The International Indigenous Policy Journal

Volume 2
Issue 4 *Traditional Knowledge, Spirituality, and Lands*

Article 9

10-21-2011

Ensuring Equitable Distribution Of Land In Ghana: Spirituality Or Policy? A Case Study From The Forest-Savanna Agroecological Zone Of Ghana

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Recommended Citation
Awuah-Nyamekye, S. , Sarfo-Mensah, P. (2011). Ensuring Equitable Distribution Of Land In Ghana: Spirituality Or Policy? A Case Study From The Forest-Savanna Agroecological Zone Of Ghana. *The International Indigenous Policy Journal,* 2(4) . Retrieved from: http://ir.lib.uwo.ca/iipj/vol2/iss4/9

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Ensuring Equitable Distribution Of Land In Ghana: Spirituality Or Policy? A Case Study From The Forest-Savanna Agroecological Zone Of Ghana

Abstract
This article explores the pent-up question of equitable distribution of land in Ghana using the Forest-Savanna Agroecological Zone as a case study. It focuses on the dichotomy of policy versus indigenous spirituality in contemporary distribution of land in Ghana. After independence several attempts have been made to restructure land title holding in Ghana by way of land registration. The effectiveness of these attempts is also examined. The paper concludes that Ghana needs pragmatic steps (policies) to confront the challenges of land distribution. And in taking these pragmatic policies, the religio-cultural underpinnings (the people`s worldview) of land issues in Ghana should be factored into the policy that will result. Anything short of this will make the implementation of any land policy in Ghana ineffective.

Keywords
Land distribution, customary laws, spirituality of land, indigenous people, policy reforms

Acknowledgments
1. The term 'indigenous' is liable to shade of connotations. In view of this no a mean institution like the UN is reluctant to use it due to the unpleasant connotation that the term has assumed today. In this paper, however, the term 'indigenous' refers to original or aboriginal. Therefore, any reference to indigenous people in this paper should be understood as those people whose forebears founded settlements where they are found today and are glued to the customs and traditions of their forebears. In other words, they are the people who can lay legitimate claim to the land they are occupying today through ancestry. In this way, one may also refer to indigenous people as traditional people. For that reason, the two terms are used interchangeable in this discourse. By extension, the term 'indigenous' or' traditional' religion should also be understood as the religion of the people of Ghana before their encounter with Western European civilisation and religions like Christianity and Islam. 2. By tribal societies, we simply mean societies that are organised mainly on the kinship lines and may trace their origin or ancestry from one source. They are not directly comparable with reference groups or psychographic segments. They concentrate on the bonding or linking elements that keep individuals in the group. 3.Earth Yaa, Yaa is a name given by the Twi-speaking Akan to a baby girl born on a Thursday. Therefore, the Earth goddess was believed to have been created on a Thursday. 4.Among the Fante-speaking Akan, however, the Earth goddess was believed to have been created on a Friday, naming it Efua, a name given to a Friday born baby girl.

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This research is available in The International Indigenous Policy Journal: http://ir.lib.uwo.ca/iipj/vol2/iss4/9

Introduction

In Ghana, land is one of the most contentious development assets in terms of ownership and distribution (Goldstein and Udry, 2008; Amanor, 2001). During colonial and post colonial eras, policies on land have been aimed at making ownership less litigious to enhance rapid socio-economic development of the country. This has been done with tacit reference to customary land regulations i.e. the "original" laws of the people or body of rules governing personal status, communal resources, and local organisation in many parts of Africa (Ghai, 1987; Whitehead and Tsikata, 2003; Joireman, 2008). Central to customary regime of land distribution, is the institution of chieftaincy (or traditional authority), which comprise the chief, elders or lineage heads and its supporting systems of indigenous[1] religion, beliefs and taboos (Goldstein and Udry, 2008:5; Aldashev, *et al*. 2009). In this paper, we seek to draw attention to one intrinsic attribute of customary law: the spirituality of land. That is the reverence for land as a deity in many traditional societies in Ghana, which although recognised, has not been considered to enhance policy effectiveness (Konadu-Agyemang, 1991).

Perceptions of many Ghanaians about land transcend its productive and resource endowment capacity (Amanor, 2001). Ownership is often tied to the living, the dead and unborn (Parrinder, 1961; Danquah, 1968; Opoku, 1978; McCaskey, 1995). In the various tribal[2] societies, which constitute the traditional areas, the living with the chiefs as the principal trustees is said to be holding the land in care for their ancestors and the unborn (Busia, 1951; Konadu-Agyeman, 1991; Sarfo-Mensah and Oduro, 2010). This spiritual connectedness may invoke extreme conservatism to protection and management of land (Mufeme, 1999). Arguably, the distribution, ownership and management of land in the country is significantly influenced by traditional institutions, especially chieftaincy and its related belief systems (Appiah-Opoku and Hyma, 1999) and their authority to allocate land rights and the entitlements to the proceeds from such allocations (Ubink and Quan, 2008).

With independence and constitutional governance, land reforms in Ghana are increasingly fashioned through pluralism and consensus building (Amanor, 2001; Larbi, 2006). For example, since 2004 the Land Administration Project has been used by governments as a platform to elicit public participation in re-engineering the land administration system and to develop a system that is fair, efficient, transparent and cost effective. This is a comprehensive reform programme that affects the entire continuum of land administration including policy and legal regimes and institutional reforms i.e. public and customary (Larbi, 2006, 1). Government and its development partners have provided resources to enable traditional authorities to effectively participate in the land reform processes. This has included the setting up of land secretariats within traditional councils, whose functions include boundary demarcations, documentation of land sales and providing avenue for alternative land dispute

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2 By tribal societies, we simply mean societies that are organised mainly on the kinship lines and may trace their origin or ancestry from one source. They are not directly comparable with reference groups or psychographic segments. They concentrate on the bonding or linking elements that keep individuals in the group.

resolution (Ubink and Quan, 2008). Many land cases that have crowded the law courts and grounded in protracted litigations have been settled.

In spite of increased public participation in land reforms and government collaboration with traditional authorities in land administration, the country is still beset with major challenges in land distribution and management. For example, government interests in public and vested lands have been clouded in political interference and weak management (Kasanga, 2001). This has often led to collision of interests between the state and traditional authorities, particularly where the former had applied the compulsory acquisition instrument to acquire such lands (Larbi, *et al*., 2004). The credibility of land markets have also been undermined by insecurity of tenure (Kanji, *et al.,* 2005; Ubink, 2008). Several scholarly works identify policy weakness as a major problem (Kasanga, 2001; Whitehead and Tsikata, 2003; Larbi, *et al*., 2004; Goldstein and Udry, 2008). However, policy recommendations have been varied and there is no consensus on policy aspects that need to be enhanced.

We posit that land policies in Ghana have not adequately integrated traditional belief systems to enhance equitable distribution and optimal use of land. In this paper, we aim to examine how the concept of spirituality of land, which revolves around reverence of land as deity and is a central pillar of the customary land management, can be used to enhance land policy effectiveness. Our reference point is the transitional ecological zone in the Brong Ahafo. The paper is organised into five sections. This first part deals with the background. In the second section we give a background to the study area. The third section deals with the study methodology. In the next main section we discuss the concept of land in the study area and pre–colonial, colonial and post-colonial land administration in Ghana and how they relate to the study area. In section four, we discuss the nexus of spirituality and policy. We finally present the conclusion in section five.

The Study Area

The forest-savanna agro-ecological zone spreads across several regions in Ghana but predominately found in the Brong Ahafo region, which is the study area (see Fig 1). Brong Ahafo region is located in the central part of Ghana. It covers an area of 39,557 km², which constitutes about 17 % of the total land area of Ghana and is ranked second in terms of land expanse. The region is characterised by a low elevation not exceeding 152 metres above sea level in the southern and eastern areas and rises to a height of 643 metres in other areas (Fargey, 1991).

The forest-savanna agroecological zone of Ghana typifies changes in social, economic, cultural and biophysical conditions, which can be used to assess change and sustainability of natural resources management including land. It also exemplifies conditions which can be used to investigate the effects of changes in the environment and livelihood systems.

As in the other parts of West Africa, the zone has often been delineated into four types: forest, savanna, farmland and fallow (Hopkins, 1992). However, most of the zone is made up of a mosaic of forest and savanna species, and is characterised by a rainfall regime of 1,300-1,500 mm, bimodally distributed (Gyasi, 1997). The rainfall is adequate to support two crops a year and the prevalence of ochrosols makes the zone suitable both for perennial tree crops and annual food crops (Soil Research Institute, 1971). The zone covers about 11% of the total land area of Ghana (Sarris and Shams, 1991).

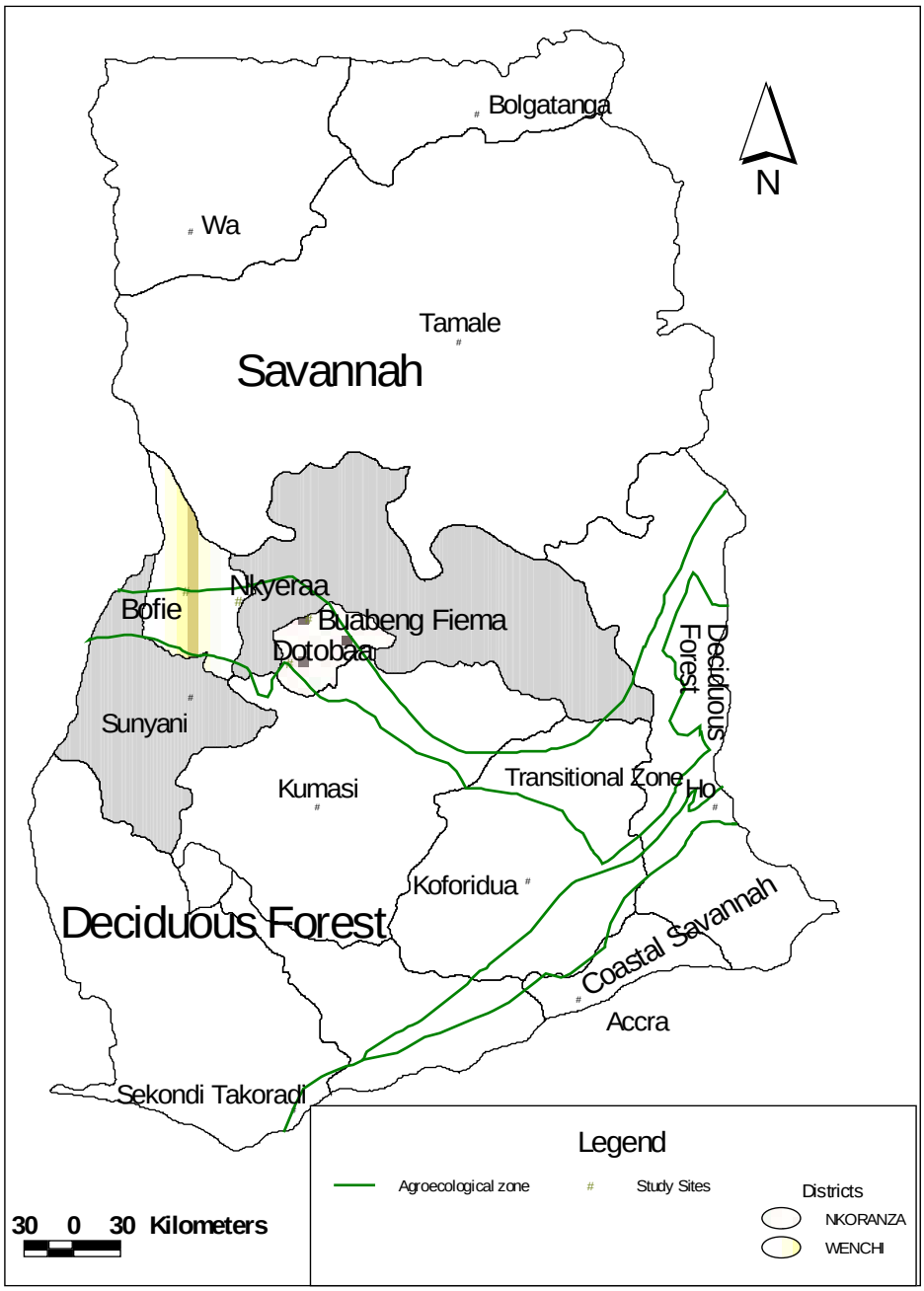

Figure 1. The Forest-Savanna transitional agro-ecological zone of Ghana. Sarfo-Mensah, 2001.

In several areas of the zone, changes in ethnic composition and accompanying variations in resource utilisation (Amanor, 1994), increasing human population pressures and commercialisation of agriculture are altering the conditions for natural resources management including access to and management of land (Benneh and Agyapong, 1990; Amanor, 1994).

Methodology

This study is based on a research carried out between 2009 and 2011 in the transitional agroecological zone in the Brong Ahafo region of Ghana to assess local people's perceptions on land ownership and management. It was a follow up to our earlier study in the region on traditional natural resources management practices in 2000. Field data gathering were in two forms. Firstly, semi-structured interviews were conducted with heads of four relevant regional government departments (Lands, Forestry, Food and Agriculture, and Town and Country Planning). Open-ended questions were used to engage with these senior officers on a wide range of issues on land management in including statutory and customary laws and land policies. A total of eight senior government officials were interviewed. Secondly, key informant interviews and field observations were carried out in four previously studied communities (Buabeng Fiema, Dotabaa, Bofie and Nchiraa) to assess changes in land tenure and their local interpretations. Our respondents were local chiefs, community elders and opinion leaders. We also conducted focus group discussions with social groups (migrants, women, youth and commercial farmers) in these communities, in order to triangulate information gathered from our two earlier interview series on issues relating to access to land, current government policies on land, local perceptions and beliefs on land. A total of 100 respondents, comprising 50 females and 50 males were purposively selected for the interviews in the four communities. The interviews were also complemented by a literature review on land use and natural resources management. Our data were analysed qualitatively using in-depth assessment of the various thematic areas.

Conception of Land in the Study Area

The concept of land among indigenous Ghanaians and the people of the study area derive from their overall worldview, which is hugely theistic (McCaskie, 1995; Abayie Boaten, 1998). And, by worldview of the local people, we refer to the set of basic assumptions of the people developed in order to explain reality and their place and purpose in this world (Mkhize, 2004). In other words, and to borrow Elkins' words, worldview is "a view of nature and life, of the universe and man, which unites them with nature's activities and species' in bond 'of mutual life-giving" (Elkin, 1938,133, quoted in Rose, *et al*. 2003, 59). The worldview of a people shapes their attitudes, values and opinions as well as the way they think and behave (Mkhize, 2004). In our study communities, as elsewhere in Ghana, local people's conception of the universe and whatever therein is believed to be the creation of a supernatural being that is variously known in their respective cultural milieu (Rattray, 1923; Frazer, 1926; McLeod, 1981; McCaskie, 1995). The local people as typical of the Akan group of Ghana call the creator *Nyame* (Goody, 1959; Pashington Obeng, 1996; Sarbah, 2010). Within the study communities, and as it is the case in many parts of Ghana and of course across indigenous or traditional societies in Africa, the universe is seen in a dualistic way, the physical and the spiritual (Mbiti,1991; Ejizu, 2000; Mkhize, 2004). It is important to note that this division is artificial, for the two are paradoxically one entity, for one is not independent of the other but the two must be in harmony for life to become meaningful (Awuah-Nyamekye, 2009). However, the spiritual takes precedence over the physical due to the belief that it is the spiritual that created the physical.

This theistic worldview influences actions of the people`s activities including their relationship with nature, especially land. For scholars like Byers *et al*. (2001) and Opuni Asiama (2007), the African in many cases see their relationship to the land as a matter of spiritual concern. Under this worldview, the indigenous Ghanaians view land and its resources as divine gift to the social group or communal property which the living must hold in trust for their ancestors and the future generations (Omari, 1990; Byers, *et al.*, 2001; Opuni Asiama, 2007). And indeed in greater part of the transitional agroecological zone, it is embedded in the arrangement that allows indigenous people usufructual rights to land for farming and other subsistence needs (Asenso-Okyere, *et al.,* 1993; Kuntu-Mensah, 2000). As typical of most Akan societies (Benneh, 1965; Goldstein and Udry, 2008), individual members of the study communities obtain rights to land through the extended family (*abusua*), whose head (*abusua panin*) supervises the allocation of the land of the extended family (*abusua asase*). Our respondents, both government official and local people, attested to the fact that communal property is still the predominant form of land distribution in the study area. For example, all the 100 respondents interviewed in the four communities agreed that the customary land arrangement ensured that indigenous people had easy access to land, at least family land. However, 60 percent of women respondents indicated that they were comparatively disadvantaged as against men in terms of access to quality land. This is not peculiar to the study area as Goldstein and Udry (2008), found similar situation, among the Akan in Akwapim, Southern Ghana.

In the literature, we found generally similar beliefs in land and their influences in land distribution and ownership in other parts of the country. Fortes' 1945 studies among the Tallensi of northern Ghana revealed similar findings of belief systems that inform land ownership and distribution. Braimoh (2005) found that land ownership and tenure in northern Ghana are entrenched in the traditional common property: "in these parts of Ghana, the various tribes all stand in awe of the earth and speak of it as a 'living thing' which they believe can intervene mystically in human affairs as the ancestral spirits do" (p.176). Danquah (1928) outlines the Akyim of Ghana conception of land as; land is the property of the ancestors, it is not the property of the living but belongs to the future generation. Timberlake and Cunliffe (2007) study among the Zambezi society and that of Nwosu (2010) among the Okonko society of Nigeria produce similar findings. This means that living persons only hold the land in trust for posterity and thus cannot sell it.

We must also point out that, in the study communities, as common among the Akan and many traditional societies in Ghana, land is viewed as one of their important deities (Parrinder, 1961; Opoku, 1978; Sarfo-Mensah and Oduro, 2007; Sarfo-Mensah *et al*., 2010). Among the Twi speaking Akan, who are the biggest ethnic group in our study area, Land (Earth) is seen as a goddess and it is known as *Asase Yaa*[3] (see Nkansa Kyeremateng, 1999) and *Asase Efua*[4] by the Fante speaking Akan. In view of this, certain things are considered as hateful to the land. Such actions may include: Tilling the land on its natal day, murder (spilling innocent blood on the land), having sexual intercourse in the bush, giving birth in the bush, burying a pregnant woman without removing the foetus and digging a grave without offering libation to the land first, etc. All these acts are taboos to the land, for the commission of any of them is deemed to have polluted the land. Consequently, the land has to be propitiated or else, it may result in a drought or infertility in the soil (all our key informants stressed this. See also Frazer, 1926; Sarfo-Mensah and Oduro, 2007).

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4 Among the Fante-speaking Akan, however, the Earth goddess was believed to have been created on a Friday, naming it *Efua,* a name given to a Friday born baby girl.

This belief was found among all our respondents, including Christians, Muslims and adherents of African traditional religion. Consequently, local people have put in place laws and other measures that revolved around this common belief of land as goddess to regulate the interactions with the land, particularly in order to ensure its sustainable use (Gyasi, 1977; Abayie Boaten, 1998; Appiah-Opoku and Hyma, 1999). In all the four communities there was a day that is designated as "non-farming day" (Tuesday and Thursdays). According to some of our respondents these days were used by the land goddess to visit and fertilise the soils.

Land Tenure System in the Pre-Colonial Ghana

By land tenure system we simply mean how right to land is obtained and distributed in a particular society. During the pre-colonial time, the population of Ghana was small and land was in abundance. Hunters were the major link in founding new settlements. This was the results of the hamlets they pitched during their hunting expeditions, which later developed into big settlements (Kyeame Donkor, Bofie, *pers. comm*., 2010). This means that the first settler or settlers in an area has/have a large portion of land to himself or themselves. According Rawlings (2009), the former President of Ghana, individual families in any given village usually possesses land through clearing the virgin bush. Any portion of land that an individual acquired in this way, the community respected or protected his or her right to use it for life. This meant that land title holding in the pre-colonial era was the ability to clear it for farming purposes. Also, other individuals who were able to establish farms deep in the forests had right to such lands. The people always believed that the thickets of the forests harbour spirits of all kinds including dangerous animals so for someone to be able to do that meant the courageous nature of the individual and thus is given the right to own that land for his bravely (Sarfo-Mensah, 2001). Land title at that time could also be acquired through either transfer or inheritance negotiation and conquest. Our respondents in the communities, especially among the chiefs and elders also referred to the bravery of many past chiefs in fighting wars that won their communities large tracts of conquered lands. This confirms Berry's (1992:1) suggestion that since pre-colonial times Africans have attached both material and symbolic significance to land; and, rights in land have been exchanged, negotiated and fought over in the course of political and religious as well as demographic and economic change.

An individual, who is not an indigene of an area, could also acquire land if, and only if, he or she is socially and politically acceptable in the community. One would do this by officially consulting the chief of the village, expressing the desire. Here, the usufructuary's continuous right to the land depended on his or her loyalty and obedience to the leadership of the community concerned. On his death, the land reverted back to the community. At times, his or her immediate dependants may be allowed to continue to use the land but again, they must continue to demonstrate respect and loyalty to the community (Kwaku Akowua, Buabeng, *per. comm*., 2000). The above shows that land tenure system in Ghana, like that of other forms of land ownership is seated in antiquity (Acquaye and Murphy, 1973).

It is important to stress that although the individual may acquire land and have right to its usage even for life, the truth is that the individual did not own the land as such but enjoyed its usufruct. This is because as noted earlier on, the real owners of the land in any traditional community in Ghana are the ancestors on whose stead the chief stands. That is, the chief has the custody of all land in his jurisdiction. This implies that land in Ghana and in most of Africa has economic, religious and political connotations (Kuntu-Mensah, 2000).

Land distribution

During the pre-colonial era, the main means of getting access to agricultural land was through lineage (Joireman, 2007). Usually the land was shared among those who trace their lineage through a common female ancestor (Berry, 1988, 5). This means the basis of transfer was between matrilineal relatives and the land rights of a deceased person transferred to the living matrilineal relative (Kasanga and Kotey, 2001; Quisumbing, 2007; Rawlings, 2009). There was no discrimination against either gender for land use under this system. However, because it was the men's duty to feed their respective family members, they cultivated more land than women but the women controlled the produce in their granaries. In fact, there was no marked differentiation under this system of land tenure. One may, therefore, describe the distribution of land among the people in the forest-savanna agroecological zone of Ghana as egalitarian. This is because there was the fear that the ancestors would deal ruthlessly with anyone who tried to cheat the other in the distribution of land. The reason for this is that land is the source of livelihood and, therefore, preventing a member of the community from getting his or her fair share of land use means that one is to starve to death. The above description generally constituted the Ghanaian land tenure system before her colonial experience.

This general pattern notwithstanding, women were often prevented from inheriting land from their parents. Women's inheritance rights, according to tribal customs, were underlined by the fear that ancestral lands may fall into stranger hands or be excessively split, especially when marriage practices follow the rule of virilocal exogamy (Goody, 1976 cited by Aldashev, *et al*., 2009, 18). But women were insured against various contingencies, in particular the prospects of separation/divorce, widowhood, and unwed motherhood. In such circumstances, they typically enjoy the right to return to their father's land where they are allowed to work and subsist till they find a new husband (Aldashev *et al*., 2009, 18).

Colonial Experience and its Effects on Land Administration in Ghana

Ghana is now an independent state with a republican status yet the legacy of colonisation is still influential in many policy-decisions including that of land tenure in the country. The arrival of the Europeans in Ghana (previously Gold Coast) altered the face of the land tenure system. The indirect rule strategy adopted by the British was instrumental in the change. The key factor of indirect rule was controlling the people through the chiefs. But this system of administration weakened the authority of the chiefs over their people. For instance, from 1878 to 1910, the British governors introduced a series of laws called *Native Jurisdiction Ordinances*. A common feature of these laws was that the indigenous rulers (chiefs) were granted only limited powers to preside over cases (Buah, 1998). The result of this encounter was the gradual replacement of traditional systems of government with the western liberal democracy with its Christian biases and, thus, weakening the chiefs authority (Parrinder, 1961). For instance, the British delegated the administration of land to the paramount and divisional chiefs, thus minimizing the powers of the of village chiefs.

Northern Ghana was set up as a protectorate and the Land and Native Acts Rights Ordinance of 1927 declared all lands public and vested in the colonial governor (Lund, 2008, 19; (Kuntu-Mensah, 2000). What this meant was that religion and culture which formed the basis of land acquisition and distribution was being replaced by imperial policy. In other words, this development created two different legal systems, the long established customary land law based on religious considerations and that of English law (Rawlings, 2009). Following from this colonial legacy, today, the government of Ghana reserves the right to acquire any piece of land that it considers strategic for either economic or other reason(s) for fair compensation. But arguably the compensation is often not fair yet the land owner has

to wait for a long time before this compensation is paid (see for example Kasanga, 2001). At times, it is not paid at all.

Due to a population increase, land shortages began to be experienced and particularly so in the forest-savanna agroecological zone. This, coupled with secular land laws resulting from colonisation, led to the commercialisation of land as a saleable commodity in certain areas in Ghana, particularly our study area where cash crops plantations such as cocoa, coffee and oil palm started to spring up. This attracted mass movement of people, particularly from the south and the northern areas. What became a permanent feature of this was that, instead of 'lending', outright sale of land became possible. This produced what became known as 'Company Lands', when a group of non-kinsmen associated together for the sole purpose of purchasing land from a vendor chief for commercial farming (Hill, 1970).

Another land acquisition arrangement which resulted from the changes to land title holding in Ghana is what Gyasi (1994) describes as being done (a) through leasing for a fee for 25-50 years (b) through a combination of lease and share cropping and (c) through pure share cropping. The category (c) arrangement falls under three main forms. These are: *abunu* (the ratio is 1:1, that is, the produce from the farm or the farming itself is divided into two, one half to the land owner and the other half to the farmer (tenant); *abusa* (where the ratio is 1:2), that is one-third to the landlord and two-thirds to the tenant; and, the *abunan* arrangement which is not normally done. This is where the ratio is 1:3 where one-quarter to the landlord and three-quarters to the tenant).

One serious effect resulting from the changes in land acquisition resulting from colonial legacy and increase in population is the fact that access to land is now not easy in Ghana and women bear the greater brunt of the situation. This is because rural women inherited a situation where their rights and access to cultivable lands have decreased and the open forest woodland and bush from which they gather such vital necessities as fodder, fuel wood and water have grown scarce or have disappeared (Berry, 1988; Nyantakyi, 2006).

Post–Independence land policy

After independence several attempts were made to restructure land title holding in Ghana by way of land registration. The pillars of the restructuring, which were to ensure equitable distribution and sustainable management of land resources and its related natural resources, revolved around: The Land Development Act of 1960; The Farm Lands Protection Act of 1962; and, The Land Registration Act 1962 (Act 122) (Ministry of Lands and Forestry, MLF, 1999). But it is important to mention that these Acts were not comprehensive enough to address the land litigation and other problems related to land administration in Ghana. This is because either the policies are *ad hoc* or not comprehensive enough to deal with the problem (Agbosu, 1990). For instance, the 1962 Act failed to require the attachment of accurate plans to the registrable instrument (Kuntu-Mensah, 2000). It was in 1986 that a comprehensive attempt was made to put structures in place for land title registration in Ghana. This culminated in the Land Title Registration Law, 1986 PNDCL 152 (Kuntu-Mensah, 2000). This has been the framework for the land registration policy in the country ever since.

In acknowledging the many challenges in land administration and the policy gaps, a more participatory process was initiated to develop a more comprehensive land policy. The formulation processes were started in 1994 as a sequel to the Land Title Registration Law, 1986 PNDCL 152. The process culminated in a national Workshop in April 1997 the outcome of which is the premier National Land Policy Document (NLP), which was approved by Government on 21st January 1999. This policy is the current framework by which land is managed in Ghana today. The authors of the policy recognised that the fundamental problems associated with land management in Ghana persisted, and included general indiscipline in the land market, characterized by land encroachments, multiple land sales, use of

unapproved development schemes, haphazard development, indeterminate boundaries of customary-owned land resulting by government control of large tracts of land which have not been utilized. It also responded to a weak land administration system and conflicting land uses, such as the activities of mining companies, which have large tracts of land denuded against farming, which is the mainstay of the rural economy. There is also the time-consuming land litigation, which have crowded out other cases in the law courts.

The 1999 National Land Policy, therefore, aims at the judicious use of the nation's land and all its natural resources by all sections of the Ghanaian society in support of various socio-economic activities undertaken in accordance with sustainable resource management principles and in maintaining viable ecosystems (MLF, 1999). The major pillars intended to guide policy action and execution are the following:

- Securing Ghana's International Boundaries and Shared Water Resources
- Facilitating Equitable Access to land
- Security of Tenure and Protection of Land Rights
- Ensuring Sustainable Land Use
- Enhancing Land Capability and Land Conservation.

These pillars are so well elaborated that one would have thought they would have led to smooth policy implementation and significant reduction in the incidence of litigation (see Ghana Land Policy, 1999 Section Four (4)). One of the major reasons cited for the persistence of high levels of litigation is the difficulty in harmonising customary land practices and enacted legislation (Kuntu-Mensah, 2000), the two domains governing land administration in the country. This, in our view, presents one of the major challenges to land administration in the country and underpins the insecurity of tenure and protection of land rights. In fact, the lack of respect for land laws and regulations has partly been attributed to the over emphasis on enacted legislations to the detriment of customary practices. Arguably, in many Ghanaian communities, respect for customary laws because of their spirituality, was found to be more compelling than statutory laws (Nkosi, 1999; Sarbah, 2010). Such religious beliefs and practices are pervasive and deeply entrenched among significant proportion of the populations in Ghana, especially in the rural areas were about 60 percent of the national population resides and where major economic activities, especially agriculture and mining, take place (Sarfo-Mensah, 2002).

We would, therefore, like to state that in spite of the changes in land policies and, of course, the land tenure system in Ghana, we found that customary law, which has religious underpinnings, is still strong and especially in rural Ghana where our study area is located. However, what we found baffling is that although the present administrative arrangement in Ghana recognises customary land tenure as a valid system, past and present governments have not yet adequately taken advantage of it to enhance policy effectiveness.

The Nexus between Policy and Spirituality

To this point we have outlined the evolution of land polices in Ghana and their core challenges. In this section we discuss further the issue of traditional spirituality and religion in land policies. We explored the subject during our interviews through a simplified comparison between "traditional authority" and "local administration or the district assembly". The former represented the chieftaincy, customary land management system and their associated religious beliefs; and, the latter represented state or the local government system, which is in charge of local administration including land policy

implementation. We encouraged respondents to assess the strengths and weakness of the two institutions on a wide range of issues on natural resources management focusing the discussions on land policy and spirituality of land. We found that, among our respondents at the community level (chiefs, elders, women, men, youth, children and migrants), a general perception had arisen; the role of state institutions in natural resources management was regarded with suspicion and mistrust, as has been observed in several parts of Africa (Drijver, *et al.*, 1995). This was well-summarized in a statement by an elderly female informant:

> These people [district assemblymen/women] are not able to deal with offenders of land management rules and regulation as the gods used to. People fear to die so they obeyed the taboos that regulated management of natural resources. The assemblyman will only send you to court where you will be fined or at worst imprisoned for a period. But as for death nobody wants to die. (Akua Dwamena, Dotobaa *pers. comm*., 2010)

The perception expressed above of assemblymen and women, who are local representatives in the district administration, underlie the suspicion that officials may not be fair in their dealing with local people on issues that relate to district by-laws on resource use and management including land. Kasanga (2001, 1) made similar reference with the Land Commission as below:

> The Lands Commission, as constituted under 1994 legislation, currently manages all public and vested lands and gives consent and concurrence to transactions of land held under customary or community tenure and managed by the chieftaincy ('stool land'). Working through regional offices, it is supposed to plan land use in the region, develop a registration programme and manage public lands. But political interference and weak management have turned the Commission into an instrument of centralised patronage for the wealthy and those with official connections. It has also used its powers to expropriate community lands without proper compensation. It is now regarded with suspicion by the bulk of customary landholders and poor urban dwellers as the agent of a state-led centralization of land rights.

The traditional authority, on the contrary, was regarded by most of our respondents at the community level as generally fair in their judgment on matters relating to natural resource use. This may be attributed to the central pillar of the chieftaincy institution where chiefs and their elders would face severe retribution from ancestral spirits and numerous spirits (of local gods) believed to be the real owners of land and other natural resources, if they did not distribute land fairly (Frazer, 1926; Abayie Boaten, 1998; Kuntu-Mensah, 2000). This differentiation of traditional and local government authority, and the apparent preference for the traditional authority in terms of natural resources use and management, confirms what Cleaver (2000, 44) has described as "the principle of collective action and authority, and proximate compliance strongly practiced in relation to the dictates of gods and spirits".

It was also observed during the fieldwork that externally-imposed and controlled rules and regulations on resource use, especially sanctions on trees, forests and river corridor management, were not working due to the lack of confidence in the system by the local people. These observations were corroborated by our respondents at the decentralized government departments, who underscored that interventions enjoying the support of traditional authorities, had better chances of compliance by local people due to their reverence for traditional leaders' *tumi,* the spiritual power believed to be suffused in chiefs and elders. In Ghana and West Africa generally, chiefs and elders act as intermediaries between state institutions and the local people, and are often used as instruments for local mobilisation and development by government institutions (Lebbie and Freudenberger, 1996; Inkoom, 1999).

We also observed among our respondents, especially women, that chiefs and elders were considered impartial, because they ensured that any member of the community who breaks any taboo that regulates natural resources use and management performs the required propitiation and rituals. A female respondent at Bofie emphasized that:

> Our chiefs ensure that our family heads make land available to each member of the family regardless of their gender. I have my own farm which I crop with my children and my husband also has his own land from his family. I only help my husband on his land and he also does the same for me. In this we are able to take care of our children (Adwoa Pokua, Bofie *pers. comm.,* 2010).

This observation was confirmed by many of our respondents who emphasized that the customary land laws, because of their "spiritual underpinnings", ensured some level of fairness in the land distribution within the communities. Researchers have made similar observations in other parts of southern Ghana. For instance, in the Akwapim area Goldstein and Udry (2008, 27) made the following observation about customary land tenure:

> We interpret the resilience of this system of land tenure to its crucial and flexible role in redistributing resources in the face of unobserved variations in need. Similar processes of land reallocation through corporate groups exist in most societies in West Africa; as a consequence, the region is distinguished by the almost complete absence of a rural landless class. This system may provide important insurance in times of need, and a remarkable degree of social stability due to the redistribution of land within rural communities.

The reference to the resilience of the customary law and its contribution in reducing landless in the Akwapim area, as in other parts of Ghana, is noteworthy. In our study communities, most people have access to land regardless of gender, a situation which they attributed to the egalitarian nature of customary laws.

In spite of the positive comments that the majority of our respondents made about traditional land distribution systems, we wish to emphasize also that some respondents acknowledged that the power of traditional authorities was waning. This was made more empathically among our Christian, Muslim and the youth respondents. We observed, for instance, that many of the youth in the study communities, who had exposure to urban communities, have the propensity to ignore some of the traditional rules, especially those that are strongly underlined by taboos such as "non-farming days" that are supposed to reduce human contact with land. We also found our Christian and Muslim respondents were less inclined to follow the belief systems that enforce traditional customary laws on land and natural resources management, especially where they use lesser gods and ancestral sprits – even though a good number of them were syncretic. We also found that some of our respondents were suspicious of traditional authorities and referred to inner political circles that existed within the communities that, sometimes with the connivance of the traditional authorities, usurped and appropriated land that was not theirs. Several instances of local land litigation were cited to support this argument. Indeed, inherent weaknesses in the traditional customary systems have been observed in the literature. For example, Whitehead and Tsikata (2003, 1) had this to say about the customary system of land tenure:

> We agree that there are considerable problems with so–called customary systems of land tenure and administration for achieving gender justice with respect to women's land claims. Insufficient attention is being paid to power relations in the countryside and their implications for social

> groups, such as women, who are not well positioned and represented in local level power structures. But considerable changes to political and legal practices and cultures will be needed before African states can begin to deliver gender justice with respect to land.

We take special notice of the authors' recommendation that changes need to be made in the political, legal and cultural practices of African states in order to better women's access to land. This emphasizes the importance of traditional institutions and their related belief systems, which are the core of Ghanaian culture (Sarpong, 1975; Kondor, 1993; Newell, 2006). This is confirmed also by our respondents in the communities, who mostly perceived state institutions as public and secular and are driven mainly by a political agenda, while traditional authorities operate mainly under the auspices of ancestral sprits and local gods, i.e. mainly driven by spirituality.

It must be mentioned that our respondents also acknowledged changes in the traditional institutions. For instance, the weakening of the *tumi* of the chiefs and elders was partly attributed to the partial usurping of decision-making powers by assemblymen and the unit committees, community representatives of the local levels government structures (Nana Dotobaahene *pers. comm.,* 2010). In Ghana, this situation has been observed as a major contributing factor to the growing ambiguity and lack of confidence among local people over the power of either state institutions or traditional authorities in natural resources management in Ghana (Kasanga and Kotey, 2001, 1).

In the foregoing section, we have shown the distinction our study communities make between traditional and public authorities in terms of power. We also demonstrated an apparent preference for indigenous institutions in terms of natural resources management. The data from our study area supports our argument that spiritual issues ought to be considered in natural resources management, including land policies formulation and implementation. Our data also demonstrated that traditional institutions and their associated religious beliefs enjoy patronage at the local level. However, the data also pointed out that traditional institutions are undergoing changes and are threatened by modernization, including competition from public administrative institutions, Christianity and Islam as well as market forces. This supports the proposition found in several scholarly works including Schlager and Ostrom (1992), World Bank (2003), and Cronkleton *et al.* (2010) that models of land policy formulation and implementation take these two domains (customary and statutory laws) into consideration. For instance, Cronkleton *et al*. (2010, 70) citing several sources including World Bank (2003) and Tahamana (2007) states the following:

> Customary tenure systems by definition have evolved over long periods of time in response to local specific conditions. And in the process of recognition, such customary systems have been ignored, subordinated or, at times, effectively accommodated. The scholarly debate on whether to accept one legal system over the others, or what their respective weights should be, continues. There is a call for a paradigm shift from legal pluralism, which recognizes parallel systems to legal integration which would mesh them. Integration would require understanding of the major constituents of each other.

We draw particular attention to the emphasis the authors' place on the need for in-depth understanding of the various constituents of the two domains. And, in our study area, traditional regulations and the statutory laws are put into "two different boxes" as our respondents made clear distinction between them, with one (statutory land laws) being secular and the other (customary land regulations) being spiritually based. And as observed by von Benda-Beckman (2002) cited by Cronkleton *et al*. (2010, 71) "the normative construction of sub-state political organizations contradict that of the state and such normative orders may be based on so-called folk, customary or religious systems". In the study area as across the Ghanaian society, traditional beliefs and practices still run parallel with modernity (Sarbah,

2010). However, syncretic beliefs and practices, including revere for traditional chiefs and customary laws, are common in the study communities (Busia, 1951; Parkin, 1970; Blakely *et al*., 1994; Bonsu and Belk, 2003; Sarbah, 2010).

Conclusion

The foregoing indicates that the land tenure system in Ghana can be described as a dual system. That is, it involves the communal system that dates back to antiquity and the recent title registration system, resulting from colonisation and other factors. This means that land distribution in the study area, in particular, and Ghana, in general, may be described as containing both religio-cultural and policy elements. It is therefore logical that efforts be made to integrate statutory land policy with customary rules and regulations. The non-exploitation of the rich diversity of traditional institutional arrangements, including customary laws on land, kinship and religion, for environmental development in Ghana by policy makers, for instance, has been noted as a major contributing factor to the unsustainable management of natural resources (Leach, *et al*., 1999; Kasanga and Kotey, 2001). In fact, indigenous institutions in Ghana, although complex, are very important for the management of natural resources. The ambiguous relationship between them has the potential to undermine both the authority of the nascent local governments and the performance of customary institutions (Benjamin, 2008; Ubink and Quan, 2008).

Data from our study suggest that it may help Ghana to explore the possibility of a new system of land tenure that is fashioned along models which strongly integrate indigenous technical knowledge and belief systems embedded in the customary system. This may require pragmatic steps (policies) to confront some of the challenges in the predominantly statutory land policies. In taking these pragmatic policies, however, the religio-cultural underpinnings of land issues in Ghana should be factored into policy development. In other words, the land administration policies in Ghana should be based on arrangement that recognise the worldview of its indigenous peoples. This may enhance effectiveness of land policy implementation in Ghana.

This conclusion is in line with Rawlings'(2009) admonition that in designing any land policy in Ghana and anywhere in Africa, the poor, hungry and deprived people should be placed at the top of the pyramid to ensure that their rights of access to land are fully protected within whatever structure that is designed. By implication, there is need for further study to understand the religious constituents of customary laws and how they can be used to enhance the effectiveness of the two systems for agricultural and industrial development in the study area and in Ghana in general. But, in suggesting the integration of religio-cultural perspectives into policy formulation, we are mindful of the fact traditional institutions and their belief systems are dynamic. They change over time and they are subject to contemporary threats from modernisation, Christianity and Islam. And this, too, should be taken into consideration in tapping the potential of customary beliefs and systems for Ghanaian land policy development and implementation.

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