people can trespass and actually settle on lands which belong to others. People think if you occupy someone's land continuously without any interruption, then you can acquire good title.... So if I think someone may squat on my land or it will be sold by a chief and cause me all manner of legal battles, then the best way to defend [one's land] is to attack.... And how do you attack? Surely, you attack by making your presence felt... It may be by raising a fence wall or digging foundation... I do not have problem with people trying to protect their land from encroachment... My concern is that under such circumstances going through the various processes for planning permission usually becomes a secondary matter"

When the customary landholders were interviewed, the responses corroborated with the observations made by officials from the TCPD. Respondent 3 from the Otumfour Land Secretariat categorically stated that:

"I will be lying if I say some chiefs are not involved in multiple land sales. But Otumfour [the overlord of Kumasi and the Ashanti Kingdom] has pledged to weed the bad nuts out and trust me, he will do it..... He has sent a strong message out by sacking a chief who misbehaved [by indulging in multiple sale of land. The case has been reported above].....it is the first..... But he has promised that it will not be the last. No chief will be spared is if caught [engaging in any malpractice]"

When he linked the practices of multiple sale of land to the poor state of planning practices, he argued that:

"People rush to build as soon as they acquire land. It is a bad thing to do... It is not helpful because in most cases people will breach the existing plans in favour of protecting their land.... as I said it is a bad practice although at times you may side with them. If I am torn between going through due process [of complying with planning regulations] and protecting my investment, then surely, I will play it safe with my investment. And I know this is the dilemma most [prospective] developers find themselves in"

Respondent 4 from the Otumfour Land Secretariat also observed that:

> "It is not a pleasant thing to lose a piece of land you have legitimately acquired... Some sub chiefs are unscrupulous and can easily sell the same land to two or three people... Otumfour's outfit is working on curbing this trend but definitely, it will take some time to totally eradicate it. If the sub chiefs do not even sell your land, somebody can easily build on your land... I know it is not a justification to disregard our planning laws but I think people generally rush to build in order to secure their land"

These observations in Kumasi were revealing and highlighted that when developers consider their land title to be unsafe, they in most cases develop on it as a means of enhancing land title security. In the process of wanting to develop quickly in order to protect their land, developers in almost all cases fail to comply with the existing planning regulations. The state of land title security and its subsequent impact on planning compliance by prospective developers is therefore consistent with the views which were expressed by respondents at the regional and national levels.

Ejisu-Juaben Municipal Planning Authority Area (EJMA)

Ejisu-Juaben is a fast peri-urban zone which lies 15km south of Kumasi. Ejisu-Juaben has an estimated population of 144,272 with a population density of 226 persons per km^2. Ejisu-Juaben is a fast urbanising commuter zone which is also currently under the pressure of demographic dynamics. This situation has provided a fertile ground for the chiefs and tribal elites to maximise revenue from land transactions, in line with the changing principle of land trusteeship. This development in the Ejisu-Juaben area has recently attracted some confrontation with the people.

> <u>People of Nobewam up in Arms Against Chief</u>[19]
>
> "Scores of people at Nobewam in the Ejisu-Juaben Municipality on Tuesday protested against the alleged indiscriminate sale of their lands by their chief and his failure to account for the proceeds. They accused Nana Adu Gyamfi of having sold a number of building plots to developers, including an area earmarked for a market

19 http://www.ghanamma.com/2010/11/18/people-of-nobewam-up-in-arms-against-chief/ [accessed 9/01/2011]

and the community teak plantation. Additionally, they alleged that the chief has leased land to a mining company and pocketed the money from the transaction.

Similar situation of abuse of trust by customary landholders has also been reported:

Concerned citizens of Kwamo petition Asantehene[20]

"Some concerned citizens of Kwamo in the Ejisu-Juaben District of Ashanti have petitioned the Asantehene, Otumfuo Osei Tutu II, to destool the Kwamohene, Nana Osei Amoako-Mensah II for.... embezzlement of stool land funds... They contended that part of the land in the town demarcated as a cemetery had been sold to people to build residential houses on it. "Nana Amoako-Mensah has also sold to private developers, a piece of land allocated and reserved for "Obrempong Tano, Asanie Kyere and Akonodi Shrines, whilst the land reserved alongside streams at Kwamo, especially Bodiwaa, Boadaa, Saman and Asuoadwoa, which flow through the Kwamo township have been sold to private developers who have virtually built in the beds of the stream". The petition said, though they had evidence that the chief has sold about 1000 plots of land for both residential and industrial use, funds accruing from the sale of these plots of land were yet to be committed into development projects.

These cases reveal that chiefs in the Ejisu-Juaben are also involved in improprieties in terms of land allocation. Together with this, there are also several reported cases of encroachment. A case which was recently published in the print and electronic media is illustrative.

From the foregoing, it is also clear that the twin influence of impropriety in land allocation by customary landholders and encroachment, land title security in the Ejisu-Juaben could easily be compromised if prospective developers fail to take appropriate steps. In all cases, developers attempt to secure their land by demonstrating physical possession of the land and this involves developing on it.

[20] http://www.modernghana.com/news/72597/1/concern-citizens-of-kwamo-petition-asantehene.html [accessed 9/01/2011]

Views of respondents from Ejisu-Juaben Planning Authority reinforced the earlier link that when developers fear that they may lose their land, they develop hurriedly and in most cases fail to comply with planning regulations. Respondent 5 from the Town and Country Planning Department in EJMA observed that:

> "Everybody is building here because Ejisu is almost part of Kumasi[21] now..... Not all those who are building have the [planning] permit to do so... If you buy the land and you do not take good care of it, then you can trust me, somebody can take it"

He further elaborated that:

> "In reality as soon as someone acquires a piece of land here, there is genuine concern that he can lose this land without any good reason ... We do our best to ensure that every development is in conformity with our broader spatial strategy... I must admit that we have not always been successful because some people can complete building within months... We may only find out after the building has been completed. If you contact such people [to establish why they failed to obtain planning approval before developing], the general response is that, we wanted to protect our lands first"

Respondent 6 also reinforced this observation:

> "In terms of ensuring that every building receives our approval even before they even commence, I must accept we [as the planning department] have not be on top of issues in most times.... People need to protect their land.... The speed with which these people develop is such that we can hardly keep pace with them"

Similar views were also expressed during the focused group discussion. Discussant 2 for instance argued that:

> "We will not live in self denial. Multiple sale of land is going on everywhere. The [paramount] chief has promised that he will punish all his sub chiefs who are found to be involved in any of such practice"

When Discussant 3 followed up on the above observation, he argued that:

[21]: Ejisu is about 15 km from Kumasi

> "People generally have low confidence in some of the chiefs... I think some of the fear is based on experience. There are instances where people have had their lands sold to others or have lost their lands as a result of litigation. I think this explains why the first thing people do is to erect pillars, foundations or fence walls when they buy their land... If there was no such fear, I think people would have been more patient to acquire [planning] permit before starting to develop"

Discussant 5 further lent credence to this linkage between title insecurity and non compliance with planning regulations by succinctly arguing that:

> "If you ask me how our land tenure [practices] affects the way we plan our towns, I think people believe they can lose their land because of the way the [land tenure] system operates... First things first....If you want to avoid any litigation, then you have to do something on your land to demonstrate that you are still the owner of it... It does not help our towns to grow well [referring to settlements growing according to plan]"

Evidence from both the urban (Kumasi) and peri urban (Ejisu-Juaben) settlements in southern Ghana as well as evidence from respondents from the Regional and National levels have mutually reinforced each other that there is a direct relationship between land title insecurity and non compliance with existing land use plans and other planning regulations.

Tamale Metropolitan Planning Authority Area (TMA)

A profile of the Tamale Metropolitan Area has been discussed in section 4.12.3. To recap, Tamale has a population density of 318.6 persons per square kilometre which is about 12 times higher than the Regional average density of 25.9 persons per square kilometre. As a fast urbanising settlement, the issues of encroachment and multiple sales of land are equally prevalent. A recent observation by the then outgoing regional minister of the Northern Region is ample evidence to these trends. In his address to the Regional House of Chiefs in February 2010, it was reported that Stephen Sumani Nayina[22], the then Regional Minister censured the traditional authorities for the way and manner in which they allocate land.

[22] http://allafrica.com/stories/201002040357.html [accessed 08/07/2011]

Nayina Condemns Northern Chiefs[23]

> "[The Regional Minister has] censured traditional authorities in Tamale for selling every piece of available land in their communities ... Some of the chiefs shamelessly do not only sell the lands, but engage in multiple sales, which also threaten the peace in Tamale. Addressing the Northern Regional House of Chiefs for the last time, Mr. Nayina said most credible investors had had their bad share of such selfish behaviours by those chiefs"

Perhaps the more vivid illustration of the issue of multiple land allocation was provided by the Duli La Na (a sub chief of Kpanvo area in Tamale) who opined that:

> "Some of the chiefs sell land to many people. I mean just the same land to so many people. Yes! It helps them to get rich quick but what happens to those who buy the land? ..... What is the meaning of being rich without integrity?"

He further noted that:

> "As traditional leaders, our actions should be for the benefit of everyone. Even for our future generation. But what do you see? Every land in our towns and cities has been sold... some lands have even been sold twice or thrice, if not more. You asked me if the behaviour of some customary landholder affect planning [of our towns]. Yes, it does!... If some chiefs are themselves lawless, how can they expect their subjects to be good citizens?... If a chief engages in multiple sales, how can he intervene when these same people [he allocated the land to] are not observing planning procedures because they want to prevent their lands from being sold again... It is as simple as that"

Respondent 10, another chief in Tamale was also not impressed with the behaviour of some of developers in his area:

> "At times, people question our relevance [as chiefs] because some of us are even more indiscipline than the people we seek to guide... We are expected to partner with town planning so that we can have nice places to live but that is not what we do... Not just that but we also draw them back [referring TCPD and the discharge of their mandate]... Why am I saying this? As a chief, I know what is going on with the way we sell lands... It is no secret that one parcel of land can be given [allocated/sold] to so many people.... The last time I met with the planning people,

[23] It was identified in section 4.11.13 that the tindaana or the earth priest were responsible for making land allocation decisions. The study has however established that the land management powers of the earth priets have been usurped by the chiefs unto themselves. Chiefs in the north are therefore responsible for making land management decision. This is similar to the arrangement in the southern part of Ghana

> they told me that this situation [of multiple allocation of the same parcel] does not help planning and I perfectively agree with them"

It was therefore not surprising when Respondent 7 from the Town and Country Planning Department conceded that:

> "We are having the challenge of ensuring that people comply [with existing planning regulation]. People are always developing ahead of us [as planning authority]... Some people who develop in a hurry do so in good faith... In this part of our country where there is problem with law enforcement, it is common for some people to misbehave [referring to non compliance to planning regulations]... I know some people swiftly build on our blind side when they buy their land... In all fairness, we know that some activities [such as building foundation or raising foundation] on your land are needed if you do not want your land to be the subject of a protracted litigation... I think there is this conception or should.... I say misconception that you have to secure your land first before any other thing [including observing existing planning regulations]"

In responding to the question 'in what ways do customary land tenure practices affect how towns and cities are planned' Respondent 8 from the same department was also of the view that:

> "I do not think anybody will be pleased with the way things happen [in terms of how planning guides development]. People build haphazardly. If you go to areas such as Bupiela, Nyani-Fong, Sabon-Gida, Dabokpa, Tutingli, Dohinayili, Changli, Gumbihini, Choggo-Manayili, Moshie zongo, Tishigu, Nyohini and Sanerigu [these are all areas around the periphery of Tamale], what is going on is an eyesore. We [as planning authority] have not been able to control these developments because, the pace at which people develop is so fast that it becomes difficult to cope with... Why will people want to build in a haphazard way and without even bordering to follow due procedure [which is obtaining planning permission?]... Generally, if I am sure that my land is safe, then I will not be in a rush to build. I wouldn't mind waiting to obtain my [planning] permit... but if I think otherwise, then protecting the land becomes a priority... I think this also accounts for the people not being responsive to what we do [as town and country planning department]"

Basing on the foregoing, it is clear that both officials from TCPD and the customary landholder in Tamale are unanimous that non compliance of planning regulations is significantly influenced by developers' perception that they may lose their land in case they do not expedite development of their land.

Savelugu-Nanton Planning Authority

The Savelugu-Nanton District is a dominantly rural authority close to Tamale. The area is currently experiencing increasing demand for land for light industrial and residential uses (see section 4.12.4). In Savelugu-Nanton, the views and observations made by officials from the TCPD and the customary landholders largely resonated with the early views of the earlier respondents.

Respondent 11 for example re-echoed the earlier views:

> "In some areas, it has almost become acceptable to build once you have the ability. Whether the land is for you or not is not important.....People do not have any good ownership standing on the land they occupy. They just moved on it when it was left bare for long time'... In some instances, they [the encroachers] arm themselves or engage thugs [better known as land guards]. ..... So you see, even if you have duly acquired your land, you may still have some problems. So what do people usually do? They sometimes plant trees but in most cases, these trees are chopped down by other people who will then go ahead to build on the land. So what has become popular is that you start building as soon as you finalise your land purchase"

The traditional authorities also admitted that insecurity of tenure which results from multiple sales of land and encroachment is a contributory factor for non-compliance. The view of Respondent 13 from the customary landholders reinforces this position:

> "In some areas, some of those who are put in charge of taking care of the land only end up creating more troubles..... They supervise corrupt practices including given out [the same piece of] land to different people. At times, I feel ashamed to be a chief.... We do not help the law to take its own course... The law is there to ensure that we do not do things anyhow. If you want to build your house, it is a good thing but it should be done within the law. You have to get [planning] permit. We all know this... So as a chief, if you are known for selling land to several people then is a problem... It may not prevent people from coming to acquire land from you... But you have to think ahead... By selling land to several people, you cause people to also act lawlessly... Beside everything, if people know that they may lose their land, then nobody will be prepared to throw his [or her] money down the drain... Let us be honest, what does a permit do for you? If the law cannot make your land safe, then people will also not be motivated to wait and obtain planning permit before they build"

Another customary landholder who was interviewed also confirmed the state of affairs:

> "We cannot blame the town planning alone... We have to also be frank with ourselves and ... We [as customary landholders] are part of the problem.... When we engage in multiple land allocation what we are indirectly saying is that there should fight among themselves and see who can win"

He further elaborated that:

> "When you have to compete with someone, the last thing you want is distraction... Let us be frank if you want to build your house going through the long process of permit can be a distraction... So you see... If people are following plans, then we are part of it"

So clearly, the fact that land title insecurity pushes developers to develop without observing planning regulations is a common factor across all the embedded case study areas.

Earlier on in section 5.3.5, the argument by Cohen and Manion (2000) that attempts to map out, or explain more fully, the richness and complexity of human behaviour is effectively achieved by studying it from more than one standpoint, along the quantitative and qualitative continuum was found to be plausible. This call has also been supported by other research methodologists such as Grix (2004) Creswell (2003) and Robson (2002) who are of the view that, where appropriate, it is generally a good idea to use more than one method of enquiry to improve the chances of getting better, more reliable data and to minimise the chances of bias findings. In line with this, structured questionnaires were administered to private property developers as part of efforts to ascertain the exact linkage between land title security and compliance with planning regulations by developers. Responses from the survey of private property developers are analysed and discussed below.

Among other things, the quantitative data aimed at exploring the following questions:

i. At what stage in the development process do developers usually obtain planning permission?

ii. Does the possibility of losing one's land influence the time one applies for planning permit?

To recap, 200 structured questionnaires were administered to private property developers in the four embedded case study areas. The response to the question 'at what stage in the development processes do developers usually obtain planning permission' is summarised in the table below.

Table 6.1: Stage at which developers obtained planning permission

	Frequency	Percentage
Missing	2	1.0
Before development commenced	39	19.5
Obtained it immediately after starting development	30	15.0
Obtained it immediately after starting development	42	21.0
Developed to a substantial level before applying for permit	39	19.5
Applied after been asked to 'Stop Work, Produce Permit'	32	16.0
Applied after development was completed	16	8.0
Total	200	

Source: Computation based on field data, 2010

From the table above, only 39 out of the 200 respondents (19.5 percent) obtained planning permission before starting to develop on their land. A significant 79.5 percent (note: 1 percent missing) of all developers surveyed admitted that they obtained planning in retrospect. This further reinforces all the qualitative responses that applying for planning permission prior to development is not a priority for several developers.

The qualitative responses were replete with claims that developers' perception of title insecurity contribute to non-compliance with planning regulations. Responses from the private property developers (which have been summarised in the table below) are largely consistent with the qualitative evidence.

Table 6.2: Developers perception of their land title security and its influence on when they commenced development

Did the possibility of losing your land influence when you applied for planning permission?	Frequency	Cumulative Percent
Missing	3	1.5
Yes	164	82.0
No	26	13.0
Not Sure	7	3.5
Total	200	100

Source: Computation based on field data, 2010

A very significant number of developers (164 out of 200 or 82 percent) indicated that the possibility of losing their land was influenced when they applied for planning permission. By linking table 6.1 and 6.2, it is tempting to conclude that developers generally acquire planning permission in retrospect as a result of title security considerations. Making such claims about the relationship between two variables however requires a more robustinferential statistical analysis (Creswell, 2003).

Accordingly, the Pearson Chi Square is employed to evaluate the nature of relationship between 'when developers acquire planning permit' and 'security of tenure'. The results are summarised in the table below

Table 6.3: Cross tabulation of Stage at which developer applied for planning permit and security of tenure.

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	27.955a	15	.022
Likelihood Ratio	25.239	15	.047
N of Valid Cases	200		

a. 16 cells (66.7%) have expected count less than 5. The minimum expected count is .03.

Source: Computation based on field data, 2010

From the table above, a cross tabulation between the two variables (stage at which developers apply for planning permit and security of tenure) yielded the result (x^2=27.955; p=0.022). The computed value of Chi Square (27.955) has a significant value (p-value) of 0.022. The p-value of 0.022 is significantly lower than the critical value of 0.05 ($p<0.05$). This is a statistically significant value and it further confirms that there is a strong linkage between developers' perception of their title security and when they apply for planning permission. Developers' who consider their title to be insecure are likely to develop without obtaining planning approval. Effectively, the inability of customary land tenure practices to guarantee land title security contributes to non-compliance with planning regulations and accordingly contributes to the poor state of the planning system.

The foregoing discussions have explored the nature of relationship between title security and planning compliance. It has been established that title insecurity contributes to non compliance of planning regulations and accordingly throws the planning system off gear. However, focusing solely on this would lead to a risk of overlooking other important aspects of customary land tenure, such as the situation where landholders unilaterally prepare plans for their respective areas.

6.5.2 Unilateral Plan Preparation by Customary Landholders and Implications for Planning Practices

As it has already been highlighted (in section 4.10.4.2), the various local planning authorities are confronted with institutional challenges such as political interference, inadequate funding, human resource capacity and planning laws which are generally not reflective of the contemporary socio-cultural demands. The collective effect of all these constraints is that, the designated planning authorities are considerably impaired in the discharge of their stated duties. As a result, the mandate to prepare plan, for guiding growing settlements is often discharged ineffectively or left unattended.

As a result of the general inefficiencies associated with the planning authorities, chiefs and other customary landholders are now organising themselves to prepare land use plans for their respective areas. Customary landholders are major stakeholders in land management. Therefore, attempts from their side, which are meant to complement the effort of the planning authorities, for the purposes of effectively managing their respective areas should have been seen as commendable. However, what makes this emerging trend problematic is that chiefs are not complementing the efforts of the local planning authorities. Rather, they are usurping the powers of the statutory planning authorities by unilaterally preparing land use plans to guide the expansion of their areas.

What has helped to embolden chiefs and customary landholders to intervene in planning is derived from the structure of land ownership in Ghana, where an estimated 80 percent of all land is under the responsibility of chiefs in their capacity as trustees. As trustees, chiefs are expected to manage all land in their jurisdiction within the framework of sustainable development. However, under the current dispensation where the concept of trusteeship is being re-defined to suit the parochial interest of some chiefs and a few tribal elites, the issue of managing land in a sustainable way is giving way to maximising financial returns. Therefore, when customary landholders unilaterally prepare land use plans, the core motive is often to enhance revenue as much plots as possible and not necessarily to facilitate the growth of human resource on planned and sustainable basis. Some challenges arise when chiefs take the unilateral initiative to plan for their respective areas. For

example when customary landholders take the initiative to plan, the unintended outcome is that, the whole planning process is segregated along the boundaries of the land owning groups. This is because there may be two or three paramount chiefs as well as several sub chiefs within a single planning authority. This in turn creates several 'plans' within the same planning authority along the lines of the chieftaincy boundaries.

Furthermore, the shortage of qualified planners means chiefs rely on self styled or quack 'planners' and 'surveyors' who often lack the basic knowledge and expertise to formulate plans. Planners are trained and certified by the appropriate professional institutions to ensure that they possess the requisite skills to appreciate the complexities of spatial governance. To become a planner in Ghana for example, one needs four years training in approved planning programme run at the Kwame Nkrumah University of Science and Technology and two years of practical work before he, or she, is admitted as a certified planner. When customary landholders take up the responsibility to prepare plans for their respective areas, they resort to untrained/unqualified personnel to carry out the task of planning. The acute shortage of planners in Ghana (see section 4.7.4.2.3) may help to explain this trend. The practice of engaging unqualified personnel to plan for areas brings with it difficulties.

Therefore in the view of respondent 16 from the Ashanti Regional Town and Country Planning Department the engagement of unqualified planners by chiefs is doing more harm than good:

> "In most cases, we go there [referring to the communities where plans are to be prepared] late and almost always we are confronted with some mess - [that is] no access roads, no parks and no hospital, nothing! This is what our chiefs contract people to do... So clearly it becomes more difficult to make plan because you have to correct the existing errors committed by the so called surveyors"

Respondent 17 from the Regional Coordinating Council in similar way concluded that:

> "Our laws [relating to planning] are too relaxed. It is a criminal offence to pose as a medical doctor if you are not and people are punished for this. Yet there is nothing wrong when people parade themselves as planners and go ahead to distort our towns and cities. Until we filter these people and the chiefs who employ them out of the system, we will continue to have this confusion in terms of planning"

Additionally, respondent 18 also asked that:

> "Why should I be surprised about the extent of haphazard development in our cities when the landholders feel more comfortable dealing with riff-raff [when trying to plan for their areas] because of their selfish motives?"

Further views expressed by respondents drawing from the Lands Commission, the Regional division of the Ghana Land Administration Project and the Regional Coordinating Council in the Ashanti Region reinforced each other. The central idea that was conveyed in the responses of respondents from these state institutions was perhaps better captured by respondent 22 when she offered that:

> "The constant presence of unprofessional [people] in our land dealings draws us back in terms of forward planning... The worrying issue is that the services of all these fake planners are contracted by the landholders who should know better"

In the northern part of Ghana, the Regional Planning Authorities also expressed concerned about the customary landholders taking the lead role in land use planning. For example respondent 24 from the regional Town and Country Planning Department observed that:

> "One thing which we need to drum home to the [customary] landholders is that, ownership of land does not automatically mean you can utilise the land in anyway... They may own their land but it is absolutely unacceptable for them to assume the position of dictating how land uses should be organised. They do not have the right. What is even more unacceptable is that in most cases, they employ people who have no clue about planning and land matters... And they don't even see the need to contact the district people [planners at the local level]. So at the end of the day, things are done anyhow".

In examining the implications of chiefs' unilateral initiatives to plan for their areas, Respondent 25 was of the view that:

> "If they were consulting people with the right calibre, then that would have been fine because it would have taken off some of our burden. But what do we see? They employ anybody at all they come across. The outcome has been very bad although we are praying the trend will change with time"

Respondent 29 also noted that:

> "Survey and planning are more than just demarcating areas.....but once you can do this, you are sought after by most of the chiefs. It is not only in the northern region. It is a national disease and the evidence is all there for us to see"

Other respondents from the regional planning directorate also expressed sentiments which resonated with these observations. The central idea of all the views expressed was perhaps best captured in the words of respondent 30 who opined that:

> "In all fairness, land use planning has greatly suffered in Ghana and this is partly due to our chiefs who always want to go ahead of the planning process and in so doing causes all sorts of problems for us"

From the foregoing analysis and discussions, it is clear that there is consensus among the Regional Planning and land management officials in both the northern and southern parts of Ghana that the role of chiefs in the preparation of land use plans has generally been detrimental. Views from land management officials at the national level were also consistent with those of the respondents at the local and regional levels.

Respondent 32 from the National Development Planning Commission looked at the infiltration of unprofessional planners in the land sector from a broader angle:

> "As a country, we have been indifferent to the idea of planning and this has even affected our educational system. Our universities are not even training the needed manpower..... There is a void and naturally all sort of characters are filling it"

There, respondent 33 from the Lands Commission was not surprised at the turn of events:

> "The operation of unqualified personnel [in land management] is a national issue.....The infiltration of unprofessional personnel into the land management has taken a more dangerous twist with the engagement of armed land guards to provide security for the chiefs and all involved during the planning, allocation and development of the land... yes we have the backing of the law but under such condition [threat of attack by land guards], it becomes dangerous to execute your mandate. Even when Town and Country Planning Department can handle the planning demands, some chiefs still prefer to deal with the unprofessional people because it gives them the freedom to sell as many plots [of lands] as possible"

The position of respondent 37 from the Town and Country Planning Department was not any different:

> "We need to win the chiefs to our side. In this case they may be more comfortable coming to us rather than resorting to lay people for their base maps and plans... No matter how hard they try, they cannot effectively do the work when they have not received proper training on... So if people without any meaningful training are increasingly encroaching on the planning profession, it should raise a lot of concern especially since they are more of liability and do a disservice to us all"

Respondent 38 in a similar vein argued that:

> "Once you appropriate the powers to prepare plans to the chiefs, the logic is that these chiefs should be in the position to issue planning permit. But clearly, planning permit is the reserve for the local planning authorities. So you see the disconnection?"

He further noted that:

> "In any case, what are we even referring to as plan prepared by chiefs? Have you had the opportunity to witness one for yourself? It is not something you would want to call a plan. What they do is that, they tell a supposed surveyor that they want for example x number of building plots in every acre of land. So what the so called surveyors do is to demarcate the land to get x plots in every acre. That is all about it. There are no meaningful ingredients of planning in there. So clearly, despite our inefficiencies [as the mandated planning institution], the chiefs are in no way the solution"

Respondent 41 was also of the view that:

> "If chiefs are solely motivated by helping to plan for their areas, why are they not always working with the planners for their areas? Let us face it! Chiefs are always looking for the opportunity to sell lands and pocket [keep] the proceeds. How can anyone convince me that chiefs have helped in the ways our towns and cities are planned?"

From the forgoing discussion, it is clear that in the view of planers and other land management professionals, the customary land tenure inhibits the planning process because customary landholders unilaterally prepare land use plans by engaging the services of unqualified people. It is however important to hear the side of the customary landholders in order to obtain a more accurate picture of the state of affairs.

Almost all chiefs and customary landholders who were engaged across the four embedded case study areas were of the opinion that, they have the primary responsibility to manage their lands and that preparing land use plans falls within their mandate. Therefore, when they employ people to help them in surveying and planning for their areas, it is only a 'response to a duty call' as one respondent puts it. As respondent 3 from the Otumfour Land Secretariat in Kumasi noted:

> "The land is ours and the government only helps us to plan for its use. If they [the state institutions] are unable to do the planning, we cannot look unconcerned. We have to step in and find possible ways of dealing with the growing human settlement"

Again in Kumasi, Respondent 4 from the Otumfour Land Secretariat expressed similar view:

> "Nananom [chiefs] are the owners of the lands, not the town and country planning people. They [referring to the planning officials] are here because of the government and they can be transferred anytime. Have you heard of any chief been transferred before?... No! That can never happen. That is why we do not have to fold our arms and wait for the planning people... The planner or the people at Lands Commission may not even be natives of Kumasi. So you see, Nananom have much more interest in planning and managing the lands for our benefit and even for the benefit of our grand children's children... That is why Nananom spend more to prepare plans because the government will never prepare it for you"

In Ejisu, similar view was held by the customary landholders. This was evidenced when Discussant 3 argued that:

> "The fact that there is the government does not preclude us [as the overseers of the land] from taking actions [to make a plan for our area] when the government fails...We have the right to secure the interest of our people and we will not stop even if it calls for paying for people to prepare maps and plans for us... If we don't do it, nobody will do it for us. It is our duty"

Discussant 4 also claimed that nothing prevents the customary landholders from preparing land use plans for their respective areas because:

> "We have been placed in charge of taking care of the lands our ancestors bequeathed to us... Do you think preparing a plan for your land is part of its management? I think so... I therefore think there is nothing wrong with taking steps to do something you have the mandate to do especially when the state is continuously neglecting its role"

In the northern region too, customary landholders who were interviewed also argued that it was within their power to facilitate the preparation of land use plans for the various areas under their control. The views of the two traditional authorities who were interviewed in Tamale also resonated with this thinking. Respondent 9 for example argued that:

> "There is no point for a chief to commit resources into preparing a plan if the Government was dependable. .... We make the effort since the government, in most cases, cannot do it."

Similarly, respondent 10 was also of the view that:

> "Long before planning became law and a state programme, the traditional authorities were putting measures in place to ensure that there were order and decency in our towns and cities... So if any chief prepares a plan, he is only acting in line with his duty"

In the rural area of Savelugu-Nanton, respondent 13 noted that:

> "It is expensive to pay for the preparation of plans... But if you manage to do it, the people become confident to buy land from you.... If I had the means to prepare

> plans, then why not? Nothing prevents me from taking steps to perform my customary duty I have sworn an oath to discharge"

The view of respondent 14 was no different as he also observed that:

> "As an elder [under customary arrangement], I am responsible for this community [referring to Savelugu]... I have to work with others to ensure that everything goes on well... If that means working to prepare base maps or plans, then I do not see anything wrong with it"

From the ongoing discussion, it could be observed that as trustees of their respective lands, chiefs and other customary landholders consider themselves as having the legitimacy to organise the preparation of plans. To them, the government who is expected to prepare land use plan for the various areas is handicapped and therefore unable to discharge its mandate effectively. Therefore, since the state has failed to deliver its duty, customary landholders see themselves as being responsible for carrying out the planning functions. This is despite the fact that section 46 of the Local Government Act, 1993 (Act 462) designates the district, municipal and district authorities as agencies responsible for planning at the local level. So how has the situation where customary landholders unilaterally prepare land use plans impacted on land use planning practices across the four embedded case study areas? The ensuing analysis draws from evidence from Kumasi, Ejisu-Juaben, Tamale and Savelugu-Nanton planning authorities.

Kumasi Metropolitan Planning Authority Area

Kumasi is urbanising rapidly. Predictably, the peri-urban areas are under immense demographic pressure which leads to conversion of agricultural uses to property development. At the time of the field survey, there were only three professional planners who are responsible for the Kumasi Metropolitan Planning Authority Area which has an estimated population of about 1.7 million people. Effectively, each planner is responsible for over 560,000 people. Coupled with the fact that there is minimal application of improved technology in the planning process, planners have largely not been able to shape the expansion of the area. Therefore in the urban fringes, the customary landholders have effectively taken over the planning responsibilities. They prepare plans which hardly

exhibit any signs of a meaningful planning. This was re-echoed by respondent 1 from the Town and Country Planning Department in Kumasi:

> "When you go to some places the chiefs will tell you that a plan has been made for his area. If you examine it properly, you will find that all the area has been parcelled for development- no greenery sites, no open space, no school ... do you think I will do this shoddy job?"

Respondent 2 from the Town and Country Planning Department in Kumasi also recounted that:

> "There is concrete everywhere! No open spaces and playgrounds are considered in these areas [where the plans were formulated by unprofessional people] because they will say it will not bring money. People do not even bother to allocate land for roads ... There are even instances where some roads end up in peoples' houses... There are no standards whatsoever in what these [unprofessional planners] are doing... All they are concerned about is helping the chiefs to parcel out land for sale... If you move towards the outskirts [of the city of Kumasi], this is what you are most likely to be confronted with."

In illustrating his claims, respondent 2 further provided some examples to reinforce his claims. He cited areas such as Anwomaso, Pakuso, Apradi and Duase (which are located in the urban fringe of Kumasi) as being the worst affected areas in terms of the way and manner attempts by chiefs to plan for their areas have distorted the growth of human.

Ejisu-Juaben Municipal Planning Authority Area

Ejisu-Juaben Municipal area lies within the commuter zone of Kumasi and therefore largely a peri-urban area. As a peri-urban zone, there is development pressures and there is therefore increased in the demand of planning services to help plan and order human settlements. Beside the demographic pressures within the Ejisu and Juaben areas, the Ejisu- Juaben Municipal Planning Authority is responsible for providing planning services to 3 adjoining local authorities which do not have resident professional planners. The two planners in Ejisu-Juaben Planning Authority area therefore responsible for over 600,000 who are distributed across an estimated area of 4,000km^2. As a result of these conditions, the ability of planners to exert their professional influence on the growth and functioning

of towns within the area has remained marginal. As a result, chiefs and customary landholders in these areas are attempting to fill this deficit in planning. However, like the situation in Kumasi, the chiefs, in their attempt to fill the gap in planning delivery contract self styled planners and surveyors. The Ejisu-Juaben Planning Authority has therefore had it fair share of the unilateral preparation of land use plans by customary landholders.

Owning to the fact that chiefs engage the services of unqualified personnel for preparing land use plans, respondent 5 from Ejisu-Juaben was not impressed. He cited some examples to illustrate his concerns:

> "These chiefs do not bother about the calibre of people they employ to prepare their maps and plans... You know we are not developed enough to have toilet in every house so we build public toilets to help those who cannot afford to build their personal ones... But there is one settlement with about 600 houses and about 1,000 households. Unfortunately, there is no available land for constructing public toilet."

He further observed that since each chief attempts to prepare their own plans, the issue of coordination among the various chiefs has proved problematic:

> "I personally have a lot [of work] at hand. If you look up, there is Ejisu and Juaben [traditional authorities]. Then if you take Ejisu [traditional area] there are several sub chiefs. Juaben also has several of these sub chiefs. So you have to make plans for areas under the direct control of each of the paramount chiefs. Based on this, then plans for the other area could be obtained. Since things [the planning process] do not move as fast as some of the chiefs want, they turn to all sorts of things just for the purpose of facilitating the sale of land... We cannot stop these chiefs so what we do is to try and coordinate what they do in order to bring some order in their activities. But to be honest we have not been very successful in this direction. So at the end of the day you clearly see that, there is no coordination... If you go to Hwereso and Kubease [these are adjoining village near Ejisu] something is going on there and I am doing my best to avert it... [A leading telecommunication company] has acquired a land for its mast from the Hwereso chief... but the land is very close to the area which has been allocated for a primary school in Kubease. And we all know the potential risks of emissions from these telephone masts. If we are not careful, it is going to cause a whole lot of health risk for our children... You see these things can go wrong when people pretend to have the skill [to prepare plans]"

Respondent 6 was equally less enthused by the practices where chiefs take the initiatives to plan for their areas.

> "No matter what any chief says about wanting to prepare a plan, let us face it. The ultimate goal is to sell lands. It is their only motivation. If you speak to any chief, he will tell you all the nice intentions but in reality, they want to make money. That is why they will make little or no allocation for open spaces, parks or even sanitary areas when they attempt to initiate their own plans. It is not a good idea for chiefs to take the active role of planners. It only compounds the problems they seek to address."

Like the views expressed by respondents from the regional and national levels, planning officials who were interviewed in the embedded case study areas in the southern parts of Ghana were convinced that when chiefs take the leading role in town and country planning, the results are generally not beneficial to the planning process. The common concern was that chiefs are generally motivated by the financial considerations and this often drives them to allocate parcels of land to developers without any considerations for ancillary land uses such as open spaces, play grounds, market, and sanitary areas, among others.

Tamale Metropolitan Planning Authority Area

The Tamale metropolitan area is the only settlement in the Northern Region of Ghana which is dominantly urban. The population density of 318.6 persons per square kilometres for the metropolis is about 12 times higher than the regional average density of 25.9 persons per square kilometres. Therefore, there is an urgent need to plan and implement the content of land use plans to guide the growth of settlement in the area. However, like the situation in Kumasi and Ejisu-Juaben, the institution for land use planning in Tamale is ill-equipped to deliver its planning mandates. Accordingly, the chiefs and customary landholders have responded by organising the preparation of some forms of plan to aid in land allocation for their respective areas. In the view of respondent 7, 'this issue only makes the already bad situation worse'. Respondent 7 (from the Town and Country Planning Department) in detailing out his observation expressed that:

> "If we are not careful, a time will come where it will not be practical to prepare and implement sound planning schemes without having to demolish some towns

first. Why I am saying this? When they [referring to the self styled planners] are contracted by chiefs, they only end up distorting the [fast urbanising] areas with their bogus.... I don't even want to call them plans... It is very irritating to note that chiefs can actually link up with such crooks to the detriment of the whole society"

He stressed that:

> "I hate to admit but they [the unqualified practitioners] are part of the system. They are cheap [in terms of what is paid for their services] so the chiefs use them. But we all know the problems they are creating for us"

In similar vein, respondent 8 was less impressed with the roles of chiefs in the planning process especially since:

> "They connive with all sorts of people with the view of perpetuating the interest of the chiefs. They sell every inch of land to developers and they spend the proceeds on themselves. Their actions do not benefit the people they are supposed to serve... On top of it they damage the environment since they even sell land along the banks of rivers to developers."

In illustrating his concerns, he pointed to some areas in the Tamale metropolis which are currently under siege by the activities of self styled surveyors and planners who are distorting the fringes of the city. According to respondent 8:

> "If we go to Lamashegu/Lamakara Village and Kanvilli you will feel sorry. You cannot even drive through the area because almost all lands for roads have been parcelled and sold to developers. In the next 10-15 years, children in these areas will have to trek for several miles to get to school because there is no area to even build schools.... People don't see it in this way but that is the reality. When people are selling land, they only think of what they will get now and no the future... But I don't see the end in sight because those funny characters [referring to the unprofessional planners] are all over the place and as it stands, they are set to go ahead of us especially in the outskirt"

These concerns and observations by key stakeholders in the Tamale metropolitan area were therefore unanimous that when customary landholders take the lead to prepare land use plans, they do so with unauthorised personnel and in the process create sub standard and defective plans which effectively become the basis for guiding human settlement growth. Additional evidence from the Savelugu-Nanton planning authority area is further revealing of the challenges for the planning process which is rooted in the practices where customary landholders take the initiatives to plan for their areas.

Savelugu-Nanton Planning Authority Area

Savelugu, the capital of the district lies about 15km north of Tamale and its airport. As a result of its proximity to Tamale and the airport some of the effects of urbanization can be observed although the district largely remains a rural one. In Savelugu-Nanton planning authority covers a relatively large expanse and contains several settlements sparsely doted across.

Some of the main towns in the district include Savelugu, Nanton, Tampion, Zion and Tarikpaa among others. The district has only one professional planner who has only been at posted since 2008. Prior to this, the district had no planner although those in Tamale were expected to exercise some form of oversight responsibility over the aera. Under such circumstances, it was predictable that planning could not effectively exert its prescriptive influence on the growth of human settlements in the district. The resultant effect was that, like other areas, chiefs who double as land trustees for their respective areas have stepped in to help in the planning of their respective areas, albeit with some undesired consequences.

Respondent 11 for example noted that:

> "People, especially our chiefs think anybody at all can make a plan so they just go ahead with it... As a department, we are not able to complain too much since the invasion of all kinds of people into our profession is a bad image for us and it only shows we are not up to the task... These people [the unprofessional people masquerading as planners] make things more difficult since by the time we get there, things would have already been messed up... This is happening because we have not lived up to expectations as planners and the result has not been encouraging... It is never a good idea to relinquish your official duties and expect chiefs and other people to do it for you in the same way that you would have done it. It does not work in that way... We [as planners] should backup"

In the Savelugu-Nanton planning authority, there are areas like Tampion, Nanton, Savelugu, Pong, Diare among others. Each of these towns has traditional leaders who are, to varying degrees, attempting to order the spatial growth in their respective area. Respondent 12 further lamented that:

> "Before I assumed my position as the district planner in 2008, the district had no officer. The officers at the [northern] regional and [Tamale] metropolitan offices exercised some oversight roles in ensuring that the area [Savelugu-Nanton District] would at least have some technical guidance [for its spatial growth]. But you know under such circumstances, you cannot maintain effective presence and the land owners do their own thing. It becomes like a football match without a referee. At the end of the day there is no harmony"

In confirming the earlier positions, Respondent 12 referred to some local examples to buttress his position that the connivance of chiefs and unprofessional planners has been detrimental to genuine efforts at land use planning.

> "In areas like Savelugu, Nanton, Zion and Tampion, we are doing our best but in the other areas, chiefs employ people who we are not even sure of their knowhow and they do their own thing... Their output is not always the best but the chiefs say in the absence of anything, bad is good"

Is a "bad plan" acceptable for mediating spatial growth? Definitely, this cannot be appropriate. However, since customary landholders connive to prepare land use plans with unprofessional planners and surveyors, several settlements are growing based on badly prepared plans. Besides this practice by customary landholders, the study also established that, some cases where duly prepared land use plans by the authorised planning authorities, some customary landholders still alter these properly prepared plans and eventually throws the plan out of gear. This issue is examined below.

6.5.3 Unilateral Plan Alteration by Customary Landholders

In the face of all the challenges, which are: inadequate funding and human resources, weak legislative and institutions, some planning authorities are able to formulate plans to regulate the pattern of spatial growth for areas under their jurisdictions. In the plan formulating process, local planning authorities are mandated to 'conduct public hearing on any proposed district development plan and shall consider the views expressed at the

hearing before adoption of the proposed district development plan' [Section 3 (1) of the Act 480]'

When plans are adopted and approved, they become legally enforceable document. All development rights incidental within the planning area are accordingly nationalised and vested in the respective planning authority. These rights are subsequently granted to prospective developers through the issuance of planning and development permits by the designated planning authority. Of paramount interest to this study is the fact that in all these processes, the right of the customary landholders to own and manage the land on which the plan is to be implemented remains intact.

Ghana's model of planning continues to bear striking semblance with the logic that was espoused by the colonial authority. A major characteristic is the watertight compartmentalisation of land uses through zoning ordinance (see Njoh, 1999 and Ebgu et al, 2006). In turn, an approved plan allocates areas for residential, conservation areas, open spaces, play grounds, sanitary areas and other land uses. In the face of weak institutional and enforcing machinery, coupled with the dominance of customary tenure, approved plans are only implemented on a disjointed incremental basis, proceeding as and when lands are released by the customary holders.

Land is a finite asset in terms of its supply. Therefore, increase in demand for land eventually pushes up prices, making it economically more attractive to sell as many parcels as possible to prospective developers. As chiefs have continuously redefined the concept of trusteeship to suit their parochial interest, maximising financial returns from land sales remain on the ascendency. Allocation of land for the implementation of plan is purely market driven from the perspective of the land holder. Some land uses naturally command low economic return although they are complementary to uses. Open spaces, green field sites, play areas and sanitary sites are examples of vital but economically less profitable land uses. Landholders' response to this increase in demand for land has often led to the alteration of the existing plan by converting less economically profitable land uses into more rewarding uses. These practices of sub dividing and allocating plots for

other land uses are not done through re-zoning. Rather, landholders often carry out this practice unilaterally, usually with the assistance of self styled surveyors and planners. Ultimately, this distortion throws the plan out of gear.

Respondent 23 from the regional town and country planning office in the northern region for example observed that:

> "Our political leaders always receive the blessings of chiefs during [electioneering] campaign. It will be politically suicidal for them [politicians] to turn around and drag the chiefs to court over unauthorised land sale. The provisions are clear in the statute book but as to their practical enforceability raise additional questions. Our plans will continue to be distorted by these chiefs. I am not a prophet of doom but I am a realist"

Respondent 34 also noted that:

> "Our chiefs have done more harm than good in terms of planning our towns and cities and this epitomises the issue of customs and modernity being at a crossroads. The question I ask myself is that, who has the final say in determining the nature of land use for an area? The [formal] laws say it is the local planning authorities but customs say, the chief, so which is which? From where I sit [as a player within the formal land management sector] I will definitely say that the local planning authorities have an overriding power relative to customs and customary law. That is the provision of the constitution which is the supreme law of the land. That is why our chiefs [and customary landholders] have no legitimate grounds to effect a change of use without the due process [of re-zoning]. But what do we see? Any chief or any [prominent] member of the landholding group can just wake up one morning and declare that I have sold this land for this use without even bothering to check if the [proposed] land use is acceptable under the [existing] plan... We have not been able to do much [in terms of addressing this challenge] because at the end of the day, you are dealing with chiefs and should be careful not to step on some raw nerves"

Respondent 39 in similar vein lamented the growing trend of chiefs unilaterally usurping the planning powers of the local government authorities:

> "Undoubtedly, our local and regional agencies [referring to town and country planning departments] have been under staffed and under resourced over the years. This is a problem but I think the main challenge comes from our chiefs.....They have the penchant to sell land... And this drives them to manipulate the plans they [local planning authorities] manage to prepare. What they do is unlawful but our

laws are like toothless bull dogs...they bark but do not bite so the trend continues unabated... Plans are always disfigured because of our chiefs"

Respondent 40 also estimated that:

" 70 to 80 percent of our problems [as planners] in the country can be addressed if we can moderate the way our chiefs sell every land irrespective of the use it has been zoned for"

Finally, respondent 41 like the other land experts bemoaned the instance of unilateral alteration of plan by chiefs.

"If our plans can work, then as planners, we need to have adequate control over who can allocate what land for what use.... Currently, we do not enjoy these powers as it is concentrated in the hands of few chiefs and other traditional heads... This has not helped matters over the years because of the attitude of these [customary leaders and] people... These people allocate land for people to build on water ways, natural reserves and many other uses... This is a major source of worry to us all"

What has emboldened the chiefs to continuously alter land use plans with impunity results from the imbalance in terms of power dynamics that exists between the customary landholders and the implementing authorities of land use planning. This is because land is a factor of production and source of wealth. Access to land and control over it is therefore a source of power. This partly explains why chiefs and traditional authorities continue to wield considerable power under the present socio-cultural dispensation owing to their positions as trustees. Furthermore, under customary arrangement, the chief is regarded as the 'father' of all residents within his/her area of jurisdiction. The concept of 'subjectship' means, chiefs are empowered to issue commands which others are enjoined to obey in order to avoid the threat of punishment (Shively, 2001 cited in Njoh, 2006). It was therefore intriguing when respondents from the regional and national levels analyzed the issue of unilateral plan alteration by customary landholders within the framework of power imbalances.

Respondent 27 also alluded to the fact that the planning authorities have been rendered practically powerless in dealing with unscrupulous chiefs who continuously alter plans to further their personal aspirations as a result of the nature of power relations:

> "There are laws alright but the laws cannot enforce themselves. They need willing individuals to enforce. Although I am here as a professional, I cannot lose sight of the fact that those who own their land are way more powerful than my outfit. If you want to stand up to them, you can easily be branded arrogant and the next day you are on transfer to a remote village. At times you have to tamper professional competence with practical realities. The chiefs are causing all sorts of problems for us [as planners] and this is not helping anyone. We cannot go far [in ensuring that towns and cities are better planned] if we cannot stand up to the chiefs and cause them to stop selling every piece land [unilaterally and arbitrarily]"

Similarly, respondent 29 opined that:

> "Our chiefs sell land regardless of what you have zoned it for... these are offences under the law... The difficulty lies with the enforcement. It will be unimaginable to take a chief to court for allocating land without the [municipal] authority's approval. For sure, anyone who initiates such an action will not receive any backing from any quarters. It will eventually be reduced to a personal battle between the chief and the officer [who initiated the court action]. If you are dealing with the chief, remember there are some elders and probably the whole community backing him. Can I stand them all if I find myself in this situation?"

The power dynamics between the chiefs and the planning professional indeed permeates every stage in terms of land policy discourse. At the national level, respondent 35 from the National Development Planning Commission aptly conceded that:

> "We are all subjects and owe allegiance to one chief or the other. Therefore to take them [the chiefs who violate planning laws] on, you need to be ruthless. This is what we lack professionals"

From the forgoing discussions an emerging consensus is that customary landholders in most cases allocate land for uses which are not supported by the existing land use plan. The motive for contravening the existing land use plans is to maximise financial returns for their personal benefits re-echoing the changing principle of trusteeship of customary ownership. This has helped to contribute to the growing tension and contradiction between the formal planning institutions and the customary landholders. However, despite their

professional competence and the legal authority to enforce plans, local planning authorities have generally been subsumed and suppressed as a result of power dynamics from the chiefs and other land holders. This is therefore consistent with the assertion by Flyvberg (1998) that in the face of power and technical rationality, technicalities always yield to power. The customary land holders therefore compromise the land use planning by allocating land for purposes which are inconsistent to the existing planning. Evidence from the four embedded case study areas further illuminates this practice.

Kumasi Metropolitan Planning Authority Area

There is an existing land use plan which came into force in 1960. In 1960, the plan covered only an estimated 50 percent of the area of Kumasi Metropolitan Authority. Currently, the plan covers about 80 percent of Kumasi. It has already been highlighted that Kumasi is a fast urbanising city and this has created increase demand for land both within and also, on the periphery. Supply of land however remains generally fixed. According to basic economic principles of demand and supply, when demand increases without corresponding increase in supply, prices rise accordingly. The Kumasi Metropolitan Planning Authority is relatively efficient and this is evidenced by the fact that land use plan has been prepared to cover an estimated 80 percent of all areas under its jurisdiction. Despite the fact that plan exist for large parts of the city, customary landholders do not necessarily allocate land to confirm to the existing land use plans. In some cases, land is allocated for proposed uses which are directly injurious to the original plan.

When respondent 1 from the Town and Country Planning Department was interviewed, he also cited other examples to help illustrate the fact that the practice where lands are allocated for uses which are not supported by the existing land use plan. A case in point is the conversion of the nature reserve on the bank of the Owabi dam for residential use. To put this in context, the Owabi dam was built to produce a total of 12million gallons of water a day for Kumasi and its environs. In order to protect the river, a large track of vegetation cover was zoned as natural reserve on the banks. This provision in the local plan was blatantly disregarded when the chiefs and customary landholders of the area

contracted the services of self styled planners to sub divide and subsequently allocate these parcels of land to developers. In all, 400 parcels of land were sold to developers.

As a result of the construction activities, the protective vegetation cover on the bank of the river has almost been lost in its entirety. This has subsequently led to the silting of the river. Coupled with the fact that it is now exposed to direct sunshine, the river has been drying up gradually. As a result, the capacity of the dam has been reduced from 12million gallons a day to 3 million gallons a day. The Ghana Water Company Limited, the body responsible for treating water have recently highlighted that, the rivers which supply water to the Owabi Dam continuous to be polluted as a result of increase in human activities along the banks of these rivers. According to them, this has led to a significant rise in the cost of treating water. It is likely that the additional cost of treating the water may be transferred to consumers in the near future.

People are now living close to the Owabi River which has been silted. So when it rained recently, the river flooded its banks and the result was devastating. Below is how this situation was reported in the media:

Tragedy - Floods kill Family of Three in Kumasi[24]

> The tragedy occurred in Kumasi when the Owabi River burst its banks during a heavy downpour and the flood waters swept through many homes at Kyekyere, near Kronom in the Kumasi metropolis, killing a couple and their seven-year-old child. The deceased, Kwaku Boakye, 66, Amma Amponsah, 50, and Kwame Appiah, the seven-year-old child, got drowned when they were asleep in their room. While the bodies of Boakye and his sons were retrieved last Saturday, that of the woman was found yesterday. Their remains have been deposited at the Komfo Anokye Teaching Hospital (KATH) morgue

It was obvious that respondent 1 was worried about this development and subsequently bemoaned the chiefs for prioritising their selfish and parochial considerations to the detriment of the larger community. He observed that:

> "The Owabi situation [where people have built on water catchment areas] is bad. It is like a time bomb and will one day explode. People are living so close to the dam

[24]: http://www.modernghana.com/news/224665/1/tragedy-floods-kill-family-of-three-in-kumasi.html [accessed on 09/09/2011]

and it is very bad. We need backing from the big men to demolish these structures. The chiefs sold the land without [the planning authorities] getting the slightest hint..... Every development in that area is unapproved and must be brought down"

Respondent 2 also reinforced this observation with this argument:

"Did you ask how customary landholders affect our activities [as planners]? [After sighing and pausing for about a minute, he proceeded]. Our biggest headache is getting our plans on the ground... We need the cooperation or should I say the mercy of the chiefs [or the customary landholders] in order to get our plans on the grounds. At times, we end up practically begging chiefs to allow us to implement our [planning] proposals... We are not always lucky though as almost in all cases, we return to find out that things have changed drastically... There are so many residential buildings springing up on parks or open spaces. If you go to, say, Ayeduase or Kotei or Boadi or any of these areas, the evidence is there for all to see. It looks crazy because they are no signs of planning. Buildings are all over the places... We are doing our best but it all boils down to chiefs to be more disciplined in selling lands. If they [chiefs] respect our plans, we can go far"

He further identified other in the Kumasi metropolitan area where approved land use planning schemes have unilaterally been altered by customary landholders. These are summarised in the table below.

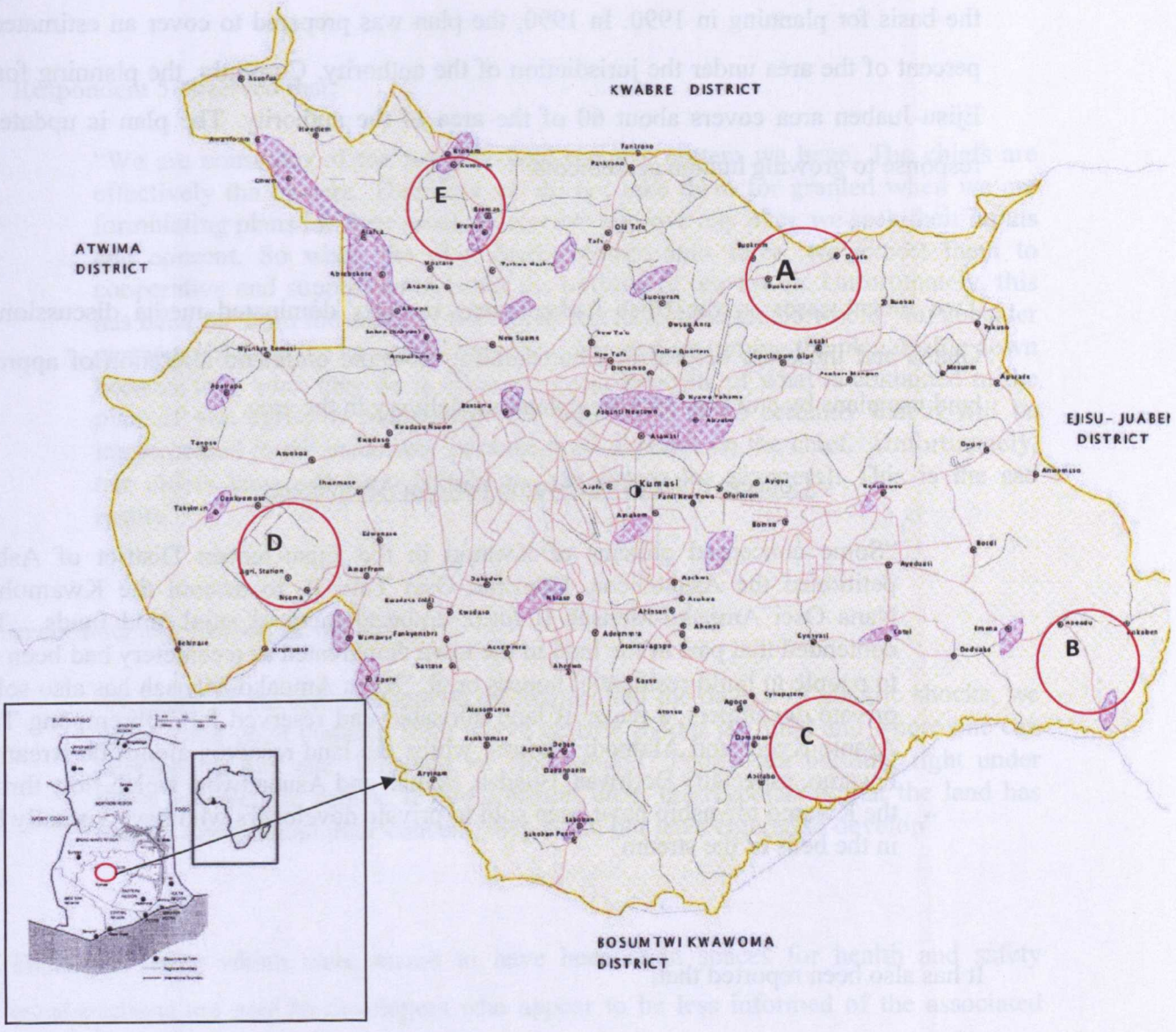
Table 6.4: Some Areas in Kumasi where Customary Landholders have unilaterally altered existing Land Use Plan

Name of Area	Original Use	New Use
A: Buokrom/Duase	Market	Residential
B: Emena/Apeadu/Kwamo	Nature Reserve	Commercial/residential
C: Apirabo	Nature Reserve	Commercial/residential
D: Nsema/Amanfrom	Nature Reserve	Residential
E: Atafua/Breman	Open space/play grounds	Commercial/residential

Source: Field Survey, 2010

These areas are presented in the map below:

Map 6.1: A map of Kumasi showing some of the areas where existing Land Use Plans have been altered by Customary Landholders



Source: NDPC (2011)

The practices of unilaterally altering existing land use plan by customary landholders therefore appears to be a major concern for the land use planning officials in Kumasi. In Ejisu-Juaben too, the story was not different.

Ejisu-Juaben Municipal Planning Authority

Ejisu-Juaben Planning Authority (EJMA) has an existing land use planning which became the basis for planning in 1990. In 1990, the plan was prepared to cover an estimated 40 percent of the area under the jurisdiction of the authority. Currently, the planning for the Ejisu-Juaben area covers about 60 of the area of the authority. The plan is updated in response to growing human settlements.

Two recent cases in the Ejisu-Juaben areas recently dominated media discussions in Ghana and these are helpful in demonstrating how the unilateral alteration of approved land use plans by chiefs is retarding planning delivery in the area.

Concern citizens of Kwamo petition Asantehene

> "Some concerned citizens of Kwamo in the Ejisu-Juaben District of Ashanti petitioned the Asantehene, Otumfuo Osei Tutu II, to destool the Kwamohene, Nana Osei Amoako-Mensah II for.... embezzlement of stool land funds... They contended that part of the land in the town demarcated as a cemetery had been sold to people to build residential houses on it. "Nana Amoako-Mensah has also sold to private developers, a piece of land allocated and reserved for "Obrempong Tano, Asanie Kyere and Akonodi Shrines, whilst the land reserved alongside streams at Kwamo, especially Bodiwaa, Boadaa, Saman and Asuoadwoa, which flow through the Kwamo township have been sold to private developers who have virtually built in the beds of the stream"

It has also been reported that:

People of Nobewam Up in Arms against Chief

> "Scores of people at Nobewam in the Ejisu-Juaben Municipality on Tuesday protested against the alleged indiscriminate sale of their lands by their chief and his failure to account for the proceeds. They accused Nana Adu Gyamfi of having sold a number of building plots to developers, including an area earmarked for a market and the community teak plantation"

These two cases are only indicative of the canker which is ingrained in the customary sector of land management in Ghana. The views of some key players in the planning

process are helpful as they further reveal the extent at with customary landholders are altering land use plans and accordingly undermining planning delivery.

Respondent 5 observed that:

> "We are conscious of the peculiar land [tenure] system we have. The chiefs are effectively the owners. Therefore we do not take them for granted when we are formulating plans for their areas. Before we approve any plan, we seek their inputs and consent. So when the plan finally comes into force, we expect them to cooperative and support us to better the outlook of our towns. Unfortunately, this has been far from the case. At the end of the day, these chiefs whom you consider partners will lead the assault of the plan. They end up turning the plan upside down because they what they do is often the exact opposite of what is contained in the plan. If you agree on something in a plan, there is no certainty that it will be implemented in the same way because it all depends on the chief. Unfortunately, our chiefs have not been helpful to our course [as planners]. This is the sad reality."

In commenting further, he noted that:

> "Because of the electromagnetic discharges and the danger of electric shocks, we leave some good distance from where electric pylons are sited and where one can develop for any use. What do we find around? People are building right under these live electric cables. If you confront them the response is that the land has owners and without their consent, they could not have entered to develop"

Therefore, areas which were meant to have been open spaces for health and safety considerations are sold to developers who appear to be less informed of the associated risks of developing in such areas. Therefore, the aspiration of planning to protect the citizenry is compromised mainly as a result of the activities of the customary landholders in the area.

Respondent 6 also raised similar concerns when he recounted that:

> "An area which was reserved to develop a museum to promote the heritage of Yaa Asantewaa's [who was a famous queen mother of the area during the 18th and 19th centuries]. As at now, the site has been given out for developing houses. Whenever we confront the developers, the developers always tell you that they have lawfully acquired their land from the chief."

By basing on the above evidence, it may be fair to hold the view that customary landholders in the Ejisu-Juaben are undermining the planning process because the allocate land for purposes which are not supported by the existing plans. This is consistent with the evidence from the Kumasi Metropolitan Planning Authority and thus suggests that the observations by planners and land management experts from the regional and national levels is valid and reflective the dynamics at the local levels in the south. In order to develop a holistic picture of the state of affairs, it is instructive to examine evidence from the northern parts of Ghana.

Tamale Metropolitan Planning Authority Area

In Tamale, the land use plan was prepared in 1970 and although it was last updated comprehensively in 1985, it still covers about 60 percent of the area. Despite the existing of some form of a plan [albeit old and possibly obsolete], human settlement does not necessarily grow based on it. As respondent 8 observed, "there is a gap in terms of what we want to achieve [as contained in the plan] and what happens on the ground". He further recounted that "as planning authority we should have the power to ensure that what is in our plan gets reflected in the structure of our towns and cities but this is far from the case and it is mainly because of our chiefs. They simply don't help matters". He further observed that:

> "Generally, we are not on top of issues, I must admit. But every objective person will not lay the entire blame on our doorsteps. If I employ my expertise to prepare a plan and a chief who is supposed to know better wants to obstruct our efforts to facilitate his person dream of making wealth by selling every land, then what else do you expect from us?"

He further elaborated that:

> "Because of its location, Kanvili was originally zone for school but you can go there and check for yourself....the place is now full of residential houses. In the next few years, people will have to travel several kilometres to take their children to school... [When this happens eventually] no rational person should blame it on town planning people....They should blame themselves for buying lands meant for schools and the chiefs who sold them."

Respondent 9 also made similar observations:

> "[In terms of how planning has been able to shape settlement he noted that] we are nowhere near what we really want to achieve but this is not wholly the fault of ours. If you are building, you need to put one block on top of the other. What do you think will happen when someone specialises in removing the blocks as you put them on? Definitely, you cannot go far. You may just be standing still and this is what is happening. As we try to plan for the towns and cities, the chiefs will be going behind you and everything they do distort what we would have done earlier. To them [referring to the chiefs and customary landholders] don't care even if they know that what their actions are wrong and unacceptable. As long as they make their money, everything is fine with them"

In analysing the situation further, he argued that:

> "We don't have the capacity to implement and police the plans we prepare so we some cooperation from the chiefs is always needed if we are to be successful [in ensuring that our plans work as intended]. But in practice it we don't get this cooperation. So if we the plan provides that an area should be used for say, residential purpose, they should not circumvent the plan and allocate land for any other use just because they want... But that is the order of the day"

Again, he conceded that:

> "At times it gets frustrating. You spend all the effort to plan for your area. At least you want to see that your knowledge and expertise are utilised to help your area. You put in all the efforts, spend sleepless nights and money to prepare planning schemes only for a chief to get up and throw your plan over board. At times I ask myself if it is worth preparing a plan at all"

He further observed that:

> "There is practically no parks or playgrounds in the city. It is no because as planners, we are ignorant of the usefulness. It is only because land for such uses are soft targets for the chiefs and these areas are in most sold for commercial or residential uses."

The practices where customary land holders allocate land for other land uses other than those specified by the existing land use plans is therefore of concern to the planning authorities in the Tamale metropolitan area.

Savelugu-Nanton Planning Authority

The land use plan for Savelugu-Nanton came into force in 1997. Currently, the plan covers only an estimated 20 percent of the jurisdiction of the district. Effort at planning in the district is concentrated in areas such as Savelugu, Nanton, Zion and Tampion which are areas experiencing relatively high rate of human settlement growth in the district. Makeshift land use plans which are often prepared by untrained people who are contracted by the chiefs therefore serve as the basis for guiding the growth of human settlements. Since what is considered as land use plan is largely the outcome of the initiatives of the customary landholders.

Even with the 20 percent of the district which are covered by duly prepared land use plans, the chiefs are constantly altering and allocating the land for uses which are not supported by the plan. As noted by respondent 11,

> "The Bilsi-Tua Planning Scheme was something that is very close to my heart because of the role I played in its preparation. We wanted the area to be mainly used for residential purpose but sadly, it never happened. Some of the land has been sold to some poultry farmers [for their farms]. It is very sad"

Also, the view of respondent 12 was not different:

> "Our chiefs sell land for uses that they should not. How can you sell every inch of land for development? As a state institution, we have the legal backing to push our plans through [to implementation]. But you have to balance it with the fact that you are dealing with chiefs who are our fathers [under customs]... Our chiefs are real source of issue for us"

Respondent 12 again re-iterated that:

> "Nobody is disputing the fact that the land belongs to the [traditional] people and that the leaders have the right to manage it. It is the position of customs and I am not going to sit here and pretend that I do not know or have problem with this. What I cannot understand is that, we always ask these chiefs to consult their [subjects] to help us determine how they want their areas to be planned. We engage them so every planning scheme we prepare has a fair input from all stakeholders. I see it as disrespect not to us as planners but to the whole community when chiefs get up one day and start bisecting and subdividing plans we have already approved. They do not even inform us... in most cases, we only get to know when they have finished changing the plan... When you think of these things, it just sucks every motivation you have out from you."

From the ongoing discussion, it is obvious that respondents across all the four embedded case study areas were unanimous that the practices where chiefs and customary landholders alter existing land use plans and subsequently allocate land for unauthorised land uses is a major setback for the planning process. These perspectives have also been re-echoed by planning officials and other land management professionals in the Northern and Ashanti regions as well as the national level. It is therefore conclusive that the behaviour of various chiefs and customary landholders alter existing land use plans and allocate land for uses which are not consistent with the provisions of the plan. This practice by the customary landholders is endemic in the country and it is major hindrances to meaningful planning delivery. Another trajectory through which customary land tenure practices adversely impact on land use planning is the concurrence existence of customary land boundaries and versus formal/local government boundaries.

6.5.4 Customary versus Formal Internal Boundaries and Implications for Land Use Planning

In section 2.7.2.4, it was established that one of remnants of colonial rule was the creation of a dual set of intra country boundaries. One set is the customary boundaries which have remained fairly constant over the years. The second set of boundaries is the formal or administrative ones created by the state to facilitate local governance. It is worth noting that whereas customary boundaries exhibited strong fluidity in terms of ethnic cohesion, the colonial/formal boundaries were artificially created by the imperial powers primarily

to facilitate the administration of the colonies whilst maximising exploitation of natural resources. Predictably, the formal boundaries resulted in splitting homogenous ethnic groups into several administrative units (see Ndege, 2009 for the rendition on the Kenyan case). In other cases too, highly heterogeneous ethno-tribal groupings were mechanically merged by the colonial authorities for commercial expediency (see Konadu-Agyeman, 1998 for the case of Northern Protectorate in Gold Coast, now Ghana). Although there were instances where an ethnic group was administered as a unit without altering its natural boundaries (as in the case of Kumasi and the Asantes, see Konadu-Agyeman, 1998) these were very rare.

This practice of arbitrarily raising artificial internal boundary continues to infiltrate policy circles presently in Ghana. The legislative framework for boundary demarcation in Ghana is provided under section 241 of the constitution of Ghana. This provision mandates that:

> "Parliament may, by law, make provision for the re-drawing of the boundaries of district or for reconstituting the districts"

This constitutional provision is further detailed out through the promulgation of the Local Government Act, 1993 (Act 42). Section 1 (2a &b) of the Act empowers the president through the issuance of an Executive Instrument to:

"Declare [that] any area within Ghana to be a district and subsequently assign a name"

The guiding principles for creating district or altering the boundaries of existing ones are captured in section 1(4-5) of the Local Government Act as follows:

4a) In case of

i) A district that there is a minimum population of seventy five thousand people
ii) A municipality, that the geographical area consists of a single compact settlement and that there is a minimum of ninety five thousand people
iii) A metropolis, that there is a minimum of two hundred and fifty thousand people

4b) There should be geographical contiguity and economic viability of the area

5) In this section, 'economic viability' means the ability of the district the basic infrastructural and other developmental needs from the monetary and other sources generated in the area.

Obviously, the legislative guidelines pay no attention to ethnic/tribal or chieftaincy homogeneity and compatibility of the population. This is despite the fact that some commentators have warned against this approach. For example, Brohaman (1996)'s asserts, and justifiably so that:

> "Space is unacceptably seen as separable from other aspects of life and development. ... Spatial organization is divorced from underlying social relations, and space is implicitly and incorrectly afforded with causal powers. In addition to the conceptual limitations that it imposes, this type of 'spatial separatism' causes regional planning to conflate the spatial with the socio-economic effects of policies. ... The conflation of spatial problems with social problems inadvertently often produces development programmes that are harmful to the very people they are intended to help (p. 341)"

Despite such analysis, the anomaly of arbitrarily demarcating internal administrative boundaries which was generated under the colonial rule has been re-enacted and it is expected to perpetuate into the considerable future. There are over 200 statutorily recognised paramount traditional authorities in Ghana. In most cases, land is held along paramount chieftaincy boundaries although there may be sub divisions within each paramountcy. There is therefore over 200 main landholding groups compared to the current 170 local planning authorities. As a result of this, several customary and formal/local government boundaries overlap in Ghana.

When Ghana moved towards decentralisation in 1988, the issue of dual sets of internal boundaries became a source of conflicts and wrangling. When the decentralisation programme started in 1988, there were 110 districts. However, as the population of the country grows, new districts are carved out from the existing ones. The creation of more new districts is therefore to give meaning to effective decentralization as a tool for good

governance and accelerated development. The creation of new districts has however not been always smooth. In 2003/2004 for instance, the chiefs and people of Prang in Brong-Ahafo Region demonstrated against the siting of the district capital at Atebubu (Gati, 2008). At the same time, there was disagreement among communities that constituted North Dayi District (now Kpando District) in the Volta Region over the name. These disputes over creation of districts in 2003/2004 were just a tip of the iceberg, as the recent carving of more new districts continued to create more confrontations and hostilities in some communities in the country (Gati, 2008). The well known ones include the Adenta-Ashaiman municipality with Adenta as the capital, Weija with Mallam as the capital and Ledzekuku-Krowor with Teshie-Nungua as the capital, all of which are located in the Greater Accra Region; Gomoa-East District with Afranse as the capital in the Central Region, East Mamprusi District and Bunkpurugu Yunyoo District in the Northern Region and Biakoye District with Nkonya-Ahinko as the capital in the Volta Region (Owusu, 2009).

The conflicts which result from the concurrence existence of customary and state administrative internal boundaries are centred on three main issues: boundary demarcation, name of the district and location of the district capital (Gati, 2008). Confrontation among some communities occurred over a combination of these three issues. When conflicts are induced by such considerations, the results are often devastating. For example the Konkomba and Nanumba/Dagomba conflict alone (which lasted between February 1994 and March 1996) claimed over 5,000 lives and property worth several millions of dollars were destroyed. Clearly, under such circumstances, it becomes even more difficult to plan for the areas involved. The overlapping nature of customary landholding boundaries and state administrative boundaries is therefore a challenge for the land use planning delivery in Ghana.

The issue of dual internal boundaries splits into three scenarios. First, there are instances where two or more customary landholding groups are brought under a single planning authority. Secondly, there is other the situation where a single paramountcy or landholding group may be the home to two or more planning authorities. Finally, there are instances

where both the customary landholding and the planning may have same or coincident boundaries. The four embedded case study areas depicted all these scenarios.

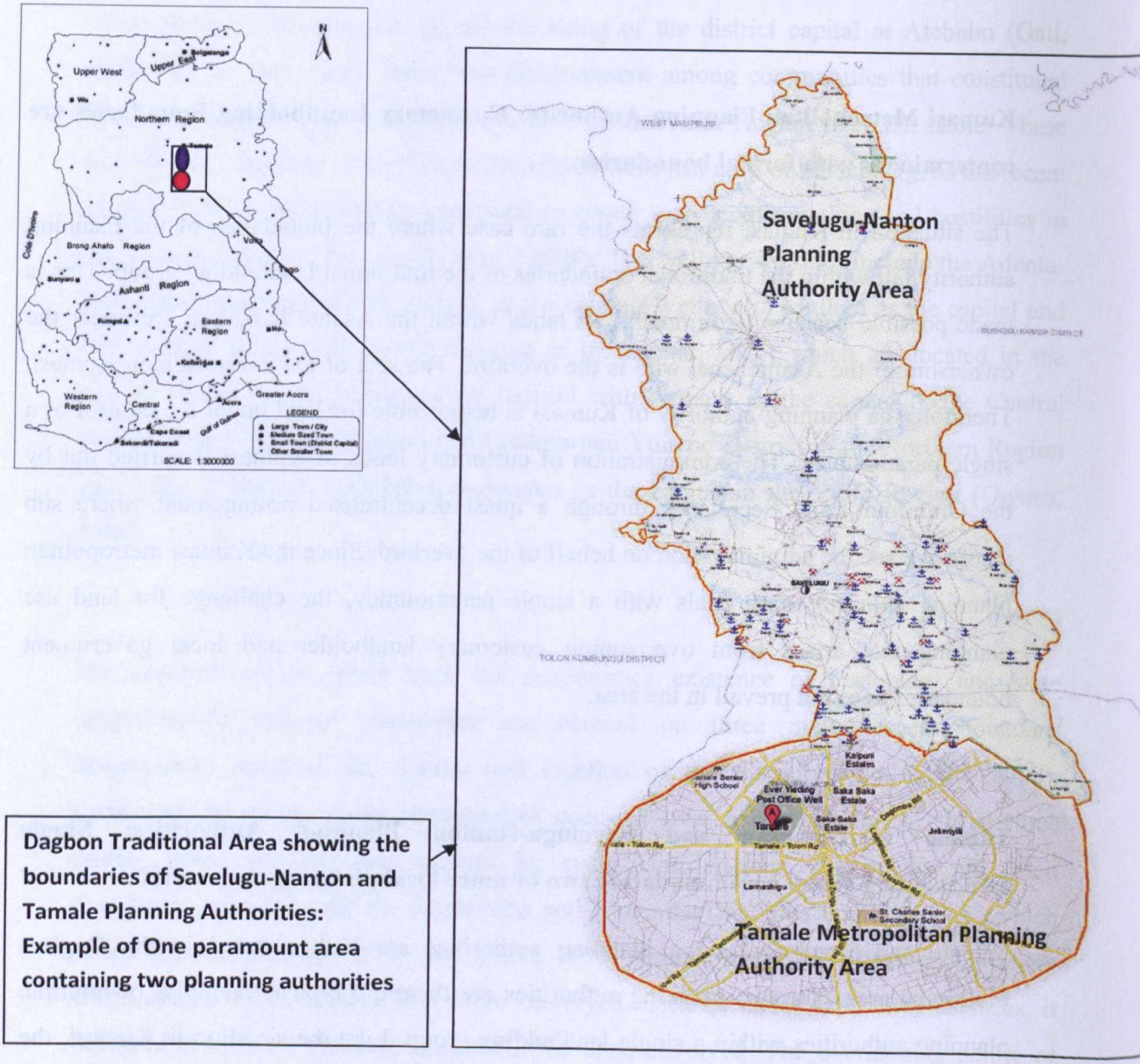
Kumasi Metropolitan Planning Authority: Customary Landholding Boundaries are conterminous with formal boundaries.

The situation in Kumasi represents the rare case where the boundaries of the planning authority fall within the traditional boundaries of the traditional landholding group. This is made possible because traditionally, all lands within the Asante Kingdom are under the ownership of the Asantehene, who is the overlord. The seat of the overlord is in Kumasi. Therefore the planning authority of Kumasi is responsible for land under the control of a single paramountcy. The administration of customary lands in Kumasi is carried out by the Otumfour Land Secretariat through a quasi decentralised arrangement where sub chiefs oversee the administration on behalf of the overlord. Since the Kumasi metropolitan planning authority only deals with a single paramountcy, the challenge for land use planning that arises from overlapping customary landholder and local government boundaries does not prevail in the area.

Tamale Metropolitan and Savelugu-Nanton Planning Authorities: Single Landholding group accommodating two or more local planning authorities

Tamale and Savelugu-Nanton planning authorities are both situated in the Dagbon traditional area. The two planning authorities are therefore typical examples of multiple planning authorities within a single landholding group. Like the situation in Kumasi, the challenge of planning delivery that results from the conflict between different paramount does not exist in the Tamale and Savelugu-Nanton planning authorities.

Map 6.2: Map of Ghana showing the outlines of Dagon Traditional Area, Tamale and Savelugu-Nanton Planning Authority Areas



Dagbon Traditional Area showing the boundaries of Savelugu-Nanton and Tamale Planning Authorities: Example of One paramount area containing two planning authorities

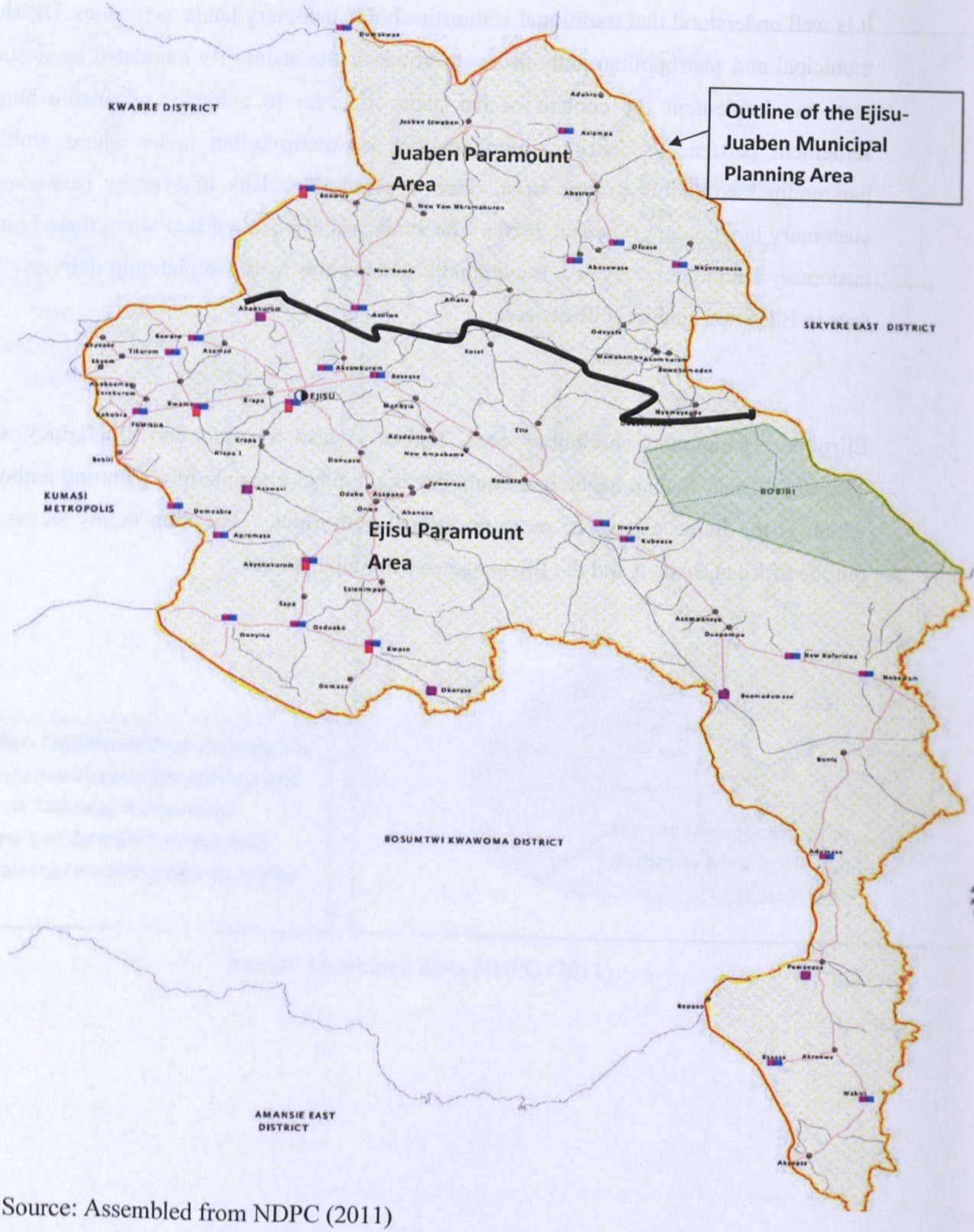
Source: Combined from NDPC (2011)

Ejisu-Juaben Municipal Authority Area: Multiple land owning groups within one Local Planning Authority

It is well understood that traditional authorities hold customary lands as trustees. Districts, municipal and metropolitan authorities are however the statutorily mandated agencies to plan and implement the content of the plans in order to achieve sustainable human settlement pattern. In districts, municipalities or metropolitan areas where multiple paramount landholding groups exist, there is generally a lack of synergy between the customary landholders (Owusu, 2009). The study has established that when there is intra customary landholders' rivalry, it eventually undermines land use planning delivery. The case in Ejisu and Juaben is illustrative.

Ejisu is a paramount chieftaincy area. Juaben is also a paramount chieftaincy area. Therefore, Ejisu-Juaben Municipal Authority is a typical example of a planning authority which is the home to two or more traditional authorities. The map below shows the outline of Ejisu, Juaben and the Ejisu-Juaben Municipal Area.

Map 6.3: Map of the Ejisu-Juaben Municipal Authority showing the boundaries of Ejisu and Juaben Customary Areas



Source: Assembled from NDPC (2011)

Where two or more paramount authorities co-exist within one district, municipal or metropolitan area, Ejisu and Juaben have struggled to co-exist harmoniously over the years. The in-fighting between Ejisu and Juaben escalated in the mid 2000s, culminating in violent clashes which led to the destruction of properties. A case, as captured in the media is useful here for illustrating the nature of tension between these two land owning groups.

The Feud between Ejisu and Juaben[25]

> "The conflict between the Juaben and Ejisu Traditional Councils which is said to have stalled development in the two traditional areas has finally been resolved. Heads of the hitherto feuding factions swore the great oath of the Asantehene, Otumfuo Osei Tutu II at the Manhyia Palace at a meeting presided over by the Overlord of the Asante kingdom, pledging to smoke a peace pipe, henceforth. To this end, the Ejisu Traditional Council had settled the ¢110.2million fine imposed on it by the Asanteman Council as punishment for the properties it had destroyed. Nana Aboagye Adjei, Ejisu Chief was cited by the Asanteman Council during their last meeting as being the architect of the violent destruction of properties at the Juaben Oil Mills. It would be recalled that the Ejisu and Juaben Traditional Councils had in the last two years fought over the ownership of a parcel of land at Asotwe. Counselling the chiefs after the resolution, Otumfuo Osei Tutu II warned the Ejisu Chief to refrain from any destructive act or risk being destooled"

It was refreshing that the two paramount authorities attempted to smoke a peace pipe some years ago. For the past two years (2009-2010) however, the relationship between the Ejisu paramount authority and the planning authority has once again become strained. The current chief of Ejisu ascended the throne in October, 2008 after the demise of his predecessor. Four months into his reign, there was a change in the national government with the National Democratic Congress (NDC) taking over the reign of Ghana from the New Patriotic Party (NPP). In Ghana, district, municipal and metropolitan chief executives are appointed by central government. Therefore a change in government resulted in the appointment of a new Municipal Chief Executive (MCE). The new MCE at the time of conducting the research was a native of Juaben. As a native of Juaben, he was a subject of Juaben and in line with customary practices owned allegiance to the chief and people of Juaben. Despite his connections to the Juaben Traditional authorities, the MCE is expected to be neutral in the discharge of his statutory duties. The MCE of Ejisu-Juaben

[25] ModernGhana.com (2007). Juaben, Ejisu Smoke Peace Pipe http://www.modernghana.com/news/139635/1/juaben-ejisu-smoke-peace-pipe.html [accesses 10/10/10]

was incessantly accused by the people of Ejisu of demonstrating bias and nepotism in terms of allocating development projects in the municipality. Instances where the MCE is accused of diverting resources meant for Ejisu to Juaben is plentiful. For example according to discussant 1 from the Ejisu Traditional Authority:

> "They [the government] proposed to build a nursing training college here [in Ejisu]. All was set for it. Then all of a sudden, the project was transferred to Juaben... Yes, it is true that he [the municipal chief executive] is from Juaben but why should he be so biased? I will not mince words; we do not trust the government officials"

This remark perhaps sums up the nature of relationship between the Ejisu Traditional authority and state's local government machinery. Undoubtedly, these accusations have contributed to a damping of the relationship between the traditional authorities of Ejisu, the MCE and the municipal authority. This frosty relationship between the customary landholders and the local planning authority has done little to help land use planning in the area. In the words of discussant 3,

> "The council [local planning authority] has no power to determine how we should utilise our land. Their mandate is to coordinate what we do. They cannot determine our decisions with regards to our land.... Who are they to dictate to us how we should use our land?"

Discussant 4 further argued that:

> "The council is a government body. It is possible that the chief executive, the planning officer and all other officials may be strangers [that is not members of Ejisu]. This is the land our forefathers fought for with their blood and we need to make sure that the generations unborn do not suffer because of our decisions today... It will be irresponsible if we allow our lands to be controlled by strangers"

The inability of members of the Ejisu Traditional Authorities to trust the municipal authorities appears to have spread to other state land sector agencies. For example respondent 19 from the Ashanti Regional Branch of the Ghana Land Administration project observed that

> "They [referring to the traditional authorities from Ejisu] object to every proposal we make because of the problem they have with their chief executive... They find it difficult to trust any state official [involved in land administration"

Undoubtedly, the three-way feud between the Ejisu traditional authorities, Ejisu-Juaben Municipal Authorities and the Juaben traditional authorities has stifled the communal spirit which is needed to facilitate co-ordination between the two paramount chieftaincy areas. Predictably, this has adversely affected the overall development of the area especially in terms of planning delivery. The municipal authorities are convinced that:

> "There is apathy on some of the people in some of the communities towards communal work. The lack of communal spirit is mainly caused by conflicts, disunity and loss of confidence in some of our leaders. The effect of this is that all efforts towards developments which require communal support are relegated to the background (Ghanadistricts.com, 2010)[26]".

The authorities have again noted that:

> "There is poor physical development in most towns in the district due to poor physical development management and control and a lack of layout to guide development. The effect of this is that there is disorderliness in physical development with cases like building on roads and waterways which result in flooding and eventually loss of lives and property. There is no open spaces for public events, refuse disposal sites, etc (Ghanadistricts.com, 2010)[27]"

So how have the internal chieftaincy wranglings contributed to the defective planning system in the Ejisu-Juaben Municipality? As already indicated, planning authorities develop and implement planning proposals on land which is owned by ethno-tribal groupings with chiefs and other traditional leaders as trustees. This makes the cooperation and effective coordination between the planning authorities and the customary land holders a prerequisite for any meaningful implementation. Therefore, the ongoing chieftaincy disputes between Ejisu and Juaben has impaired the planning process. Respondent 5 conceded that:

[26] http://ghanadistricts.com/districts/?r=19&_=21&sa=4537 [accessed 12/10/2010]
[27] http://ghanadistricts.com/districts/?r=19&_=21&sa=4537 [accessed 2/02/2011]

> "[I] found myself between two [paramount] chiefs. They are both powerful and I have to serve them diligently [by helping to effectively planning for their respective areas]. My major challenge is that, for no faults of mine own, none of these two chiefs can trust me. This has really affected my work [as a planning officer]. None of them is prepared to cooperate with me fully."

He further stressed that:

> "When we plan and are able to enforce it, the place becomes beautiful and land values for these areas increase. So in effect, the chiefs stand to benefit if they cooperate with us. We cannot force our way into their land. The [chiefs of] Ejisu and Juaben are not the best of friends. This makes my work extra difficult. If you prepare a [planning] scheme for [an area within] Ejisu, then Juaben [traditional authorities] will accuse you of being selective and partial in favour of Ejisu. If you try to do something in Juaben, Ejisu will also fly in with its accusations. It becomes very difficult... Deep within me I know I am applying my professional competency for the best of the society but I always get the wrong perception of being bias, from both sides"

This situation has culminated in the sporadic release of land for planning purpose which has according resulted in a situation where planning is carried out on piecemeal basis. According to respondent 6:

> "When we are preparing planning schemes, we have to move orderly and organised sequence. So for example if you prepare a scheme for Besease [a village near in Ejisu], it is only wise that you continue with Manhyia [because they are two adjoining villages]. There is no point in going to say Bobie [which is a village under Juaben paramountcy and quite far from Besease and Manhyia]... But that is what happens because when you go the field, some of the chiefs are not cooperating because of their allegiance [with either the Ejisu or the Juaben paramount chief] so you have to go to where you will be welcome."

The lack of coordination between the two paramount chieftaincy areas in the Ejisu-Juaben metropolitan authority is therefore a contributing factor to the planning inefficiencies in the area.

Respondent 17 from the Ashanti Regional Town and Country Planning Department lent credence to the observation that when there is a lack of synergy between multiple paramount chieftaincy chiefs within a planning authority, effective planning is impeded.

> "You need peace to carry your duties as a planner. If you find yourself in an area where there is infighting among the local people you are expected to plan for, then naturally, your efforts are drawn back"

Respondent 19 also made similar of observation:

> "When planners are going about their work, they need the chiefs on their side because they are partners ... so if there is anything that can inhibit the relationship [between the planner and the chiefs] then the planning process is likely to suffer"

Commenting on the issue of customary and formal administration boundaries, respondent 20 argued succinctly that:

> "There are several conflicts here [in Ghana] which are caused by boundary disputes... If you are a planner, you want to plan for your area. That is your core mandate. If you get the added responsibility of having to broker peace [between disputing factions] first, then obviously, you have a task at your hand"

At the national level, respondent 38 from the Lands Commission, who doubles as one of the National Director of the Ghana Land Administration, held a similar view:

> "It is dangerous to demarcate administrative boundaries along ethnic or tribal lines. It will widen the existing cracks and prevent national integration. However, the off the cuff approach of splitting areas leaves much to be desired. The chieftaincy institution is so entrenched in our body politic that you cannot easily gloss over it and succeed especially with issues relating to land. I have no doubt that the arbitrary creation of district boundaries increases the already difficulties our planning system is presently facing."

The position of the respondent 39 from the National Headquarters of the Town and Country Planning as re-echoed similar concerns. According to him,

> "It is practically impossible to allocate a planner to each paramount chief. Therefore it is always going to happen at some point that two or more chiefs will have to come under the umbrella of a single planning. However, in doing so, we

should aim at creating a situation that will offer the path of least resistance. If chiefs are already at each other's throat, what do you expect to happen? The [planning] officer will spend his whole life mediating. No meaningful planning can be achieved"

A member of the highest policy formulating body, the National Development Planning Commission (NDPC) subsequently opined that:

> "Our [NDPC] recent work done on this issue revealed that the tribal conflicts can be halved if the issue of boundary demarcation is thought through in a more holistic manner. Since the chiefs are in charge of the land, it is only logical that the planning process will be crippled if the chiefs who are expected to partner with the planning officer are constantly at loggerheads"

Commenting further on the issue of internal boundaries, he observed that:

> "The issue of internal boundaries is all over the place. In some areas, it is even bloody... It is confusion galore ... And you cannot make any effective planning in such climate"

Therefore, like the situation in Ejisu and Juaben, planning authorities which are faced with the challenge of internal boundary conflicts among different landholding group tend to have problems with the coordination and this eventually undermines effective planning. Evidence from Ejisu and Juaben suggests that when there are conflicting traditional and formal/local government authorities, land is release on a piecemeal basis and this eventually defeats all efforts at ensuring holistic planning of the area. Moreover, as a result of the internal conflict, there is a general lack of trust among the key stakeholders. Therefore, land use planning at the local level has been adversely affected where there are conflicts among different customary landholding groups in a planning authority.

The foregoing analysis and discussions have addressed the second of objective which sought to evaluate how customary land tenure system affects land use planning. Between section 6.5.1 and 6.5.4, it has been established that customary land holding practices adversely impact on the planning process in four main ways. Firstly, title to land held under customary tenure often lacks security. This is because any undeveloped parcel of

land in Ghana risks encroachment. In addition, the study has also established that in some cases, chiefs and other customary landholders engage in allocation of a single parcel of land to multiple prospective developers. Therefore, in an attempt to secure one's property rights, prospective developers rushed building without adhering to existing planning standards. Therefore, insecurity of lands held under customary land tenure is partly responsible for non compliance of planning regulations by prospective developers. Secondly, evidence from the study has identified that customary land tenure practice injure land use planning delivery because customary landholders prepare makeshift plans as the basis for guiding human settlement growth without the knowledge or endorsement of the designated planning authorities. Thirdly, it was established that even in areas where land use plans have been prepared by the authorised planning authorities, customary landholders unilaterally alter such plans by sub dividing and allocating parcels of land for uses which may not be consistent with the proposals of existing land use plan. Significantly, the customary landholders either prepare makeshift land use plans or alter duly prepared ones by conniving with unprofessional planners and surveyors. Therefore, what becomes the basis for regulating human settlement growth often lacks the ingredients of properly prepared plans. Finally, the study also established that there are two types of internal boundaries in Ghana. These are customary landholding boundaries and state/local government administrative boundaries. Significantly, these two sets of boundaries are hardly coterminous and this leads to overlaps in between the two types of boundaries. The study also brought to the fore that the overlapping nature of customary and state administrative boundaries has become a major source of conflicts and contentions which also undermines planning delivery.

These findings above are helpful in understanding the nature of relationship between customary land tenure practices and land use planning. Some of these findings also resonate with the issues raised in the National Land Policy [NLP] (1999). For example the NLP identified land title insecurity as being a hindrance to investment and poverty alleviation. It was therefore a priority of the framers of the policy to address the endemic nature of land title insecurity. The Ghana Land Administration Project (LAP) is the programme which was designed to implement the proposals of the National Land Policy. Significantly, achieving the aspirations of the NLP should have help to improve land use planning. For example if land title security was improved through the implementation of

LAP, the issue of developers developing ahead of planning as part of efforts to secure their land rights would have been averted. It is against this background that evaluating the implementation of LAP was central to the study. LAP is being implemented over a period of 15 years. The implementation commenced in 2003. Therefore, at the time of the field work in 2010, LAP was 6-7 years into its implementation. The next section seeks to evaluate the achievements of LAP since its implementation whiles assessing its possible implication for planning delivery.

6.6 The Ghana Land Administration Project (LAP) - Gauging its Implications for Land Use Planning

In section 4.3.3.4.1, it was discussed that there is an ongoing Land Administration Project (LAP) which is attempting to restructure the mode of land administration in Ghana. LAP is purely a land administration initiative because it seeks to provide the means of recognising property rights whiles providing a framework for regulating the character and transfer of these rights (Dale and McLaughlin, 1999, p.36). It is important to highlight that LAP is not a land reform programme. This is because land reforms are generally a radical approach of change the tenure systems and this may include a move from socialist landholding arrangement to privatization of land rights (Adams et al 2003). LAP does not seek to alter the existing land tenure system. Despite this, it is expected that some of LAP's interventions may have some far reaching implications for the customary land tenure and subsequently, land use planning practices in Ghana. This conclusion is based on previous Land Administration Programmes across the world [see Mayer's (2009) commentary on the Peru case; Besley and Burgess (1998) on the Indian case; Adams et al (2003) on the Zimbabwe, Kenya and South Africa cases] where land administration exerted considerable impact of the planning process. As a result of the linkages between land administration reform and land use planning, it is important that this study attempts to establish the potential implication of LAP on land use planning. The next section discusses the outcomes after seven years of implementation

6.6.1 Key Achievement of the Ghana Land Administration Project

The Ghana Land Administration Project (LAP) has been under implementation since 2003. LAP is to be implemented over a period of 15 years. It has already been outlined in section 4.3.3.4.1 that LAP is being implemented under three phases of five years each. At the time of the empirical research in 2010, some of the stated goals of LAP had been achieved. These achievements are discussed below.

Institutional re-alignment

Earlier works (e.g. National Land Policy, 1999) identified the fragmented nature of the institutional framework-the situation where 6 allied public land sector agencies existed and operated independently as problematic for the land management and administration in Ghana. Among other things, it was cited that the multiplicity of agencies created the platform for duplication, poor coordination, delays and corruption.

Under the auspices of LAP however, four of the six Land Sector Agencies- Survey Department, Lands Commission, Land Title Registration and Land Valuation Board have been merged into what is now known as the new Lands Commission. The four former independent agencies; Survey Department, Lands Commission, Land Title Registration and Land Valuation are now known as the Survey and Mapping Division (SMD), Public and Vested Land Division, Land Title Registration Division and Land Valuation Division of the new Lands Commission respectively. The merger has been effected at the national level and in all the 10 regions through the promulgation of the Lands Commission Act, 2008 (Act767). At least at conceptual level, this institutional re-alignment is expected to address the weakness which resulted from the fragmented institutional framework for land administration.

Establishment of additional Customary Land Secretariats

To facilitate effective land management, three traditional authorities- Kumasi, Akyem Abuakwa and Gbawe traditional authorities established Customary Land Secretariats

(CLS) long before the introduction of LAP. CLS are offices which are primarily responsible for improving land records and revenue management. Appraisal of CLS operations (for example Antwi, 2006) revealed that the concept enhances recording keeping for customary lands especially since originally, land transactions in the customary realm were often carried out without writing. Therefore, LAP sought to replicate this concept of customary land secretariat across 50 other traditional authorities. At the end of 31st August 2009, thirty four additional CLS have been established bringing the total number to thirty-seven (37). These Customary Land Secretariats have been established in Ejisu and Tamale. The Customary Land Secretariat in Tamale is known as the Gulpegu Land Secretariat and this office serves both Tamale and Savelugu-Nanton areas. The Secretariat in Ejisu is also renders services to both Ejisu and Juaben landholding groups. Before the implementation of LAP, there was a Customary Land Secretariat in Kumasi. This Secretariat is known as the Otumfour Land Secretariat and this outfit has been strengthened by providing computers and other improved technology to help with record keeping and management.

Consolidation of Land Laws

In 2003, there were 166 land laws and regulations (World Bank, 2003a). Undoubtedly some of these laws were either conflicting, obsolete or both. Under LAP, all these laws have been reviewed, and consolidated into a coherent single enactment, known as 'The Land Act'. It is expected that the various challenges which result from the inconsistent and obsolete land laws will be addressed.

Establishment of Land Registries

The National Building Regulation is clear that as part of the requirements for securing planning permission, developers are mandated to 'provide a land title certificate issued by Land Registrar'. However, at the time of enacting this provision in 1996, there were only two offices of the Land Title Registry which were both situated in the south (specifically in Kumasi and Accra). The Building Regulation as applied across the entire country despite the biases in terms of the distribution of land title registration outlets. Therefore, in practice, it was almost impossible for developers living outside Kumasi and Accra to

satisfy this provision. This is because the cost and the bureaucracies involved to comply with these regulations made it unattractive to prospective developers.

Under LAP, eight additional offices have been created. All of the 10 regions presently have an office of the land title registry. The creation of the new offices of Land Title Registry is expected to make the processes of obtaining land title certificates simpler and more straight forward.

Systematic Land Title Registration

One major focus of LAP is to register every parcel of land in Ghana as a means of ensuring title security. At the time of the field research, (November, 2009 – March, 2010), a pilot study of the systematic land title registration was ongoing. Whether registering parcels of land and issuing title certificate in itself offers improved land title security is debatable. Indeed this claim has earlier been challenge as been over simplistic and failing to recognise the structure of the property rights regime in the customary sector where multiple rights may concurrently exist on a particular land (see section 3.8). Nonetheless, the piloting of this proposal is hailed as a major achieve of LAP so far (see LAP, 2007; 2008; World Bank, 2003).

Establishment of Automated Land Court to expedited the adjudication of Land Cases

Plans are far advanced for the establishment to specialised land courts for fast arbitration of land cases. In 2003, there was a backlog 35,000 of land cases in the various courts (World Bank, 2003). These Land Courts have the powers of a High Court. It is projected that the 35,000 cases will be reduced by 70 percent by 2015.

Basing on the ongoing discussion, it may be fair to conclude that the land administration reform has made several achievements. It has already been established that, land administration reforms impact on land use planning practices. The next section assesses

whether these changes resulting from the implementation of LAP are translating into improved planning practices.

6.6.2 Is the Land Administration Project improving Land Use Planning Delivery?

In order to assess whether or not the implementation of LAP is helping to improve land use planning practices in Ghana, it was important to compare some indicators of planning delivery between the period before the introduction of LAP and the period after its implementation. In order to achieve this, 100 private developers each (thus 200 developers in total) were selected from the period before the implementation of LAP (Pre-LAP era) and the period since its implementation. The selection of these respondents has been discussed in section 5.5.3. The same sets of questionnaires were administered to respondents from both pre-LAP and LAP eras across the four embedded case. The divergences in the responses subsequently provide the basis for assessing the success or otherwise of the LAP.

To effectively gauge the impact of LAP of land use planning, the following questions were used as the guiding parameters.

i. What were the most difficult problems developers encountered during the land acquisition process?
ii. At which stage in development did developers apply for planning permission?
iii. Did the possibility of losing their land affect developers' decision in terms of when they applied for planning permission?

By addressing these questions based on evidence from the embedded case study areas is expected to be a source of useful insights regarding how the ongoing implementation of LAP is impacting on planning delivery.

Most difficult problem during the land acquisition

Prior to the inception of LAP, almost every developer could enumerate the problem of the Ghanaian land market without much effort (4.3.3.4.2). The land acquisition process was fraught with multiple sales arbitrarily determined land prices, acute dearth of information on lands transactions, undue delays and high cost of registering ones interest with appropriate state agencies among others. It was against this background that the National Land Policy (1999) was warmly embraced and hailed as timely. By comparing the challenges developers from both pre-LAP and Lap eras therefore provides a useful basis to measure the impact being made under LAP in terms of addressing the challenges associated with land acquisition. The table below summarises the responses from the various developers who were surveyed.

Table 6.5: Land Challenges faced by developers from pre-LAP and LAP eras

Land Challenge	Pre-LAP (percentage of respondents)	LAP (percentage of respondents)
Identifying available developable land	16	17
Identifying rightful land owners	18	11
Negotiating price and terms of payment	31	43
Registering interest in land with government institutions	28	24
Others	7	5
Total	100	100

Source: Field Survey, 2009/2010

From the table above, 17 percent of developers in the pre-LAP era indicated that Identifying available developable land was the main challenge compared 16 percent who developed in after the implementation of LAP had commenced. Again, 28 percent and 24 percent of developers in the pre-LAP and LAP eras respectively indicated that the problem of developers registering their interest in land with government institutions was their major obstacle when they acquired land for development. Moreover, 18 percent in the pre-

LAP era and 11 percent in the LAP era indicated that identifying the rightful land owners was the main challenge the faced when acquiring land for development. From all these, it could be observed that, very similar percentage of developers from both pre-LAP and LAP eras experienced the same challenges when acquiring land for development. There is therefore no discernible difference in terms of the challenges developers in both pre-LAP and LAP eras face in land acquisition.

Stage at which developers applied for planning permission

One key feature of urban growth in growth in Ghana is that development mostly proceeds without any planning authorisation (see section 4.10.3; Ubink and Quan, 2008). Although some developers apply for planning permission retrospectively, developments generally spring up without any meaningful efforts on the part of developers to comply with planning requirements. If LAP is helping to improve land use planning, then this should be evidenced by improvement in rate at which developers obtain planning authorisation before development. As part of the effort to gauge the impact of LAP, the stage at which developers apply for planning permission is compared in the table below.

Table 6.6: Stage at which developers applied for planning permission in pre-LAP and LAP eras

Stage at which developers applied for planning permission	Pre-LAP (percentage of respondents)	LAP (percentage of respondents)
Before development commenced	17	22
Applied immediately after starting development	24	40
After developing to a substantial level	28	19
When asked to 'Stop Work, Produce Permit'	20	12
After completion	10	6
Missing	1	1
Total	100	100

Source: Field Survey, 2009/2010

From the table about, developers from both eras develop at various stages of development. There appears a marginal improvement in terms of developers obtaining planning permission prior to development under the LAP era. In the LAP era, 22 percent ofdevelopers obtained planning permission prior to commencing development. This compares with the 17 percent of developers who acquired planning permission before commencing development in the pre-LAP era. In similar vein, 40 percent of developers in the LAP era admitted that they applied for planning permission immediately after commencing development. This compares with the 28 percent of developers in the pre-LAP era. So clearly, there is no definite pattern in terms of when developers apply for planning permission based on the statistical calculations from the table.

Did the possibility of losing their land affect developers' decision in terms of when they applied for planning permission?

It has been established that land title insecurity is endemic in the Ghanaian land markets. It has also been established that land title insecurity significantly contributes to non-compliance of planning regulations and in the broader sense compromises the entire planning system (see section 6.5.1). It is worth recalling that the core aim of LAP is to "develop a sustainable and well functioning land administration system that is fair, efficient, cost effective, decentralized and that enhances land tenure security" (World Bank, 2003a, p.3). Improving land title security is therefore at the heart of LAP. If LAP is on course towards realising this goal after almost seven years of its implementation, then it might be expected that the state of land title security should have improved. Eventually, it is expected that improvement in the land title security should translate into an improved the state of planning practice. The table below compares the issue of land title security and planning compliance from both pre-LAP and LAP eras.

Table 6.7: Land Title Security and its influence on when developers commenced development

Did the possibility of losing your land influence your decision to develop your land?	Pre-LAP (percentage of respondents)	LAP (percentage o respondents)
Yes	79	86
No	17	8
Not Sure	2	5
Missing	2	1
Total	100	100

Source: Field Survey, 2009/2010

Enhancing land title security is a major goal of LAP. Surprisingly, more developers under the LAP era (86 percent) admitted that the possibility of losing their land influenced their decision to develop your land. This contrasts with the 79 percent of developers from the pre-LAP, a situation which suggests that LAP has so far not achieved this goal. Admittedly, land administration reforms may take some time before the expected goals are realised. However, 7 years into a programme which is expected to be implemented over a 15 year period is relatively long. Therefore, there should be some short term signs regarding the possible eventual outcome of the project. The fact that more developers under the era of LAP perceived that their land rights were vulnerable may therefore be an indication that attempting to improve land title security through systematic land title registration may not yet expected results in the long run.

It is expected that the implementation of the Ghana Land Administration Project should help to address some of the challenges which have bedevilled the land sector. However, evidence from the perspective of a private property developer reveals mixed results. In terms of some areas such as developers applying for planning permission immediately after commencing development, there is some modest improvement. From table 6.6 above, 40 percent of developers applied for planning permit immediately after starting developing compared to 28 percent in the pre-LAP era. In some areas too, it appears that the implementation of LAP has made no impact. For example there is no discernable

difference in the problems developers face between pre-LAP and LAP eras, as evidenced in table 6.7 above. Indeed in some cases, it appears the implementation is aggravating the existing land challenges. The case of land title security and its subsequent implication on planning compliance is illustrative. 89 percent of developers from the LAP era admitted that the possibility of losing their land meant that there was the need to develop as soon as possible. This contrasts with 79 of developers who expressed similar concerns under the pre-LAP. This result suggests that in course of the implementation of the LAP, many developers feared that they may lose their land. This is contrary to the expectation of LAP.

When the preliminary findings suggested that more developers within the LAP era perceived their land rights to be insecure, it represented the exact opposition of the anticipated result. This promoted further investigation from responses helped to further illuminate this situation. Views from some of the implementing agents of LAP helped to illuminate this unexpected outcome. When asked what may account for more developers in the LAP era to perceive their land rights as insecure, the common response centred on the issue of land title registration. Respondent 23 observed that:

> "The whole implementation of LAP has been shaky. We have a situation where the authorities are too concerned with title registration...Don't get me wrong! Title registration is good. It is a means to an end and not the end itself and this is how I think the whole process should be conceptualised. You do not go about wanting to register every parcel of land in the country. It is not practical...It does not work like that. Unless there is reconsideration [in terms of LAP wanting to systematically register lands] there will be so much [financial, technological and human resource] inputs but with little to show for all these efforts"

Respondent 25 also expressed his reservation in terms of the issue of systematic land title registration under LAP.

> "You have to note that one man's meat is another's poison. Land title registration may work in some countries but that is not a guarantee that it will work in Ghana. If you go to the small towns where the implementation of LAP is ongoing, there are strong concerns about this whole issue of [land title] registration. People are not sure who can register what land because there are so many people using one land. So if you give a single [land title] certificate, whom will it be for? Yes I admit that our land sector is messy but the answer is not [land title] registration per se. If we are not careful, people are going to lose their land at the end of the day"

Respondent 37 also noted that:

> "I am a witness to situations where people are rushing to develop on their land. To them if they do not do something on their land, may be someone else may register their land"

Therefore, more developers under LAP observed that the likelihood of losing their land influenced their decision to develop swiftly because since there was the real possibility of being deprived of their land rights through the bureaucracies of formal land title registration.

With regards to the likelihood of that LAP will deliver its stated goals, views from the various planners and land management experts who were engaged in the study were also mixed. Some were highly optimistic that LAP will deliver its stated goals, whereas others were doubtful. Indeed respondent 17 described the goals of LAP as "comforting but it is likely to be elusive at the end of the day". When respondent 1 started to evaluate the impact of LAP in his planning area, he was full of praise:

> "LAP is very good. We have computers and a new car because of [its implementation]. We know that these [computers and car] will help us to improve [in our service delivery]"

Similarly, respondent 2 was of the opinion that:

> "LAP is going to undertake a full title registration which is good because once titles are issued, then everybody's land will be safe.... The land conflicts will be minimised and we can have the peace to discharge our duties... You know [as planners,] we deal will land. If there is land conflict, how can planning go ahead? LAP is very timely because it will bring peace [in terms of how land is held]"

Respondent 12 was also very hopeful that:

> "People complain of delays when trying to acquire land or even applying for a [planning] permit and I will personally say this is true to a large extent... That is why I find LAP useful. It is going to digitise all land information. A time is

coming where at a click of a button, you can complete a [land] transaction and issue a permit in the following day"

In the view of responding 16,

> "Any programme that seeks to achieve this aim [now reading from the inception document by World Bank, 2003] – to develop a sustainable and well functioning land administration system that is fair, efficient, cost effective, decentralized and that enhances land tenure security can only be good. Look around. LAP is providing us with computers, our [land] laws are being streamlined and we are now moving to participatory or community based approach of land management with strong ICT base. I think you cannot ask for anything more"

So clearly a section of the stakeholders interviewed are content with the aspirations and achievements of LAP so far and are hopeful that the various challenges of the land sector could be addressed after the implementation of the programme. Other respondents are however sceptical that the lofty aspirations of LAP may remain unachieved. Those expressing doubt about the success of LAP cite several issues which are emerging with the implementation of LAP to buttress their concerns.

In expressing his pessimism regarding the long term success of LAP, respondent 28 observed that:

> "LAP is too donor dependent. At the end of the day, we have to know that we will reap every benefit which is derived from it... How can we as a country come up with such policy and expect people to come from their countries to pay for every pesewa [or penny]? Are we serious as a country? We claim we do not have the money but I do not believe in these kinds of stories. To me it is all about priorities. If the government has the willpower, trust me we can finance everything about LAP... Now the donor funds are drying and my fear is that it may even worsen in the coming years and months because of the credit crunch. Unless we can bear our own burden the LAP is surely not going to travel far"

In commenting further, respondent 30 revealed his dissatisfaction about some lapses which have been repeated in the course of the implementation.

> "I do not want to take myself from it since I also work in the land sector. Neither am I saying I am the answer to LAP's problems but at times I am baffled. Some of the decisions the big men [referring to the land management experts at the national level] take are simply shocking! [He asks me to pause the tape recorder here. I

turned to taking notes of his narration]... There is lack of direction for the whole process. You see things are not done systematically. I hope you have heard of the whole confusion which is engulfing the transitional process of the institutional reform. It is avoidable. We could have simply avoided it with a bit of better planning. Do you know that we started to merge some of the land sector agencies before we even contracted some people to draw up the modalities for the merger? This is just wrong!"

Respondent 29 outline why in his opinion, the success of LAP is currently in the balance:

"There is agitation and conflict even among the new Lands Commission and its divisions. People are fighting for positions and cars and not the success of the project. We are using our effort in trying to ensure in-house stability instead of tackling the [land] challenges LAP seeks to address... I am not a prophet of doom but a house divided among itself they say can never stand. As we have it now, the institutions responsible for LAP is highly polarised and this is only a recipe for disaster"Respondent 31 also assessed the achievements of LAP and the potential threats which may derail any success:

"So far, LAP has performed creditably. There have been some achievements especially in the area of introducing ICT in land management. The Land Court is also a giant step forward and it is expected to reduce the backlog of land cases in our courts. Despite all these [gains], when I do a forecast, I think the future is a bit bleak. You see, the project is facing shortage of funds. The donors are not as enthusiastic as they used to be so there is the challenge to make the project financially sustainable but I do not think we have a backup plan... I also think that we have to be cautious with the strategy to formalise land rights especially in the rural areas. If we are not careful, it will bring inequity in the rural areas because people may take advantage of the weak ones and deprive them of their legitimate [land] rights"

In responding to the question 'are there any threats to the successful implementation of LAP', respondent 34 who was visibly angry and charged shouted that:

"It is the greed and dishonesty on the part of some people that will bring this whole LAP down. LAP is to help the country but some people have turned to grabbing positions... You see this [he stopped and pulled what was a press release from his drawer and handed it to me], you can read it. We are going to petition the President [of Ghana]. People from the Survey Department do not feel at home in the new Lands Commission and we want our way out. They have taken all the good positions and they think they can get away with it. We [the Survey Department] have been cheated in terms of how appointments to some key eras were made... We have had enough and do not want to be part of this new reform"

In similar vein, respondent 37 opined that:

> "There are some good things about LAP but like any human endeavour, it has some issues which will not help if they are not tackled now. I am not convinced that if you register someone's land it will automatically address all the problems we have [in our land sector]... if you examine the evidence from other countries, you can see clearly that this issue of title registration has its own downsides. The poor and the illiterates were taken advantage of and they lost their lands in the process in some countries. They lost their livelihood in the process and even got more impoverished... In some of these areas, it led to some form of social upheaval... I am not saying that this is what will happen in Ghana, but I think it is a possibility, if we repeat what happened in those countries"

Respondent 39 was also not convinced that LAP can deliver its goals. He was particularly concerned about some key decisions which he opines have undermined LAP. In his view,

> "If we have such a big project like LAP and the authorities cannot even organise to procure the basic equipment needed, then I am not sure if everything is well. If you go to Savelugu for example, they could not start [implementation] on time because of the problems with procurement. Even before the project started, they rushed to buy so many computers when they were not even needed. At the end of the day the software [licence] they bought had expired when there was a need for them... This was not needed. What was needed was to conduct a survey and establish your benchmarks and baseline so that you can manage your achievements but this was not done. So it is clear that we have had some challenges in terms of implementing LAP in a logical sequence and this is definitely an issue of management"

Finally, respondent 41 was also concerned that:

> "We are experiencing some challenges [with the implementation of LAP] especially with the issue of funding. It worries me at times because without funding, the project will come to a standstill"

From the foregoing discussions, it is clear that LAP has achieved some aspects of its goals especially in the areas of enhanced land record keeping through improved technology. The establishment of specialised Land Court is expected to facilitate the adjudication of land conflicts. The consolidation of the various land laws into a single Lands Act is also expected to streamline the legislative basis for land administration. Similarly, the merger of four land sector agencies into a single entity, the new Lands Commission is also

expected to facilitate aspects of land administration especially in the area of land title registration and inter departmental coordination.

Despite these gains, there are some challenges which are threatening the long term success of the project. Various respondents have identified various issues of concern. After a critical analysis of the responses, the various challenges of LAP can summarised as follows:

i. An over emphasis on Land Title Registration;
ii. Lapses in management decision making;
iii. Dwindling funding, and,
iv. Institutional unrest.

These four emerging challenges from the implementation of LAP are grouped into two main considerations. These are the unintended outcome of land title registration and institutional inefficiencies. The issues of lapses in management decision making, institutional unrest and the dwindling funding for the implementation of LAP are institutional challenges and these are examined in detailed in section 7. 7.6 in the next chapter.

6.6.3 Unintended Outcome of Land Title Registration

One emerging challenge from the implementation of LAP results from the extreme emphasis on land title registration of land rights under customary tenure. Some analysts claim that registering land rights which are held under the customary tenure makes them formal. Formalising or registering land rights thus essentially entails an official registration and issuance of titles to individuals (or families) holding (possessing) housing and other land-based assets (Bromley, 2008, p.8). Land policy experts who are sympathetic to the ideals of formalising land rights (such as Atwood, 1990; de Soto, 2000) argue that indigenous land tenure systems are defective in offering security of tenure because the rights and interest in land are not evidenced in writing. Under the customary tenure, several interest and rights can be held on the same piece of land concurrently by members of the land holding group. In a given piece of land, the following interest and rights may subsist:

i. An allodial interest which vests in the appropriate stool or skin;
ii. Customary freehold which is held by a member of the land owning group;
iii. The usufructuary rights which allows other members to enter, use and enjoy land in line with customs;
iv. A lease; or
v. Customary tenancies

All the above listed rights and interests in land are duly recognised under the Land Title Registration Law (PNDCL 152) which provides the legal framework for formalising land rights in Ghana. According to the World Bank (2003a)'s Project Appraisal Document, the long term object of LAP is to register the title to every parcel of land in Ghana. However, as it stands, it is not clear which of the multiple rights and interests would be registered under LAP. At the time of the field survey, only the allodial interests had been registered in the four embedded case study areas. In line with its description as 'systematic land title registration', authorities eventually aim to register other rights and interests in line with the overarching goal of LAP. The aim to register land title to every parcel of land raises two concerns. Firstly, if the land title certificate is issued to allodial interest holders or the customary freeholders, they will become the solely recognised owners of the subject parcel of land under the formal land sector institutions. In this case, all other secondary land rights on the same parcel of land will be extinguished. On the other hand, if the implementers of LAP choose to issue formal title certificate to all shades of rights and interests in a particular land, this may result in four or five different certificates issued in respect to a single parcel of land. In either case, there is likely to be confusion. It was in this light that respondent 30 noted that:

> "[The title registration] has the potential to cause disequilibrium since two or more certificates may have to be issued for the same land. Some of them [land rights and interest] are superior to others and the lesser ones are likely to suffer....if you have three or four certificates on the same land, then who can use his certificate for loan? .....I think it [the title registration] will bring confusion.....some will benefit but surely, some will lose."

Respondent 38 also corroborated this position when he observed that:

> "There is limited confidence in the government's bureaucracy so when people heard of the state coming to register their lands, some of them got alarmed. We have had some instances where people want to do something on their land just to show that they own it."

He continued that:

> "LAP is good..... But we have to be careful with the title registration business. If we are not careful, people can cheat others of their land."

In other countries where similar land administration reforms have been implemented, the elite have manipulated the system to their advantage. Platteau (1996, p. 43) therefore warns that:

> "In a social context dominated by huge differences in education levels and by differential access to the state administration, there is always the fear that the adjudication/registration process will be manipulated by the elite to its advantage"

There is no reason to believe the situation will be different in Ghana at the end of the land administration project.

Formalisation of land rights alone is not, and cannot, be a panacea to addressing the problems which are associated with the customary land tenure. Indeed research by staff from the World Bank (which is known for being a strong advocate for formalising land title) refutes the sweeping claim that formalised land title is the antidote to all the land problems in emerging economies. For example, the eminent economist, Klaus Deininger of the World Bank has argued that:

> 'Increasing security of tenure does not necessarily require issuing formal individual titles and in many circumstances more simple measures to enhance tenure security can make a big difference at much lower cost than formal titles... Formal title is not always necessary or sufficient for high levels of tenure security (Deininger, 2003, p. 39)'

Similar points have been made by Carter and Olinto (2003, p.180) who established that:

> "In many situations, titling may increase transaction costs in the circulation of land, create new sources of conflicts if formal land rights are assigned without due recognition of customary arrangements"

Again, Deininger and Feder (2001) have averred that:

> ". . .formal documentation (i.e. titling) is not crucial where customary tenure systems provide sufficient security to facilitate the level of investment and land transactions that are relevant for the prevailing economic environment" (p. 314)

The idea of titling could be problematic at least to the more vulnerable groups. It is therefore not surprising that people are resorting to hurriedly building on their lands as a means of improving the title security of their land. These observations may help to explain why relatively more developers (86 percent) under LAP indicated that title security considerations influenced their decision to develop. This compares with 79 percent of developers in the pre-LAP era who expressed that the possibility of losing their land influenced their decision to develop. In effective, the overly prescriptive nature of land title registration under LAP may not be able to address the various land challenges contrary to the expectations of the policy makers.

6.7 Conclusion

The overarching aim of the study is to establish the nature of relationship between customary land tenure practices and land use planning in SSA. Drawing from both qualitative and quantitative evidence, it has been established that the prevailing customary land tenure systems exert considerable impact on land use planning. It has been identified that customary land tenure systems influences planning practice in four main ways:

i. Land rights held under the customary land tenure are generally insecure. Therefore developers in an attempt to consolidate their land ownership status are pushed to develop. In most cases the fear of losing their land means, developments proceed without reference to the planning authorities.

ii. Some customary land holders have unilaterally appropriated the mandate of planning to themselves and are thus preparing land use plans. These customary landholders, almost in all cases, employ the services of self styled planners/surveyors who are without the requisite skill. These unprofessional planners prepare makeshift plans which eventually become the basis for the growth of human settlements. This practice in the long run undermines efforts at meaningful planning human settlements in such areas.

iii. In areas where plans have been formulated by the mandated planning authorities, some customary land holders still sub divide and allocate land for purposes which are not supported by the existing planning policies. The nature of power dynamics between the powerful landholders and the state officials, who are 'subjects' means, this anomaly of deliberately distorting plans by customary landholder is perpetuated with impunity. The unilateral alteration of land use plans by customary landholders is therefore a major trajectory through which customary tenure practices draw land use planning delivery back.

iv. Finally, the concurrent existence of customary boundaries and state created planning/administrative boundaries means two or more land owning group are placed under the jurisdiction of a single planning authority. In most cases, the lack of cooperation between the landholders has resulted in plans being prepared on a piecemeal basis. This has led to a situation where land use plans are being prepared along the lines of customary landholding groups. What makes this more problematic is that preparations of such plans proceed without any proper coordination. This overlapping nature of customary land boundaries and local government boundaries therefore undermines the planning process.

It was anticipated that the introduction of the Ghana Land Administration Project would have made some contributions towards addressing the challenges of planning and land management. LAP has made some achievements especially in the area of computerising land administration, consolidating land laws and facilitating the adjudication of land disputes through the establishment of specialised land courts. In terms of helping to

improve land use planning practices, the study did not establish any concrete evidence to date. Indeed, LAP is currently experiencing some challenges of its own which are hindering effective implementation of the proposed reforms.

It was established in chapter one (section 1.2) whereas some authors attribute planning efficiency to the prevailing land tenure, others cite the institutional framework as the principal determinant. However, when a nationwide survey of local planning authorities was conducted, (see section 4.10.4) it was established that both land tenure and the institutional arrangement impact on the quality of planning practices. Therefore, having empirically ascertained the exact way customary land tenure systems impact land use planning, the next chapter analyses and discusses the institutional challenges for land use planning practices.

CHAPTER SEVEN

INSTITUTIONAL CHALLENGES OF LAND USE PLANNING IN GHANA

7.1 Introduction- Institutional Framework for Land Use Planning Revisited

In section 1.2, it was highlighted that the existing institutional arrangement is one of the causes of land use planning inefficiencies in SSA. When the first stage of empirical research was conducted (see section 4.9), amongst other factors, it was established that local planning authorities face the following challenges in the discharge of their mandate – political interference, inadequate human resources (both in terms of numbers and skills), inadequate funding as well as ineffective planning laws. As Njoh (2003), Tewdwr-Jones (2002) and Acemoglu et al (2001) have outlined earlier, these four issues are the key components of every institutional arrangement for planning delivery.

The first stage of the empirical research identified and explored four main issues as part of the efforts to address the question 'what is the nature of institutional challenges which have contributed to planning failures?' Insight from this survey helped to shape the design and conduct of the second stage of the empirical research where these issues were further interrogated. This chapter analyzes and discusses the evidence which highlights the four institutional challenges planning practitioners face. Evidence generated from the empirical research is qualitative. Accordingly, the analytical tool – Critical Discourse Analysis (which has already been discussed in section 6.4) is employed. The remaining part of this chapter analyses and discusses each of the following challenges:

- Political interference
- Human resource inadequacies
- Ineffective Planning Laws
- Inadequate Funding

7.2 Political Interference and Land Use Planning

Although it has been variously described as semi-judicial and negotiable activity, planning is largely a politico-rational endeavour (Kivell, 2003; Healey et al. 1988). Accordingly, the overarching political ideology and systems greatly influence the nature and mode of planning. In this regard, it is practically impossible to effectively undertake participatory planning in contexts which are under authoritarian or dictatorial rule. In similar vein, planners in democratic or libertarian countries are expected to consult, engage and work closely with the local people in planning delivery. In Ghana for example, there has been a turn to democratic and decentralised governance since 1992. Within the same period, the country has witnessed a change in the institutional arrangement for planning. Planning is now structured along a decentralised political structure compared with the previously centralised approach, which was practiced under military rules.

The Ghanaian model of decentralisation has three tiers; local, regional and national. Land use planning is essentially carried out at the local level. Local plans are subsequently coordinated at the regional level before finally harmonised into a national plan. Each local planning authority should have a Statutory Planning Committee (SPC) which is the technical body responsible for formulating plans, assessing applications and implementing and enforcing content of the plan, on behalf of their respective local planning authority. The SPC is an inter departmental committee which is made up of officials from the Town and Country Planning Department, the Environmental Protection Agency, the Survey Department, the Fire Service, elected councillors and utility companies, who should meet periodically to undertake forward planning and development control responsibilities. The composition of the SPC is cross sectional of professional and it expected to ensure integrated approach to planning. According to this arrangement, planning should be technical activities and not necessarily a political one.

The Local Government Act 1993 (Act 462) and the National Building Regulation (LI 1630) provide the guidelines for making decision of planning applications. In theory, there are several processes involved in evaluating planning applications. Upon receiving planning applications, the local planning officer is expected to vet it to ensure that the application is completed and all required documents have been submitted. Depending on how complex the planning application is, the planning officer may forward aspects of it to specific departments for more detailed technical advice. The planning officer is expected to compile a preliminary report highlighting whether the proposed use is compatible with the zoning regulations, whether the applicant has a good title to the particular parcel of land and what the expected impact of the proposed use on the surrounding areas. The report should also assess the technical architectural details of the proposed development, something which is done by liaising with architects and structural engineers. During Statutory Planning Committee meeting, the planning officer is expected to present the compiled report. The report is then reviewed before decision is taken. The Chief Executive, as a representative of the President, is expected to make the final decisions based on the evaluation of the planning application by the technical experts. In this regard, it may be fair to say that planning decisions are in theory based on objective technical assessments of planning applications.

In practice however, this hardly happens because planning is not simply a technical activity. Indeed Tewdwr-Jones (2002) has strongly encouraged commentators to dispel the myth that planning is a technical and value free activity. He has indicated, and rightly so that, planning practitioners who claim to be purely technical in the discharge of their duties without adequate consideration to the political dynamics are "deluding themselves and others" (p. xi). The Chairman of the SPC is the Chief Executive of the local government authority, who is a political figure, appointed by central government (see Gyampo, 2008). As the political and administrative head, coupled with his/her privileged position as the representative of the President, the Chief Executive officer is undoubtedly the single most powerful and influential member of his/her area and by extension, the Statutory Committee. Under section 20 (3 c-d) the Chief Executive is described as "the chief representative of the central Government" who has the responsibility to "supervise all the departments of the Assembly". Therefore, the concentration of power in the Chief

Executive is derived from the Local Government Act, 1993 (Act 462). What makes this situation more crucial is that there are no concrete checks and balance mechanisms to moderate the use of these powers (Debrah, 2009; Gyampo, 2008).

As a result of the imbalance power relations, Chief Executives are hardly accountable to the local citizens. Predictably, this situation has created fertile grounds for several of them to engage in all forms of abuses - financial malfeasance, cronyism, lack of transparency, arbitrariness in terms of decision making (Gyampo and Obeng-Odoom, 2009; Debrah, 2009; Gyampo, 2008). In response to the litany of these accusations which have been levelled against them, there have been calls to subject the powers of the Chief Executives to certain procedures and rules of conduct. As part of the efforts to achieve this, there have been strong calls for the election rather than appointment of Chief Executives. Analysts argue that this will help to improve local governance since there will be downward movement of accountability to the local citizenry (Gyampo and Obeng-Odoom, 2009). In a survey conducted by the National African Peer Review Mechanism's Governing Council (2008, p. 31), the majority of respondents (71.2%) called for the need for a constitutional amendment to allow citizens to elect their district chief executives. Prior to that, the Africa Peer Review Mechanism (APRM) in its study of the Ghanaian Local Governance System found that "several stakeholders expressed their preference for elected District Chief Executives and District Assemblies" and accordingly recommended the need for the government of Ghana to "consider the merits of making all positions in the District Assemblies elective" (APRM 2005, p. 24).

Particularly in the area of planning, the appointment of the chief executive (who doubles as the Chairperson of the Statutory Planning Committee) has proved to be problematic over the years. The study established two main ways in which planning is undermined by the involvement of the Chief Executives. These are as follows:

i. Since politicians and political appointees such as the district/municipal/metropolitan Chief Executives are actively involved in planning decision making, it makes the planning process more susceptible to political abuse.

ii. The Chief Executives are the only people who are mandated to convene and chair Statutory Planning Committee meetings. In practice, the Chief Executives are busy and are unable to convene Statutory Planning Committee meetings frequently and this is a major source of delay with regard to making decisions on planning applications. Each of these two points is expounded below.

7.2.1 Political manipulation of the Planning Process

Politician both at the local and national level have been identified as manipulating the planning process for electoral gains and this eventually undermines effort at improving the state of planning practice. A recent development in Sukura and Sodom and Gomorrah is illustrative how key national political figures have subjugated meaningful planning in favour of political consideration. Sukura and Sodom and Gomorrah are heavily populated slum enclaves within Ablekuma South and Odododiodio constituencies respectively. Both areas are under the jurisdiction of the Accra Metropolitan Authority. It is generally held that, whilst residents of Sukura are ardent supporters of the opposition New Patriotic Party (NPP), Sodom and Gomorrah is the home of people who are sympathetic to the ruling National Democratic Congress (NDC). Table 1 shows the results from the last two presidential elections.

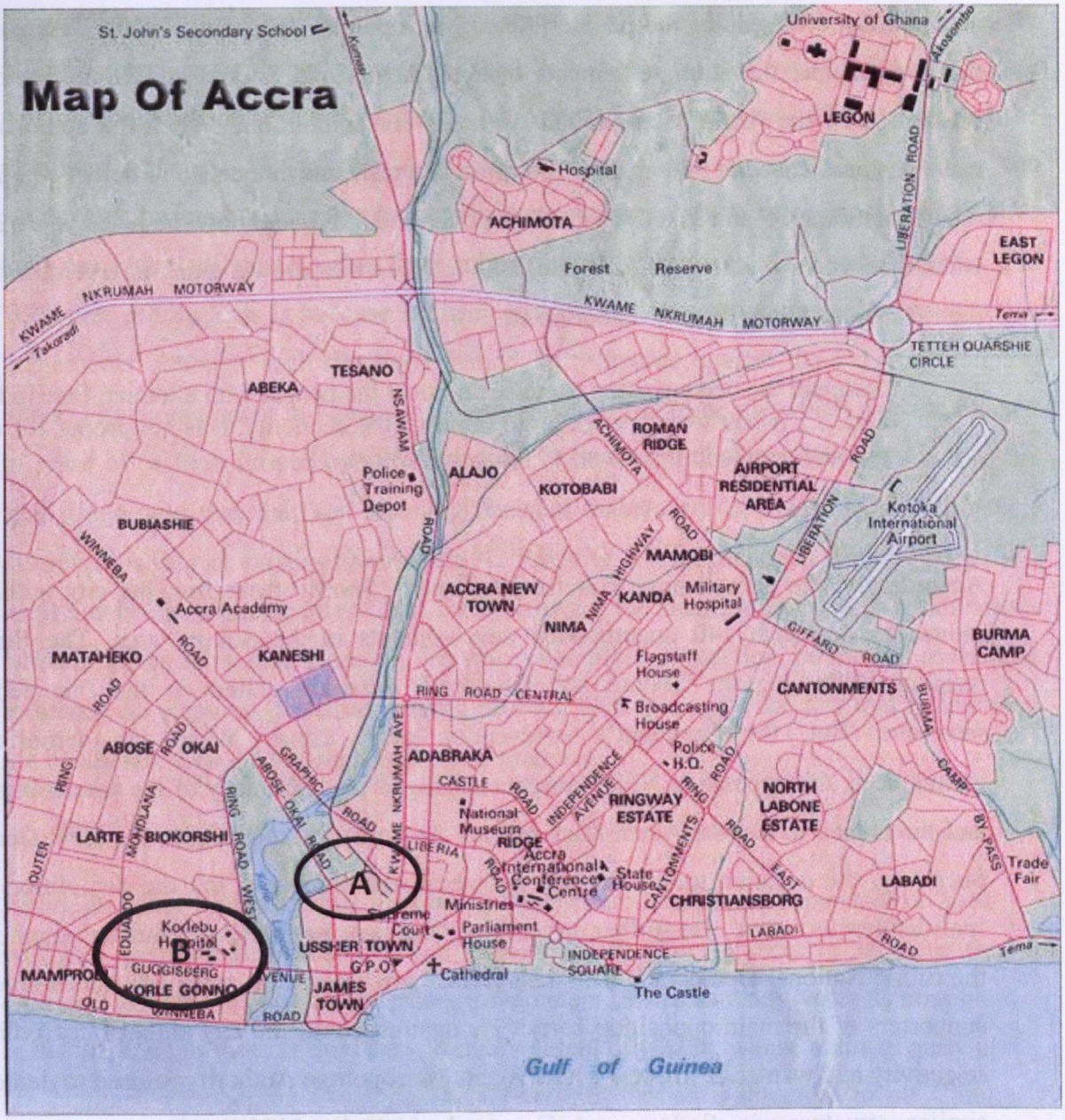
Table 7.1: Results of Presidential Election for the 2004 and 2008

Ablekuma South Constituency (%)			Odododiodio Constituency (%)		
Year	NDC	NPP	Year	NDC	NPP
2004	43.8	55.0	2004	51.9	46.8
2008	48.1	48.8	2008	58.2	40.7

Source: Electoral Commission, 2010

The table suggests that during the past general elections, Ablekuma South Constituency (of which the Sukura is part) voted for the opposition NPP whereas Odododiodio Constituency (home to the Sodom and Gomorrah) voted for the ruling NDC. These two constituencies are presented in the map below.

Map 7.1: Map of Accra showing the slums of Sukura and Sodom and Gormorrah



A: Sukura Slum in the Ablekuma South Constituency; B: Sodom and Gomorrah in the Odododiodio Constituency

Source: http://www.nationsonline.org/oneworld/map/google_map_Accra.htm [accessed on 12/10/10] with author's additions

When the present metropolitan Chief Executive of assumed office in 2009, he outlined his vision to transform Accra into one the finest cities in Africa. Captioned "A New Accra for a Better Ghana", the Chief Executive seeks to make Accra a modern city with provision of all utilities, good environment and unlettered roads, effective drainage system, healthy private and public toilets, disciplined people, effective transportation, modern hospital meeting the challenges of the time and effective housing programme to meet the accommodation needs of the people (Accra Metropolitan Authority, 2010)[28]. As part of this programme, the slum settlements in both Sukura and Sodom and Gomorrah were earmarked by the Accra Metropolitan Authority for demolition. When the demolishing exercise commenced at Sodom and Gomorrah, the residents threatened to defect en bloc to the opposition NPP and asked whether the government did not know the place was a slum when their votes were sought (Graphic, 2009). This threat drew a quick intervention from the President, calling the city authorities to:

> "Suspend the decongestion exercise and treat the people with a human face [adding that].....when we are working to improve the economy, it is not proper for us to treat our people in this manner" (Gobah, 2009, p. 1)

Accordingly, the demolishing exercise was halted. Shortly thereafter, the city authority moved to demolish 140 unauthorised developments in the Sukura area. The Sukura residents following the Sodom and Gomorrah example, called on the President to intervene. But, the President's intervention never came. When the demolishing commenced, the opposition NPP strongly challenged the legitimacy of the whole exercise and threatened to sue the Accra Metropolitan Authority. According to the NPP General Secretary, the decision to sue the city authority was because it felt the demolition was 'politically-motivated'. He further argued that 'the exercise [was] a calculated attempt by the ruling National Democratic Congress (NDC) government to make life unbearable for supporters of the main opposition party'. He again accused the city authority of political selectivity and wanted to know why the Accra Metropolitan Authority refused to demolish similar structures in Sodom and Gomorrah (Afriyie, 2010). Efforts at improving settlements through planning initiatives such as slum clearance have largely failed to receive the needed political backing and have subsequently been described as "reckless,

[28] http://www.modernghana.com/news/258232/1/ama-is-committed-to-its-vision-to-bring-developmen.html [accessed 05/07/2011]

politically reckless to push people into the rain and lose vote in the name of planning" by government functionaries (Pratt, 2011). The overly political manipulation of the planning process has therefore thwarted any meaningful planning in Ghana.

The above example illustrates political interference on the planning process from politicians at the national level. At the various local planning authorities too, there are political interference. It has been established in section 4.10 that local land use plans are generally very obsolete, hardly updated and in most cases cover only a limited area of the planning authority. Up to date land use plans are however needed to provide the framework for evaluating planning applications. In areas where there are no meaningful land use plans, influence, rather than policy determines planning decision (Gatenby and Williams, 1992). This is because decision makers are expected to make their subjective judgements although such decisions should be measured against the existing land use plans. The arrangement in Ghana is therefore akin to the principle which was established in case of Seddon Properties v. Secretary of State for the Environment 1981 where the trial judge held that that key planning decision makers are at liberty to exercise their discretion within an existing framework (42 Property & Compensation Reports 26, p. 28). As it has been outlined earlier Chief Executives are the single most powerful individuals when it comes to making planning decisions. Therefore in practice, he/she has overriding influence on planning decisions making process. This is despite the fact that he/she may not be abreast with the technical aspects of planning.

Although Chief Executives are appointed, their tenure in office is dependent on their political parties maintaining political power. Every Chief Executive is therefore expected to help the party of the ruling government to win as many votes as possible in his/her area. In view of this, the current President of Ghana, whose political party is the National Democratic Congress (NDC) recently issued a directive to all Chief executives to 'create space for the NDC foot soldiers' and ensure that they are 'well catered for[29]. Such directives and the desire to maintain political power means, Chief Executives manipulate the planning processes for electoral gains.

[29] http://news.peacefmonline.com/features/200911/32963.php [accessed on 2/09/2011]

Within the Kumasi Metropolitan Planning area, planning officials also expressed concern that there are several instances where political considerations, rather than the technical recommendations, have been the basis for making planning decision. In the view of respondent 1:

> "It is difficult to get the backing of the Chief Executive if you want to implement some tough [planning] decisions... One thing that scares politicians is a few tens or hundreds of people declaring that they are defecting from one [political] party and most developers know this... At times before we even meet as a committee to discuss a particular [planning] application, you will hear people on the street demonstrating and calling the MCE to do something else or they will defect to other party... Things like this are very common with big development like fuel [retail] outlets, shopping centres and things like that... If a developer thinks every rational person can spot something wrong with what they want to do, then they turn to some of these under hand tactics... and it works in many cases"

Respondent 2 also expressed similar concern that:

> "Survival is basic instinct and we all prioritise it whenever we sense some threats even if the threat is remote... You know that planning can be unpleasant at times... For example if you go to Mossi Zongo or Alabar [which are notable poorly planned neighbourhoods in Kumasi] and you want to undertake slum clearance, that will be good for the spirit of planning but the people will not be happy no matter how hard you try explain... And you see, those people living in these areas don't know me. They did not vote for me but they voted for the party in government and they blame the MCE for every bad thing... In so many cases, I have presented proposals to the big man and they are still on the shelves... Whenever I follow up, he tells me that my book long[30] knowledge will only make people hit the street and demonstrate against him and his party.... and that he is not prepared to make himself and his party unpopular."

Similarly, respondent 4 from the Ejisu-Juabeng Municipal planning authority recounted that:

> "The politician [or political appointees such as the Chief Executive Officer] is only motivated by the desire to win or retain power which is a matter of vote. A nicely planned neighbour does not vote but people who live in unapproved developments [if they are 18 years or above] do. There is no chance for any [planning] proposal to succeed if our political leaders think it has the potential to affect their electoral fortunes."

[30] Book long is a local jargon which roughly equates to 'a technocrat' or 'an overly theoretical person'

In similar line of thought, respondent 5 from the same area also opined that:

> "There is a growing culture which is crippling our efforts [at planning for the area]... In some situations, when we have managed to convince the MCE to refuse a planning application, the applicant's concerned resort to lobbying the MCE... In some cases too, you see some organised youth demonstrating and threatening to vote for another party if the DCE does not intervene... There are several cases where the MCE has called and impressed on us [as a committee] that there is the need to reverse some earlier decisions without offering any justification."

When asked why he will compromise his professional competency in order to satisfy the caprice of the politician, he argued that:

> "In anyway, many people do not even apply for permit in the first place so if someone come to us [and applies for permit] and proceeds to the MCE because he was not successful [with his/her planning application], then you want to believe that this is a law abiding person..... It gives you the opportunity to effect some changes and modify some aspects of the application and the proposed development.... And mind you if your MCE wants to do something like that [which is reversing planning application outside the laid down procedure], you naturally have little choice [than to comply]"

This view resonates with an earlier opinion by respondent 7 from the Tamale Metropolitan Department of the Town and Country Planning who opined that:

> "The politician who should back you to enforce our plans is interested in his own political cost and benefit analysis. If to him [or her], strictly implementing and enforcing the plan can be costly [politically], then that is the end of it. After all, what do they lose when plans are not implemented? As long as politicians will continue to have a big say in the implementation and enforcement of plans, then succeeding as planners will be difficult"

The view of respondent 8 further corroborated the earlier observations:

> "We have had some frictions with our MCE in the past because he tries to water down our enthusiasm because of political expediency... They always want us to bend the rules to please the voters"

The Chief Executive officer in Ghana determines the final plan since he/she is required to provide authorisation before plan comes into effect. He/she also doubles as the person who

signs to approve planning applications. Crucially, chief executives in Ghana are appointed based on peripheral considerations like political patronage and loyalty, reward for party financiers, among others (Obeng-Odoom, 2009a). Little consideration is paid to the appointees' ability to appreciate and respond to the complexities of local governance. Therefore, the planning powers of the Chief Executive are exercised not necessarily in accordance with planning principles and technical judgements. Admittedly, everywhere, local government leaders take decisions based on other factors apart from technical planning advice. What makes the Ghanaian case different is that the Chief Executive are not popularly elected by the people such that it could be claimed he has the 'people's power'[31] to do as they please. Chief executives are imposed on the planning team by the central government (Obeng-Odoom, 2009b). Thus, the degree of political involvement in the planning process in Ghana is best described as political interference rather than involvement in the planning process.. In Kumasi for example, respondent 1 recounts the twists and turns of a proposed "rid the city off filth initiative" which never happened.

> "There was this proposal to organise the cleaning up of the city in September 2008. We wanted not only to clean the city but also clear the unauthorised kiosks and shops... Some of these kiosks are built right in the middle of some access roads. Our concern [as a planning committee] was that these kiosks which keep springing in the CBD [central business district] were obstructing access to routes. In case there was fire, fire tenders may not be able to move... You know what happened? The MCE and his people insisted the programme was abandoned because it was too close to a presidential election [which was three months away]... Indeed I was even accused of being a member of the opposition party and that my actions were calculated to make the government unpopular."

Also in Tamale, respondent 8 also narrated how they are under pressure to embark on rezoning:

> "When they wanted to build the stadium in 2007, we recommended that there should be about 50 metre radius of undeveloped land around it. What we wanted to achieve was to plant shrubs and trees as part of efforts to minimise the spread of sound... But as I talk to you right now, there is pressure from the MCE and even the regional minister.... All they want is that, we should rezone the area for commercial use... We have tried to explain the need for these wind breaks and noise control belts but they do not seem to understand us."

[31] In Ghana, Mayors are appointed by the central government although it is subject to the approval of elected local councillors.

So clearly, some planning decisions are taken not based on technical or expert considerations but as a result of pressure from key local political players.

7.2.2 Unavailability of the Chief Executive for Planning Activities

As well as political interference, the unavailability of district, municipal and metropolitan Chief Executives to steer the affairs of the statutory planning committee has been identified as another major setback for the planning process, which is rooted in politics. The Chief Executive under sections 20 and 21 of the Local Government Act is directly responsible for overseeing budgeting, administration, finance, Security and policy direction of their respective areas. As well as these statutorily mandated roles, Chief Executives are also expected to periodically tour areas under his/her jurisdiction, cut sod for the commencement of projects and ensure that he/she is in touch with the populace. The many administrative responsibilities and social commitments therefore mean chief executives allocate minimal time to the planning committee. The Chief Executives generally fail to prioritise planning issues and this largely reflects the fact in Ghana, planning is considered as a secondary and therefore does not require urgent attention. Therefore, when Chief Executives fail to prioritise planning issues, it only re-echoes the overarching culture.

None of the various planning laws specifies how regularly the Statutory Planning Committees should meet. However, the National Building Regulations mandate decisions to be taken within three months after the receipt of planning application. Therefore by inference, the Statutory Planning Committee should be expected to meet at least once in every three months. What is more significant is that the chief executive is the sole person mandated to convene meeting of the planning committee. Therefore, his/her unavailability means, the planning committee as a body are unable to meet. When the researcher participated in a SPC meeting in Kumasi and the following observation was made. The observation illustrates the extent to which the unavailability of the MCE draws planning activities back:

> "The planning committee is expected to meet at least every quarter. However, Kumasi Planning Committee (KPC) had its second meeting for the year 2009 on 17th November, 2009. The meeting was originally scheduled for 19th October, 2009. However, the chief executive had an unexpected call to meet the President and the meeting was rescheduled. On the 17th November, 2009, the meeting was expected to have started at 10:00 am. Owning to some security concerns in some part of Kumasi, the Chief Executive was involved in a meeting which lasted for two hours while members of the statutory planning committee waited. When he finally turned up, he apologised for the delay and explained why he could not make it to the meeting on time. He then informed members that, he has been tasked to represent the President at function hence he could not participate in meeting. He suggested the meeting was rescheduled to Saturday, the 21st of November, 2009. He promised that he would triple the sitting allowance if members agreed"

The chief executives are therefore busy and this adversely affects the planning process. The busy schedules of the Chief Executive officers are heightened during Presidential and Parliamentary elections. In practice, several chief executives aspire to become Parliamentarians and thus contest elections which are often in two stages. First, the aspiring Parliamentarian fights to be selected as the representative of his or her political party before finally contesting in the inter-party elections. Even those who do not aspire to become MPs end up becoming the principal campaign agents for the political party of the ruling government. Chief executives therefore become particularly busy during electioneering campaign periods and this adversely impact on the efficiency of the statutory planning committee. The situation which occurred during the 2008 general elections is illustrative.

During 2008, Presidential and Parliamentary elections were conducted. Predictably, Chief Executives became busier and evidence from the embedded case study areas suggests that planning activities stalled. Apart from Kumasi Statutory Planning Committee which was able to meet twice, all the remaining planning authorities met only once. The reason given in all cases could be best summarised by the assertion of respondent 2 from Kumasi that '2008 was an election year and the Chief Executives were always in the field [campaigning]'. It is important to note that the planning committees are still expected to meet at least every three months regardless of the factor that it may be an election year.

Respondent 1 from the same Kumasi Metropolitan Planning Department also reinforced the earlier claim:

> "Last year's [2008] campaign affected us. We were able to meet only twice. [The then chief executive] was really busy so we could not meet"

In Ejisu, Respondent 5 from the Town and Planning Department also indicated that:

> "We met only once last year. If the big man [the chief executive] is not around, then that is the end of it. We cannot go ahead.....last year was campaign season so he was criss-crossing everywhere for votes"

In Tamale, it was also noted by Respondent 7 who conceded that:

> "Although the [statutory planning] committee is made up of different people, it is more or less tied to the MCE's waist. When he goes anywhere, he goes with it and we cannot do anything in his absence. Last year for instance, we did not do much as expected. The MCE was so much into the campaign activities. He did not have time to be meeting us [as a committee]"

In Savelugu-Nanton, Respondent 11, who was also a member of the Statutory Planning Committee was of the view that

> "The DCE is a politician and his term [of office] depends on the votes..... In all fairness, why would you expect him to be sitting in office approving [planning] permits and risk losing [political] power?"

The unavailability of Chief Executives in respect to the planning committee especially during electioneering campaigns means meetings to facilitate the planning process are not held. The main planning duties which are forward planning and assessing planning applications are largely left unattended.

Beside the commitment to political campaigns, which makes chief executives unavailable to facilitate land use planning, the process involved in appointing them is also a factor that

helps to explain their frequent absences. To put this into context, each local government authority has an Assembly which is made up of 70 percent elected councillors with the remaining being central government appointees. The president's nomination for the Chief Executive position is subject to the approval of two-thirds of the councillors, as required by section 20(1) of the Local Government Act 1993 (Act 462).

Over the years, it has been established that getting the approval of the councillors has been problematic. Therefore several assemblies are left without a Chief Executive (and by extension, the chairperson of the Statutory Planning Committee) for several months especially when there is a change in government. When there was a change in government in 2009, it took four months for a new chief executive to be appointed for Kumasi, Tamale and Ejisu-Juaben planning authorities. In all this period, there was no authorised person to convene, chair and oversee planning activities. In Savelugu-Nanton, it took over 9 months for a district Chief Executive to be appointed. This is because the local councillors continuously rejected the nominee of the President. This case was reported in the media and excerpt of it is presented below.

Savelugu rejects nominee again[32]

> "Violence erupted at the Savelugu-Nanton District Assembly yesterday when the assembly members failed for the fifth consecutive time to approve the nomination of candidate for District Chief Executive (DCE) for the area...The Deputy Northern Regional Minister, Mr. Moses Mabengba, who was present to monitor the election, appealed to the assembly members and the residents to reach a consensus".

Giving this incidence of rejections of the President's nominees for the position of the Chief Executive officers, Respondent 11 (from the Savelugu-Nanton planning area) recounted that:

> "They kept rejecting the president' nominees so as at September, 2009 [which is a period of 9 months after the last DCE left office] we did not have a [district] Chief Executive so we [referring to the statutory planning committee] could not meet"

32 http://www.savelugunanton.ghanadistricts.gov.gh/?arrow=nws&read=29413 [accessed on 2/3/2010]

It is therefore appropriate to conclude that, getting councillors to approve nominees for the Chief Executive position is a labyrinthine task. Whenever a nominee is rejected, the process of appointment is restarted. This means the subject local government authority is left without a chief executive and in turn, Chairman of the planning committee. Subsequently, all planning activities are halted. Planning applications are left unprocessed whilst any attempts at forward planning are frozen.

At times too, unavailability of appropriate officials arises when the Chief Executives are sacked by the President. The President has the prerogative to hire and fire the chief executives without citing any reason. Over the years, the various Presidents have exercised this discretionary power. For example in 2011, the President sacked a total of 14 of these chief executives as reported below.

> "President John Evans Atta Mills[33] has sacked five more Metropolitan, Municipal and District Chief Executives for non-performance with immediate effect.

When Chief Executives are sacked, the position of the chair of the statutory planning commission becomes vacant until a replacement is nominated and approved. As the case in Savelugu-Nanton, it took nine months to successfully nominate a Chief Executive.

In all these periods where the activities of the planning committee are halted, growth of human settlements continues unabated. Admittedly, some developers may seek retrospective planning permission. However this defeats the core concept planning which seeks to prescribe and order the pattern of development. Issuing retrospective planning permission only further brings to the fore that the planning system is reactive rather than being proactive. In effect, the overly involvement of politicians in the planning process has had adverse effects on planning efficiency in Ghana. The institutional inefficiencies for planning delivery in Ghana are not caused solely by the political interferences. Shortage of qualified planners is also to blame.

[33] http://www.ghanatoghana.com/Ghanahomepage/president-john-evans-atta-mills-sacks-municipal-district-chief-executives [accessed on 2/3/2010]

7.3 Human Resource Capacity

Planners require a fair blend of academic training and practical experience to appreciate and respond to the growing spatial challenges. One requires the ability to analyze societal needs and formulate policies and strategies to address them in order to be an effective planner. A planner should, therefore, have a good understanding of socio-economic, cultural and demographic dynamics of the context in which planning is done and how these factors are analysed. Professionals with these skills are largely lacking in Ghana.

In 2009, there were 138[34] planning authorities of which 51 (37 percent) had no planning officer and planning departments. Out of the 87 planning authorities which had planning offices, only 50 have planning officers. The remaining 37 planning authorities therefore had planning offices but without planning officers (Planning Charter, 2007). Currently, the number of planning authorities has been increased to 170 without commensurate increase in the number of planners. Therefore, only 50 percent of the 170 local planning authorities have planning officers at post. The 170 district town and country planning departments currently estimate their staffing requirement at 700 professional planners, a figure which sharply contrasts the current stock of 101 (COWI, 2009, p.49). Unsurprisingly, all the interviewees cited the acute human resource capacity as contributing factor to the poor state of the planning system. The acute shortage of professional planners has provided grounds for the infiltration of self styled planners and surveyors on the planning profession. Indeed customary landholders who unilaterally prepare 'land use plans' or subdivide duly prepared and approved ones do so by conniving with these self styled

34: In 2009, the total number of planning authorities was increased from 138 to 170. In accordance with article 295 (1) of the Constitution of Ghana and section 1 (1) of the Local Government Act of Ghana, Act 462, the term 'district assemblies' refers to local governments which have the responsibility to manage ordinary districts (settlements of 75,000 people), municipal areas (settlements of 95,000 people), and metropolitan areas (settlements with 250,000 people or more). When the population an existing local government authority grow to a point, the President may carve out new authorities from the existing ones based on recommendations of the Ministry of Local Government. The core essence of splitting populous local authorities into smaller ones is to facilitate local governance and administration. Ideally, all the newly created districts should have functioning Town and Country Planning Department. However in practice, this is hardly the case. Planning duties of the newly created districts should subsequently be borne by adjoining local planning authorities with functioning planning departments although in some cases, the newly created districts have written to some national planning agencies such as the National Development Planning Commission to take up their planning responsibilities.

practitioners (see sections 6.5.2 and 6.5.3 for concerns which have been expressed by various respondents regarding the activities of unprofessional surveyors and planners in the Ghanaian land management sphere). Such practices further reveal how the shortage of professionals in Ghana is undermining the planning process. The observation by respondent 21 from the Regional Coordinating Council in Ashanti Region best summarises the implication of the quack surveyors for land management in Ghana.

> "The constant presence of unprofessional [people] in our land dealings draw us back in terms of forward planning"

At the national level, respondent 40 from the National Development Planning commission was therefore justified when he opined that

> "As a country, we have been indifferent to the idea of planning and this has even affected our educational system. Our universities are not even training the needed manpower..... There is a void and naturally all sort of characters are filling it"

Although these self style planners exist, the Ghana Institute of Planners, the professional body to which all professional planners belong, has only (270)[35] members (both in the private and public sectors) who serve a country with a total population of about 24,000,000 people. In turn, there is a high planner-population ratio of 1: 88,888 which compares poorly with the situation in some developed countries such as the UK. In UK, an estimated 22,000 planners both in the private and public sectors manage settlements of 60,000,000 people (a ratio of 1:2,272). What makes the shortage of human resources capacity more pronounced is that out of the 270 professionally accredited planners, only 101 are directly involved in town and country planning. The remaining 169 are employed in other sectors such as banks which are not involved in land use planning delivery. The TCPD is one of the poorly remunerated public departments. A planner working in a bank or any other financial institution for example may earn about twice his/her colleague in the town and country planning department. The table below compares the salary levels of some selected sectors of the economy.

[35] http://www.gip.org.gh/index.php?opt=contents&Itemid=3&type=2

Table 7.2: A comparison of the salary level between the staff of TCPD and other institutions

Level	Average Salary Levels in Selected Institutions (GHC)				
	TCPD	Banks	SSNIT	Insurance	NGOs
Graduate entry Level	600	1,000	800	1,000	700
Mid-career	900	1,600	1,200	1,350	1,100
Senior/Managerial Level	1,300	2,300	1,800	2,000	1,500

Source: Compiled from the Fair Wages Salary Commission Preliminary Report, 2009

The planning profession is therefore predictably experiencing a high rate of attrition as a result of the low salary levels. It is therefore not surprising that the remaining 169 qualified planners work in institutions such as Banks, Insurance companies and the Social Security and National Insurance Trust (SSNIT) which tend to have better salaries and working conditions (Ghana Institute of Planners, 2010). Significantly, all these institutions are not directly involved in human settlement planning. Therefore, the Town and Country Planning Department which is statutorily charged with planning is woefully under resourced in terms of qualified human resources. In countries like the UK and USA, several planning practitioners work in the private sector in order to complete efforts by planners in the public sector. However in Ghana such arrangement hardly exists. As it has been highlighted in section 7.5 below, planners at the local level are faced with the challenge of inadequate funding to the extent that they cannot procure tracing papers, ink and other very basic stationery. It is therefore very unlikely that local government leaders would pay for the services of private planning consultants. This helps to explain why the role of private sector planners in planning delivery has been left unattended. Planning and managing human settlements are therefore left to planners in the public sector who are currently in short supply.

For the present estimated 1.7 million people in Kumasi living on an area of 250km^2 there are three 3 qualified planners, 7 with the TCPD technical officers, 4 draughtsmen, a driver and 3 Clerical/Administrative Assistants. This gives planner-population ratio of

1:566,667. Clearly, this places the planners in a difficult position as far as exerting their authority to regulate development is concerned. The Ejisu-Juabeng Local Planning Authority is responsible for offering planning services to 3 neighbouring local planning authorities. The Ejisu-Juaben Local Planning Authority has 2 qualified planners serving an estimated population of 650,000. This yields a planner: population ratio of 1:325,000. Each planner thus serves less people in the Ejisu-Juaben area relative to Kumasi. Nonetheless a planner ratio of 1:325,000 is no better especially when the rate of population growth and urbanisation continue to rise in phenomenal proportion.

In the Northern Region, there are 6 planners responsible for 20 local planning authorities. The available pool of planners is concentrated in Tamale. This is however justified because the Tamale Metropolitan Area has a population density of 318.6 persons per square kilometres which is about 12 times higher than the regional average (25.9 persons per square kilometres). These six planners are collectively responsible for providing planning services to the entire region which compromises of 20 local planning authorities. The region currently has a population of 1,820,806, representing 9 per cent of the total population of the country. The Northern Region is the largest of the 10 regions of the country in terms of landmass, occupying 70,384 square kilometres and accounting for 30 per cent of the total land area of Ghana. The planner – population ratio stands at 1: 303, 467 with every planner being responsible for an area of 11, 731Km^2. This suggests that the inadequacy in terms of qualified personnel is not restricted to the rural or urban areas in the south but rather it is a shared phenomenon.

The high planner-population therefore traverses the rural-urban and north-south divide. What makes the problems of human resource shortage more sever to the planning system is that the activities and processes involved in planning activities are hardcopy based and overly reliant on manual systems which involves ample labour. Thus there is minimal use of improved technology to compensate for the human resource shortage. As Respondent 1 from the Kumasi Planning Committee one noted:

> "We are in the 21st century but its wave has not affected us [TCPD]. We are still using the pencils, erasers, 'T' and set squares for our drawings"

This approach of preparing designs and base maps is time consuming. So with the inadequate supply of planners, the planning process is unduly slowed. Given these circumstances in the face of and rapid population growth and urbanisation, it is not surprising that planners in Ghana have not been able to effectively affect the pattern of human settlement growth.

Planning officers across the country are all aware of the adverse effect of human resource shortages for the entire planning process. For example in Tamale, Respondent 8 from the Town and Country Planning Department recounted that:

> "We over work ourselves but you do not see the results....It's only because we are too few officers around.....The six of us are doing the work of about 20 to 30 [officers]"

Similar observation was made at the rural Savelugu-Nanton planning area when Respondent 11 also noted that:

> "Because Savelugu is expanding, I need a helper..... I do my best but I am limited and it does not help the system..... Maybe one or two additional planners here will be ok...It will ease the burden on me and things can then be done more smoothly"

At the regional level, Respondent 16 from the Regional Office of the Town and Country Planning Department provided a revealing appraisal of the problem when he observed that

> "We are four planners and two sub professionals who are responsible for the whole of the [Northern] region. We [the six people] are responsible for 20 local planning authorities, about 1.8 million people and a land size of about 70,000km^2 which is almost 30 percent of the size of Ghana. Under such conditions, how do you expect us to deliver [planning services] effectively?"

Evidence from the southern section of Ghana was no different. Respondent 1 from the TCPD in Kumasi observed that:

> "...we are three planners for the whole Kumasi ...this is not what you want"

Respondent 2 from Kumasi was also of the view that:

> "In one breadth, we count ourselves lucky because are three here... But then if you consider the workload, then you will feel the kind of burden we have to shoulder"

This observation was re-echoed by the officer in Ejisu when he opined that:

> "Being the one in charge of the [Ejisu-Juaben] Municipality is not easy....But I also have to attend to 3 other areas... So if you want to be on top of issues, then you have to be a superman"

At the national level, responses from the various respondents were mutually reinforcing. The common thread that ran through all the views was that:

> "[Ghana's] population is fast growing but the number of planners keeps shrinking. Those who are retiring, dying and resigning are not replaced. The result is there for us all to see. If nothing is done urgently, Ghana will be left with no planners in the next few years to come" (Respondent 38)

Respondent 40 also expressed similar sentiment:

> "If I am allowed to use the expression then I will say planners are gradually becoming endangered professionals, but this should not be the case. Our numbers are fast dwindling... There is continuous migration [of planners] into other professions for better pay... My worry is that if we are not careful [as a country], we may not have another generation of planners to hand over to [when we retire] and we all can foresee what will happen"

The shortage of qualified planners has led to the situation where technicians and other lowly ranked officials assume the position of district planning officers. For example out of the six planners in the northern region, two are technical officers. They are considered as 'planners' by virtue of their experience and not because of training and qualifications. In Ghana, ones status affects the extent of one's influence (Ubink and Quan, 2008; Obeng-Odoom, 2009b). It has already been established that as a result of weak local land use plans, planning decisions are general dependent on influence rather than policy. The district, municipal or metropolitan Chief Executive takes the final planning decision. The planner is not only expected to be technically astute but must also be persuasive. Some

qualified planners who were interviewed referred to the Chief Executive as the 'big man' and are subsequently unable to resist attempts to manipulate them. In turn, it is predictable that the less well qualified ones who fill the gaps of qualified planners may have very limited chance of influencing the Chief Executive officer and other high ranking officials at the district level with regards to shaping planning proposals.

Since the 1980s, the planning profession has failed to attract students because it is generally considered to be an uncompetitive profession in terms of remuneration. The remuneration and other working conditions for planners at the local, regional and national levels have been also poor contributing to the profession's inability to attract or retain qualified personnel. The wide disparity in terms of working conditions has led to the situation where only 101 out of the 270 planners registered with the Ghana Institute of Planners are working with the TCPD across the local, regional and national levels (COWI, 2009). In turn, out of the 30 accredited tertiary institutions in Ghana, only one of them is involved in training planners for managing the human settlement despite rapid urbanisation. The problem of human resource shortage is likely to worsen in the coming years because about 23 per cent of the existing professional planners are due to retire in the next five years (TCPD, 2009, p. 4).

From the foregoing analysis and discussions, it is conclusive that there is inadequate supply of qualified planners. The levels of population and population densities are key determinants in terms of allocating the limited planners across the country. For example the Ashanti Region (in the southern part of Ghana) has a population of 5,000,000 whereas the Northern Region has 1.8 million and these translate into 20 percent and 9 percent of the national population respectively. In terms of the distribution of planners, Ashanti region has 17 out of the 101 (17 percent) planners who are employed in the town and country planning department. This contrasts with the situation in the Northern Region which has 6 planners (or 6 percent of all planners in Ghana). In the Ashanti Region, there is a planner – population ratio of 1: 300,000, a figure which contrast sharply with the situation in the Northern Region which a ratio of 1:416,667. On this account, the south has a relatively better supply of planners relative to the North although marginal.

In the four cases study areas too, there are high planner: population ratio as depicted in the table below:

Table 7.3: Planner- Population Ratio across the embedded Case Study Areas

Planning Authority	No. of Planners	Total Population	Ratio
Kumasi	3	1,625,180	1:541,726
Ejisu-Juaben	2	144,272	1: 144,272
Tamale	2	450,000	1: 225,000
Savelugu-Nanton	1	109,442	1: 109,442

Source: Field Survey, 2010

In countries of better practice such the UK which has estimated annual rates of urbanisation and population growth estimated at 0.10 and 0.41 respectively, the planner – population is 1: 2,272. Therefore in a country like Ghana where the rates of urbanisation and population growth are 3.18 and 1.34 respectively (see UN-DESA, 2011), a planner – population ratio of either 1: 109,442or 1: 541,726 is woefully inadequate. This helps to explain why planning has largely been ineffective in ordering the pattern of human settlement growth. The short supply of planners both in terms of required numbers and technical expertise is a contributing factor to the poor state of planning Ghana. Furthermore, inadequacies in the legislative framework for land use planning also contribute to planning failures in Ghana.

7.4 The Legislative Framework for Land Use Planning

The legal framework is a set of laws from which planning policy should be based. A sound legal basis is important for effective planning because it provides the supportive regulatory powers to the planning authorities to facilitate the achievement of planning objectives and goals. However, in Ghana, planning laws have most been unresponsive to the changing socio-cultural and economic context. There are over 166 laws which affect land management in Ghana (World Bank, 2003a, p.6). A case by case review of

these laws is outside the scope of the research. Of the 166 legislations, three were identified by the various respondents as being very core to the entire planning process. These are as follows:

i. The National Building Regulations (LI 1630)
ii. The Local Government Act, 1993 (Act 462) and
iii. The Town and Country Planning Ordinance, 1945 (CAP 84)

The ensuing section examines the relevant provisions of these three legislations in an attempt to map out their implication for the planning process based on the insight and experience from planning practitioners.

The National Building Regulations (LI 1630) contains provisions which according to planning experts 'are extremely difficult to comply with, making non compliance inevitable (respondent 33). A case in point is section 5(3, a-l) which was cited by all planners who were engaged in the study. This legislation spells out the requirements for obtaining a planning permit. To obtain a planning permit, a prospective developer in Ghana is required to provide the following pieces of information with their planning application:

i. Clearly and accurately delineated plan in ink or otherwise to the scale of 1:100;
ii. A detailed description of the building and show clearly the purpose of each room;
iii. Indicate the stages and methods by which the developer intends to construct the building;
iv. Indicate the materials of which the building will be constructed and show clearly and accurately the position and dimensions of the foundation;
v. Indicate the method of disposal of storm water, domestic waste water and sewage, in a lock plan to the scale of 1:1250;
vi. Clearly indicate the method of water supply;
vii. Include the plan and section of every floor and roof;
viii. A site plan to the scale of 1:1250 showing adjoining street; and

ix. A site plan which shows the height of adjoining properties.

In addition to the above requirements, applicants are expected to provide a land title certificate and detailed engineering, architectural and structural drawings and, sometimes, a geological certificate. The health and safety of physical developments in cities should not be compromised. Therefore in as much as these legislations help to achieve this, they should be implemented and enforced. However, conceptually, it is doubtful whether these requirements promote sound town and country planning in SSA. It is important to note that planning laws in Ghana and the rest of SSA are heavily influenced by their colonial linkages and dictates of globalisation (Njoh 2009) and not necessarily the socio-economic conditions of the Ghanaian and African societies. Moreover, such legislative requirements are very difficult to meet by the local developers. For example it is hard to find enough professional architects, structural experts, geologists, and engineers who have the skills to produce all the drawings required to obtain a building permit. Again, it is also equally difficult to obtain land title certificate as specified under the National Building Regulation. So clearly, these laws are largely insensitive to the local context because there is inadequate human resource to ensure their implementation and enforcement.

As one planning officer (respondent 11) said, the requisite documentation for obtaining planning permission application can be 'scary and intimidating'. Respondent 5 was equally not very convinced about the relevance of the complex documentation which prospective developers are expected to provide:

> [The requirements] in practical sense make it more difficult for people to come to us [for planning permit before development]. But not all the documents are important. If you are assessing [planning] applications, there are few major documents you really need to focus on. The rest, we do not scrutinise.

As it has already been highlighted, it is hard to find enough professional architects, structural experts, geologists and engineers who have the skill to produce all the drawings required to obtain a building permit. For example in the Northern Region,

there are no geologists. Therefore as noted by Respondent 8 from Tamale planning department,

> 'When someone wants to build four or more storeys, then the person has to go to Kumasi or Accra [which are about 200 and 400 miles away respectively] just to get the technical reports. Nobody will do this. So if you refuse a planning application because someone cannot provide these technical reports, then you will be punishing people for no reason. It is not their fault that these professionals are not available'

Admittedly, it is important to ensure that every development is technically sound in other not to compromise the health and safety of people. However, it is equally important to ensure that planning laws reflect the dynamics of the local contexts (especially in the areas of administrative efficiencies and cultural dynamics) in order to ensure that the local people can comply. Since the planning laws in Ghana do not generally reflect the local conditions, it is estimated that less than 50 percent of prospective developers can satisfy all the planning requirements (Dowall, 1992; Antwi and Akyaw, 2001). Under such circumstances, there is significant incentive for breaching planning requirements (De Soto, 2000; 1989). This situation in turn triggers the creation of unplanned settlement and the expansion of existing ones. The poor state of planning in Ghana is therefore partly attributed to the planning laws which are unresponsive to the socio-economic context.

Another provision within the same legislation which was identified by planners as being problematic is section 3(1) which requires applicants to establish that he or she 'has good title to the land relevant to the plans'. Section 3(2) of the same legislation further mandates that

> "No approval shall be granted to any applicant who does not have a good title to the land and ..... a good title shall be in accordance with a certificate issued by the Chief Registrar of Land Title Registry"

Documentation of land rights and transactions is a colonial creation and therefore alien to the customary arrangements under which the largest component of land is held. Generally in Ghana, and particularly in the rural areas (see Gambrah, 2002), land transfers often occur outside the realms of the formalised state institutions responsible

for title registration. The legislative basis for land title registration in Ghana is principally derived from the Land Title Registration Law (PNDL 152) which was promulgated in 1986. Between 1986 and 2003, land title registration was restricted to Kumasi and Accra. All other areas therefore had neither the legal basis nor the institutional framework for land title registration. However, the Building Regulation which expressly require land title certificate as part of the conditions for obtaining planning permit is national in character. Therefore, at the time of making it mandatory for a title certificate to be attached to planning applications, only two planning authorities were equipped to issue a land title certificate as prescribed by the law. So the planning officer from Savelugu-Nanton planning authority wondered

> "Why do we continue to tie our hands with the whole idea of a land title certificate? [He noted that]...We just had the land title registry office commissioned and it is not even fully operational....If we wanted to be so rigid, then, there was no way any person would have qualified [for planning permit even if they applied]"

Admittedly, there is an established convention that planning permissions are granted to only applicants who have good title to the subject parcel of land[36]. Indeed it has been argued, and justified that any deviation from this norm has the propensity to breed anarchy in the area of property development. It is however unconvincing whether the insistence on a formalised land title certificate is the antidote to avoid such confusion. To recap, it has been established in section 3.8 that, formalised land title in itself is not a conclusive proof of landownership. Indeed people with formalised land title have on many occasions lost their land through civil litigation at the Magistrate and High Courts (Abdulai, 2010). Land title registration has for example been defined as 'the taking of land claims out of the realms of informal lineage community land ownership and making

[36]: In order to obtain a land title certificate, the prospective first acquire a parcel of land from t a customary landholder and make the agree payment. After the payment, a receipt acknowledging the payment is issued to the prospective developer. This receipt is known and 'allocation note' and it contains the terms and conditions of the land transfer. The allocation note is used as a basis to undertake deed registration with at the Lands Commission. After registration, the deed document is used as a basis to undertake land title registration. It may take 3 months and 5 years to complete the processes of land title registration as a result of official bureaucracies.

them fully legal, formal and individual (Atwood, 1990, p. 659). Therefore, such provisions only reflect the hegemony of the neoliberal political ideology which outrightly condemns the customary land tenure systems in SSA as backward, and could only be transformed into fully legal tenure through formalised land rights. Obtaining land title certificate is costly and time consuming. Coupled with the bureaucracy associated with the process involved, Gambrah (2002) has noted that obtaining title certificate is practically out of the reach of many Ghanaians.

Prospective developers who cannot obtain title certificate are automatically unable to apply for planning permission. So a senior land management expert from the Ashanti Region (respondent19) noted that:

> "We all admit that the process of obtaining a land title certificate is not the easiest of tasks and in my estimation, it does planning no favours... We can lay some of the blame [of planning inefficiencies] squarely at the door of requiring developers to produce a certificate."

For this reason, the requirement for a certified land title certificate as a prerequisite for planning permission has proved to be counterproductive. For example, in 2009, the inability of applicants to provide good title accounted for over 90% of refused planning permit applications (Town and Country Planning Department [TCPD], 2009, p.4). Therefore, why these long lists of requirements continue to exist is puzzling. What is clear is that the legal framework is a major contributory factor to the poor state of planning in Ghana.

Beside the situation of contrasting laws, there are other planning laws which obsolete and no longer responsive to the current socio-economic conditions. So instead of aiding the planning process, these laws have become a hindrance. For example, Respondent 28 from the Northern Regional Planning Office was of the view that:

> "As a country, we need to rethink our planning. How can we still be using [Town and Country Planning] laws and ordinances which were enacted in 1945? These laws are practically very limited in terms of their usefulness to our modern life"

rior to this observation, the then National Director of Town and Country Planning had called on the appropriate authorities to 'amend the outmoded planning laws' citing that 'they hamper the efficient operation of the Town and Country Planning Department'. He also noted that the 'inability to cope with the momentum of urban development was partly attributable to the weak legislative framework'. This is particularly true because the colonial planning laws were meant to serve particular purposes. These included the following – enabling social control through racial segregation, exploitation of natural resources and expropriation of large tracks of fertile lands among others (Konadu-Agyemang, 1998). Currently in Ghana, planning seeks to transform the living conditions of the people of an area and their environment in ways that improve their existing socio-economic conditions and circumstances, their physical surroundings, and existing institutions (World Bank, 2003a; NUP, 2010). It is therefore obvious that the focus of land use planning in the current dispensation has changed from the colonial era. It is therefore not surprising that their continuously applying these laws not helped to improve the state of planning practice.

Another aspect of the existing planning laws which continue to undermine efforts at planning is the nature of sanctions spelt out for non-complying developers. The sanctions for non compliance of planning regulations are not deterrent enough. Respondent 39 from the National Headquarters of the Town and Country planning Department was therefore of the view that:

> "Sincerely speaking, it is more economical to violate the planning laws and pay the fine instead of going through the permitting processes"

In order to adequately appreciate the quote above, attempt was made to ascertain the cost of obtaining planning permission for a proposed single storey building. The table below summarises the incidental costs.

Table 7.4: Average cost of obtaining planning permission for a single storey development

Required Documentations	Kumasi	Ejisu-Juaben	Tamale	Savelugu-Nanton	Average Cost (GHC[37])
Land Title Certificate	500	500	500	500	500
Detailed Architectural Drawings	1,300	1,000	1,000	700	1,000
Planning Application Fee	200	200	200	200	200
Total	2,000	1,700	1,700	1,400	1,700

Source: Compiled from the four embedded case study areas, 2009/2010

From the table above, it can cost an average of 1, 700 GHC [roughly £850] to obtain a planning permission for a standard single storey development. However, in case a developer fails to apply for planning approval, he/she is liable for a fine of GHC 20 [£10] under section 64 (6) of the Local Government Act, 1993 (Act 462). Therefore, a developer who wants to comply with the existing planning regulations may end up paying several times more than what he would have to pay in case he/she had not apply for permit. So clearly, respondent 39 is justified with his assertion that it is economically more prudent to develop ones property outside the realm of planning control and subsequently pay any fines which in practice is extremely trivial. More importantly, it may take several months to recover these fines through court action (Debrah, 2009). It is therefore a disincentive to the authorities responsible for planning to resort this court action as a means of recovering fines. In the face of all these circumstances, it becomes more appealing to develop without planning approval and become liable to pay fines. Respondent 11 from the Savelugu-Nanton Statutory Planning Committee reinforced the assertion that sanctions for non-deterrent and may indeed hamper how developers may comply with planning regulations:

> "The laws are relaxed too much. If people are punished, then this idea of everyone doing things anyhow will stop.... But what do we see? We only write stop work and produce permit on unauthorised structures and that is the end of it... [As people responsible for planning] we have not done enough to make developing without permit unattractive"

Thus the inability of the legislative to prescribe appropriate sanctions for developers makes it more rewarding for developers to flout existing regulations. In effect, there is a

[37] Ghanaian Cedi (GHC) 1,000 was equivalent to £500 at the time of the field research.

general lack of proactive legislative mechanism in land use planning which leads to situations where human settlements and development control become an afterthought.

7.5 Funding of Planning Activities

There are several processes involved in land use planning in Ghana – preparing base maps, community engagement, plan formulation, implementation of the content of the planning, enforcement and subsequent evaluation of the implemented plan. Importantly, each of these activities requires some degree of funding to execute them. Also, inputs such as stationary, vehicle, computers and planning software which are all needed to facilitate planning require funds for their procurement. Therefore, how efficiently planning activities are funded has far reaching implication for planning practices.

Funding planning activities in Ghana has traditionally been split between central government and local government. Central government funding comes in the form of the payment of salaries for planning staff. Also, central government allocates a subvention to local government in the form of District Assembly Common Fund (DACF). According to section 252 of the 1992 constitution of Ghana, the DACF is an amount of at least 5 percent of the total national revenue which is specifically ringed fenced for the purpose of financially supporting the activities of all local planning authorities. The DACF is expected to fund local development projects as well as allocating portion of it for the purpose of funding planning activities. Internally, revenue for funding planning authority is generated through planning charges such as planning application fees, fines for non-compliance, search fees of zoning status of areas, site selection fees, planning revision and re-zoning and fees for change of land uses among others. Every ministry has its department at the local level. For example the Ministry of Education is directly connected to the department of education at the district level. Another source of funding planning activities should have been Ministerial subventions to the TCPD at the local level. Giving all these sources, it was expected that funding for the activities of planning authorities should not a challenge (e.g. Crawford, 2004; Obeng-Odoom, 2010).

In practice, central government pays for the remuneration of planning staff whilst the locally generated revenue is channelled into paying for incidental operational cost such as stationary, conducting public hearing and field inspections among others. In practice, however, the town and country planning department is one of the poorly funded parastal institutions. Admittedly, all public institutions globally complain of funding inadequacies. What is however shocking about the situation in Ghana is that, the acute lack of funds for planning authorities in Ghana has almost rendered any meaningful planning to be impossible.

When the survey of the various local planning authorities in Ghana was conducted in section 4.10.4.2.1, it was established that out of the 45 local planning authorities, almost half (19 translating into 43.2 percent) received less than 25 percent of their budget expenditure for planning activities. Additional insight from the four embedded case study areas is revealing of extent to which planning activities are underfunded.

Table 7.5: Summary of proposed expenditure and portions which were approved

Area	Year	Amount Requested (GHC)	Amount Received TCPD[38] (GHC)	Percentage of amount received
Ejisu-Juaben Municipal Planning Authority	2005	4,500	800	17.8
	2006	5,000	800	16.0
	2007	6,200	940	15.2
	2008	6,500	1,100	17.0
	2009	6,800	2,000	14.8
Kumasi Metropolitan Planning Authority	2005	10,000	3,500	35.0
	2006	10,000	3,300	33.0
	2007	12,200	3,850	31.6
	2008	15,000	3,200	21.3
	2009	15,000	3,000	20.0
Savelugu-Nanton Planning Authority	2005	Records not available	-	-
	2006	Records not available	-	-
	2007	Records not available	-	-
	2008	3,800	430	11.3
	2009	5,200	480	9.2
Tamale Metropolitan Planning Authority	2005	7,500	1,000	13.3
	2006	8,500	1,000	11.8
	2007	10,000	1,100	11.0
	2008	9,500	1,000	10.5
	2009	9,500	1,200	12.6

Source: Compiled from the four embedded case study areas, 2009/2010

[38] These amounts are approved to meet operational costs of planning delivery. Salaries of planning staff are paid by the Central Government

These figures in the table above are indicative of the fact that planning activities are woefully underfunded with only 9-35 percent of proposed expenditure being granted for expenditure. All planning officials across the four areas expressed their disappointment at which there is lack of interest in terms of how planning activities are funded. In the view of Respondent 7 from the same Tamale Planning Authority:

> "We do not get the budgetary allocations we need for our work. If you submit your request [that is the expected expenditure for the year] to budget [department of the authority] and you are lucky, you can some percentage [of the amount requested]... What we get is not enough! Simply not enough! Without funds, we are like a car without fuel. That is why we have almost grinded to a halt"

Respondent 11 from the Savelugu-Nanton Planning Department also reinforced the above observation.

> "You are only likely to get some decent subvention funding from them [referring to the metropolitan authorities] if you have links and connections with the big men. They do not give us money based on what we need for our work. They give us what they think is right for us. At times, we get 10 percent or even less. This is the unfortunate situation we find ourselves".

In Kumasi, similar views were expressed. For example Respondent 1 from the Town and Country Planning Department passionately narrated the problem of funding. According to him:

> "It is very painful knowing that I can do better than what I am currently offering if I had the financial clout to purchase the needed inputs..... There have been several times that I have to buy fuel and maintain the [only official] car from my own money. I do not bother to tender the receipts for refund because the chance of getting it is 50-50.... Financially, I think the [town and country planning] department is to be pitied to say the least"

In Ejisu, when respondent 5 was asked about the state of funding planning activities in areas under his jurisdiction, the initial reaction was that:

> "I am not going to talk on this subject... I am now tired..... we have been talking over all these years and nothing has changed".

When he eventually agreed to comment on the funding situation, he noted that:

> "We do not get any meaningful amount of funds for our activities... I am here as a professional but if I submit my budget, they treat it as if I am looking for money to spend on myself or family... It can be quite frustrating but the annoying part of it is that at the end of the day, they only give you a tiny fraction of what you need... I am human and there is a limit to everything I can do... If you cannot provide us the funds we need, then we can only go as far as the money we have can take you"

Respondent 6 also added another twist to why planning activities are generally underfunded. He observed that:

> "They say the department is a poor and troublesome child....so as I talk with you now, we do not have a home [referring to a ministry where the TCPD at the local level is affiliated]...when we manage to chalk some success, then they [referring to the ministries which are at times linked to the TCPD] will be falling over themselves trying to claim the credit.... but if you need money, be rest assured that [the Ministry of] Local Government will toss you over to [the Ministry of] Lands and Forestry or [the Ministry of] Environment.. We are seen as a burden and nobody is prepared to accept us."

The above observation is correct because over the last decade, the town and country planning department has been moved between 8 different ministries (COWI, 2009, p.8). As indicated earlier, one source of funding planning activities is through subventions which are allotted through the appropriate ministry. The problem of inadequate funding is further aggravated by the situation where the TCPD at the local level does not have an affiliate ministry at the national level. Therefore, the planning department does not receive any subvention from any ministry. At the national level, TCPD is affiliated to and gets its funding from the Ministry of Environment and Science. At the local level however at the local level, the planning department is affiliated to the Ministry of Local Government And Rural Development. However, the TCPD is not considered as part of the decentralised departments under the Ministry of Local Government and therefore receives no subvention from it. Therefore, both the Ministries of Local Government and Environment do not provide funds for the operational costs of the planning department at the local level. The lack of coherent approach to funding planning activities has in no small way contributed to stifling any meaningful planning in Ghana.

The TCPD generates funds in course of its operations. The TCPD raises funds through planning application fees, fines, search fees of zoning status of areas, site selection fees, planning revision and re-zoning, fees for change of land uses among others. The table below summarises the amount of internally generated revenue in each of the four embedded case study areas between 2005 and 2009.

Table 7.6: Income generated by the Planning Departments across the Embedded Case Study areas between 2005 and 2009

Area	Year	Internally Generated Income (GHC)
Ejisu-Juabeng Municipal Planning Authority	2005	2,800
	2006	2,500
	2007	3,200
	2008	3,000
	2009	4,000
Kumasi Metropolitan Planning Authority	2005	12,000
	2006	8,200
	2007	7,700
	2008	9,000
	2009	12,300
Savelugu-Nanton Planning Authority	2005	Records not available
	2006	Records not available
	2007	Records not available
	2008	800
	2009	1,100
Tamale Metropolitan Planning Authority	2005	5,500
	2006	4,000
	2007	4,80
	2008	3,700
	2009	4,200

Source: Compiled from the four embedded case study areas, 2009/2010

It is clear from the table above that the TCPD generates of revenue in the discharge of their planning mandate. However, all such funds are generated on behalf of the respective local government authorities and not for the planning department. Significantly, there is no guarantee that the TCPD will eventually get part of the revenue it generates. The table below is illustrative.

Table 7.7: Income and expenditure of Local Planning Authorities Embedded Case Study Areas between 2005 and 2009

Area	Year	Expected Expenditure (GHC)	Amount Received (GHC)	Funds Generated by TCPD	Percentage of expected expenditure generated by the TCPD
Ejisu-Juabeng Municipal Planning Authority	2005	4,500	800	2,800	62.2
	2006	5,000	800	2,500	50.0
	2007	6,200	940	3,200	51.6
	2008	6,500	1,100	3,000	46.0
	2009	6,800	2,000	4,000	58.8
Kumasi Metropolitan Planning Authority	2005	10,000	3,500	12,000	120
	2006	10,000	3,300	8,200	82.0
	2007	12,200	3,850	7,700	63.1
	2008	15,000	3,200	9,000	60.0
	2009	15,000	3,000	12,300	82.0
Savelugu-Nanton Planning Authority	2005	Records not available	-	Records not available	-
	2006	Records not available	-	Records not available	-
	2007	Records not available	-	Records not available	-
	2008	3,800	430	800	21.0
	2009	5,200	480	1,100	21.2
Tamale Metropolitan Planning Authority	2005	7,500	1,000	5,500	73.3
	2006	8,500	1,000	4,000	47.0
	2007	10,000	1,100	4,800	48.0
	2008	9,500	1,000	3,700	39.0
	2009	9,500	1,200	4,200	44.2

Source: Field Survey, 2010

From the table above, the TCPD across the four case study areas generated between 21 – 120 percent of their budgeted expenditure between 2005 and 2009. However, in table 7.4

above, it was established that only 9-35 percent of budgeted expenditure was approved and granted. Despite their ability to generate revenue through the sale of planning services, there is no definite arrangement that the TCPD will received all the revenue it generated. Subsequently, the planning departments are largely poorly funded, a situation which undermines their ability to deliver improved planning services and generate additional revenue.

Respondent 16 was therefore not sure about the priority of the key figures who are responsible for making decisions regarding allocation of funding at the local level. Indeed he questions the nature of logic and thought process which go into such decision making process.

> "You have a strategic body like the TCPD[39] which is not only a spending department but also revenue generating one. When it generates revenue, then the money is taken away from it.... The officials are not given the needed funds to deliver efficiently... You see, the department is not able to fulfil its potential to generate as much funds as possible because there is no fund to push them... What kind of thinking is this?"

In the view of respondent 21 from the Regional Coordinating Council (RCC) in Ashanti Region

> "One best way to measure the premium we place on planning is by looking at how much money we set aside for planning activities. When the RCC profiled the pattern of providing funds for the various decentralised departments, town planning came out as the worst funded... I think as a country, we are yet to appreciate the usefulness of planning... We see it as a secondary thing and this has always reflected in the way we provide funds for it."

When he started to answer question on funding, a visibly angry respondent 27 also expressed similar sentiment although in a less charitable manner:

> "I hope we all know the issue of GIGO – garbage in, garbage out! At times, you will be expecting to spend say 10,000 GHC based on our forecast [of planning activities] but you may only end up receiving 500 or 1,000 GHC. How would you

[39]: The only source of income to the TCPD at the national level is the Ministerial subvention it receives from the Ministry of Science and Environment

> describe something like this? Pure garbage! Yes, that is it! ... As a country, I expect us to live in these same conditions [of poorly planned settlements] if the authorities do not change their altitude [in terms of how planning activities are funded]"

Respondent 34 also lent credence to the earlier observations:

> "Personally, I think planning has not lived up to its expectation... I think we need to strengthen the department financially if there will be any chance of addressing these problems of buildings spring up every day without any pattern"

Finally, respondent 39 was of the view that:

> "We all know that the people down at the local level need funds.... In some cases, they cannot even buy tracing papers or A1 sheets for their work. At times it is worrisome and you have to feel for them [referring to the staff at the TCPD]. People think they are not effective but that is not the case. They simply do not have the money to work with. That is the case."

From the ongoing, it is clear that town and country planning departments at the various local authorities are massively underfunded. Between 2005 and 2009, only 9 – 35 percent of the expected expenditure was received by the TCPD across the four embedded case study areas (see table 7.4). Various respondents have also expressed that the delivery of planning services has been severely hampered by the lack of adequate funding. What has further undermined the funding of planning activities is the lack of coherent structure. Although local government authorities receive subvention from the central, allocating funds for the purposes of land use planning is at the discretion of the chief executives and the officials responsible for budgeting at the local level. Again, the local planning authorities have been inadequately funded because there is a disconnection between the ministries responsible for planning. TCPD is affiliated to the Ministry of Environment and Science at the national. At the local level, TCPD is affiliated to the ministry of Local Government And Rural Development. However, the TCPD is not considered as part of the decentralised departments at the various districts and funding for its activities is subsequently not borne by the district. Moreover, the Ministry of Environment and Science does not provide funding for TCPD at the local level. Despite the fact that town and country planning department at the local level generate revenue in the delivery of their

mandate, the departments do not have access to these revenue and this has further aggravated the issue of inadequate funding further. Funding has variously been equated to "oxygen for human beings" or "fuel for vehicles" and this further reinforces how central adequate funds are to the success of the planning system. The inadequate funding for planning activities has thus contributed to stifling efforts at improving land use planning practices in Ghana.

It has already been identified that the Ghana Land Administration was designed to help improve activities of the Ghanaian land market. It has already been in section 6.6 the have been some unintended outcomes emerging from the implementation of the land administration reforms. These are in two folds. First, it was established that efforts to formalised land rights was not yielding improved land title security and this according was contributing to non compliance of planning regulations. Similarly, there are emerging institutional challenges which are likely to threaten the success of the land administration reform. These emerging institutional challenges are examined below.

7.6 Specific institutional challenges emerging from the implementation of the Ghana Land Administration Project

When the ongoing Land Administration Project was evaluated in chapter six, it was established that the attempting to formalise all lands in the cases study areas was becoming problematic. This is because there is generally lack of trust in state land agencies. As the emerging challenge from the formalisation of land rights, there were some other emerging challenges relating to the institutional inefficiencies. These challenges are examined below.

Lapses in management decision making

The land administration process has suffered some high profile lapses in decision making at the senior managerial level and this is a threat to the overall success of the project. Already, some of these lapses have had adverse impact on the whole project. These lapses fall into three main categories and are discussed below.

According to LAP Project Report (LAP 2008; 2009), the whole project started without any scientific baseline assessment of the issues which LAP seeks to address. This was also re-echoed by various respondents who were engaged in the study. Baseline assessments are important to any reform initiative because it helps to clearly map out the existing problem to be addressed. This then becomes the basis to track any changes which may arise later as part of efforts to assess the success or otherwise of the project. This was however not done before the commencement of LAP. Therefore, gauging the actual accomplishments of LAP through a comparative analysis of the how the situation was before the introduction of LAP and the present state of affairs is difficult.

For a result oriented project like land administration reform, best practice (e.g. Bowman, 2004) provides that, targets are set after the exact nature and extent of the existing problems have been systematically documented. For example the Project Appraisal Document of LAP claimed that there were a backlogged of 35,000 land cases in Ghana (World Bank, 2003, p.3). This figure has however been contested (LAP, 2008, p.4). Therefore, all targets which are based on this figure may be inaccurate. So when the National Coordinator was asked what he would have done differently when given the chance to restart the Project, he was clear that:

> "There was no need to rush into implementation when you do not have your basics right. The Project started without any baseline or benchmarks which was very wrong... So what we measure as being the achievement of LAP is not scientific".

Before the implementation of LAP, a survey titled 'Land rights and Vulnerability Study' was expected to have been conducted. The aim of this study was to identify the vulnerable people who were more likely to be disadvantaged as a result of the implementation of the land administration reforms. This idea was laudable since it aimed at providing adequate information for the purpose of planning to militate against the likelihood of vulnerable people from losing their land. However, the study was complete in June 2009 when LAP had been implemented for about six years. Under such conditions, it may be fair to conclude that findings from the study may not necessarily reflect the original vulnerability issues on the ground since they had already been diluted through the implementation of LAP.

Therefore, the failure of management to clearly map out the state of land tenure practices before the implementation of LAP has proved to be problematic especially in terms of measuring the achievement of the reform project.

The second lapse in managerial decision making centres on the circumstances leading to the merger of the allied land sector agencies. The merger was intended to be preceded by Organisation Management and Operations (OMO) study. OMO was to be a study of the business, human resources, financial and capacity development processes of the existing land sector agencies in order to consolidate and commercialise them into a sustainable single entity known as the new Lands Commission.

This study was to be an in-depth study which was to identify the opportunities and threats of the merger. The terms of reference of the OMO study were as follows:

1. To come out with proposal to facilitate the streamlining of the four land agencies into single unit with a clearly defined workflow
2. To provide the human resource management implications of deepening service integration while broadening coverage. This objective was to help in identifying and quantifying the needs for new skills both in the public and private sectors to respond to emerging required skills
3. To provide a financial and cost study which will calculate financial needs, opportunity costs for institution, treasury and clients of reform (or lack thereof), assuming several scenarios; and
4. To provide a strategic and detail plan of needs and the availability of training at all levels (LAP, 2008 & 2009).

The merger of the four institutions was effected in 2008. The OMO report was however presented in 2009 after the merger had occurred. As at October 2009, LAP authorities were complaining that:

> "The consultants [to deliver the OMO report] have delayed and serious concerns are being expressed about the pace and strategy they have adopted"

So clearly, the merger of the four institutions was executed in a very mechanical approach without any framework or guiding principles. It is therefore not surprising that the institutional reform has degenerated into rancour (the aftermath of the institutional re-alignment will be discussed below). The inability to organise and coordinate the timely production of the OMO study report was a managerial deficiency.

Another managerial deficiency worth highlighting was the uncoordinated approach of procuring equipment and logistics required for the project. This has often delayed the delivery of needed input and accordingly lengthens the implementation time unduly. The Head of Planning of LAP conceded to the inefficiencies which have characterised the entire procurement process:

> "The initial procurement process was cancelled as a result of the use of a flawed methodology. The second process was also cancelled due to the non-responsiveness of the financial proposal of the bidders"

The procurement processes are regulated by several domestic and international laws. Therefore, these setbacks are evidence of inadequacies within the procurement sphere. The problematic nature of procurement has already affected implementation process. In Savelugu-Nanton, respondent 11 complained that:

> "We did not receive our computers [and other equipment] in time...In fact they have not been fully fitted yet.... When we ask [the authorities at the regional and national levels], the explanation has always been that, the items did not arrive on time"

The disjointed approach of procuring materials for LAP is largely attributable to managerial inefficiencies. As well as these deficiencies, funding for the LAP is also a source of concern with regards to the sustainability of the reform programme.

Funding

One does not need to stretch his imagination to know that the structure of funding for LAP is overly donor dependent. Below is the composition of the funding arrangement.

Table 7.8: Funding Sources for the Ghana Land Administration Project

Funding Source	Amount ($)	Nature of Agreement
International Development Agency (World Bank)	20,509,406	Credit
Department for International Development	9,020,000	Grant
Canadian International Development Agency	1,029,793	Grant
German Technical Cooperation	3,975,927	Grant
Kreditanstalt fur Wiederaufbau	8,137,800	Loan
Nordic Development Fund	9,100,000	Credit
Government of Ghana	7,562,042	Counterpart Funder
Total	59,334,968	

Source: LAP, 2008

The Government of Ghana only contributes 12.7 percent of the whole total cost of the project. The various respondents who described LAP as being overly donor dependent are therefore largely correct. Therefore, the success or otherwise of the project is dependent on the continuous support of the donor agencies. In general terms, donors' continuous interest in result oriented project such as LAP is sustained by indications that the stated objectives are likely to be achieved. However, the organisation of the implementation of LAP has been fraught with several challenges and these have adversely affected the achievement of the goals which have been agreed between the Government of Ghana and the donor partners.

The implementation of LAP is divided into several components. These components include harmonizing land policy and regulatory framework for sustainable land administration, institutional reform and development and improving land titling, registration and valuation and information systems among others. Some of these components were expected to lay the foundation for the implementation of other

components. Therefore, the continuous funding by the development partner are dependent on the successfully implementation of each sets of components. What appears a threat to the sustainability of LAP is that the interest of the funding partners is gradually weaning. The diminishing interest is partly occasioned by the inability of the project to stick to the timelines and deliver the agreed targets which have been agreed between the Government of Ghana and the Development Partners.

When the first stage of the implementation of LAP commenced in 2003, it was expected to last for 5 years. The aim of this component of LAP was to first lay the foundation for implementation o f this long-term land administration reform. A major feature of this first phase LAP is it role in providing an enabling environment for exploration, testing and learning by doing (World Bank, 2003a). Three years into the implementation of LAP (that is in 2006), very marginal achievements have been made and this prompted the managers of LAP to revise the aim of the component to 'undertake land policy and institutional reforms and key land administration *pilots* for laying the foundation for a sustainable decentralized land administration system that is fair, efficient, cost effective and ensures land tenure security.' As a result of this delays and changes, there was the need to extend the duration of the first component.

According to the National Coordinator of LAP,

> 'The first phase of the project was scheduled between 2003 and 2008 but mid way through, it became obvious that we could not achieve the targets so we applied to our [funding and development] partners for extension..... they agreed to give us additional time.... We applied again for extension in 2008 but this time round, they [referring to the funding and development partners] were dragging their feet.

The Department for International Development (DFID) and the financing of the Customary Land Secretariat (CLS) model is illustrative of the dwindling interesting from the international funding partners. The DFID officially agreed to finance the implementation of the Customary Land Secretariat April, 2004. Under the Customary Land Secretariat, the customary landholders are to the equipped with computers and training to help in the record keeping. The support was for a period of five years and was therefore scheduled to end on 31st March, 2009. LAP missed its target to establish 50

Customary Land Secretariats within the period. DFID has subsequently terminated its funding. According to the inception document of LAP, DFID was the sole funding partner of the CLS model. There was no other alternative funding arrangement. Therefore, the withdrawal of DFID's support coupled, with the lack of workable alternative funding source have effectively brought the Customary Land Secretariats programme to a halt. It is expected that this abrupt termination of CLS would adversely impact on the overall implementation of LAP. The National Facilitator of the CLS admitted that:

> "The CLS idea is the wheel for the whole [land administration] reform process. Its achievements within the short time are remarkable. ..... The lack of serious funds is therefore unfortunate and can eventually be a big blow to the whole process"

The grants and credits which are provided by the World Bank and other donors are part of their efforts at poverty reduction. These funding are expected to initiate the land administration reforms. Although in the long run, the Government of Ghana is expected to take over funding of LAP activities, the overly dependence on aid and donation right from the onset was a policy design defect. The declining of the interest of the funding agencies is therefore a real threat to the overall success of the Land Administration Project.

Institutional Unrest

Generally, institutional reforms are intricately embedded within intra institutional politics which is characterised by an unabated struggle for power. This in turn creates a situation of conflicts, challenges for co-operation, and ongoing negotiation between the involved institutions. Despite these practical realities, the National Director of LAP, in charge of Planning and Evaluation, noted that when the four land sector agencies were merged into a single entity, the whole process was greeted with 'pomp and pageantry'. He noted that:

> 'The way we had several institutions made the process [of land administration] inefficient. It created unclear mandates which resulted in overlapping and duplication of functions among agencies'

He observed that all key stakeholders saw the merging of the allied land sector agencies as the:

"Beginning of a new dawn, something that called for celebration"

Respondent 32 recalled that during the launch of the newly constituted Lands Commission, a prominent chief said:

> "As we have witnessed the birth of the new Lands Commission from LAP, there is no doubt that we will see the back of our land troubles"

So clearly, the institutional reform raised hopes in terms of enhancing efficiency of the land sector agencies. However, institutional politics and the struggle for power within the newly organised land management institutions pose threats which are likely neutralise any achievements which may be chalked from the streamlining of the institutional framework. Four of the previously six public land sector agencies (these are the Lands Commission, Survey Department, Land Title Registry and Land Valuation Board) were merged into a new single entity known as the new Lands Commission. The institutional unrest is characterised by the continuous agitation of the Survey and Mapping Division (SMD) to break away from the newly reconstituted Lands Commission. Two reasons are often cited to justify the SMD's call to break away from the institutional merger. First, the SMD claims that has a broader scope. Therefore, bringing under the Lands Commission will eventually erode their code mandate. Secondly, the SMD has expressed concerned about unfair representation of its members in the management hierarchy of the Lands Commission. These concerns are discussed below.

First, SMD claims that, it has a broader scope in terms of competence. Therefore, merging them with institutions which are primarily responsible for land administration will create the situation where other functions of the SMD may be neglected. The SMD objected to the whole idea of merging them with the other land sector agencies right from the onset. So when authorities at the national level attempted to force the merge through, the Survey Department registered its displeasure by embarking on a nationwide strike. It was widely reported that:

Survey department Staff strikes[40]

> "Staffs of the Survey Department all over the country have scheduled a meeting on Thursday to make a decision on how long to stay away from work. The workers began with a sit down strike on Tuesday to protest at the bill aimed at placing all land related agencies under the Lands Commission. The workers said the Survey Department's functions are technical in nature and will be relegated to the background if it is merged with the Lands Commission"

Despite these earlier concerns, the bill was passed and as one surveyor put it 'they pushed our [SMD's] head into it'

So when the regional surveyor for the northern region was asked to explain their objection of SMD to the merger of the allied land sector agencies, he reinforced the earlier concerns by stating that

> '[Our] services are needed by a wide range of areas- oil exploration, military, mining and many more. We only deal with the Lands Commission and Town and Country Department when they need base maps and cadastral maps to land administration and planning..... Whoever brought about this idea of putting Survey [and Mapping Department] under Lands Commission clearly does not understand our operations'

Another surveyor who was interviewed also remarked that:

> "We have been forced into this [new Lands Commission]..... The whole merger idea was thrust upon us.....we have never been interested in this merger but for reasons known to some people, [from the other land sector agencies] they succeeded in pushing their way through. It is now a law so our options are limited. But as surveyors, we are never happy with this development."

These developments portray the whole merger process to be so mechanical and undemocratic; providing little attention to antagonistic voice of the SMD right from the beginning. This concern is justified to a large extent because, the Geodetic and Geomatic Engineers (who are the main categories of professionals under the SMD) have a wide

[40] Survey Department (2007) Survey department Staff strikes http://news.myjoyonline.com/news/200706/5660.asp [assessed 20/10/10]

range of expertise which range from mineral exploration, security and defence, road construction and remote sensing among others. In terms of land administration, the only role of the SMD is the preparation of base maps and cadastre plans which help in the planning and allocation of land for development. Therefore, the concern that bringing the SMD under LAP may reduce the department to their map preparation duties appears justifiable.

Secondly, the incessant agitation of SMD is rooted in what is seen as uneven representation at the highest managerial level of the newly constituted Lands Commission. As a background, the creation of the new Lands Commission led to creation of 13 managerial positions.

i. The executive secretary
ii. The two deputies of the executive secretary and
iii. 10 Regional Lands Officers.

The concern of the SMD has been that, its members are not fairly represented in terms of appointments into these positions. It is worth highlighting that the new Lands Commission is made of officials with two main professional backgrounds- the Land Economists/Valuers and Geodetic Surveyors/Geodetic Engineers.

The Executive Secretary and the two Deputies are all Land Economists. Again, seven of the ten Regional Lands Officers are Land Economists. SMD therefore had three positions out of the available thirteen. So clearly, there has been an uneven distribution in terms of appointments. The concern of the SMD was that, the processes leading to the appointments were very opaque. They cite that at the time of making these appointments, LAP was headed by a Valuer/Land Economist. The same person subsequently became the Executive Secretary of the newly constituted Lands Commission whilst maintaining his position as the director of LAP. Therefore, when the two deputies were appointed from the Land Economists, it drew further criticism from the SMD. In view of this, a petition was presented to the President of Ghana for his prompt intervention excerpt of which is presented below:

> 'Your Excellency, permit us to say that the appointment to the executive secretary positions have been very bizarre. Appointments were made to personnel who were lower in grade to other staff in the four divisions. We wonder how they can give instructions to their seniors. ..... Having joined the merger reluctantly, we will no longer remain silent on these emerging issues which will go a long way to dampen the morale of the staff' (Survey and Mapping Division, 2010, p. 1-2)

The petition went on to further claim that:

> "We [SMD] are responsible for about 70-80 percent of activities.....And therefore we have been made the beast of burden of the Lands Commission..... We would like to assure you [referring to the President] that we shall we shall surely and fiercely resist all attempts to marginalise us." (Survey and Mapping Division, 2010, p. 1-2)

So when respondent 28 (who belongs to the SMD) was asked about the transition of the institutional re-alignment, he angrily replied that:

> "It has not been smooth at all. Any other thing you will hear is a lie! We have sent a petition to the President [of the Republic of Ghana] to get us out of the whole New Lands Commission thing. We never asked for it and we will never be interested in it [referring to the newly created Lands Commission]. If it is a true merger, then we [referring to the survey department] expect to be represented at certain hierarchy, something we have been robbed off"

Similar sentiments were expressed at the national level by respondent 34 who was also from the SMD:

> "We are distinct professionals. They are Land Economists and we are Land Surveyors. What connects us is the land but it does not mean we can do their work neither can they discharge our roles. So when it came to the appointments, we were expecting to be treated as co-equals but what did we see? Our brothers have taken everything [relating to positions]"

He further elaborated that:

> 'We are poorly represented. They [the land economists] took the top three positions. Then again, they took the 7 regions which are juicy areas [that is areas where the land market is vibrant] and cash flows regularly. Then they gave us the dry regions [without brisk land market]. So is this fair? We want to be taken from the Lands Commission so that we can have our peace of mind'

So clearly, SMD has not settled into the newly engineered institutional reform. It is important to assess the possible implication of SMD's incessant agitations on the overall success of land administration in Ghana. SMD supervises, regulates and controls the demarcation of land. More significant, the maps produced by the SMD are prerequisite land use planning and land registration activities. Therefore, the continuous threat of Survey Department to withdraw from the ongoing land administration reforms poses a real danger to the success of whole reform process.

The ongoing wrangling within the newly reformed Lands Commission is an indication that strategies and structures to absorb the post reform shock and resentments were poorly structured. Why no lessons were learnt from best practices is puzzling because earlier on, Leftwich (2004) had justifiably argued that:

> 'The whole terrain of institutional reform is an intellectual and political minefield, dotted with institutional jealousies and border police, with well-placed and often concealed booby-traps, diversions and dead ends (p. 117)'

Partly to be blamed for this development is the management lapses which meant the Organisation Management and Operations strategy which was to identify and address all possible threats was only produced after the actual merger had been completed. Why the managers of the Land Administration Project allowed the preparation of the OMO report to drag for such a long time is puzzling and this attests to the lapses in key decision making at the senior managerial level. The inter agency acrimony is a real source of distraction for the overall success of the land administration project.

7.7 Concluding Remarks

This chapter has examined the institutional dimensions of the causes of the ineffective state of land use planning. Attempts have been made establish in detail how the four components of the institutional arrangement adversely impact on the planning process. In terms of political interference, it has been identified that politicians and political appointments such as Chief Executives manipulate the planning process for political gains. In additional to this, the study identified that the activities of the Statutory Planning

Committee, which is the specialized committee responsible for ensuring effective planning delivery is centered around the Chief Executive. In practice, the Chief Executives several duties and in most cases fail to prioritizes the land use planning duties and these issues eventually undermine effective planning delivery.

The study also established that there is very short supply of human resources for planning delivery. The few existing planners are therefore over burdened. In some cases, one planner may be responsible for up to 500,000 people. Coupled with the fact that both population growth and urbanization are rapidly rising, it is not surprising that planners have largely been inefficient in terms of shaping the growth of human settlements. In similar vein, the set of planning laws, which are expected to provide a regulatory framework for guiding planning activities, has equally been identified as being a hindrance. Several of these laws are obsolete, inconsistent and largely do not reflect the socio-cultural dynamics and the aspiration of the people. This in turn creates a disconnection which does little to facilitate compliance by developers. This partly explains why several developers fail to comply with existing planning laws. Similarly, it was identified that planning activities at the local level are inadequately funded and this has led to a situation where the activities of planners are effectively grounded to a halt. Since funding is woefully inadequately, it has inhibited the acquisition of basic logistics such as computers, A4 sheets, pens, and pencils, etc in some planning authorities. This has in turn rendered several planning authorities unable to prepare plans, update existing ones or enforce the content of planning proposals. The causes of planning failure are therefore hydra-headed and nothing short of a holistic approach is needed to address them.

Attempts to improve the state of planning practices should therefore address issues together with the challenges which emanate from the customary land tenure practices (which have been examined in chapter 6). In attempting to address these challenges, more responsive policy alternatives are needed in place of the existing ones which have largely failed to deliver the expected goal of planning. The next chapter seeks to offer recommendations based on the key findings of the study. It is expected that these recommendations will help to strengthen the institutional framework for land use planning whilst ensuring that the customary land tenure practices are efficiently integrated into the existing arrangement for land use planning.

CHAPTER EIGHT

REFLECTIONS, RECOMMENDATIONS AND CONCLUSION

8.1 Introduction

The crux of the study was to appraise the endemic challenge of ineffective planning delivery. The driving force of the research was to find pragmatic solutions to help in addressing this intractable challenge of poorly planned human settlements. This chapter seeks to synthesize the underpinning theoretical drivers of the research with the empirical findings as part of an attempt to offer more responsive recommendations to help arrest the dysfunctional state of planning. Before embarking on this task, it is instructive to reflect on the research context and problem, the aim and objectives as well as the research methodology.

8.2 Reflections

Several activities and steps have been undertaken in the course of the research. This section seeks to pause and take stock of these various endeavours which have culminated into this concluding chapter. To begin with, it is important to revisit the context and the research problem which has been investigated.

8.2.1 Reflecting on the Context and the Research Problem

The sub continent of Saharan Africa is one of the regions in the world with high population growth rate and urbanisation. For example in 2010, it was estimated that the rate of urbanisation in SSA was 3.67 percent per annum compared to the more developed regions which are urbanising at an average rate of 0.54 percent per annum (UN-DESA, 2011). Unfortunately, this rapid rate of population growth and urbanization has not witnessed commensurate increase in efforts and initiatives to adequately manage the spatial change. Predictably, towns and cities in almost all countries in SSA exhibit signs of poorly planned settlements such as congestion, overcrowding, poor sanitation among others. It is estimated that at least 70 percent of the urban population in the sub region live

in such conditions (UN-Habitat, 2009, p.4). As a precursor to revisiting the aim and objectives of the research, it is important to first reflect on the various steps which were employed in conducting the research.

8.2.2 Reflecting on the Research Methodology

The research commenced by first defining the research problem. This was followed by a clear outline of the aim, objectives as well as the justification of the study. Unpacking these issues helped to set the scene by identifying the key concepts and theoretical issues which needed to be further interrogated through a critical and reflective survey of the relevant literature. Engaging in theoretical evaluation relating to the operation of land use planning in SSA was useful for two reasons. Firstly, it enabled the study to be situated in the existing body of relevant literature/knowledge. Secondly, such theoretical discussions provided the conceptual basis for designing other aspects of the research.

Exploring pragmatic solutions to help deal with the land use planning challenges in SSA is purely an empirical exercise. Therefore, in as much as engaging in theoretical debates of the key concepts and issues were useful, such efforts were inadequate in terms of offering solutions for the research problem under investigation. It is against this background that the study was designed to draw largely from empirical evidence. In conducting the empirical research, Ghana was selected as the specific case study after careful considerations. Justifications for the choice of Ghana have been examined in section 4.2. Within the Ghanaian context, two stages of empirical research were conducted. The first stage of the empirical research centred on a nationwide survey of local planning authorities through a postal questionnaire. Responses from the survey were significant. The results of the survey highlighted that land use plans in Ghana are generally outdated and in most cases unfit for the current demands. This situation is worsened by the fact that these plans are hardly ever updated. In effect, there is generally a lack of sound planning base for governing the growth of human settlement. The survey also established that planning is highly reactive, and not proactive. This results from the fact that almost all efforts are channelled towards controlling development rather than forward planning. Little has been achieved by planning because development generally proceeds without any

authorization from the designated planning authorities. The survey also brought to the fore a myriad of challenges which have weakened the machinery for land use planning at the local level. These include, inadequate funding, shortage of human resources (both in terms of the required numbers and skills), unresponsive planning legislations as well as political interference, all identified as challenges for the planning system.

The outcome of the first stage of empirical research nuanced with the theoretical insights informed the design and conduct of the second stage of the empirical research. The second stage of the empirical research was an in depth investigation of the operation of land use planning in Ghana. This was carried out across four embedded case areas which were selected to reflect the variations in the spatial characteristics in Ghana (see section 4.11).

Employing the mixed method approach (that is a combination of quantitative and qualitative research methodologies), the study collected evidence from key stakeholders from the local, regional and national levels. Interviews, structured questionnaires, focus group discussion and observations were the data collection tools which were employed. When the goal of research is to offer policy recommendations, it is important these recommendations are based on robust empirical evidence. Accordingly, the study is firmly rooted in the empirical evidence which were collected through various techniques which are summarized below.

1. 45 local planning officials were surveyed through postal questionnaires.
2. 200 private property developers were engaged through structured questionnaires which were administered with the help of research assistants.
3. 35 planners and other land management experts from the land sector agencies at the local, regional and national level were interviewed.
4. 6 chiefs (traditional authorities) were interviewed.
5. 1 focus group discussion involving five tribal elders.
6. The researcher also observed proceedings of meetings. Two at the local level and one each at the regional and national levels.
7. Relevant secondary materials such as newspaper publications, annual reports and meeting minutes were also collected as part of evidence for the study.

Based on the breadth and depth of stakeholders who were engaged in the study and the evidence/data/information generated, it is fair to conclude that findings and recommendations of this study are solidly evidence based.

8.2.3 Reflecting on the Aim and Objectives of the Research

The research seeks to contribute towards improving planning delivery in Ghana, and other parts of SSA, by first searching for a more comprehensive understanding of the linkages between customary land tenure systems and other factors, such as institutional framework. In order to achieve this aim, the study was divided into five research objectives as follows:

1. To assess the challenges confronting land use planning;
2. To evaluate how customary land tenure system affect land use planning;
3. To examine the institutional framework challenges for land use planning in Sub-Saharan Africa;
4. To assess the effectiveness of land administration reforms in improving land use planning practices and finally,
5. To make recommendations which will help to address the current inefficiencies of land use planning

Each of these five research objectives are revisited below.

Reflecting on objectives one and three

An effective land use planning system is the result of a synergistic relationship between various actors and agencies. In the same way, the ineffective state of planning practices across SSA is the deleterious outcome of the interaction of several factors. Land use planning is responsive to context. It was therefore expedient to 'hear the voices' of the key players in the planning process in order to achieve objective one which sought to assess the challenges confronting land use planning. This was largely achieved through the first stage of the empirical research where a nationwide survey was conducted. The survey established that planning practitioners rate customary land tenure, ineffective planning

laws, inadequate funding, political interference and human resource shortages as the key challenges to effective planning delivery. These issues were further examined in detail during the second stage of the empirical research and this helped to address the third objective of the study which sought to examine the institutional challenges of land use planning in Sub-Sahara Africa. Within the overarching challenge of institutional weakness, four elements (funding shortages, an inadequate human resource capacity, ineffective laws and political interference) were established as the key challenges. When additional field investigations were conducted, each of these issues' impact on the planning delivery was established in detail. Effectively, the institutional arrangements and the customary land tenure practices were identified as being responsible for planning failures.

Reflecting on objective two

The second objective tasked the study to establish how exactly customary land tenure practices contribute to planning failure across SSA. When the context was set for the research (in chapter one), it was identified that analysts have reduced the relationship between customary land tenure and land use planning in SSA to ideological debate involving a capitalist and neo-communism. Analysts are quick to argue that land use planning as a discipline traces its root to a purely capitalist and liberal political economy of Europe and North America and these contexts sharply contrast with the socio-cultural characteristics in SSA which is dominantly underpinned by communal philosophical considerations. The ineffective state of land use planning has subsequently been attributed to the mismatch of these two ideologies.

In expanding this argument further (in chapter 3), it was observed that analysts claim that in the capitalist context, property rights are tradable, secure and can be privatized. As a result, developers are motivated to observe the existing planning regulation knowing that this may help to enhance land values. Since their property rights are secured and can be traded, developers generally invest in the property thereby improving the general quality of human settlements. In effect, the relative success of land use planning in the western world is largely premised on the prevailing capitalist land tenure regime. By reversing the

arguments, analysts have attributed the poor state of land use planning to the customary land tenure practice which has variously been described as anti private rights, anti-market and does not offer security of tenure. Developers in such contexts are therefore not motivated to observe planning regulations partly because their land rights are not secure and thus cannot be easily traded. It has subsequently been concluded by some of commentators that the customary land tenure has been the main bane for land use planning in SSA.

A critical and reflective engagement of existing literature however highlighted that contrary to the popular perception, customary land tenure in SSA may be market oriented, offer security of tenure whilst allowing for private property rights based on the demographic dynamics. It was subsequently concluded that a blanket description of customary land tenure in SSA as anti-market, anti-private rights and offering insecure title is over simplistic and should be avoided. Therefore, there was the need to move beyond the ideological debate in favour of searching for a pragmatic linkage between customary land tenure and land use planning practices, a task which is best executed out empirically. After empirically evaluating the linkages between the concepts of land use planning and customary tenure practices, it was established that customary land tenure impacts on land use planning in the following ways:

1. There is generally lack of adequate title security under customary land tenure systems and this pushes developers to develop immediately after acquiring a parcel of land. This is known as 'demonstrating physical possession of land' and this has been identified by some analysts as the best form of ensuring security of one's land rights. In the process of trying to demonstrate physical possession, developers are generally not motivated to comply with the prevailing planning regulations as the need to protect ones investment (in the parcel of land) far exceeds the desire to comply with planning regulations.

2. Customary landholders unilaterally prepare land use plans without reference to the local planning authorities. Significantly, customary landholding in almost all cases

engages the services of unprofessional people in the planning process. Typical characteristics of plans made by such unqualified people are as follows.

a. Injurious land uses are situated closely to human settlements.
b. Little or no provision for ancillary land uses such as open space, market and sanitary areas.
c. Building plots are allocated to developers without any meaningful pattern and this eventually translates into haphazard and disorganized arrangement of development among others.

Significantly, such practices lack any ingredient of meaningful planning and this helps to explain why there is wide deficit in planning delivery.

3. It was also established that customary landholders unilaterally alter existing land use plans. Local planning authorities are generally constrained by the lack of funds and human resources among others. Despite these challenges, some local planning authorities manage to prepare land use plans for areas under their jurisdiction. However, motivated by the desire to maximize financial gains (see 6.3 for the now twist to the principle of trusteeship under customary land tenure), some chiefs connive with self styled planners and surveyors to alter existing land use plans. This is done by subdividing land uses which are seen by the landholders as yielding low economic return. These uses often include: open space and children playgrounds. Land allocated for such uses are eventually subdivided and allocated to developers for land uses which are usually not supported by the existing planning regulations. In effect, there is a wide gap between a plan prepared and approved by a local planning authority and the way towns and cities grow in reality, as a result of the behaviour of some customary landholders.

4. The overlap between customary land and local government boundaries is also a source of challenge for land use planning. There are over 200 paramount/major customary landholding groupings. This contrasts with the 170 local planning authorities. Moreover, in the creation of local government areas, emphasis is not placed on customary land boundaries. Therefore, several customary areas and local government boundaries overlap. It was established that when one planning authority is responsible for two or more customary landholding groups, it

undermines the ability of local planning authorities to proceed on sustained and holistic basis.

These findings, as highlighted in chapter 6, effectively address the third objective of the study which sought to establish how exactly customary land tenure impact on land use planning across Sub-Saharan Africa.

Reflecting on the objective four

The Ghana Land Administration Project is the government's intervention to help improve land administration in Ghana. There are linkages between land administration, land alienation, land values and land use (Borras, 2007; Mayers, 2009). Therefore, any land administration reform eventually exerts some influence on land use planning. The fourth objective sought to assess how likely the ongoing land administration reforms will translate into improving land use planning practices.

The study established that LAP has made some significant gains in improving land administration in Ghana. Some of the key achievements include the introduction of information technology into the land administration process, the streamlining of the incoherent legal regime, the establishment of specialised land courts among others. These are commendable achievements. However, these successes have not been translated into enhancing land use planning. A comparative analysis was conducted between two time frames - before the introduction of LAP and the period after LAP's implementation. After the comparison, no discernible differences in terms of efficiency in planning delivery were established. Therefore, despite the various initiatives through the implementation of LAP, land use planning in the case study areas has not witnessed any significant improvement. Several issues were identified as being threats to the successful implementation of the land administration project. These include inadequate funding, some unintended outcomes resulting from the intention to formalise land rights, institutional unrest and lapses in some key managerial decisions. Unless these threats are resolved promptly, the gains made from the implementation of LAP will be eroded over time.

Reflecting on objective five

The fifth and final objective of the research sought to offer some recommendations to help improve the state of planning practice in Ghana and across SSA. The study took inspiration from Anthony King (1990)'s proposition that in examining any aspects of the built environment, theoretically informed empirical research is essential for policy purposes. The study therefore engaged the theoretical dimensions of the study as a precursor to conducting the empirical component of the study. When the theoretical considerations were synthesised with empirical evidence from the field survey, the underlining causes of the weak state of planning practices were identified as customary land tenure practices and institutional weakness. The study has offered some thoughts for policy recommendations to address the challenges which have continuously impaired land use planning delivery. These recommendations are discussed below.

8.3 Summary of Findings and Recommendations

The study established that there are two main challenges for land use planning. These are the peculiar customary land tenure and the nature of institutional arrangement. Ultimately, the study seeks to influence planning policy and planning delivery by offering some thoughts which are grounded on evidence. In this regard, note it is important that planning a product of of culture (Cullingworth and Nadin, 1997; 2006). Attempting to improve planning practice is therefore effectively a call for culture change. In order to achieve this desired change in culture, the following recommendations are made based on the findings from the study.

8.3.1 Addressing the Land Related Challenges

Ultimately, the study is in search of a more workable land management model that will effective integrate customary land tenure practices into land use planning. Land transactions between customary landholders and prospective developers are purely private contractual arrangements. In turn, the TCPD which is the public institution tasked with the responsibility to plan and order human settlement growth does not have the necessary control over such customary land allocations. This has largely resulted in a high rate of

multiple land allocation which undermines land title security. The issue for planning authorities not having the requisite influence over land transactions in the customary sector has also provided fertile ground for chiefs and tribal elites to unilaterally prepare makeshift land use plans, or alter existing properly prepared and approved plans. The fact that planning authorities do not have the requisite control to influence the land allocation by the customary landholders is thus at the heart of all planning inefficiencies which are induced by the customary land tenure practices. Based on this evidence (which has been presented in chapter 6), it is argued that any policy intervention which aims at improving land use planning practice should aim at effectively integrating local planning authorities in the process.

Various post independence governments have attempted to achieve this through outright nationalisation of land in what could be considered as fast urbanising areas. For example in the post independence era, 10.3 percent of all compulsorily acquired lands have been for the purposes of Township Development/resettlement (Larbi et al 2004, p. 123). However, this approach has proved to be confrontational between the state and the customary landholders partly because of the assessment and payment of compensation. Customary landholders have always, without exception, argued that the amount of compensation is not fair and just (World Bank, 2003a). The agreed compensation is also hardly paid promptly, a situation which encourages individuals whose lands have been expropriated to re-enter and re-possess the compulsorily acquired land in a way and manner that defeats the spirit and aspiration of the concept of planning. So clearly, this policy approach has not been effective in arresting the poor state of planning.

The study has critically examined and established how exactly customary land tenure systems impact on land use planning process. Customary land tenure practices affect planning delivery in four ways. These are as follows:

i. Land title under customary land tenure systems is generally insecure. As part of efforts to secure their land rights, several developers were found to hurriedly develop on their land. Since the need to secure once investment in land far out strips the urgency to comply with existing planning regulations, developers

generally rush to develop and in the process fail to comply with the content of existing planning plan.

ii. Secondly, customary landholders were found to be unilaterally preparing makeshift land use plans in connivance with untrained people who pose as planners or surveyors. Since these self styled people lack the basic training, what they prepare as land use plans to guide development is often sub standard. These sub standard plans eventually become the basis for human settlement growth and this helps to explain why towns and cities do not proceed on planned and sustainable basis.

iii. In some instances, there are duly prepared land use plans by designated planning authorities. The study also established that some customary landholders unilaterally alter these existing land use plans with the help of unprofessional planners. This practice eventually throws the existing land use plan out of gear.

iv. Finally, there are two sets of boundaries in Ghana. These are local government administrative boundaries and customary landholding boundaries and these two overlap in many instances. This creates three scenarios. First, there are cases where two or more planning authorities may be located with a single landholding group. Secondly, there are instances where both the customary landholding boundaries and local government boundaries may be coterminous. Thirdly, there are instance where two or more customary landholding groups may be located in a single local planning authority. In case of the third scenario, the study established that there is often conflict and lack of synergy between the various customary landholding groups. This eventually undermines attempts at land use planning. This is because planners who found themselves in such cases are deviated from their core mandate of managing spatial growth to other issues such as conflict resolution.

Any recommendation which is aimed helping to ensure effective integration of customary land tenure practices into the land use planning system should therefore be able to address four issues which have been identified above.

Secondly, any recommendation to tackle the issue of mismatch between customary land tenure and land use planning should be sustainable. The litany of failed land and planning policies (such as nationalisation, formalisation of land rights, etc see section 3.4) raises concern about the guiding principles of the design of these policies. New policy directions should therefore embrace all the key local dynamics in other to be sustainable. In this regard, the indicators provided by CEC (1997), Mark Tewdwr-Jones (2003) and Shaw and Kidd (1996) are useful reference points for evaluating the likelihood of efficiency and sustainability for any policy recommendation. Tewdwr-Jones (2008, p. 685) for example see planning as being concerned with managing the externalities arising from taking sustainable development decisions. Shaw and Kidd (1996) opine that one dominant theme of planning in contemporary times is to ensure the consumption of natural resources proceeds more effectively in order to ensure long term survival of life on earth. By juxtaposing these positions, it becomes obvious that sustainability should be at the heart of any meaningful planning policy.

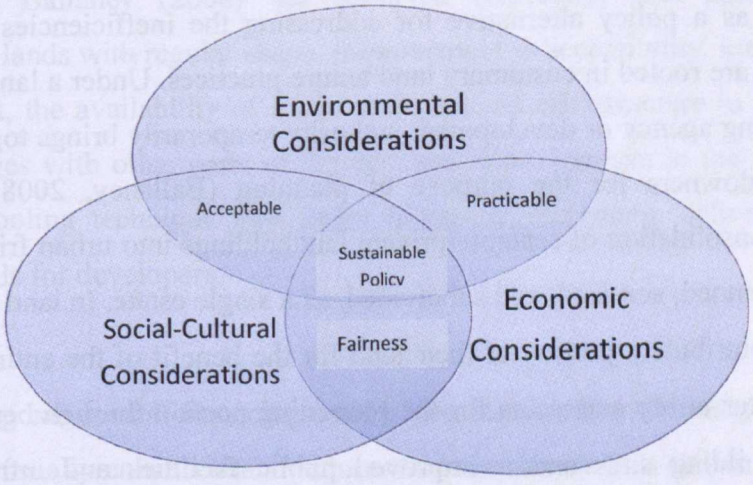
Rose (1984, p. 45) has observed that 'planning is a multi-dimensional activity and seeks to be integrative'. Therefore, the term sustainability as used in the arenas of planning policy discourse encompasses an array of issues. Tewdwr-Jones (2003) disaggregates all these encompassing aspiration of planning by arguing that planning primarily seeks to cope with the Janus syndrome that faces the strategic demands for improved economic growth while also meeting the more localized desires of urban communities. It has also been argued that planning offers the logical framework for creating a more rational territorial organisation of land use that balances the demands for development with the need to protect the environment, and to achieve social and economic objectives (CEC 1997, p. 24).These issues naturally split into three main blocks of interest which must be addressed by any planning policy. These are economic, social and environmental considerations. Other analysts have similarly observed that the core aim of planning initiative is to achieve the following:

i. Balancing all competing claims in order to achieve sound environmental practices
ii. Creating economically viable communities. Also, the policy itself should be financially sustainable to implement

iii. Delivering the social aspirations of the local urban communities (see Shaw and Kidd, 1996; Tewdwr-Jones, 2003; Enemark, 2003 and Ferreira et al 2009)

Thirdly, an effective land management model for addressing the challenges of customary land tenure for land use planning should be responsive to existing socio-cultural practices. Not only are environmental, social and economic considerations crucial to the success of any planning reform. It is also important to note that planning is richly interlaced with the prevailing cultural practices (Cullingworth and Nadin, 1997). So essentially, every effort at planning reform borders on culture change (Shaw and Lord, 2007). Particularly in SSA where customs dictate land tenure systems, which accordingly shape planning practice, the significance of culture cannot be overemphasised. Therefore, a good planning policy should not seek to alter the existing culturally engineered institutions and practices in a way that will generate antagonistic reactions from the customary leadership. Rather, a good planning policy should aim at the middle grounds where new proposals could be implemented in a way that will not unsettle or disrupt local institutions and systems which may result in a total rejection or significant upheaval. By cross fertilising the ideas of Tewdwr-Jones (2003), CEC (1997) and Shaw and Kidd (1996) together with the need for cultural considerations, the framework below is developed for the purpose of evaluating the suitability of the land policy this thesis offers as well as its implications for land use planning practices.

Fig. 8.1: Framework for assessing planning policy



Source: Based on the prepositions of Shaw and Kidd (1996) and CEC (1997)

From the foregoing analysis, there are three guiding parameters for the choice of land management model to address the challenges of customary land tenure practices for land use planning. These are follows;

i. The model should address the four ways through which customary land tenure practices impair land use planning delivery as study has identified.
ii. The model should be socially, environmentally and economically sustainable and finally
iii. The model should be responsive to the existing socio-cultural practices

Peri-urban areas include land adjacent to urban areas, along and peripheral to the urban edge in a transition zone between urban residential areas and rural agricultural areas. The peri-urban is a transitional zone which experiences rapid conversion of agricultural lands for the purpose of property development as a result of high demand for land. Therefore, the first attempt at improving how human settlements are planned should start by planning for the peri-urban zone. This will serve two purposes. First, planning the peri-urban area helps to check expansion of settlements on unplanned basis. Secondly, it also ensures that future expansion of urban areas which occurs mainly in the urban fringe, proceeds according to plan.

By basing on three guiding parameter which have been identified above, coupled with the need to tackle sprawling of existing poorly planned settlements, the land pooling model is recommended as a policy alternative for addressing the inefficiencies of the planning systems which are rooted in customary land tenure practices. Under a land pooling model, a public planning agency or development authority temporarily brings together a group of peri-urban landowners for the purpose of planning (Ballaney, 2008). Land pooling involves the consolidation of separate private landholdings into urban fringe areas so that they may be planned, serviced, and subdivided, as a single estate. In land pooling projects, land owners contribute a portion of their land for the benefit of the entire project, and in return get greater utility and value for the remaining portion through better access, more developable building sites and/or improved public facilities and infrastructure. Thus planning authorities could manage settlement growth by preparing development plans and

planning schemes for the agricultural land at the periphery of the cities and towns, or smaller settlements that are not yet urbanised, in anticipation of urban or non-agricultural uses. The owners would contribute land for communal uses such as roads, open spaces, schools, and hospitals, and the remaining land would be 'readjusted' into suitable parcels for development. Also, services such as improved water supply, roads, water, and electricity would be provided. The concept of land pooling is an urban management tool that has largely been used in the Middle East, Asia and parts of Europe. In SSA, there is no known record that land pooling has been applied. In areas like Nepal, India, Kathmandu, Japan, Israel where land pooling has extensively been used, it has proved effective in managing urban growth (Home, 2007). Rob Home (2007) has observed that there is striking international diffusion of land and urban policies owing to the fact that the underlining causes of most of the challenges rapid urbanisation are shared. Therefore, it is perfectly acceptable to adopt a policy from one area and apply in another. The caveat however that is no two areas are exactly the same in terms of their spatial characteristics. Therefore, in adopting policy from one area, researchers should be diligent in identifying the contextual variations with the aim of modifying such policies to suit the need of their own area. The study accordingly adopts, contextualises and subsequently recommends for the application of land pooling in SSA.

Earlier analyses by Acharya (1988) and Archer (1988) have provided a review of the strengths of land pooling and adjustment. More recent studies by Gurumukhi (2003), Karki (2004), Home (2007), and Ballaney (2008) have further illuminated the success of this model. Ballaney (2008) has observed (correctly) that land pooling delivers developable lands with regular shape, improvement in accessibility, increased potential for development, the availability of social and physical infrastructure in the neighbourhood, better linkages with other parts of the city and improvements in the living environment. The land pooling technique thus helps to ensure systematic delivery of planned and serviced lands for developers.

Land pooling can be self-financing and, hence, sustainable. Planning and servicing peri-urban lands usually enhances land values. In countries such as Germany, the Netherlands and India, where land pooling has been intensively applied, Conellan (2002) found that

local authorities imposed betterment charges on developers. This practice gave the planning authorities a revolving fund for additional land pooling projects. This ability to self-finance would be especially welcome in the Ghanaian case where funding for planning activities is inadequate.

In such cases, infrastructure can be funded from the shared profits. Home (2007) for example has reported of the ability of land pooling to generate enough funding to meeting the cost of planning delivery. In his analysis, an individual plot of 0.4 hectares included in a scheme of 3.6 hectare comprised 11% of the land area. Its value in existing use (agricultural) was £4,000 per hectare (£1,600 for the plot), while serviced development land was worth £200,000 per hectare. In the land pooling process, 40% of the land was taken without compensation for the purpose of providing roads, open space and schools among others. Part of the 40 percent of land were also sold as a means of raising capital to fund the planning process without resorting to the local or central government. After the land pooling exercise, land owner received back 0.24 hectare, which now valued at £48,000, and representing a big capital gain. Land pooling thus represents a win-win situation for both land owners and the planning authorities. Planning authorities receive funding to meet their activities whilst landholders receive enhanced land values.

The management of customary land is principally the preserve of chiefs and a few tribal elites. This arrangement has provided the fertile grounds for the customary landholders to abuse their position as trustees by selling as many parcels of land as possible. From this perspective, an effective approach to managing urban land should be participatory in character. Land pooling meets this requirement. Through land pooling, planning authorities assemble peri-urban lands in a participatory approach where landowners and other stakeholders are duly engaged (see Oli 2003 and Karki 2004 for reports on the Nepal and [Kathmandu Valley] experiences respectively). Indeed the success of land pooling largely depends on consensus among all the key stakeholders. Land pooling, therefore, promotes coordination between planning authorities and landowners, an outcome which has remained elusive under the current land management policy.

Despite its ability to arrest sprawling and improve planning in the peri-urban interface, land pooling has had some downsides. Critics for example cite that when agricultural land users are displaced in favour of residential developments and other non-agricultural uses, people whose livelihood are dependent on farming in the area are subsequently left without any meaningful alternative source of livelihood. When Karki (2002) examined the outcome of land pooling in Kathmandu Valley, he established that the peri-urban land users whose lands were absorbed in the process of the land pooling exercise did not receive timely, fair and just compensation. The majority of them were subsequently left impoverished. Also in India, similar experience has been observed (Gurumukhi, 2003).

Land pooling involves the bringing together many individual land holders. As a land pooling project needs to seek consensus of landowners at each and every stage, it may generate considerable controversy and disagreement throughout the life of the project. Land pooling can therefore become a subject of repeated interruption and delay in the attempt to build consensus. In Ghana for example, the various stakeholders in any land pooling initiative may involve chiefs, illiterate farmers, government officials, land brokers among others. Karki (2003) has also established that many of the influential landowners tried their best to use all kinds of political powers to maximize personal benefits, even at the cost of the public interest. Those who failed to acquire such benefits subsequently created an environment of conflict during the implementation of land pooling in Kathmandu Valley. One of the inherent weaknesses associated with the use of land pooling is therefore the issue of negotiating consensus among the various shades of interests in the project.

Another unintended outcome of implementing land pooling is that it leads to land speculation. Speculators hold land outside the market in anticipation of higher land values. Land speculation creates dispersed human settlements and may undermine the orderly expansion of human settlements. When successfully implemented, land pooling delivers planned and serviced lands which naturally command higher land market values relative to un-serviced ones. Since land values in most cases appreciate with time, investors may acquire several plots not for immediate development but with the sole aim of selling them in the future. In Sainbu Land Pooling Project (in Kathmandu Valley) for example, 86% of

the plots were vacant 2 years after the completion of the project and 23% of the plots were still vacant in the Gongabu Land Pooling Project 6 years after its completion because of speculative activities (Karki, 2004). In the Gujarat and Maharashtra areas of India where land pooling has been implemented, similar issues have been observed (Ballaney, 2008). Therefore, the tendency of speculation is a challenge for the smooth implementation of land pooling.

Admittedly, these concerns are genuine and are likely to come up when land pooling is adopted and implemented in SSA. It is therefore instructive to think through which mechanisms could counteract these threats. For example the issue of land speculation can be checked by taxing bare/vacant lands. Such taxes should be high enough to make speculation unattractive. In Rio de Janeiro for the example, tax rate on vacant land in the wealthier southern zone of the city is 7% of market value; 26 times the rate on built property and the whole idea behind this is to discourage land speculation (Dillinger, 1992, p. 9). This was considered as 'punitive tax' and eventually served as a 'push factor' and resulted in land speculators releasing land for willing developers. Similar approach can also be employed in Ghana and the rest of SSA to help arrest the issues of land speculation which is associated with land pooling.

It has been established that under land pooling, various land owners contribute land to help finance the incidental cost of planning and servicing land. Moreover, planning and servicing land in the peri-urban area doubles or triples land values. Therefore with the issue of displacement of peri-urban farmers, provision should be made for the payment of appropriate and timely compensation. Such compensation could then be used to start alternative source of livelihood such as trading or go into apprenticeship. Currently as it stands, peri-urban farmers who are displaced have no means to recover their land either in the form of compensation or relocation. In most cases, displaced peri-urban farmers result to violence in attempt to press home their demand for compensation (Asiama, 2004). Therefore, land pooling offers a more coherent and equitable approach for providing alternative source of livelihood for peri-urban farmers whose land may be absorbed in the land pooling project.

First, is important to note that land pooling involves cooperation between land owners. Secondly, land pooling is a public-private partnership. Therefore, building trust among land owners and the public officials is important for the overall success of the programme. With the issue of the difficulties which are associated with negotiation and building consensus among the landholders and other stakeholders, highly skilful negotiators and facilitators could help to address this issue. It is recommended that local opinion leaders should be recruited and trained and subsequently be used as facilitators educate and attempt to build consensus among the local people. These local negotiators could then serve as a link between the land owners and the local planning authorities. Admittedly, as long as land pooling seeks to reconcile competing interest groups, disagreements will arise. However initiatives such as building the capacity of local negotiators and facilitators can help moderate the nature of conflicts which have characterised land pooling in areas such as Kathmandu and Gujarat.

In addition to these challenges, there is the likelihood of other challenges owing to the peculiar nature of the customary landholding arrangement. Under the current arrangement, chiefs and a few tribal elitists are effectively the main beneficiaries of proceeds from land transactions. Customary land tenure practices have undermined land use planning mainly because these chiefs and tribal elders are motivated to maximise financial gains through land sales. The threat of significant upheaval from the various customary landholders could be averted if the customary leaders are convinced that they will not financially be disadvantaged by pooling their land. In areas where land pooling has been successfully implemented, the original landholder received significantly more financial returns relative to how much they would have received if they have traded their land in its unplanned state (see Home, 2007). Since customary landholders are primarily motivated by the desire to maximise financial returns, they are more likely to support any reform that recognises their position as landholders and guarantees improved financial returns. Therefore, continuously educating customary landholders of the possible improvement in the financial returns could held to alleviate any fear and scepticism they may hold regarding the how pooling their land will eventually secure their financial interest. In this case, customary landholder will be more included to support this proposed policy of land pool.

In broader terms, there are two main approaches to improving land delivery for urban development. Firstly, there is voluntary cooperation between land-owners and the local planning authorities. Secondly, the state may embark on compulsory purchase of private lands (Home, 2007). However, these two approaches represent opposite ends of the continuum. This means that, other intermediate methods are often ignored in the policy discourse. It is within this context that land pooling is considered appropriate for addressing the land challenges for planning in SSA. Land pooling facilitates fully-serviced urban development without direct public funding. It offers the potential for local community involvement, encouraging partnership between stake-holders a situation which has long been identified as a requisite for effective planning (Barratt, 1976; Asiama, 2008).

Land pooling requires direct methods of public-private intervention and this emphasizes the need to secure the participation and cooperation among all key stakeholders. This naturally serves as an improvement of the current state of affairs where chiefs and few tribal elites take all land related decisions. The democratic and participatory nature of land pooling is particularly important because it offers local checks and balances which are required to dilute the over concentration of land allocation decisions in the hands of a few tribal leaders. Land pooling when effectively executed leads to equitable distribution of land sales. Therefore, it will be less attractive for customary landholders to engage in multiple sales of land, unilaterally prepare or alter land use plans. Significantly, these are the main ways through which customary land tenure practices injure the planning process. Moreover, land pooling has the ability to funding planning activities on a sustainable basis without having to resort to the state. This also makes land pooling an attractive policy alternative since public funding of planning activities is woefully inadequate in Ghana, and the rests of SSA. Land pooling as a policy also enables the three goals of sprawl containment, planning future urban growth and renewing existing poorly settlements to be achieved. Land pooling also ensures economic viability, social cohesion, embrace the existing cultural practices without any severe disruption whilst ensuring sound environmental practices. Based on the foregoing analysis and discussions, it is recommended that land pooling should be adopted, contextualised and applied to help manage human settlement in Ghana and other countries in SSA.

The attempts under the Ghana Land Administration Project to address the land challenges by formalising land rights have so far failed to deliver its state objectives. It is therefore recommended that the resources for undertaking the systematic land title registration should be channelled towards facilitating land pooling. Although land pooling could be financially self sustainable, it requires an initial capital to meet the cost of planning and providing services. Again, land pooling requires improved human resources especially in the area of land economics and facilitating consensus building. The skill to facilitate consensus among land holders (whose land may be pooled) and the planning authorities is particularly central to the eventual success of the proposed policy of land pool. In both instances, there is the need for initial capital outlay. Since land pooling would be more sustainable and responsive to the local socio—cultural dynamics, (compared to formalisation of land rights), it is recommended that the resources being employed to formalise land rights should be channelled towards land pooling especially in the peri-urban areas which are experiencing fast rate of land conversion from agricultural uses to property development. It has already been established that peri-urban farmers whose land are converted to developable parcels will receive compensation to ensure that there is alternate source of livelihood. Such plans are currently not in place under LAP. Therefore, the vulnerable brackets of people whose land rights are lost as a result of the implementation of LAP are left with no option other than to be left jobless and more impoverished. Land pooling is therefore more equitable.

Basing on the foregoing analysis and discussions, it is argued that land pooling could represent a better approach of managing customary land to ensure improved planning delivery. This is because land pooling is designed to address how exactly customary landholding arrangement impair land use planning as identified through this study. In addition, land pooling would build on existing customs and not seek to supplant them with western land management concepts. It is therefore recommended that LAP should pursue its aspiration of improving land administration through the trajectory of land pooling instead of some of current strategies (such as formalising land rights) which have so far failed to deliver the expected goals.

8.3.2 Addressing the Institutional Challenges

In addition to customary land tenure practices, the study also indentified weak institutional framework as another cause of the poor state of land use planning in Ghana and other countries in SSA. The earlier section (section 8.4.1) has offered recommendations to address the challenges customary land tenure practices pose for land use planning deliver. This section will therefore attempt to offer some thoughts for policy recommendations which are aimed at improving and strengthening the institutional arrangement for land use planning. It is important to note that the study identified four institutional challenges which interact to undermine land use planning. These are as follows;

i. Shortages in human resource capacity
ii. Political interference and abuse of the planning process,
iii. Weak legislative framework for land use planning and
iv. Inadequate funding.

The ensuing section offers recommendations to address each of these challenges.

8.3.2.1 Human Resources

The study has also established that the required human resource capacity for land use planning in Ghana is woeful inadequate. As a result, there has been unprecedented level of encroachment on the planning profession by self styled surveyors and planners as a result of the acute shortage of qualified ones. The 170 district town and country planning departments currently estimate their staffing requirement at 700, a figure which sharply contrasts the current stock of 101 (COWI, 2009, p.49). The problem of human resource is likely to worsen because about 23 per cent of the existing professional planners are due to retire in the next five years (TCPD 2009, p.4). There is therefore the need for urgent intervention in order to forestall further degeneration of the already poor state of land use planning.

In dealing with acute human resource capacity as in the case of planning officials in Ghana, there is the need to think of both long and short strategies. In the short run, the capacity of the existing planners should be enhanced through continuous training especially in information technology. When this is done, it will provide the basis for moving away from the overly manual system of undertaking planning activities. This is

particularly useful because an automated approach to planning will enhance the speed in terms of preparing base maps, data storage as well as retrieval. Undoubtedly, these developments will partly compensate for the inadequate numbers of qualified planners. This proposal however requires continuous investment in information technology. Under the Ghana Land Administration Project, similar initiative was attempted. However, due to mismanagement (for example licences of software were procured at a time when they were not needed), the introduction of improved technology has not achieved the expected results. In attempt to introduce improved technology into planning practice, lessons should be learnt from the mistakes which were made during the introduction of information technology in land administration under LAP in order to avoid a repetition.

In the short terms also, it would have been appropriate to attract highly skilled planning professionals across the globe to help address the gap in the supply of human resources. This is however not a feasible option because the planning professional is not financially rewarding enough. Even for the planners in Ghana, 169 out of the 270 have migrated to non town planning professions in search of better salaries and conditions of service. The planning profession in Ghana is thus not competitive enough to attract planners across the world. Efforts should be directed at attracting some of the 169 planners who are currently employed in non-planning organisations by offering competitive salaries and conditions of service.

The study also identified that there is proliferation of unprofessional surveyors and planners in the Ghanaian land markets. The activities of these people are not backed by law and there is therefore no coordination. What is however clear is that these self styled planners and surveyors are very well represented across the country relative to their professional counterparts. Despite the fact that they receive no funding from either the local authorities or the central government, the quack planners have proved to be resourceful over the years by liaising with customary landholders to prepare makeshift land use plans or alter duly approved ones. As part of the short term measure to address the human resource shortages, it is recommended that these self style planning practitioners should be identified, trained and accredited. After this, they could work as sub professionals whose activities could then be regularised and coordinated by more

professionally competent planners. It is important to note that the self styled planners and surveyors are fairly experienced as they have already been preparing makeshift maps and land use plans for customary landholders across the country. Therefore, they are already familiar with processes involved and are also trusted by the clients who in most cases are the customary holders. As it stands, the quack planners and surveyors are threat to the planning process because they are not adequately trained and their activities are not coordinated.

The only threat is that since such unprofessional planners may earn more in the informal sector, there is the likelihood that attempting to regularise their activities may be met with strong opposition. It is therefore recommended there should be a legal basis to regulate the activities of self styled planners. Such a law will render the activities of unregulated self styled planners unlawful. When such a law is effectively enforced, it will help to clean the system. Similar strategy was employed by the Ghana Institution of Surveyors (GhIS) when it sought to clear unprofessional real estate agents from the Ghanaian land market. The Estate Brokerage and Salesmen's Act has recently been passed and it is expected to help instil sanity in the estate agency sector. Attempt to regularise the activities of unprofessional planners could therefore be crafted along the GhIS's model of curbing the activities of untrained real estate agents.

Training and regularising the activities of self styled planners will literally be equivalent to killing two birds with one stone. This is because their activities which are outside the realms of the formal planning institutions would be curbed. Secondly, they would be trained and drafted into the formal planning setup as sub-professionals to help provide the needed boost to the required human resource capacity. Admittedly, they would not be qualified to work as fully fledged planners, nonetheless they can be trained, coordinated and regularised to help improve planning practices.

A more comprehensive and systematic strategy is however needed in the long term to address the acute human resource shortage on sustainable basis. In this regard, a two dimensional approach is offered. First, there is the need for a radical re-alignment of

planning education in all tiers of the Ghanaian education system. The introduction of accredited planning programs in tertiary educational institutions across the country will be vital to addressing the human resource shortage. This alone may not be enough to address the shortage in human resource as in the past, professional planners have migrated to other more economically rewarding professionals. Therefore, training of more planners should move hand in hand with improved salaries and conditions of service to help attract and keep planners in order to prevent the high rate of attrition that has characterised the planning profession in Ghana.

8.3.2.2 Political Interference

It has been established from section 7.2 that political manipulation and abuse of the planning process has continuously retarded efforts at achieving orderliness in the growth of human settlement. The study has also brought to the fore that politics affect the planning process in two main forms. First, politicians manipulate the planning process as a means of crushing the political opponent or to favour their supporters and cronies ultimately for electoral considerations. Secondly, the statutory planning committee which is the technical body for planning policy formulation and evaluation of planning applications have progressively been undermined by the municipal /metropolitan /district chief executives (MMDCEs) as a result of their continuous absence. Any attempts at addressing the challenge of political interference should therefore concentrate on these two issues.

It has been established by Kivell (2003) that, planning and politics are intertwined and overlapping. Therefore planning is a political discipline. Globally, politicians are backed by law to exercise their discretion in the planning decision making process (see (Purdue, 1994). Unfortunately, politicians in Ghana have taken undue advantage of this arrangement to manipulate the planning process mainly for electoral gains. This phenomenon continues to be perpetuated as a result of weak or non-existing land use plans at the local level. Planning is eventually reduced to the arena where *influence* and not *policy* steers the affairs. Strengthening local plan formulation activities will help to generate stronger local plans, a situation which is required to gravitate from an 'influence

led' towards a 'policy led' planning system. Even in a policy led planning system, the chief executives will still exercise their discretion in the planning decision making process. It is therefore practically very difficult to come up with legislation, or policies, which will seek to disengage politics from land use planning, other than advocacy and education of all stakeholders of the implications of the manipulative activities of politicians for human settlement growth.

What could be changed through legislation is the undue delay to the planning process which results from the central role the metropolitan, municipal and district chief executives (MMDCEs) play in the planning process. The MMDCEs are under the Local Government Act 1993 (Act 462) mandated to convey and chair statutory planning committee meetings. No alternative arrangements are made under the Act. Therefore, in their absence, planning activities are generally halted. Significantly, the MMDCEs are generally very busy and are therefore largely not available to convey and chair planning committee meetings. These results from the fact that the process of selecting chief executives is complex and can last for several months, and (in some instances) even years. Even when Chief Executives have been successfully appointed, the sheer volume of commitments merely makes them available to facilitate the planning process. The unavailability of the MMDCEs has therefore remained a key reason for delays in the planning process.

Why MMDCEs continue to remain directly responsible for planning at the local level is puzzling. To begin with, MMDCEs are mostly without the technical expertise which is required for the planning process. This is because they are in almost all cases selected based on peripheral considerations such as political affiliation, political loyal and commitment, the individuals' contributions during campaigns and not necessarily based on their competence to appreciate the dynamics and intricacies of spatial governance.

Besides the issue of technical competence, the matter of security of tenure of MMDCEs represents a major hindrance to the planning process. MMDCEs are appointed by the President (central government). They therefore stay in office at the pleasure of the

President. Governments are generally products of the political parties who win power. The tenure of the MMDCEs is therefore dependent on a political party winning a national election. Additionally, MMDCEs may be removed from office through the passage of "vote of no confidence" by the local councillors in line with the provisions under section 4 (a) of the Local Government Act. In summary, MMDCEs do not enjoy security of tenure. Between October and November 2007 for example, the then President sacked 15 MMDCEs. Between February and March 2011, the President sacked 14 MMDCEs for various reasons which ranged from non-performance to corruption. In both instances, it took an average of 3-5 months for new a appointment to be made. During all this time, there was no convener of planning meetings. Therefore impact of MMDCEs' lack of secured tenure and subsequent implication for land use planning cannot be overemphasized.

The technical capabilities the availability and security of tenure of MMDCEs sharply contrasts with that of other officials at the local level such as the metropolitan / municipal /district coordinating directors (MMDCDs). Section 36 of the Local Government Act, 1993 (Act 462) provides for the appointment of the MMDCDs. The section provides that:

> "There shall be a [metropolitan, municipal or] District Co-ordinating Director for each District in Ghana who shall be the Secretary to the Assembly and the head of the District Co-ordinating Directorate"

The Co-ordinating Director of a [metropolitan, municipal or] District Assembly is responsible for assisting the District Assembly in the performance of its duties under the Local Government Act 1993 (Act 462), the National Development Planning (Systems) Act 1994 (Act 480) and any other enactment for the time being in force. These duties are specified in section 10 of the Local Government Act, 1993 (Act 462) as follows:

(a) Formulate and execute plans, programmes and strategies for the effective mobilization of the resources necessary for the overall development of the district;
(b) Promote and support productive activity and social development in the district and remove any obstacles to initiative and development;
(c) Initiate programmes for the development of basic infrastructure and provide municipal works and services in the district;

(d) Be responsible for the development, improvement and management of human settlements and the environment in the district;

As a result of the nature of roles they play, MMDCDs are central to the administration of their respective local government areas. A recent review of the roles of the MMDCDs in Ghana's decentralised governance arrangement reveals of the central role of the MMDCDs in local governance.

> "[MMDCDs are] ... the kingpins in the attainment of the Assembly's declared objectives. This is by virtue of their position as the head office of the district assembly and the chief implementer of the Assembly's decisions. The efficiency and effectiveness with which an Assembly conducts its business is thus dependent on the [metropolitan, municipal or] District Co-ordinating Director" (Osei-Aboagye & Osei-Wusu, 2004, p. v-vi)

Section 36 (2) of the Local Government Act provides that the District Co-ordinating Director shall be a member of the Local Government Service. In the discharge of their roles, co-ordinating directors are thus civil servants and not politicians or political appointees. The appointment of co-ordinating Directors is primarily dependent on qualifications, experience and competency and not political patronage. Indeed remaining politically neutral is one of the cardinal ethical requirements of civil servants in Ghana. Therefore on the balance of probability, the co-ordinating directors are more likely to make objective and technically informed planning decisions which are devoid of undue political considerations. The same cannot be said of the chief executive officers who are political appointees.

As civil servants, MMDCDs have a more secured tenure. Their stay in office is not dependent on the political landscape. Rather, they enjoy a guaranteed tenure of office and their appointments can only be terminated if one engages in gross misconduct. Admittedly they may be transferred from one area to the other. Notwithstanding, MMDCDs have far more guaranteed tenure of office. Therefore, by transferring the powers to convene and chair planning committee meetings to the MMDCDs, the undue delays to the planning process which results from the complex approach of nominating and approving chief

executive officers will be addressed. In summary, the MMDCDs are generally more qualified, experienced and better placed to handle the planning decision making process relative to the MMDCEs. Moreover, MMDCDs are largely non partisan in the discharge of the mandate coupled with the fact that they are available all year round, transferring the planning responsibility of the MMDCEs then will only help to address the abuse of the planning system by politicians. Such a change may be seen as reducing planning to a technical endeavour without political dimension. However, it may be recalled that the Statutory Planning Committee is made up of various professional but also includes representatives of elected local councillors. Moreover, as the chief administrator of their respective areas, MMDCEs are automatic members of all committees which are established under the Local Government Act, 1993 (Act, 462). Therefore, despite recommending that the mandate to convene and chair planning committee meeting to the MMDCDs, planning will still maintain its useful attribute as being a political activity. The advantage of such a change is that it will help to eliminate the artificial bottlenecks and bureaucracies which results from the central role of MMDCEs in the planning process.

8.3.2.3 The Legislative Framework for Land Use Planning

Before some thoughts are offered for reforming the legislative framework for land use planning, it is important to highlight that there are an estimated 166 laws which relate to land management in Ghana. Of these, 20 of them directly relate to land use planning. A case by case review of all these laws was outside the scope of this study. However, in line with the tenets of evidence based research, recommendations are made for the purpose of amending the laws and provisions which were identified by planning practitioners and other land management experts as being hindrances to effective planning delivery. In this regard, it worth noting that several of the earlier recommendations will also require amendments to the existing laws in order for them to be applicable.

Under the currently legal arrangement, the metropolitan, municipal or district chief executives should convene and chair the Statutory Planning Committee meetings. However, owing to the fact that they make the entire planning process more susceptible to political manipulation and also undermine the process as a result of their regular absences, it is been recommended that the direct land use planning functions of the metropolitan,

municipal or district chief executives should be transferred to the metropolitan, municipal or district co-ordinating directors. As the chairperson of their respective statutory planning committees, the planning functions of the chief executive officers spelt in section 21 (2f, i-v) of the Local Government Act, should be amended in order to transfer these functions to the metropolitan, municipal or district co-ordinating directors.

As part of the effort to improve funding, the study recommends that the Town and Country Planning Departments at each local level should be in the position to retain 100 percent of all funds which are generated in the delivery of their services (see section 8.4.2.4 below). The amount generated could then be ploughed back to finance planning activities. However as it stands, the Town and Country Planning Departments at the local level generate funds for their respective metropolitan, municipal or district authority. Significantly, there is no guarantee that all or even part of the amount generated by the TCPD will be re-invested to improve planning delivery. It is against this background that The Ministries, Departments and Agencies Act, 2007 (Fund Retention Act, 735) should be amended to enable local town and country departments to retain all funds which are generated in the course of planning delivery. It may be argued that such a move may be described as prioritising efficient planning delivery ahead of all local governance services. In as much as this may be justified, it is important to note that planning offers a logical framework for creating a more rational territorial organisation of land use that balances the demands for development with the need to protect the environment, and to achieve social and economic objectives (CEC 1997, p. 24). Therefore, land use planning is effectively a foundation which subsequently shapes the delivery of other local government services. Strengthening land use planning will therefore ultimately help to improve the provision of infrastructure and services at the local government levels.

Section 3 (1-2) of the National Building Regulations, (1996) provides that 'An applicant shall satisfy the district planning authority that he [or she] has a good title to the land relevant to the land.' The legislation further provides emphatically that 'No approval shall be granted to any applicant who does not have a good title to land and for the purpose of this regulation, good title shall be in accordance with a certificate issued by the chief registrar of land titles'. The study has examined the difficulty in meeting this particular

provision partly because of the bureaucracies associated with obtain a land title certificate as specified in the regulation The study has subsequently recommended that land documentations such as allocation note and deed could be accepted as valid proof of land ownership alongside the statutorily specified land title certificate which has been issued by the registrar. In order to adopt this recommendation, section 3 (1-2) the National Building regulation should therefore be amended to accommodate other means of proving land ownership alongside a land title certificate.

Several respondents who were engaged in the study suggested that the fines for violating planning regulations were ridiculously low, to the extent that it is a major factor encouraging a lack of compliance. Under section 42 (2) of the Local Government Act, a developer who develops without planning approval is liable for a fine of GHC 20 [or £10]. This amount was perhaps deterrent enough in 1993 when the Act was enacted. However, under the twin influence of inflation and currency depreciation, the amounts specified as fines have no punitive value today. Giving the fact that it is far more expensive to assemble all the documents needed to successfully apply for planning permission (see table 7.3), some developers may prefer to violate the law and pay the fines rather than apply for planning permission. It is an undeniable fact that any law that encourages the exact opposite of its aspirations and expectation cannot be a good one. Therefore, revision of this provision is long overdue.

The core planning function of the various local planning authorities are executed by the Statutory Planning Committee (SPC) which is an interdisciplinary body. Currently, the various planning laws are silent on how regularly the SPC should meet. Planning authorities are mandated to make planning decisions within three months so by extension, SPCs are expected to meet every quarter. However, as a result of the rapid rate of population growth and urbanisation, it is recommended that SPCs should be mandated to meet at least once in a month. The Local Government Act 1993 (Act 462) should therefore be amended in order to reflect this proposed change.

It is also recommended that the Town and Country Planning Ordinance, 1945 (CAP 84) should be repealed. This is because the political context and goals this enactment sought to achieve have experienced drastic changes. The Cap 84 was a colonial law which primarily sought to facilitate social control and aid the exploitation of natural resources. The law was also enacted in a colonial political context, a situation that justifies the over centralisation of planning decision making. In the context of contemporary planning practice, there is a turn to democracy and participatory decision making. Although local planning authorities have not been able to effectively achieve the stated goals of land use planning, at the heart of the current planning system is the need to guarantee social, economic and sustainable environmental practices. Therefore, the object and context of the Cap 84 are completely at variance with the current demands. Admittedly, the Local Government Act provides the basis for planning in the contemporary times. However, it has been established, in some instances that some local planning authorities apply some provisions from the Cap 84. For example it came to the fore that when new planning authorities are carved out from existing ones, the newly created authorities are generally ill-equipped and unable to handle its planning functions. Accordingly, they invoke provision from the Cap 84 and push their planning responsibilities to the central government. This is despite the fact that the Local Government Act mandate local government agencies as the planning authorities. In order to forestall future occurrence of such issues and ensure consistency in the planning process, it is recommended that the Town and Country Planning Ordinance, 1945 (Cap 84) should be repealed.

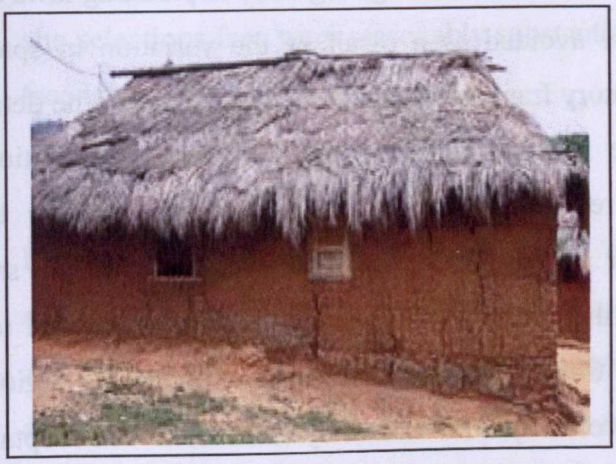
It was also identified through the study that the required documentation for making planning application could be 'scary' as one respondent put it. Ghana is a unitary state although there are sharp variations in the spatial characteristics across the country. As a result of being a unitary state, all planning laws are national in character. The usefulness of making one fit all laws for a country with very pronounced variations is however debatable. Planning laws are ultimately formulated to regulate development which is defined as

> "the carrying out of building, engineering, mining and other operations on, in, under or over land or the material change in the existing use of land or building and includes subdivisions of land or disposal of waste on land including the discharge of effluent into a body of still or running water and the erection of advertisement or other hoarding' (Section 162, Local Government Act)"

Basing on this definition, every building in the country should be subjected to planning permission and development control. The different types of properties below are therefore subjected to the same planning rules.

Plate 8.1: Different types of properties in Ghana

Plate A: A Mud and Thatch House



Source: Field Survey, 2010

Plate B: Ultra Modern House

Source: Field Survey, 2010

It is however obvious that the detailed architectural and structural implications of these two properties are not comparable. Based on the existing laws, each developer of these properties (Plate A and B) is expected to provide the following documents before planning permit could be obtained.

1. Clearly and accurately delineated plan in ink or otherwise to the scale of 1:100
2. A detailed description of the building showing clearly the purpose of each room
3. Indicate the stages and methods by which the developer intends to construct the building
4. Indicate the materials of which the building will be constructed and show clearly and accurately the position and dimensions of the foundations
5. Indicate the method of disposal of storm water, domestic waste water and sewage, in a block plan to the scale of 1:1250
6. Clearly indicate the method of water supply
7. Include the plan and section of every floor and roof among other things.

It is doubtful whether developers of the type of property in 'Plate A' can indeed provide all these documentation considering the nature of the nature of the development. Properties in plate 'A' and 'B' are totally different structures. In as much as it is important to ensure the structural integrity of every development, subjecting both properties to the same sets of legal requirements, as it exists presently is therefore a sign that the planning laws are not responsive to the context. It is against this context that the ensuing recommendation is made. It is recommended that enacting single set of planning laws and codes for the entire country should be avoided as a result of the variation in spatial characteristics. Rather, a national regulatory framework should be put in place. The details could subsequently be designed at the regional levels to fill the overarching national framework. For example a national regulatory framework may simply specify that planning authorities should ensure that any proposed development is structurally safe. Again, a national guideline may state that planning permission should be granted to a person or group of persons with good title to land. With such provisions, the regional planning authorities could be tasked to come up with what they consider to be acceptable proof of land ownership based on the spatial characteristics of the region. In this situation, requirements for planning permission will reflect the socio-cultural practices and local dynamics. Such approach is flexible and will make the processes involved in obtaining planning permission less labyrinthine.

8.3.2.4 Funding

In order to improve funding for planning activities, it is recommended that the state should demonstrate greater commitment in terms of funding land use planning activities. This could be evidenced by ring fencing some percentage of the various sources of income for the TCPD. For example the District Assembly Common Fund (DACF) is a subvention from the central government to the various local planning authorities. However, how much should be set aside for funding land use planning activities is left to the discretion of the local government leadership. In practice, only a fraction of the proposed expenditure is approved. For example between 2005 and 2009, TCPD across the four embedded case study areas received only 9-35 percent of their proposed expenditure (see table 7.7). It is recommended that, some percentage of the expected expenditure should be provided by

ring fencing part of the DACF. This will help to ensure a regular flow of funds for planning activities.

In addition, the issue of funding could partly be addressed if Town and Country Planning Departments at the local level were allowed to retain the revenue they generated in the discharge of their mandate. Evidence from the embedded case study areas demonstrate that revenues which are generated through planning application fees, rezoning charges and site selections fees were reasonably substantial to fund planning activities as evidenced in (see table 7.7).

Besides the four case study areas, local TCPDs at other local areas also generated adequate revenue to meet their financial expectation. For example, in the fast urbanising Accra metropolitan area, the planning authority generated more than 10 per cent of its expected annual expenditure in 2009. In the peri-urban area of Suhum, the activities of the planning authorities generated four times their annual budgeted expenditure between 2006 and 2009. In Ejura, Kintampo, and Tema, the operations of the planning authorities generated an estimated 50-75 per cent of their annual expenditure (TCPD, 2009). However, as noted earlier, these revenues are for the use of the local government as a whole. So, the planning departments still do not have any guarantee that they will receive reasonable percentage of either central government grant or internally generated income. It is therefore recommended that local TCPDs should be allowed to retain 100 percent of all internally generated revenues to support the delivery of planning services. This will provide a firm financially base for the TCPDs. Coupled with the proposed ring fencing of central government subventions, TCPDs at the local levels will be financially equipped to delivery their mandate if these recommendations are implemented.

8.3.3 Resolving the Emerging Institutional Challenges for the Implementation of the Ghana Land Administration Project

When the implementation of LAP was evaluated in section (6.6), it was established that LAP had not made any significant impact in terms of improving land administration. This is because, the whole implementation process has been characterised by series of institutional challenges. These challenges include the dwindling funding for LAP activities, lapses in management decision making and institutional unrest. Recommendations to address these emerging issues are presented below.

Funding

In terms of funding, it was established that there is over dependence on the western donor aid the implementation of the project. UK, France, Holland, Canada are examples of the major funding partners of the land administration project. Donor countries and agencies' in most cases maintain their commitment to fund programmes like the Land Administration Reforms when the implementation is efficiently organised and the expected targets are achieve. However, a review of the implementation of LAP highlighted that the process has been characterised with several lapses such as procuring licenses of software when they were not needed, inability to ensure a smooth transition of institutional merger and the infighting which is characterising the aftermath of the institutional change. These issues have resulted in the situation where the agreed targets between LAP and the donor partners are hardly met. Accordingly, there have no discernable impact of LAP in terms of addressing the various land challenges. Especially in the area of land use planning, the study has established that there is no difference in efficiency between LAP and pre-LAP eras. Under such conditions, funding partners may not be motivated enough to continue stick to their financial commitments. It is only predictable that funding from the western development partners may continue to dwindle unless there are clear signs that LAP can make the expected impact. Currently, there is no alternative strategy to fund the various programmes under LAP in case the western donors withdraw. It is therefore imperative to think through for a back strategy.

Ghana's economy has witnessed a period of sustained growth since 2001. This culminated in the country's attainment of middle-income country level classification in 2010. Ghana

is thus better placed now to bear a large part of the funding responsibility compared to 2003 where the country was officially classified as Highly Indebted Poor Country (HIPC). At the beginning of 2011 Ghana became a net exporter of crude oil. Since then, about USD 500m has been realised from oil exports (see Budget Statement, 2011).

Significantly, the total cost of land administration project of estimate at USD 50 million. Out of this amount about 70% have already been provided through the World Bank and other donors. Therefore the outstanding amount required for the successful implementation of land administration project is about USD 15 million. So clearly, with political will and commitment, the Government of Ghana could fund the remaining aspect of the land administration project. It is therefore recommended that the Government of Ghana takes over funding of the remaining aspects of LAP by devoting or ring fencing aspects of the oil revenue purposely to funding the land administration project.

Lapses in Management Decision Making

Another threat which was identified as having the potential to derail the successful implementation of LAP is the various lapses in managerial decision making. It is important to note that knowledge in itself is neither sacrosanct nor static. It evolves in order to keep pace with the dynamics of social change. It is therefore recommended that the key officials who are responsible for overseeing the implementation of the project should undergo periodic capacity building through continuous professional development in order to be adequately equipped to handle the intricacies of land administration. Again, the management team of the Land Administration Project would benefit regular participation in international conference where new insights of land administration reforms across the globe are presented and discussed. Such a platform will provide a stimulating environment to learn from other projects whist receiving expert feedback on the key issues relating to the implementation of LAP.

Institutional Unrest

The final threat which was identified with implementation of LAP is the institutional unrest which has characterised the institutional reform of the various land sector agencies.

In general sense, public sector organisations are often inclined to resist change. Managing organisational change is thus a great venture of exploration, risk and discovery (Senge, 1999). The unrest which is characterising the post institutional merger was therefore foreseeable. It is against this background that introducing the appropriate institutional change management strategies and methods in development intra-agency cooperation could have been an effective way of absorbing the potential shock of the institutional reform.

In this regard, it is recommended that there should be immediate analysis of the current business processes for the purpose of streamlining all the merged institutions within a single workflow. As part of the institutional reform process, it is recommended that there should also be an internal dispute resolution framework in place with clear and consistent messages regarding the change process, regular and open stakeholder consultations, airing of grievances, and putting in place feedback and learning mechanisms to enable adaptation during the course of the change process. Developing leadership skills, clarifying roles and getting stakeholders on board are all necessary for successful change interventions and these should be considered as part of the institutional reform process. It is also recommended that there should be a strong intra-agency communication. This is because communication helps to dispel uncertainties and mitigate the potential threat it poses to those that see themselves as likely to be impacted by the change. This also implies that all stakeholders must be afforded the opportunity to input into the design of change. These management strategies would help to facilitate the institutional reform process.

8.4. Direction for Future Research

The Ghana Land Administration Project represents a bold and comprehensive attempt by the Government of Ghana to address some challenges associated with land delivery in Ghana. The implementation of LAP commenced in 2003 and it is expected to last for a period of 15 years and thus ongoing. At the time of the empirical research (November, 2009 - March, 2010), LAP was about 7 years into its implementation. The evaluation of the achievements and challenges which have been presented in section 6.6.1, and therefore represents some of the short term outcomes from the project. Among other things the study established that the systematic title registration initiatives, as well as other interventions, were not translating into improved planning practices. Indeed in the areas

where the model of systematic title registration has been piloted, the result has been counterproductive because more developers (compared with the pre-LAP era) were pushing to develop ahead of planning as a result of fears that they may lose their land through the formalisation of land rights.

In as much as such reviews are useful, the study was faced with natural challenge of not being able to offer a holistic assessment, as LAP has not travelled the entire length of implementation. There is therefore the need for continuous evaluation in order to map the outcomes of the implementation of the project. The study therefore recommends that periodic research should be conducted in order to assess the extent to which LAP has been able to achieve its stated goals. In line with best practices, such research should be conducted to map out the short, medium and long term outcomes of the implementation of the Ghana Land Administration Project.

8.5 Generalising the Research Findings and Recommendations

One of the main criticisms of case study research is that, there are difficulties in making generalised claims (see section 4.2). This is partly because case study research focuses on detailed examination of specific context and no two contexts are exactly the same. Therefore, generalising outcomes of case study research such as this should be done with some caution. The research was conducted in Ghana. Even in Ghana, there are marked spatial differences between the rural and urban areas as well as the north and southern parts of the country. Therefore, any effort at planning reforms should factor all these spatial variations in order to achieve a more holistic result.

Recommendations such as adopting land pooling for control human settlement growth, improving funding for planning activities, minimising the degree of political manipulation among others, were arrived at after fusing evidence from all the four embedded case study areas. Therefore, these recommendations are national in character and can be applied across the entire country. It was established that, planning laws and building codes in Ghana are national in character. This is despite the fact that there are significant spatial

differentials. Predictably, some of these laws and codes do not reflect some local and regional characteristics. In turn, developers in such areas have struggled to comply with these laws and codes. In order to help resolve this pitfall, it has been recommended that prescribing building codes and detailed planning laws should be transferred to the regional planning authorities. Based on a national planning framework, the regional planning authorities will enact detailed planning guidelines. Such a change represents a better approach of balancing the need for upholding the technical aspects of proposed property development and the need to ensure that planning laws largely reflects the socio-culturally characteristics of the region and the local areas. In this regard, the findings of the study are reflective of the entire situation in Ghana. Accordingly, the recommendations which have been advanced could help to improve the state of planning practice across the entire country.

The research has employed a case study research strategy to inductively examine the state of planning in SSA, using Ghana as the case study. It has been admitted that SSA is a very diverse sub region in terms of its social cultural composition and geopolitical outlook. Ironically, there also exist strong similarities across the various countries in the region. The similarities are derived from the colonially inherited concept of land use planning, the dominance of customary land tenure and the poor state of planning. In this regard, Ghana was justified as been adequately reflective of the countries across SSA (see section 4.2). Findings and recommendations from the study could therefore be a source of useful insights for countries in SSA owing to the similarities they share with Ghana. For example employing land pooling as a land management tool to balance the tension between state planning authorities and customary landholders, absorbing self styled planners and surveyors into the formal sector and subsequently training and regularising their activities as well as decentralising the enactment of detailed building codes and planning laws are some examples of more responsive and sustainable planning reform strategies which the study has offered. Such recommendation can equally be useful to other SSA countries which are also experiencing deficit in planning delivery. Findings and recommendations from the study could therefore be generalised across countries in SSA subject to modifications to reflect local dynamics.

8.6 Final Conclusion

The research has evaluated the state of land use planning practice across SSA using Ghana as the case study. From this study, it has been established that land use plans which should be the guiding framework for ensuring orderliness in human settlement growth are generally obsolete and hardly ever updated. Indeed in some cases, land use plans do not exist at all. It was therefore not surprising that human settlement growth has been proceeding on unplanned and unsustainable basis. Planning has the fundamental goal of creating places that are economically vibrant, environmentally sustainable, and socially inclusive. However, these expected outcomes of planning have only been marginally achieved in Ghana and other countries in SSA. There is a proliferation of uncontrolled informal structures in almost every available open space in the built-up areas. Out of the 6.9 billion people in the world, 1 billion are officially classified as slum dwellers. Out of the 1 billion, 230 million (or 23 percent) of them reside in SSA. SSA is therefore a home to almost a quarter of the world's slum population. Unsurprisingly, an estimated 70 percent of all urban dwellers are officially classified as slum dwellers. Thus 7 in every 10 urban dwellers in SSA live in conditions which are largely characterised as overcrowded, ramshackled, with poor access to portable water and sanitation. Slum and poorly planned settlements are the negative externalities which any meaningful planning system seeks to forestall or cure. The evidence presented here helps to illustrate the fact that planning in SSA has largely failed to become effectively future-oriented, and has instead, remained reactionary, a situation which calls for immediate planning reforms.

Tony McNulty, the erstwhile Parliamentary Under Secretary of State in UK has convincingly observed that, planning is a vehicle which cannot be fixed by only looking at the engine but also, there is the need to change the way the machine is driven (cited in Shaw 2006) and this is true in the case of SSA. Therefore, migrating from the current state of planning practice to a plan-led planning system remains an enormous task. This is partly because inherent in any planning reform is the call for culture change, something which has long been identified as being fuzzy and difficult to attain (Carter, 1983; Shaw and Lord, 2007; Shaw, 2006). Despite the enormity of improving planning practice in

SSA, the study has demonstrated that the problem of the planning deficit may surmountable if it is tackled from a more holistic perspective.

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Appendix One:

Cover Letter and Questionnaire for Local Planners

Email: e.yeboah@liv.ac.uk
http://www.liv.ac.uk/civdes/researchstudents/Yeboah.htm

The Dept of Civic Design

The Gordon Stephenson Building
74 Bedford Street South
Liverpool
Merseyside
L69 7ZQ

Date:

Telephone:
My ref: PQ/09/001
Your ref:

The Officer in Charge

Town and Country Planning Department

Dear Sir/ Madam

RESEARCH INTO LAND USE PLANNING PRACTICES IN GHANA

I am a student at the University of Liverpool in the United Kingdom and currently researching the topic 'Customary Land Tenure System and Land Use Planning in Sub Sahara Africa; evidence from Ghana'. Both the long and short term goal of the research is to make contribution towards improving how towns and cities in Ghana are planned and managed. Your experience with the state of planning practice in Ghana is therefore very useful for this study.

A questionnaire has been enclosed and I would be grateful if you would complete and return it using the prepaid envelope. The information you will provide will be treated in strict confidence in line with the University's Ethical Guidelines. The information will be used solely for academic purpose.

Let me once again assure you that the ultimate purpose of the study is to come out with strategies which will help to improve the current state of town and country planning in the country. The information you will provide will therefore help in this direction.

Many thanks for your anticipated support.

Yours faithfully,

signed

Eric Yeboah

Section A

State of Existing Plans

1. Does the authority have a land use plan?
   Yes [ ] No [ ]

2. If yes, when did plan **first** come into force?
   .....

3. Has the development plan been subsequently updated?
   Yes [ ] No [ ]

4. If yes, when was it last updated?

.....

Section B

Composition and Activities of the Statutory Planning Committee

5. Does the planning authority have a Statutory Planning Committee (SPC)?
   Yes [ ] No [ ]
6. If yes, which of the under listed categories of people form part of the SPC?

Institutions from which members are drawn	Number of representatives on the Committee
The Executive of District/Municipal/ Metropolitan authority	
The Town and Country planning Department	
Chieftaincy/Traditional institutions	
The District/Municipal/Metropolitan Directorate of Health Services	
The District/Municipal/Metropolitan Engineering Department	
The Building Inspectorate Division	
Fire Service Department	
Land Valuation Department	
Others (please specify) i. ii. iii	

7. As the SPC, how often do you usually meet?
   Once in
   a. Every 3 months [ ]
   b. 4-6 months [ ]

c. 7-11 months [ ]
d. 1-2 years [ ]
e. 2 years + [ ]

8. When did the SPC last meet? .....
9. What was the main issue discussed during the last SPC meeting?
   a. Review and update the existing plan [ ]
   b. Assess applications for planning permission [ ]
   c. Other (please specify) [ ]
   d. .....

10. When is the SPC expected to meet again? .....

11. What is likely to be main agenda for the next meeting?
   a. Review and update the existing plan [ ]
   b. Assess applications for planning permission [ ]
   c. Other (please specify) [ ]
   .....

Section C
Planning Permitting Issues and Planning Compliance

12. Approximately, how many planning application have you received since 2008?
   .....
13. How long does it often take to make decision on most of the planning application you received?
   a. Within 3 months [ ]
   b. 4-6 months [ ]
   c. 7-11 months [ ]
   d. 1-2years [ ]
   e. 2 years + [ ]
14. Are you aware of some instances where people develop without obtaining prior planning approval?
   Yes [ ] No [ ]
15. If yes, what may account for this?
   a.....
   b. .....
   c. .....
   d.....

   What are you likely to do in case people develop without planning approval?
   a. Fine + Warning (stop work, produce permit) [ ]
   b. Demolish [ ]
   c. Issuing permit retrospectively [ ]
   d. No action [ ]
   e. Other (please specify) [ ]
   .....

Section
Challenges of the Local Planning Authorities in Ghana

16. The following are the challenges which you may face. Please tick which ones are applicable.

Challenges	Please Tick here
Customary land tenure	
Funding	
Human resources shortage	
Weak planning laws	
Political interferences	
Others (please specify)	

In case you have indicated any challenge above, please explain brief.

17. **Customary Land Tenure**

a. What are the main sources of land for prospective developers?
.....
.....
.....
.....

b. Do the land owners play any role in the planning process?
Yes [ ] No [ ]

c. If yes, please indicate what they do
.....
.....
.....
.....

d. Do the land owners help in the implementation of plans?
Yes [ ] No [ ]

e. If yes, please explain briefly
.....
.....
.....
.....
.....

18. **Human Resource Capacity**

Once again, I wish to remind you that your response is for academic purpose only and will be treated in strict confidence.

a. What is your highest academic qualification?

Diploma [ ] Graduate [ ] Postgraduate [ ] Other []
.....

b. Which of the areas below did you specialise in?
   - Planning- Human settlement [ ]
   - Planning –Development and policy [ ]
   - Land [ ]
   - Geography [ ]
   - Estate Management [ ]
   - Surveying [ ]
   - Other (please specify)
     .....

c. How many of the following staff do you think are needed in order to be more efficient in planning delivery?

Staff category	Number required
Professional	
Technical staff	
Draughtsman/cartographers	
Other (please specify) i..... ii..... iii.....	

d. How many of these staffs are currently at post?

Staff category	Number at post
Professional	
Technical staff	
Draughtsman/cartographers	
Other (please specify) i..... ii..... iii.....	

e. Do you think the number of staff, their skills and qualifications are adequate to meet the planning needs of this authority?
   Yes [ ] No [ ]

f. In case there are staff shortages what may account for this?
i.....
ii.....
iii.....
iv.....

19. **Funding**

a. What are the main sources of funding for your planning activities in your authorities?
.....
.....
.....
.....

b. Did you receive the entire amount you requested for funding planning activities?
Yes [ ] No [ ]

c. If no, what percentage did you receive?

Percentage of budget	Please tick
0-24	
25-49	
50-74	
75-99	

d. How would you rate the severity of inadequate funding for land use planning?
Moderate [ ]
Severe [ ]
Very severe [ ]

20. **Planning Legislations**

1. The following are the main legislations which give mandate to the planning authority. Is there any need for review of these laws?

Legislation	Any need for review?	Please outline the nature of review needed if any
Town and Country Planning Ordinance, 1945 (CAP 84)	Yes [ ] No [ ]	
National Building Regulation, 1996 (LI 1630)	Yes [ ] No [ ]	
Local Government Act, 1993 (Act 462)	Yes [ ] No [ ]	
National Development Planning (Systems) Act, 1994 (Act 480)	Yes [ ] No [ ]	
National Development Planning Commission Act, 1994 (Act 479)	Yes [ ] No [ ]	

2. Beside the main laws identified above, are there other laws which affect planning which need to be reviewed?

Yes [ ] No [ ]

3. If yes, please explain briefly

.....
.....
.....
.....
.....

21. **Politics**

How exactly does politics affect planning at the local level?

.....
.....
.....
.....

22. **Others**

In case there are other challenges for the planning system, please outline briefly

.....
.....
.....
.....
.....
.....
.....
.....

Thank you

Appendix Two: Questionnaire administered to Private Property Developers

	CHARACTERISTICS OF RESPONDENTS
1	Sex: a) Male [ ] b) Female [ ]
2	Age: a) Under 18 [ ] b) 18-29 [ ] c) 30- 39 [ ] d) 40-49 [ ] e) 50-59 [ ] g) 60 + [ ] f) Unspecified [ ]
3	Highest educational qualification: a) No formal education [ ] b) Basic Education Certificate [ ] c) Senior Secondary Education Certificate [ ] d) Diploma [ ] e) Graduate [ ] f) Postgraduate [ ] g) Others [ ]
4	Land use type: a) Commercial [ ] b) Residential [ ] c) Mixed [ ] d) Educational [ ] e) Industrial [ ] f) Other [ ]
	EXPERIENCE OF RESPONDENTS IN LAND ACQUISITION
5	Source of land for development: a) Member of land owning group [ ] b) From a private person belonging to landowning group [ ] c) Stool/Skin [ ] d) State [ ] e) Other [ ]
6	What was the state of your land title registration at the time of development) a) Title to land was registered before commencing development [ ] b) Started development and title registration at the same title [ ] c) Started development and registered title later [ ]
7	In case you have registered title, have long did it take to complete the registration process? a) Under 3 months [ ] b) 4-6 months [ ] c) 7-11 months [ ] d) 1-2 years [ ] e) Over 2 years [ ]
8	What was the most difficult challenge during land acquisition? a) Identifying the available developable land [ ] b) Identifying rightful land owners [ ] c) Negotiating the price and terms of payment [ ] d) Registering interest with government agencies [ ] e) Other [ ]
	EXPERIENCE OF RESPONDENTS IN PLANNING PERMIT ACQUISTION
9	At what stage of development did you apply for planning permission? a) Before I commenced development [ ] b) Applied immediately after starting development [ ] c) Developed to a substantial level before I applied [ ] d) Applied after been to stop work, produce permit [ ] e) Finished development before applying for permit [ ]
10	Why did you apply for planning permission? a) I am aware of the legal requirement to do so [ ] b) My land owner insisted on planning permission prior to development [ ] c) Applied after planning authorities prompted me [ ] d) Other developers prompted me [ ] e) Other [ ]

11	How long did your planning application take before approval? a) Under 3 months [ ] b) 4-6 months [ ] c) 7-11 months [ ] f) 1-2 years [ ] e) Over 2 years [ ]
13	To what extent were you satisfied with the official cost incurred during the application process? a) Very satisfied [ ] b) Satisfied [ ] c) Dissatisfied [ ] d) Very dissatisfied [ ] e) Don't know [ ]
14	During the land acquisition, were you in any way influenced by the land owner to acquire planning permission? a) Land owner discouraged me [ ] b) Land owner encouraged me [ ] c) Land owner was indifferent [ ]
15	Did the possibility of losing your land through litigation influence you to start developing before applying for planning permission? a) Yes [ ] b) No [ ] c) Not Sure [ ]
	AWARENESS OF EXISTING PLAN AND PLAN FORMULATION PROCEDURE
16	How will you describe the way planning has been able to order development in your neighbourhood? a) Very effective [ ] b) Ineffective [ ] c) Neither effective nor ineffective [ ] d) Don't know [ ]
17	Are you aware of any existing plan for your neighbourhood? a) Yes [ ] b) No [ ] Not Sure [ ]
18	Were you in any way involved in making the plan for your area a) Yes [ ] b) No , [ ] c) Not Sure [ ]

19	In case you were involved in making plan for your area, how did you participate? a) Sent a written proposal [ ] b) I represented a group of people [ ] c) I participated in organised public forum [ ] d) Other [ ] e) Not applicable [ ]
20	If you 'Yes' for 18, did your involvement influence you to making the planning application? a) Yes [ ] b) No [ ] c) Not sure [ ] d) Not applicable [ ]

Appendix Three:

Interview Guide for Planners and other Land Management Professionals

Theme I: Overview of the planning system

1. Land use planning seeks to ensure orderliness in terms of human settlement growth. To what extent has this been achieved in Ghana?
2. What are the key roles your outfit in the property development process?
3. Are developers expected to observe any rules and regulations in the development process?
4. If so, what are these regulations?
5. To what extent do developers cooperate with your department to ensure that settlements proceed according to plan?
6. How effective has your outfit been in terms of helping to improve planning delivery?
7. In the discharge of role, what are the main challenges (if any) you faced?
8. How can land use planning be improved in Ghana?

Theme II: Nature, Dynamics and impact of Customary land Tenure on Land Use Planning

1. There are three types of land in Ghana: state, vested and customary lands. Is this the case for your area?
2. It is generally believed that customary land constitutes about 80 percent of all lands in Ghana. Is that the case for your area?
3. What are the processes involved in acquiring customary land for property development?
4. Do the procedures involved in acquiring customary land have any implications for land use planning?
5. If yes, in which ways?
6. Customary lands are mostly managed by chiefs. As planners/land management officials, how do you describe your relationship with the customary landholders?

7. Do customary landholders have any role in the planning process<
8. If so, please outline them
9. Are there any challenges for the planning system which may be attributed to the customary land tenure practices?
10. Does the customary mode of landholding offer any opportunities for the planning system?
11. How may customary lands be managed in order to help improve planning delivery?

Theme III: The State of the Institutional Arrangement for Planning Delivery

Theme III (a): Funding

1. What are the main sources of fund for planning activities?
2. How often do you receive funds for planning activities?
3. How much do you require annually to meet the cost of planning activities?
4. How much of the amount required do you often receive?
5. Do you generate any income in the discharge of your planning functions?
6. If so, how is the money utilised?
7. Are they any alternative strategy available to ensure that funding of planning activities proceeds on sustainable basis?

Theme III (b): Human Resources

1. How many people are employed to help your department in discharging of your duties as a land use planning agency?
2. What are the roles of these people?
3. Is the available staff adequate to meet your planning responsibility?
4. If no, what is the nature of human resource needed?
5. How can the available set of planners and auxiliary staff such as draughtsmen be increased both in the short and long terms?

Theme III (c): Planning and Politics

1. Who are the key players in land use planning delivery?
2. Who is the chairman of the local planning committee?
3. What are his/her key roles?
4. How efficient have the chairman been in terms of ensuring a smooth operation of the planning system?
5. Are they any challenges for the planning process which may result from the nature of politics in Ghana?
6. What reforms may be needed to ensure that planning and politics co exist more effectively?

Theme III (d): Planning Laws

1. What are the legislations which guide your activities as an agency in land use planning in Ghana?
2. How effective are these laws in terms of ensuring that human settlements expand according to plan?
3. Are there any laws or legal provisions which need to be amended in order to improve planning practices?

Theme IV: Assessing the Impact of the Implementation of the Ghana Land Administration Project

1. What has been your impression with the Implementation of the Ghana Land Administration Project so far?
2. What have been the main of LAP so far?
3. How are these achievements likely to translate into improving the way settlements are planned in Ghana?
4. What have been the key constraints so far to the implementation of LAP (if any)?
5. (If any), how can these challenges be resolved?

Appendix Four:

Interview Guide for Customary Landholders

The Interface between Customary Land Tenure and Land Use Planning

1. Who own lands in the area?
2. Who is responsible for managing land in the area?
3. How is land in the area managed?
4. How is land acquired for property development?
5. Do you play any role in the land acquisition process?
6. Land use planning seeks to ensure orderliness in terms of human settlement growth. To what extent has this been achieved in Ghana?
7. What are the key roles your outfit in the property development process?
8. As customary landholders, how do you relate to land use planning authorities?
9. As customary landholders, do you play any role in the planning of your area?
10. It is believed that some customary landholders engage in malpractices such as multiple land sales. How accurate is this observation?
11. Are there any practices by some customary landholders which may not help to improve land use planning?
12. How can land use planning be improved in Ghana?
13. What role can customary landholders play to help improve planning practice?