Land Administration, Chiefs, and Governance in Ghana

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Abstract This chapter examines the role of chiefs in the administration of land in Ghana within a historical framework dating back to the pre-colonial period. It examines the relationship between the dynamic of internal political factors and of international pressures for governance reforms. It argues that while present land governance reforms fit into the framework of market liberal governance reforms advocated by international financial institutions and the USA, the origins of the present role of chiefs in land administration date back to the political coalitions that came to dominance following the overthrow of Nkrumah in 1966. Although these appeal to notions of community, they are also based on a coalition of national elites with traditional authorities, which enables rural resources to be appropriated for capital accumulation with the connivance of chiefs who give legal authority to these transactions, through the customary notion that they are the owners of the land. The chiefs are closely connected with national elites, and many prominent politicians originate from chiefly families. It is argued that current reforms strengthen the process of private acquisition of land rather than the user rights of smallholders and their ability to resist expropriation.

Keywords Land administration • Customary land • Traditional authority • Community development • Ghana

1 Introduction

Recent governance reforms in Ghana strengthen the role of traditional rulers in land management and local development. While there is a trend towards strengthening customary African land tenure systems within the context of recent governance reforms, in Ghana, this is a product of a much longer history than the introduction of liberal market reforms. Chiefs played an important role in local administration

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under colonial rule. This resulted in much local resentment and fuelled the anti-colonial independence movement. However, following independence an initial hesitant attempt to curb chiefly power and instigate more popular democratic systems of local governance, the Ghanaian state reverted to strengthening the role of chiefs in local development and land administration from the 1970s onwards. This chapter examines the various factors that have shaped this resurgence of chiefs and the political alliances that lie behind the promotion of chieftaincy in modern administration. This partly lies in the strength of states and the power of their rulers in the pre-colonial Gold Coast, but also in the close ties that emerged between chiefly families and mercantile trading families, which has come to define the characteristics of the national elite. The desire of the state to strengthen private property rights and agricultural commercialisation has also resulted in the promotion of chiefly institutions in land markets. Chiefs are important in the emergence of private property since they are recognised as custodians of the land, who have rights to sell land and to issue land documents.

This chapter traces these developments historically, charting the evolution of the political alliances that shape contemporary land policies. The next section examines contemporary discourses about chiefs in governance and land administration. This is followed by an investigation of the emergence of land commodification and commercial agriculture in the early nineteenth century and within the colonial period. The fourth section focuses on reforms of chiefly administration during the early independence period and the resurgence of chiefs after the overthrow of Nkrumah. This also examines the role of chiefs during the 1970s in attempts to promote privatised (but national) commercial agricultural development. The final section examines the strengthening of chiefs in the context of market liberal reforms and manifestations of this in both the forest and land sectors, arguing that these have been heavily influenced by pressures to promote capital accumulation and commercialisation rather than the goals of addressing inequality and community participation.

2 Discourses About Chiefs and Land Administration in Ghana

Contemporary Ghanaian policy frameworks accord a prominent place to chiefs in governance and community development (Ray 1996; Bofo-Arthur 2003; Schramm 2004; Abotchie et al. 2006; Bob-Milliar 2009; Taabazuing et al. 2012; Owusu-Mensah 2013; Neusiri 2014). The importance of chiefs is articulated within the 1992 National Constitution, which recognises chiefs as the legal custodians of land and natural resources, with rights to transact and gain specified shares of royalties from market sales of these resources.

Chieftaincy has been important in state governance since the colonial period when chiefs were incorporated into local administration, given powers over land administration and allowed to create local byelaws. But during the late colonial

period and early independence period, there was significant social disquiet with the position of chiefs, and popular social demands to curtail the despotic power chiefs had gained under British indirect rule. This resulted in chiefs becoming the focus of protests against colonial oppression (Simensen 1975; Rathbone 1993; Asiamah 2000). In the post-war period, the Nkrumah-led Convention People's Party (CPP) took up popular protests against chiefs. As Amamoo (1958, 99) commented:

Many people were beginning by the end of 1950 to associate the chiefs with British rule. The situation was worsened by the rather too close friendship between some of the chiefs and the British officers, by a statement from Nkrumah to the effect that reactionary and other chiefs who refused to move with the people would be destooled, and by spasmodic waves of 'destoolment' of chiefs which swept the country between the period 1949 to 1952. The chiefs, therefore, felt their position was at stake, and their institutions in danger of being abolished.

Following independence, the CPP attempted to curb the powers of chiefs and create a more democratic process of elected local government. But the CPP government had a somewhat ambivalent and pragmatic position towards chiefs, cultivating the support of chiefs who were favourably disposed to its political programme, while curbing the powers of particular chiefs that were sympathetic to the main opposition party. Thus, the early attempts to control the revenues of chiefs from lands were targeted against specific chiefs who were supporting the main opposition party, before being later extended to all chiefs. Rather than abolish customary privileges, the government vested these in the state to manage on behalf of chiefs (Amanor 1999; Rathbone 2000). As a result of this, no comprehensive rural social reform programme was initiated, including land reform, although piecemeal legislation was introduced to control what were considered to be excesses, such as transmuting rents collected by chiefs from migrant farmers on sharecrop arrangements into a monetary rent.

Following the overthrow of Nkrumah by a US-backed coup d'état in 1966, the powers of chiefs began to expand both in local government and control over natural resources and land. During the 1970s, chiefs began to be cultivated in national development and to play an important role in the expropriation of land for the 'national interest' and in the name of development. During the 1990s, when good governance reforms were implemented, chiefs were already playing a prominent role in land administration and rural governance. Hence, chiefs were easily inserted into the agenda of building good governance, civil society, and community participation in development. International development discourse about good governance has facilitated the expanding role of chiefs in rural development, since this was seen to contribute to the neo-liberal agenda of rolling back the state. The good governance discourse downplays the strong historical linkages between state and chiefs from the colonial times in the expropriation of land to support foreign investment, state enterprises, and the promotion of commercial agriculture. Chiefs are represented as an essential part of civil society, representing the interests of the community against the state of commercial farmers and the expropriation of land to facilitate these developments. However, chiefs played an important role in colonial rule and in the commodification of land in this period. The next section examines development

within land markets and land administration within the nineteenth century and the colonial period.

3 Modernisation and the Commodification of Land in the Nineteenth Century and Colonial Gold Coast

By the early nineteenth century, a process of modernisation became established on the Gold Coast. Oil palm, wild rubber, and kola exports, alongside gold, became major features of economic life, integrating the Gold Coast into the world economy. An indigenous merchant class and intelligentsia prospered. The various indigenous states along the coast and its hinterland allied with Britain, Holland, and Denmark to support the development of a free trade protectorate and modernisation in the early nineteenth century (Kimble 1963) and sought to free themselves from Asante overrule. In the forest hinterland, the Asante Empire also became subject to modernising reforms and tensions arising from the emergence of a merchant class who felt their accumulation of wealth was being hindered by taxes imposed by the rulers of Asante (Wilks 1993). By the late nineteenth century, there was increasing dissension within the Asante Empire; provinces in the south broke away to become part of the Gold Coast free trade protectorate, and northern provinces rebelled against the extraction of tribute (Wilks 1975).

In the early nineteenth century, land sales began to emerge in the oil palm producing districts in the south (Amanor 2010). By the late nineteenth century, cocoa replaced oil palm as the major export crop, and cocoa farmers began migrating deep into the forest interior, purchasing large tracts of land (Hill 1963). In the late nineteenth century, there was also a gold boom that resulted in a spate of land sales for mining. This ultimately led to the British imperial invasion of Asante, which arose in the context of British intelligence fears that Asante was about to sign an economic treaty with France for exploitation of gold (Wilks 1975).

With the invasion of Asante, Britain attempted to transform the southern protectorate into an imperial British colony and to place the administration of land under the British Crown. This met with considerable resistance from the Gold Coast elites and chiefs organised under the Gold Coast Aborigines Protection Society (Kimble 1963). But British capitalist investment in Africa proved to be disappointing, and the structure of colonialism transformed from one of constructive imperialism, based on opening up the interior for investment and conquering African polities, to indirect rule (Cowen and Shenton 1996). Indirect rule was based on a highly conservative administrative structure, which sought to prop up the privileges of traditional rulers, so long as these were integrated with the colonial objectives of promoting export crop production, tax revenues, and the creation of migrant wage labour (Phillips 1989). Indirect rule was justified in terms of protecting the social fabric of society from the disintegrating forces of the market, and consolidating the power of chiefs under colonial governance was a central objective.

On the Gold Coast, land in the south was placed under the administration of paramount chiefs. However, in the northern territories, where many societies had no central political authorities, land came under the colonial administration. In the north, the objective was to attempt to create paramount chiefdoms as in the south, and within non-centralised states, chiefs were often created and appointed by the colonial administration (Grischow 2006). The north was integrated into the colonial economy as a supplier of labour to the south, and attempts were made to thwart its development and capital accumulation (Konings 1986).

In the south, the alliance with chiefs served to marginalise the Gold Coast merchant bourgeoisie, who had large economic interests in land transactions with foreign capital, interests that had been threatened by the colonial attempt to control land (Grischow 2006). By placing land under chiefs, the colonial administration enacted a land policy based on a notion of customary privilege, in which chiefs were designated as the custodians of land. As the custodians, they held allodial rights to land, and this gave them the sole right within the community to engage in land sales and to transact concessions with foreign capital. The rights held by their subjects were user rights. This framework ultimately derived from a dogmatic framework of what constituted communal land tenure within the British Empire emanating from the Privy Council in London, rather than from the actual lived experience of African societies (Cowen and Shenton 1994). This was, however, based on a muddled framework, since the allodial rights of chiefs were defined as ownership rights bestowing the holder the right to sell the land, thus placing customary and communal tenure rights within the ambit of a highly developed market economy. It ignored the social hierarchies that had defined relationships between nobilities and peasants in African pre-colonial state formations, which included various forms of slavery, extraction of tributes, fealty, and sharecropping arrangements, which went well beyond chiefs acting as custodians of community interests. Many of these relations continued to exist under colonial rule and be exploited by colonial administrations to enforce the extraction of cheap labour and the enforcement of export crop production (Grace 1975; Phillips 1989; Lovejoy and Hogendorn 1993). The framework of customary land tenure also ignored the historical development in the Gold Coast; its integration into the world economy as a producer of export crops before colonial rule; and the social flux and transformations that had emerged from this, including migrations of farmers investing in agriculture, land, and hired labour (Hill 1963).

The Akyem Abuakwa traditional state provides a good example of the contradictions that were evident in the framework of indirect rule. Its paramount chief (*Okyenhene*) shared a close relationship with the colonial administration, which bestowed a British knighthood upon him. The Akyem Abuakwa state emerged in the eighteenth century when they defeated the Akwamu rulers of the area. But the Abuakwa were barely able to consolidate power before the Asante defeated them. The consolidation of the control of the *Okyenhene* over Akyem Abuakwa only occurred under colonial rule. The *Okyenhene* used his close ties with the colonial administration to refashion political institutions within Akyem and to shift the control of customary land from the various town chiefs to the paramount authority (Rathbone 1993).

During the early twentieth century, Akyem Abuakwa was the leading cocoa production area in the Gold Coast. Initially, the main cultivators of cocoa were migrant capitalist cocoa farmers from the south-east who invested in the purchase of large tracts of land within Akyem (Hill 1963). The development of cocoa production in Akyem and the attempts of the *Okyenhene* to control economic development and land resulted in considerable social unrest. This led to an attempt by Akyem citizens to overthrow him, which was only averted by the colonial authority sending troops to defend the *Okyenhene* (Simensen 1975; Rathbone 1993; Addo-Fenning 1997).

The development of cocoa resulted in profound social transformations. Large areas of land were sold to enterprising migrant cocoa farmers. Large cocoa farmers hired migrant labour. Many poorer migrant farmers acquired lands on sharecropping contracts from chiefs and large landowners. The cocoa sector was characterised by complex patterns of social differentiation, which was not reflected in the governance structure of indirect rule. Many towns significantly expanded during the colonial period with large migrant populations that were not represented within the structures of indirect rule, which was rooted in notions of preserving tradition and customary institutions (Rathbone 1996; Amanor 2001). The notion of a timeless traditional society was at variance with the complex and chaotic history of the Gold Coast in the nineteenth century and the economic development that had occurred prior to the imposition of colonial rule. It did not account for the fluidity, mobility, accumulation of capital, and class divisions that accompanied the creation of an economy based on export crops.

The depression of the 1930s and the war economy led to widespread social unrest in the Gold Coast, which flared up in the 1948 boycott of European imports, demonstrations led by ex-servicemen from the Second World War, demanding pensions, and riots as the colonial administration suppressed demonstrations with violence (Bob-Milliar 2014). This led to the development of radical nationalists movements demanding independence. The Watson Commission of Enquiry into these disturbances found a deep dissatisfaction among Gold Coast citizens with chiefs and their autocratic rule (Amanor 2001). The growing sentiments for independence, recognition by the colonial authority of the woeful inadequacies of indirect rule, and the need to cultivate a professional-based elite paved the way for the transition to independence, which began in the 1950s with local government reforms that introduced locally elected councils in which chiefs could only now nominate one third of the members (Crook 1986).

4 Land and Chiefs in the Early Independence Period

4.1 *Reforming Chiefly Institutions in the Early Independence Period*

Two main parties contested elections in the transition to independence. The United Gold Coast Convention Party (UGCC) was formed around a coalition of the Gold Coast elite, intelligentsia, and prominent chiefs. The more radical Convention Peoples Party (CPP), led by Kwame Nkrumah, was based on a broad popular coalition, of workers, farmers, traders, and aspiring businesspeople who had been frustrated by colonial rule. The CPP was more successful in rallying the populace and won the elections. The opposition subsequently reorganised around the National Liberation Movement (NLM), founded by Baffour Akoto, the chief spokesperson (*okyeame*, usually rendered as linguist) of the Asantehene, and was led by the intellectuals J. B. Danquah, a brother to the *Okyenhene*, and Dr. Kofi Busia from the Wenchi royal family. The political programme of the NLM opposed centralisation and advocated the continuing role of traditional authorities in national governance (Amamoo 1958; Rathbone 1968; Allman 1993; Asamoah 2014).

Once elected to power, the main development objectives of the CPP were to promote industrialisation, diversify the economy away from cocoa, and increase food production through a policy of modernising agricultural production. These agricultural policies were justified by the large volume of import of food and vegetable oils that had grown in the late colonial period. Agricultural modernisation focused on promoting mechanisation, state farms, and farmer cooperatives, while leaving the cocoa economy within the forest zone intact. Revenues gained from the export of cocoa were used to promote state agricultural modernisation and import substitution industrialisation. As a consequence of this, there was little attempt to reform and modernise production relations within the cocoa sector of the southern forests. The main focus was on opening up a new frontier of agricultural modernisation in the savanna area of the north and in transition zone of Brong Ahafo. These were areas that had been neglected by the colonial authority since they were located beyond the main export crop zones (Konings 1986). They had low population densities and large areas of unoccupied land that could be brought into production without expropriating large numbers of peasant farmers.

Although the anti-colonial movement had been hostile to chiefs, this became tempered once the CPP gained power. There was no attempt to introduce a programme of radical land reform. The main land tenure reforms were concerned with transforming sharecropping arrangements between chiefs and migrant farmers into monetary rents, and assigning oversight control over the collection of land revenues to the state. Early policy interventions focused on controlling the revenues of chiefs aligned with the NLM opposition, who were perceived to be hostile to the CPP. Thus, in 1958, the Ashanti Stool Lands Act and Akim Abuakwa (Stool Revenue) Act were introduced to place the collection of stool revenues under the state, with the intention of preventing these being used to fund the NLM. In 1960, the Stool Lands Act extended

these arrangements to all customary stool lands (Amanor 1999). The main thrust of land policy was to use the claims of chiefly control over natural resources to facilitate greater state control over these resources and the expansion of an eminent domain—the right of the state to alienate land in the national interest for national development.

This was most evident in the timber sector, which had gone through a major process of expansion in the post-war period; newly available timber trucks on the Gold Coast enabled timber to be transported from the forest interior by road. The expansion of cocoa farming into the Western Region during the 1950s provided new potential windfalls of timber in newly cleared forest areas. The rich pickings that could be gained from the sale of timber encouraged the chiefs in the Western Region to sell off large tracts of land to migrant farmers, while claiming rights to the timber resources on the land (Amanor 1999, 2005). This was in contrast to the situation in the Eastern Region and Ashanti, where farmers had established rights to the timber on their farmland, which they transacted with wood sawyers. In 1959, the government enacted a Timber Lands Protection Act that prevented farmers from clearing forestlands they had acquired until licensed timber corporations had felled all the timber. This new legislative framework for timber was only applied to new frontier areas in which cocoa farms were being established in the Western Region and not to the established farming areas in the Eastern Region and Ashanti, where farmers continued to transact and fell timber trees they had preserved on their farms until the 1990s (Amanor 1999). These changes in tree tenure arrangement facilitated the expansion of timber extraction by the corporate sector, at the expense of the informal sector, while enabling chiefs to gain access to the royalties for timber. The new economic interests in timber that chiefs acquired served to erode the rights of farmers to timber. This transformation of timber ownership was buttressed by the 1962 Timber Concession Act, which vested the customary rights of chiefs in the state to manage on their behalf, while no previous legislation had defined these customary rights of chiefs in timber.

The overall thrust of land tenure relations under the CPP administration did not radically reform existing tenure or challenge the claims of chiefs on land. Rather, the state used the privileges of traditional authorities to strengthen its access to and control over resources by claiming eminent domain and a right to manage the natural resources of traditional authorities on behalf of the chiefs.

4.2 The Rise of Commercial Farmers in the 1970s and Its Impact on Land Relations

In 1966, the CPP was overthrown by a military coup supported by the US. Elections organised in 1968 brought the Busia-led Progress Party (PP) to power, based on the alliance between business people and dominant chiefs that had characterised the NLM. After the 1966 coup, the role of traditional authorities in local government was

once again strengthened, and chiefs were given the power to appoint one third of local government representatives (Ayee 1994; Taabazuing et al. 2012). Chiefs also experienced fewer fetters over their control of land and gained greater freedoms to extract revenues from land. Restrictions on chiefs imposing sharecropping arrangements on migrant tenants were lifted.

The PP continued to focus on promoting agricultural modernisation within the northern and transitional zones, but with a much greater accent on promoting private commercial farms rather than state farms. The farmer cooperatives were disbanded. However, the PP government was short-lived, and its failure to deal with a mounting economic crisis resulted in another coup d'état, which brought the Acheampong-led National Liberation Council (NLC) and Supreme Military Command (SMC) to power from 1971 until 1979. The main agrarian focus of the NLC continued to promote a class of agrarian entrepreneurs in northern Ghana, which were firmly rooted in the state bureaucracy and military, who sought to expand their personal investments into the agricultural sector (Konings 1986).

Throughout the independence period, close family ties became consolidated between leading businesspeople, top bureaucrats, and chiefs. The royal families often selected chiefs from among their most successful sons who were businesspeople and professionals in their own right. Successful businesspeople, professionals, and intellectuals often sought chieftaincy titles to show off their success in life, but also to gain control over land and other valuable resources. This has often led to a narrowing of chiefly lineages, with those lineage branches that were not economically successful fading away (Arhin 2001). By the 1970s, the alliance between state, elites, and chiefs became more evident within the agricultural sector, as the state and chiefs conspired to alienate land in the 'national interest' to aspiring commercial farmers (Konings 1986). This was particularly evident in northern Ghana, where the state encouraged investments by southern elites in rice farming and provided aspiring commercial farmers with soft loans and subsidised inputs and machinery. The chiefs readily provided commercial farmers with access to large areas of land. In the north, several chiefs took advantage of their control over land to actively engage in commercial farming. Konings (1986) provides very clear examples of chiefs that straddled the worlds of traditional landowner and commercial farmer. For instance, the paramount chief of Navrongo had trained in Russia as a soil scientist. In addition to his chiefly functions, he cultivated between 800 and 1000 acres of land and had acquired seven tractors and two combine harvesters with loans from Ghana Commercial Bank (Konings 1986).

The important role that chiefs played in opening up commercial agriculture in northern Ghana and in collaborating in the appropriation of land for commercial farmers from the south gave them increasing visibility in policy and created the conditions for the 'return' of land to the chiefs in 1979, ending the colonial legacy that had created two distinct land regimes in Ghana, in which land was vested in the state on behalf of traditional rulers and communities in the north, and in the chiefs in the south. While this ended the inconsistencies between land policy in the north and south, this was to open up conflicts within the north between different polities about who really owned the land, given that in many areas chiefs had been a creation of the colonial government. This led to conflicts between chiefs and earth priests disputing

ownership of the land (Lund 2008), but also violent ethnic conflicts over which people controlled the land (Tsikata and Seini 2004). The most serious of these conflicts was between the Konkomba, Nanumba, and Dagomba people, which erupted in the 1990s into armed conflicts around customary services performed by Konkomba to their overlords and the attempts of the Konkomba to fashion for themselves a newly created chieftaincy (Brukum 2006; Kachim 2020).

By the mid-1970s, the commercial rice-farming sector entered into crisis. As a result of failing yields, rice farmers were plagued by debt and were unable to repay their loans, which resulted in a banking crisis in Ghana. As a result, by the mid-1970s, the military government transformed its agricultural policy away from a focus on supporting commercial farmers, towards government sponsored outgrower or contract farming schemes with smallholder farmers, a mode of agricultural development that was been widely promoted by the World Bank (Konings 1986; Daddieh 1994). Several irrigation and oil palm projects were instigated that involved outgrower type arrangements with smallholders, in which the farmers received help with farming and infrastructure services, but were contractually obliged to provide their yield to government parastatal marketing corporations. These outgrower schemes required acquisition of large areas of land by the state and displaced many smallholders. Chiefs often became important in identifying suitable areas to expropriate and played an important role in the logistics of transferring land ownership. The chiefs were lured by promises of payment of compensation for the alienation of the land and royalties to expropriate the land. Farmers were usually compensated only for the crops on the land, since the notion of the allodial rights of chiefs was used to deny them actual compensation for the land they had acquired. But this often led to resistance within communities, refusal to be removed from the land, and legal contestations, which significantly slowed down the process of transferral of landownership and establishment of commercial operations. For instance, the Ghana Oil Palm Development Corporation (GOPDC) acquired 9000 ha of land, which was originally cultivated by 7000 farmers. After the acquisition, some of the farming communities affected by dispossession petitioned the Lands Department, while other farming communities refused to allow GOPDC officials to enter their land. Other farmers who were effectively dispossessed took to squatting in other parts of the GOPDC land. As a result of these actions, GOPDC was only able to use about 3000 ha of the lands they had acquired (Amanor 1999).

During the late 1970s, the economic crisis in Ghana intensified, leading to a coup d'état of junior officers under the leadership of Jerry Rawlings in 1979, who sought to rid Ghana of corruption before returning the country to elections. In a chaotic period, elections were followed by another coup d'état, which brought Rawlings back to power as leader of the Provisional National Defence Council (PNDC) at the end of 1981. Although the PNDC government initially articulated a radical anti-imperialist ideology, by 1983, it had entered into negotiations with the International Monetary Fund (IMF) and implemented a structural adjustment programme, before reintroducing parliamentary democracy. The PNDC transformed itself into the National Democratic Congress (NDC) and won the first two elections.

The adoption of structural adjustment effectively ended government experiments in agribusiness and support for a class of commercial farmers, as IMF conditionalities called for the privatisation of the state agricultural sector and removal of agricultural subsidies. Agricultural corporations such as GOPDC became privatised and acquired by multinational agribusiness corporations.

5 Governance Reforms, Civil Society, Traditional Authorities, and Land Markets

5.1 Liberal Reforms, Civil Society, and Strengthening of Traditional Authorities

Aside from curbing state investments in production, the structural adjustment measures sought to promote civil society participation in economic development to displace state social welfare provisioning, particularly in sectors that were not attractive to private investors. Civil society interventions in the economy had expanded prior to structural adjustment, as the state increasingly became bankrupt during the mid-1970s and unable to support development initiatives. This was reflected in the rapid rise of hometown associations, which collected funds for infrastructure development within the areas from which urban migrants originated. Since these were based on ethnically defined localities administratively associated with particular traditional authorities, these civil associations tended to seek recognition from the chiefs. This further reinforced the political significance of chieftaincy in local development. Many of the non-governmental organisations (NGOs) that became established during this period also formed close relations with chiefs and sought the patronage of traditional authorities to mobilise communities for development initiatives (Hagberg 2004; Kendi and Guri 2007). NGOs such as the Centre for Indigenous Knowledge for Organisational Development (CIKOD) developed a specific mandate to work through chiefs to facilitate development (Kendie and Guri 2007).

International financial institutions (IFIs) have also provided significant funding for chiefs to launch development initiatives. The World Bank has entered into a development partnership with the *Asantehene* (the king of Ashanti) and provided support to several projects initiated by this traditional authority from the 1990s. These projects include an educational fund, a health programme, and the Golden Development Holding Company, which seeks to promote economic development in Asante (Boafo-Arthur 2003). In the Juaben area of Asante, the *Juabenhene* (Juaben paramount chief) has also played a leading role in promoting development initiatives. In the early 1970s, he initiated a Five-Year Development Plan and summoned his subjects to contribute communal labour for the construction of public toilets and drains. During the economic crisis of the early 1980s, the *Juabenhene* recruited members of the business and professional elite in Ghana to contribute towards the development of Juaben and invested in palm oil processing and rural banking. The

Juabenhene established a large oil palm plantation on Juaben land during the 1970s and acquired a divested state oil palm mill in the 1980s. He established an oil palm outgrower scheme among his subjects, with funding from the World Bank (Berry 2013).

While IFIs and donors have promoted traditional authorities as part of civil society initiatives of rolling back the state, the Ghanaian state has played an important role in giving traditional authorities a greater role in the administration of land and natural resources and working with international development and financial agencies to initiate projects and institutional reforms to achieve these ends. This can clearly be seen in both the forest laws and policy and the creation of customary land secretariats (CLS) enacted in the 1990s and early 2000s, which are examined below.

5.2 Forestry Governance and Collaborative Forest Management

The liberal market reforms introduced in Ghana in the 1990s sought to dismantle the economy of import substitution manufacturing and encourage export-oriented production of primary commodities. Timber was identified as one of the most promising sectors, and donors made large loans available for private sector development of logging companies. The government actively promoted the development of sawmills to foster value-added processing. Before liberalisation, the export timber sector had collapsed during the 1970s. The domestic market was supplied by informal sector sawyers, who were usually based in rural areas and rural towns. With the wide availability of chainsaws, these sawyers used chainsaws to fell and process lumber. They purchased the trees from farmers on whose land the timber trees were found. The chainsaw operators also organised into an association that was affiliated to the Trade Union Congress and represented its members to the Forestry Department with which it worked out arrangements for formally acquiring recognised rights in timber—although many chainsaw operators remained outside the association. The expansion of sawmills rapidly led to a larger processing capacity than existing timber stocks in forest reserves. To ease pressure on the forest reserves, the Forestry Department sought to secure timber for concessionaires in on-farm areas, which were largely exploited by chainsaw operators. To contain the chainsaw timber, the Forestry Department sought to criminalise their activities and undermine the rights of farmers to sell timber on their farms. This was partially achieved by strengthening the role of chiefs in natural resource management and by securing rights for timber by chiefs at the expense of farmers. The rights of chiefs to timber royalties were firmly implanted within the 1992 constitution, which specified that 20% of royalties accrued to paramount chiefs and 25% to the town chiefs under whose lands the timber lay. Significantly, there was no mention of any rights of farmers to natural resources. The 1994 Forest Policy removed the management of off-reserve timber resources from district councils to the Forest Service, declaring timber to be a strategic natural

resource that should not be decentralised. This in effect closed down the circuits through which chainsaw operators were able to gain permits for the felling of trees on farms from district authorities (Amanor 2005; Hansen et al. 2009; Marfo et al. 2012).

After gaining control over off-reserve trees, the Forestry Service introduced a national ban on the use of chainsaws to process timber, criminalising the activities of farmers in hiring chainsaw operators to process timber on their farm and chainsaw operators to fell trees and convert them into lumber. This in effect monopolised farm timber as a resource for timber concessionaires, who now had rights to encroach into farms and fell timber. While the 1994 Forest Policy claimed to be based on participatory community forest management, it focused on promoting the privileged rights of chiefs to natural resources rather than the rights of farmers. It drew upon the framework of the 1962 Concession Ordinance, which vested timber trees within the Office of the President on behalf of the chiefs and the Timber Land Protection Ordinance of 1958, which was used to promote salvage felling in forest areas acquired by cocoa farmers in the Western Region, before they began farming. However, in reality, timber trees found on farms were never vested in chiefs—the timber claimed by chiefs in the new frontier areas of the Western Region was located in uncultivated forests before they were converted into cocoa farms. In the majority of the high forest zone, on-farm timber was exploited by the farmers who had preserved and tended them on their farms. These arrangements were described by Foggie¹ and Piaseckie (1962, 238):

The small pitsawyer gang which buy a single tree saw it and sell the produce. For the latter, no capital except axes and saws and the picks and shovels to dig the pit may be required, as the tree may occasionally be obtained on a share basis, one third of the planks produced going to the owner and two thirds to the sawing gang.

By the mid-1990s, about 80% of timber exports originated from timber extracted from farmlands. This massive exploitation of the timber resources in farming areas by timber companies led to the rapid depletion of timber trees in farming areas. As the main timber species became scarce, the timber sector began to exploit sub-optimal species, including *Ceiba pentandra*, which was frequently preserved by farmers since they were considered to have a beneficial effect on the fertility of soils.

Although the new forest policy was articulated as promoting community participation in the management and conservation of timber, these arrangements focused on chiefs as custodians of the community. An alliance was built between timber companies, the state, and traditional authorities to secure cheap timber resources for the export trade, in which chiefs gained rents through royalties. This in effect enabled timber to be sold on farmlands without any payment to farmers beyond compensation for the damage to farms created by the felling of timber trees.

¹ Alistair Foggie was at the time of writing this article Conservator of Forests in Ghana.

5.3 *Land Administration Reforms and Customary Land Secretariats*

As private commercial estates and agribusiness expanded, the constraints of alienating land through eminent domain became increasingly evident, as reflected in community resistance and the slow pace of registering these lands. This became even more acute as privatisation was introduced and foreign capital began to acquire land. The decline of large commercial agricultural estates also resulted in transfers of land and disputed claims over ownership, which pointed to the inadequacies in the framework for land administration. The growing demand for land from the 1970s required a more efficient framework for managing land and for encouraging and guiding the formation of land markets.

The existing institutional structure for land management did not facilitate the emergence of regulated land markets. Commercial land acquisition was a tedious process, marked by numerous negotiations of contested ownership and user rights. By the late 1980s, there were over 16,000 unresolved land cases within the courts. The institutional structure for land management was poorly developed; land administration was highly centralised with a lack of a regional presence. There were only three land titling registers in Accra, Tema, and Kumasi (Kassanga and Kotey 2001).

In the late 1980s, the government sought to address these deficiencies. It enacted the Land Title Registration Act, which prescribed compulsory registration of land as a way of encouraging the development of more comprehensive land titling and information systems. While it was hoped that the recognition of title and threat of loss of rights to land through failure to register land would promote a comprehensive land titling scheme, this failed to materialise. Twenty years after the enactment of the Land Title Registration Act, fewer than 112,000 applications had been received, and fewer than 17,000 titles had been issued (Dowuona-Hammond 2003).

During the early 1990s, the government developed a new approach based on decentralising land administration and involving traditional authorities in the administration of land. This has been implemented through the World Bank sponsored Land Administration Project (LAP), initiated in 2003. A central element in LAP has been the setting up of Customary Land Secretariats (CLS). The CLS are embedded in the offices of traditional authorities. The main functions of the CLS are to maintain accurate and up-to-date land records, provide information to the public about ownership rights within the traditional area, maintain records of all fees and charges associated with land grants, and liaise with district councils and public sector land agencies to harmonise information and planning. The rights registered by individual CLS are recorded in a public national database. LAP and government agencies provide technical backstopping and training to build the capacities of these CLS to manage information transparently, rather than intervene directly in the administration of land (Ubink and Quan 2008). The CLS were originally set up on a pilot basis. By 2018, there were 88 CLS in existence, which had assigned 70,000 leases and registered the rights of 36,178 beneficiaries (World Bank 2018). The CLS are established by tender, in which chiefly offices submit a proposal for funding and approval, which is

evaluated on the basis of the capacity of the chiefly authority to manage land and the demand for land registration among the citizens of the area. This in effect results in CLS emerging in areas where there are significant transactions in land and needs to document these transactions rather than in response to stabilising and strengthening the land rights of the rural poor.

In many urban areas, traditional authorities maintain services of surveyors who draw up maps and site plots for lands that are sold. These site plans are signed by the traditional authorities and are recognised as legally valid documents by the state land services, which can be used for purposes of formal land registration and titling. During the 1990s, several traditional authorities in Kumasi, Kyebi, and Gbawe in Accra had established institutions and clearly defined modalities for land transactions in their areas (Kasanga and Kotey 2001; Ubink and Quan 2008). However, these developments were largely concerned with ensuring the confidence of buyers in land transactions and not the rights of poor farmers. These land transactions involve the transfers of significant amounts of money, and the recipients of the land documents are usually the wealthier classes of society.

The land rights that are established in these transactions are ambiguous, since they are couched in terms of trusteeship and land grants. The transactions are also defined by the state as leaseholds of up to 90 years rather than the acquisition of freehold. Rural land sales for agricultural land are also subject to considerable reinterpretation of rights (Ubink and Quan 2008). Boni (2005) shows how in the Western Region land rights acquired by migrant farmers have been transformed over time as the demand for land increases. Initially, migrant farmers were provided with gifts of land. As demand for land increased among migrants, land sales emerged. As land became increasingly scarce, land sales were converted into payments to hold land under sharecropping contracts. The new terms of tenure that were enacted were made to apply retrospectively to the earlier acquisitions of land by migrants.

These inventions of tenure arrangements do not only apply to migrants attempting to acquire land, but also to locals who may find their land expropriated. Ubink (2008) records that in peri-urban areas of Kumasi, chiefs formulated new regulations in customary tenure, which stated that when residential areas expanded into farming areas, the land reverted back to the chief. This in effect enabled chiefs to appropriate the land of farmers and sell it at high prices as residential property. In northern Ghana, Yaro (2012) argues that the flexibility of customary land tenure has enabled traditional authorities to reinterpret customary laws to fit modern conditions. In the process, these traditional authorities have used the opportunity to enrich themselves by dispossessing peasant farmers of their lands and selling them to wealthy land investors and commercial farmers. They have found support from within state institutions that have the mandate to promote stable individual property rights, commercial markets in land, and cost recovery in state agencies from land revenues.

Rather than forming a stable system of protecting user rights in land, the strengthening of customary land tenure has upheld the privileges of chiefs in selling land and gaining revenues from sales. This serves to legitimise the appropriation of land and its conversion into individual property rights that can be registered. It establishes the rights of chiefs to own, appropriate user rights, and sell land and, in the process,

confers individual property rights on those who purchase the land. Thus, the central role of chiefs lies not in protecting the user land rights of community members from encroachment by the market, but in creating the basis for individual property rights and land markets, by providing land purchasers with lease documents that can be registered for land titles.

6 Conclusion

Contemporary land reform in Africa has emerged within the context of good governance reforms. These ostensibly seek to create more efficient land markets and address equity issues by decentralising land administration to the community level and to customary institutions (Toulmin and Quan 2000). Nevertheless, in Ghana, the movement towards strengthening the role of customary authorities in land management has a much longer history than the introduction of governance reforms in the 1990s. It emerged in synergy with the attempts of the state to promote a class of commercial farmers, rooted in the political elite, urban bureaucracy, and merchant classes in the 1970s. Following the hesitant attempts of the Nkrumah regime to reform chiefly governance of land as part of a much-needed programme of social transformation following colonial rule, there was a distinct movement back to consolidating the control of chiefs over land, and this facilitated the access of commercial farmers to land, which they gained through the interventions of chiefs—several of whom also developed personal interests in commercial agriculture. This became intensified after the introduction of governance reforms in the 1990s. But the increasing decentralisation of land administration to chiefs has not resulted in a more inclusive development that protects the rights of small farmers. These developments have rather strengthened the alliance between the Ghanaian state, traditional rulers, national investors, and foreign capital, which emerged in the 1970s around the promotion of commercial rice farming in Ghana and agribusiness. In this alliance, the role of chiefs is to facilitate the commodification of land and the secure transfer of land to investors. Chiefs have critical economic interests in this process in land revenues that only materialise through the market transactions of local resources. The outcomes of this process result in a scramble for land within rural farming areas, speculation in land, and the increasing allocation of land to foreign investors and national commercial and medium-scale farmers, echoing the earlier development of commercial farming in the 1970s, which has been dismissed by protagonists for liberal market reform as reflecting urban *bias* (Lipton 1977; Bates 1981). These reforms have led to an expansion of the land market, but have failed to protect the access of the rural poor to land.

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