



Formalizing Informality for Increased Security: Customary Land Tenure Formalization in Ghana

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Authors' contributions

This work was carried out in collaboration between all authors. Author RAA designed the study, wrote the protocol and supervised the work. Authors RAA and RA carried out all field work and performed the statistical analysis. Authors RAA and RA managed the analyses of the study. Author RAA wrote the first draft of the manuscript. Authors RAA and RA managed the literature searches and edited the manuscript. All authors read and approved the final manuscript.

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ABSTRACT

Using an ethnographic data on land tenure arrangements in selected communities in rural Manya Krobo, Ghana and literature, this paper explains why land (tenure) reforms in Ghana have often produced discouraging results. The results of the study show that elite capture tendencies embedded in reform processes, do not always guarantee tenure security, equity and the protection that proponents of such reforms suggest. Rather such reforms have been ineffective, counterproductive, and only served the interest of the wealthy and more powerful in society and in some cases intensified poverty. This paper shows cases of State officials and institutions colluding with the more powerful in societies to influence and divert the direction of public policies which aim at protecting the land poor, to rather serve the interest of the non-poor and more powerful in society. It is suggested that until the laws are rightly enforced and other elite tendencies identified and corrected, any reform aimed at profiting the land poor may always end up excluding them to the

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benefit of the wealthy, who wields much power and resources. It is concluded that while land (tenure) reform is necessary, and unavoidable in developing countries, the processes of reforms should be made more democratic and able to minimize elite capture tendencies. The process should make frantic efforts to encourage the involvement of the poor at all levels to represent their own interest, constituencies and voices.

Keywords: Land reform; inequality; institutional subversion; opportunistic behavior.

1. INTRODUCTION

According to the Food and Agriculture Organization [1], land tenure can be defined as “the relationship, whether legally or customarily defined, among people, as individuals or groups, with respect to land” and as the rules invented by societies to regulate this relationship. These structures define rights to use, control, and transfer land, as well as pinpointing related obligations and restraints. In Africa, particularly the sub Saharan region, access to land and land tenure is mainly through an ambiguous, insecure and uncertain “customary” land tenure systems often involved in the use of various combinations of “statutory” and “customary” rights [2]. This makes it appropriate to describe the land tenure system in Africa as dynamically complex. Land (tenure) reform policies based on such concept often create potential opportunity for the more powerful people or elites (local or state), who wields power to manipulate the existing tenure systems to their own advantage [3]. In many cases such arrangements have created inequality, skewed land access and inequitable distribution patterns among land users of various categories, leading to inefficient land use [4]. This may have the potential of resulting into decreasing productivity and increasing poverty and social injustices among the land poor.

President Mandela of South Africa statement that ‘...overcoming poverty is not a gesture of charity, but an act of justice...’ seems to suggest a reason why policies to protect the poor in Africa have often failed to achieve their intended objective. This statement suggests that while poverty should be fought with all forms of equity, land reform policies have often favoured the non-poor in the process of implementation. Even without a systematic study, a cursory look at the situation in Africa today shows that rights of poor people to a more secure property rights, security, and social justice seem to be eroded if not eroded already. The reality of these challenges has restricted economic growth and development in many ways, and thereby worsened conditions of the already poor economies of Africa. Studies

have shown that while issues of land, which received greater attention in policy and research, especially during the 1970’s, have always remained one of the top notch policies in development policies agenda, land tenure issues have not yet received remedies to its myriad challenges including insecurity, inequality and inequity of access to land and rights.

This paper looks at what the land (tenure) reforms issues in Ghana are, using both literature and a recent data from field work in selected local communities of Maya Krobo, a former agricultural frontier of Ghana. It discusses the land tenure situation in the context of the land titling and registration and the creation of the customary land secretariat (CLS) which are being sponsored by the World Bank and other international organizations. This paper explores the land title and registration processes on the ground. This paper opines that the inability of past land reforms to have resolved challenges related to land arrangements in Ghana, may not be wholly due to the economic orientation of the reforms or policy makers even though that cannot be completely ruled out. It is argued here that understanding the capacity of the non-poor and/or their opportunistic activities could provide better explanations to the seemingly discouraging performance of land reform processes in the country. It is hoped that through this analysis new ways of dealing with the new land reform (Land Administration Project) in Ghana will be able to avoid worse conditions of insecurity and widened inequality and therefore conflicts which by and large have characterized the country’s land reform since the 19th century.

This paper demonstrates how the performance of land tenure reforms in Ghana have trended, and it exposes the ill intentions of the non-poor as well as attempts to provide objective way of improving the current reform (LAP). The paper enables us to understand questions related to the justifications and objectives for the land reform programmes designed to formalize land tenure in the country; it helps us to measure the sufficiency of a well-designed and effective

reform and finally assist in determining the other options of formalizing informality of landed property in the communities.

1.1 Context of Study

Ghana, like other countries in sub Saharan Africa, has since the beginning of colonization in the 19th century sought to restructure its land tenure relations, minimize inequality and ensure social justice and poverty reduction through the implementation of various forms of land reforms. The main aim of reforming Ghana's local customary land tenure systems is to enhance security of land rights and improve access of the poor, vulnerable and disadvantaged to land. While these objectives have largely remained the same over the years, it is clear that the design, content and implementation processes have however varied. In spite of the many attempts at reforming local land rights in the country, there still seem to be no concrete solution, in terms of enhanced security, equity and conflict free land access in sight yet.

Arguably, land reform processes in Ghana have rather resulted in polarization among land users (sources). Thus creating new classes of winners and losers where the more powerful local elites, chiefs, wealthy and politicians as well as others who usually hold and accumulate land for higher rents purposes and speculation have benefited. The less powerful, smallholder derived right holders, women, migrants, youth and other land poor people who depend on land for survival have turned out to be the losers in many cases [5,4]. This polarization and skewedness of land rights distribution often serve as good grounds for the wealthy and powerful people in society to undermine the basis for economic growth [6]. As pointed out by [7] due to the incentives that might accrue to the rich in society, they will always favour poor protection of poor people's property rights. Inequality can therefore be bad for economic growth and development of poor developing countries [6]. A high inequality in society is expected to trigger losses by majority of the poor. In the land sector, the extent of growth is likely to depend on how resources are shared or allocated. Thus poor people may not necessarily be poor because they lack the capacity to make positive choices but that differences resulting from inequality in voices and lack of participation of the poor in the design and implementation of development policies may also account for their being poor [8].

According to [9] there are many instances where discussions about poverty reducing projects, such as land reforms in Ghana have taken place without the involvement of the poor. Discussions on matters concerning the poor have often been looked at as if '...overcoming poverty is a gesture of charity, and not an act of justice...' This has often resulted in the fact that the interests of the more powerful who are able to 'secure and alienate land in collusion with dominant political interests are usually represented in policy [10]. This form of inequality in participation in land reforms or policies discussions, which directly affects the rural poor, may risk achieving nothing but a waste of the tax payer's money.

The current dominant view of land (tenure) reform suggests that state led land titling and registration of local customary land ensures stronger security to land users, ensures equity of allocation and distribution as well as disallowing discrimination in whatever form. Since date, there has been no accessible documentation of the functioning and performance of these formalization processes in the country. This paper ascertains the gains or otherwise of the some mechanisms of the processes of formalizing informal landed property in rural Ghana. It specifically looks at challenges and options of the involvement of government, state agencies and other powerful agents within the land sector which has been touted as a 'panacea' to the many problems facing the land sector of Ghana through ensuring equity and security of tenure as well as stability.

1.2 Organization of paper

The paper begins with a general overview of current global land (tenure) reform debates and particularly in Ghana, from colonial to present day administration; highlighting strategies (coercive and non-coercive) adopted by the more powerful to provoke inequality and exclusion and perpetuating poverty. This is then followed by discussions on the potential concerns about the new and ongoing land reform (titling and registration of rights) in Ghana based on observation the author made in the field during an ethnographic study of selected rural farming community in Manyakrobo, a former agricultural frontier of Ghana [11]. The paper addresses the question about the extent to which the current reform is likely to succeed given the challenges and experience of the past.

1.2 Global Debates on Land Tenure Reform Policies

Over the last three decades on so, land reform has moved up and down the ladder of the development agenda of governments globally. In recent years however, the debate on land reform policies has resurrected with a focus on land tenure security and poverty in mainly in Africa and particularly sub Saharan Africa countries. Thus, land tenure reform policy has become a major agenda on the development programmes of some African governments including Ghana. Yet despite such efforts, the debate about formalization of informal customary land tenure continue has hovered around the ideology of state-led and reality of community-led reforms. The debate has centered on the premise that customary systems do not provide the necessary security to ensure agricultural investment and productive use of land and therefore the need to formalize local land rights. Although, arguable, the lack of security said to be associated with local lands was thought to have emerged as a result of the absence of a clearly defined and enforceable property rights. The two main theories attempting an explanation of this reality are the legal centralism and legal pluralism. The former suggests that state formalization of local customary tenure system, ensure increased investment and therefore productivity, which leads to enhanced farm income and poverty reduction. The latter or the so called 'evolutionary' theories suggest that local land tenure systems will allow adaptable and equitable outcomes. Yet in different studies, [12] and [13,14] among others, suggests that many existing local customary land tenure embody considerable inequality, intra and interfamily conflicts, and appropriation for private use by representatives of the state. A key assumption of these theories on local land formalization or land titling is inclusion and to some extent equity. Yet in spite of its central role in policy, whether the formalization processes in Ghana so far have remained inclusive or exclusive in that the poor who have always been the target of policy, have been brought into the land economy or shut out of it is still uncertain. In view of this, the present paper as pointed out earlier aims at showcasing the situation in Ghana.

2. DEVELOPMENTS IN THE LAND SECTOR OF GHANA

2.1 Types of Land Administration in Ghana

Fundamentally, while land tenure determines who can use what resources, for how long, and under what conditions, in broad terms, land tenure systems are sub-categorized according to whether they are based on formal or informal rights. Ghana operates a pluralistic nature of land tenure, with customary and statutory law coexisting and interacting with each other in several communities. This system of coexistence has existed since colonization of Ghana. In the main, two main forms of land - public and private [15] or customary and statutory lands [16] can be distinguished. Customary land constitutes about 80% of the total land size of Ghana [17] while the remaining 20% belongs to the State as statutory land. While customary land can be acquired through diverse mechanisms such as gifts, rental, settlements, purchase and conquest, the state lands are and were acquired by government through a fiat- the State Land Act, 1962 (Act 125), which permits the state to compulsorily take over customary land for purposes of national development.

Thus, Ghana operates a heterogeneous tenure and land management system but this varies from locality to locality within the country. Addressing tenure informality is in the country therefore poses a serious challenge for the government. Land acquired by the state can be leased to statutory bodies and some private individuals or organizations for the purposes of developing projects of national interest. Customary lands are entrusted in the hands of a family, clan head or chief (mostly males) who holds the allodial and by convention has depositional rights to the lands under his control. The other members of the land owning group (family, clan or community) have user rights only to such lands. Despite the power vested in the head of the land owning group, decisions on disposition and allocation rights are usually based on collective decisions of the head and other principal elders of the group.

2.2 Land Tenure Reforms in Ghana

As pointed out earlier, land titling (deeds) and registration in Ghana, dates back to the 19th century. However, with the neoliberal turn around

which swept across developing countries in the 1980's, a new form of land reforms were introduced to help correct and enhance economic growth and development in the country. In view of this the Land Registration Act of Ghana, 1962 (Act 122), the first major step in land reform in Ghana was replaced with the PNDCL 152 of 1986 to correct 'radical weaknesses in the system of instrument registration' under the previous act (ACT 122 of 1962). The new Land Title Registration Act, (PNDCL 152) sought among others to facilitate the recognition of land transactions and maintenance of records on these transactions through compulsory title registration [18].

In 1999, Ghana came out with its first ever national land policy (NLP) which among others aims at strengthening tenure security, with the current land administration project (LAP) seeking to correct the deficiencies of the NLP. The NLP of 1999 and the LAP are both major developments in the history of land reforms in Ghana. Among other things, the LAP seeks to facilitate equitable access to land and security of land tenure based on the establishment of land market and compulsory land title registration. It also seeks to reduce litigations, conflicts and facilitates access to land by the poor. However, the new focus of land the current reform and discordance within the debates on land reforms in Ghana calls for a thorough exploration of the current reform.

According to [3], the introduction of free market within the land sector can reinforce lack of accountability; a crucial element that has the potential to ensure peace or conflicts over land. Since Ghana is a non-homogenous country [16,19] and tenure systems vary from community to community, a good representation of each community's constituents is critical. This requires a careful selection of a cross section of people and various groups to represent their constituents. However, this has not been achieved; the interest of the majority are largely seem to have been ignored [20,3,9].

2.3 Early Colonial Period

Land reforms in Ghana started with the colonial administration, when in 1883 under the Queen's advocate, the first land reform (deed of registration) came into force [20]. One of the reasons for the enactment of this deed was the rampant large scale land sales, granting of concessions, and exploitation of minerals as well as the lack of accountability by the chiefs [18,9].

To be able to gain control over local peoples' land and other natural resources, the colonial government within the space of three years passed two land ordinances, the Crown Land ordinance of 1894 and Lands Bill in 1897, both of which aimed at bringing native/customary lands under the British Crown [9].

These ordinances and other laws (proposed and enacted) were opposed [9] by the chiefs, local people and elite groups, when it was found to be seizure rather than protecting the local people [21]. Still not perturbed and as a way around the situation, the colonial government enacted a new law, the Native Authority Act, which later became known as the indirect rule. Through this policy, the British administration was able to rule the local people and control their lands through forming an alliance with local chiefs. It aimed at placing all customary lands within 'traditional areas' under the management of paramount chiefs, who were made accountable to District Commissioners (DC), a person elected by the colonial government. Although the new law helped reduce sale of land by local chiefs, it also gave the paramount chiefs, in collusion with the local elites opportunity to sell community lands, the proceeds of which were divided among the state, district and the chiefly office. Such lands and concessions were mostly sold or given out to foreigners and not local people [3]. Since the chiefs were involved in the sale and sharing of the proceeds from land, they became satisfied and never complained because the new law favoured them.

As [22] points out, this however, did not go down well with the ruled (subjects). The Policy was seriously met with a great opposition, leading to a series feuds between landholders and migrants, among tenants and between land lords and tenants. Later, the Watson Commission of 1948 which was set up to resolve the conflicts recommended the replacement of the Native Authority Act [10]. This culminated into the establishment of the 1952 State Council law, which brought into force representatives of the various identified groups to for the council. The council which was constituted by representations of all chiefs in the district was presided over by the paramount chief.

By this time, large tracts of land had already been sold out to wealthy people or groups of landholders, who kept the land so accumulated mainly for the purposes of speculation and also for the extraction of higher land rents from poor

farmers. With the high production costs and rent fees, many farmers could not invest any longer in land improvement practices, production kept dwindling and many of these farmers became indebted and sued in courts. Since communal lands were treated under state court or laws as 'customary freehold', majority of the less powerful people lost their lands and some of them dropped out of farming. With high rates of tenure insecurity, rising land prices [23], high land rents [3] and disincentive to invest in land improvements [24], the poor lost the incentive to farm. This continued till independence in 1957.

2.4 Early Post-colonial Period

On assumption of office, in 1957, the Conventional People's Party (CPP) government led by Dr. Nkrumah made attempts to regulate customary land tenure. Its aim was to make sure that all land revenues were paid to appropriate government institutions so that such moneys or revenues could be used for local and national development. Although a good policy, its design and implementation were hampered by political agendas. Nkrumah wanted to take over lands belonging to chiefs who he had accused of not supporting his CPP during the electioneering campaign and of using moneys accrued from land sales and concessions, to fund the opposition United Party (UP). He charged the chiefs for misappropriating funds meant for local community development and therefore asked that all stool lands, belonging to local chiefs, particularly in the Ashanti and Akyem area be brought under the control of the presidency.

The administration of all confiscated lands was put under the supervision of the Office of the Administrator of Stool Lands (OASL) [3]. The CPP government enacted some more laws which gave the president and the state power to alienate land for national development. This policy however, was not able to achieve its aim, because it was partially implemented. It targeted at few powerful chiefs [25]. Some chiefs' flouted the policy directives; they continued to grant more lands to foreign investors. They also refused to pay taxes or revenues to government on the basis that the land they lived on and cultivated was acquired by their ancestors and cannot just be given away to government.

The government of Dr. Nkrumah relaxed the previous law and later enacted new laws that allowed state and traditional leaders to share the revenue that accrued from sale, rent and concessions just as the colonial administration.

The law also permitted the state to continue expropriating portions of customary land in the name of national development. Such laws allowed lands belonging to poor also to be confiscated, particularly if ones land falls within the zone earmarked for government. This permitted lands of small farmers or land holders who did not have the money to register their lands to be expropriated as well [3]. Farmers who lost their lands during the period were only compensated for the crops on the land and not the land. The rights of the small holder farmer and other land users were eroded or undermined by such arrangements [3]. A few local commercial farmers were aware of the registration processes then and because they had money and the networks, managed to register their lands and titles to the land. In this case the poor farmers lost as most of them could not afford to register their land.

Dr. Nkrumah's overthrow in 1966 was followed by alternating succession of civilian and military governments. Like their predecessors, these governments were also cautious with their land dealings and did not want to mingle with traditional land rights. They focused on large scale and/or modernization of agriculture. Their focus was more on agricultural production and productivity and not so much with changing the existing land tenure arrangements. The most successful government during the period was probably that of Col. I.K. Acheampong's and his National liberation Council (NLC), which did so well to ensure that Ghana attained a high percentage of food self-sufficiency in cereals, particularly maize. While a lot was achieved with the NLC's Agricultural Programme dubbed Operation Feed Yourself (OFY), it failed to lift people from poverty as the resource which supported their incomes came under siege. Military decrees were enacted under the NLC to help protect farmers from land ejections and alienation, which had become common in those days. However, this did nothing to change the customary land tenure systems. As the elites and more powerful always wanted to have their ways, Ghana's Operation Feed Yourself (OFY), created more spaces for politicians, elites and other business people to engage in serious internal land grabbing [26].

2.5 Neoliberal Reform Period

The foregoing clearly points out the formalization of local systems of land tenure did not make any appreciable or significant gains in terms of

transfer of land to the poor. This has raised a number of questions and suspicion over the ongoing land reforms in Ghana, which focuses on tenure reform and rights registration to boost agricultural productivity and investment. In view of this, at the behest of Ghana's international development partners, a new land reform was and/or is being rolled out in the country. This third phase of reform (neoliberal reforms) and attempt to change land relations in Ghana began with the period of structural adjustment programme in the early 1980's. In recent times, perhaps as a response to the changes taking place within the land sector and rising poverty in Africa, there has been a renewed interest within the policy circles trying to make land access and tenure count in the fight against poverty. This programme focuses on problems of rural poor farmers, in particular their security of land access tenure. Like previous reforms, the principal stated objective here is to help resolve land inequality and inefficiency challenges and thereby help facilitate poor people's access to land and ensure security of tenure. A key component of this programme is land titling and registration, which the next section of this paper discusses. It looks at the realities of LAP as observed in the field during the survey in selected communities. This is supported with evidence from literature.

3. THE REALITIES OF LOCAL LAND FORMALIZATION (TITLING AND REGISTRATION) PROGRAMME

While it is acknowledged that the reform process in Ghana is producing some good results, some negative results have also been recorded which need to be highlighted. This following are some of the real challenges on the ground, regarding the 'not rights' of the processes of land (tenure) reform in the country.

3.1 State Definition of Social Land Rights

Generally, rights to land are socially constructed. However, in Ghana, rights to land are first acquired through customary processes and then confirmed by statutory laws, with the award of a title certificate. In the community of study, it was observed that people hold a 'bundle of rights' in land, which are socially constructed, dynamic, overlap but has no legal support and enforcement rights. However, LAP recognizes only four forms of rights or interest in land (allodial, usufruct, leasehold, and tenancy and occupancy) and ignores the others. It attempts to

streamline a process of 'elite capture' by placing the allodial in the hands of the chiefs [27]. Access to customary land is based on complex, multiple and overlapping rights. In corroboration to what Berry says [2], the informants claim that acquisition of land is based on several forms of rights and base on different types of memberships, that shapes 'the mobilization and exercise of power and the terms in which rights and obligations are defined' within the group and the community [2].

Any change in rules of access affects age, gender, ethnicity, social status structures with a community. By definition, the allocation of allodial rights to the head of land owning community automatically makes him the sole owner of the land and the one who determines the fate of other usufruct holders. Instead of allowing the customary to prevail and define itself the state defines what the customary interests in land should be. Such 'strict' creations as found in the LAP, based on legality alone risk becoming a potential source of alienation and exclusion of less powerful social actors such as women, youth and migrants. [18] maintains that failure to examine carefully the inconsistency in, for example land use rights and allodial rights could generate a bigger obstacle to the success of the LAP in terms of its ability to facilitate processes of equitable access to land.

3.2 Overemphasis on Legality

Land reform has two main components: security of terms and conditions or tenure and benefits to be derived from access to land by diverse people. The former refers to the right to possess tenure and the latter refers to distribution of rights (to whom are these rights distributed) [28]. It is observed that LAP seems to be dwelling more on the former since that seems to interest the rich or wealthy. Local people are often not interested in legal matters per se rather they prefer to know how the process will benefit them socio-economically. Farmers claim they need to know how the registration of lands will help them solve the realities of life and social relations and not necessarily the terms of trade. According to some farmers, even in the absence of the terms of trade proposed by LAP, which many of them are not aware anyway, they still sell land. The low level of awareness of LAP or policies in the community of study could also be due to the over emphasis on titling and registration, that is not linked to other social benefits which may appeal to rural landholders [20]. Compulsory registration

may be a threat to rural people since the farmers view such as attempts by which government may want to take over their lands. As [9] point out; communal or family land registration may trigger opportunities for further alienation and thereby disinherit generations to come of land. Benefits from the acquired or yet to be acquired land should be emphasized more or given prominence [29] in land reforms than the security of terms which mainly benefits a few.

3.3 Expensive Registration Processes

To qualify for registration, the policy requires that one submits a large number of documents, ranging from site plan, indenture, and an amount of money for the actual registration and title certificate. The hiring of a lawyer to write and endorse documents and surveyor to demarcate and draw site plans are costs to be borne by the land owner. When ready for further processing, documents are sent to Accra, the capital of Ghana at the landowners cost. These costs farmers claim are expensive and unaffordable. The cost of acquisition of the title, in terms of money, time and efforts all suggest that the process may only benefit the well to do farmers and landholder and not the poor. The wealthy and powerful in the society take advantage of the weakness of the system, the poverty of the smallholder derived rights holders and insecure property right regime to undermine the process. Those who cannot afford the registration end up selling land to the wealthy. Even though this has not fully taken effect, there are occasions when people attempted selling family land due to economic hardships. Finally, rights of majority of the poor who require land for cultivation will be eroded [20, 18]. As was observed and discussed elsewhere many more farmers, particularly derived holders complained of either already losing their lands or facing threats of losing land.

3.4 Lack of Resources to Maintain Access to Land

According to [30], in order for people to maintain access to land they invest in social institutions, even though the money involved could be ploughed back into farming. The study revealed that the young men who travel to the cities during the off-farm season, often return with some moneys, enough to 'bribe' the landowners to release land to them. This action often deprives the left behind' and poor access to land and somehow affects land rents. The farmers claim

that by using money to influence landowners, the wealthy (the young returnees from the city) literally buy these land owners and compel them in a way to do what suits the returnees who have the money and can afford higher rents. This action is also supported by some elderly men in the community who might not have land but influence by their social positions. They often lead these young ones to acquire such lands. These emerging classes of rich people accumulate more power, create power imbalances, with their influence and wealth and therefore use that to influence the society.

3.5 Lack of Consensus Building

While the land policy of Ghana [31] calls for consensus building, in practice this seem to be absent. Engaging diverse social forces or actors and their interests, in the design and implementation of land tenure reform programs, is essential to create the necessary flexibility and sustainability among diverse social actors for the achievement of an all-inclusive land reform. This is however, lacking in the current process of land reform. Inputs from poor people and vulnerable, who often lose out benefits of reforms are critical but, this is often ignored by the more powerful who control such programmes. [16] asserts that the design and implementation of LAP does not seem to have been participatory. Instead, local elites, chiefs and experts are often selected to debate the issues of formalizing the customary [9]. [32] talking about the connection between social capital and poverty intimate that '... unless the poor accept formal institutions they will be excluded from the advantages of the formal economy. However, if formal institutions are to gain attachment values from the poor, they argue, the poor must be able to participate in their creation and maintenance in order to realize benefits from their existence'. Nevertheless, concerns raised about LAP in Ghana, suggest that design and implementation processes have excluded certain groups or individuals. The majority of the less powerful, who has no voice, are only made to accept the interest of the more powerful in society [3]. With the exception of one of the chief linguists who claim was invited to attend a meeting on land in Accra, none of the people the authors spoke to remembers ever being invited for such meetings. Clearly these people are cut off from discussions that center on their interest and survival.

3.6 Opportunistic Behavior of Elites

It was observed from the field that since land in the community is mainly owned by individual extended families, and not chiefs, the latter would prefer having access to and control over such lands in order to increase their power and control over the people. As a result of this, the chief and his elders have in recent times been making attempts at claiming what they (the traditional leaders) believe are stool lands. This is already creating tensions in the community between those occupying such lands and the traditional leaders. This issues according to some informants are been supported by some politicians behind the scenes for their political gains. The traditional leaders however deny this argument and claim they need the land for development projects that will bring maximum benefits to the entire community rather than benefiting only a few.

This and many other observations enumerated above confirms [7], proposition that increasing value of land or property do not automatically compel the wealthy to invest in public policies or institutions aimed at streamlining inefficiencies. He rather suggests that such partial and deliberate actions of the non-poor section of the society could be due to the institutional subversion orientation of the non-poor. The next section attempts to explain this paradox of why land reforms aimed at reducing social injustices of often end up profiting the non-poor to the detriment of the poor.

3.7 Gender Biased Norms on Land

One important concern about the registration and titling processes in any country, is the issues about gender and how the law protects women's rights to land. It was observed that while in theory the law is expected to protect both genders and therefore take into consideration the land needs of both men and women of a family, this was not happening in practice. In reality the women's rights was shielded and or managed by the local customary norms, which in many cases was silent about the rights of women. This is in spite of the PNDC law 111 which stipulates the involvement of widows in the sharing of a deceased husbands landed properties. The design of the local laws or norms in the community of study, ensures that most landholders are men to the extent that the women can traditionally be look upon as men's property and hence have no right to possess another property of the nature of land. It was

observed that fewer women work on lands which can be described as theirs, and by some means which were not clear to the author, these women have accepted the local system of land allocation and distribution by the family system the way it is without challenging the elders. By the rules and norms of the land any such attempt is considered a taboo and may lead to the divorce of the women. In serious case, one may be banned from marrying from the community.

4. CONCLUSION AND SUGGESTIONS

This paper has attempted to address the question of why State-led protection of property rights have often failed or performed below expectations. While the paper does not condemn the current process of local land formalization by the state, it has attempted to summarize some of the more important challenges related to the formalization processes, which needs adequate attention, if the programme is to succeed well. Since one study cannot be used to ascertain the success or otherwise of the process, the identified problems or challenges can be looked at as possible reasons why the success of the process has been slow or below expectations. Delineating land reforms in Ghana into three different epochs, we have explored how national and local political elites as well as others in position of power, are able to collude with the wealthy and more powerful in society to subvert public policy, aimed at facilitating easy access to land by the poor farmer.

The paper shows 'who benefits from land reforms in Ghana and how' by using data gathered through an ethnography study of the people of Krobo and their land allocation system viz a viz the state processes of formalizing local customary lands. It contends that the inability to formalize informalities adequately and failure of land reforms to bridge the inequality gap in order to adequately address poverty issues among poor farmers in most rural farming communities could be attributed to the inability of law enforcement and opportunistic behavior of the more powerful in society. Although the suggestion by economic theories for the lack or inadequacy of land tenure security may hold is some instances, the above proposition seems more plausible and cannot be left out of the explanation for the under performance of the processes of formalizing informalities in the country. The paper argues that such practices may lead to inefficiencies and sub-optimal distributions of resources.

It acknowledges that while the LAP is a bold attempt by the Ghanaian Government and its international development partners, to tackle the innumerable challenges facing land administration in Ghana [32] there is a clear case of a gap between policy (ideology) and practice (social reality) and the need to put in a stop gap measure to ensure a break from the past, if the current project (LAP) is to help correct problems within the land sector of Ghana. Theoretically, economic growth is said to occur if improvement in property rights protection and reduction in rent seeking activities thrive. However, in the absence of these, economic growth may be stifled, increasing inequality and poverty. Instead of benefiting from increasing land values, many rural farmers are rather losing the land resource that provides their households with a livelihood and survival.

Clearly the question of how and what kind of policy interventions are required to ensure equity and conflict-free land allocation under the putatively negotiable customary land tenure systems still begs the attention of policy makers and researchers. Arguably, the paper contends that weak institutions, regarding land tenure systems and inequality are sources of injustices in the rural land sector and require immediate and adequate attention to revamp them. An in-depth understanding of the local practices of changing land access, control and use rights as well as relations of power and structural inequalities within the customary tenure systems is necessary. This will require equitable participation and involvement of the poor in the design and implementation of land reform policy. Reform should be able to capture the interest, aspirations and voices of local people, details of locally specific land governance systems and structure, practices and mechanisms of allocation of rights to land in its dynamic state or processes. Such people are often co-opted or ignored completely in discussions of such matters. A deliberate attempt is required to unconditionally include a large section of ordinary stakeholders across the divide, particularly the poor and vulnerable and not necessarily the heads of such communities, like chiefs and family heads in an atmosphere of respect.

Rather than being carried out at the state level alone, community based approach may be of critical importance in the discussion on the way forward. State and local administration budgets and capacity should be beefed up to ensure that all customary institutions are all well catered for.

Such land reforms usually focus on national and sometimes regional and ignore district and community level, including chiefly land administration outfit. Professional training in the area of land law, survey, planning and administration among others is critical. By focusing on the local principles, the local people are able to see the process as theirs and are able to relate to it better and thereby are able to accord it a better legitimacy and hence acceptance.

Finally, the paper agrees with a quote from [32] which states that; 'subalterns know the tactics appropriate to their situations far better than any expert does'. The poor and vulnerable smallholder farmers can represent their own concerns and interests better and in more effective, appropriate and coherent manner than any expert can do. This helps to design adequate policies and reforms aimed at improving land access and tenure security for the poor. This may be achieved by involving cross-sections of local people including the land poor in policy deliberations and design. This is the only way by which land reforms will represent a radical and rapid break from the past without significantly disrupting agricultural production, food security and sustainable farm income.

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COMPETING INTERESTS

Authors have declared that no competing interests exist.

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