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Specific Problems Linked to the Research: The Voices and Analysis of Data

Introduction

The focus of our investigation is land and land-related conflicts. Given the importance of land to everybody and its attendant commodification, there are several problems linked to it. This section therefore examines some of the specific problems linked to research on land and some of the voices in the land question. The land question evokes sentiments and emotions among the stakeholders. The examination starts from the premise that the land environment is a turbulent and complex one, with several stakeholders and actors staking claims over land. This situation is generally conducive to conflict and disputes.

Problems and Constraints of Ghana's Land Sector

The National Land Policy of 1999 which was discussed at a national workshop in 1997 has identified the key problems and constraints in the land sector (see Box 3).

Box 3: Problems and Constraints of Ghana's Land Sector

- i) General indiscipline in the land market characterized by encroachments, multiple sales, etc.
- ii) Indeterminate boundaries of stool/skin lands, resulting directly from the lack of reliable maps/plans, and the use of unapproved, old or inaccurate maps.
- iii) Compulsory acquisition by government of large tracts of land, which has not been utilized and for which compensation has been delayed.
- iv) Inadequate security of land tenure due to conflicts of interest and slow disposal of cases.
- v) Difficult access to land agricultural, industrial, commercial and residential development purposes due to conflicting claims to ownership, and various outmoded land disposal procedures.

- vi) Weak land administration system characterized by lack of comprehensive land policy framework.
- vii) Lack of consultation with landowners and chiefs in decision making for land allocation and development.
- viii) Lack of consultation, coordination and cooperation among land development agencies.
- ix) Inadequate coordination with neighboring countries in the management of international borders.

Source: Ministry of Lands and Forestry, *National Land Policy*, pp. 3-4.

The State

From the colonial and post-colonial days in Africa, the state has continuously expropriated and appropriated land ostensibly for the public good.

In Ghana, the State Lands Act, Act 125 of 1962 stipulates that the state can acquire land in the national interest and other purposes. In addition, the Act empowers the President of the Republic to expropriate any land in the public interest by the publication.

Traditional Authorities

It has been pointed out that the 'land tenure system underscores the position and authority of the chief in the Ghanaian traditional system' (Oquaye 1997:88). The importance of land to chieftaincy has led to the call by a number of leading traditional rulers for the return of all state-acquired lands to chiefs. In the view of the Okyenhene, Osagyefo Amoatia Ofori Panin, for example, traditional authorities have enormous responsibilities towards their people, and yet they do not have much control over the use of lands and resources in their jurisdictions.

He has therefore urged all chiefs to 'come together to fight to get control over our resources because future generations would not be happy with their chiefs, if they could not associate them with any development projects in their communities' (*Daily Graphic*, April 30, 2005:20). Similarly, the Asantehene, Otumfuo Osei Tutu II in May 2005 complained to the visiting Zambian President Levy Mwanawasa about politicians' use of state powers to take lands which were acquired by government for public purposes but never used as such (*The Chronicle*, August 12, 2005:5).

Wehrmann (2002) has argued that as a result of the position of traditional leaders in the land sector, their participation in land administration has the value of creating trust and confidence in land administration, thereby reducing all kinds of conflict between them, the landowning communities at large, and the state.

Even though this may be true in some cases, in general, owing to the pecuniary interests that the chiefs in Ghana have developed in the land sector, they have not been amenable to the Land Allocation Committees established in some peri-

urban areas, especially in Kumasi, Ashanti to assist the chiefs in the allocation of land and ensure transparency in land management.

Some chiefs have continued to engage in land transactions, normally outside the purview of the Office of Administrator of Stool Lands, and been able to appropriate huge sums of money accruing from the sale of land. In monopolizing the decision-making structures pertaining to land transactions, traditional leaders have often benefited from the configuration of power within their domain, the dynamic of local politics and the vagueness of traditional procedures that have survived social change (Booth et. al. 2004).

The involvement of traditional authorities in land management has left communities unable to participate in decisions to allocate, sell or demarcate land.

As a result of the scramble for land for non-agricultural purposes, particularly in La and Osu and Amasaman, three of our case study areas, traditional authorities have assumed de facto ownership of communal land instead of restricting themselves to the exercise of custodial rights over such lands. They have become less transparent and accountable in their handling of land transactions. Consequently, the problems of weak accountability and lack of transparency in land administration have persisted, and account for the escalation of conflict between traditional leaders and their people over land allocation and revenues.

The Maze of Formal and Informal Land Sector Agencies

One of the principal obstacles identified by the 1999 National Land Policy is the lack of effective coordination, consultation and cooperation among the land sector agencies.

In Box 4, there is a maze of 'formal' and 'informal' institutions. The formal institutions are those which either have primary responsibility for land or are called upon to deal with land issues and disputes.

The informal agencies refer to those agencies that have an indirect responsibility for dealing with land issues and disputes. The multiplicity of land agencies engaged in different but complementary processes regarding a single land transaction has led to the growth of centralized and bureaucratic structures, particularly in the collection of stool land revenue, transfers of customary land, title registration and planning control (Aryeetey et.al. 2007).

The centralization has created problems such as missing documents, high transportation costs, title documents taking 2-15 years or more to process, non-regularization of titles to land by developers and landowners by way of taking leases through the Land Commission Secretariat and substantial arrears in respect of ground rent and development charges for those who have had leases and files opened in their names and frustrations and cost implications of delays for potential investors and financial losses for the government, district assemblies and landowners/owners (Kasanga 1999).

Box 4 : Land Sector Formal and Informal Agencies

Formal Agencies

- i) Ministry of Lands and Forestry
- ii) Lands Commission
- iii) Survey Department
- iv) Land Title Registry
- v) Department of Town and Country Planning
- vi) Stool Land Administrator
- vii) Land Valuation Board
- viii) Land Administration Project Unit
- ix) Forestry Commission
- x) Regional Coordinating Councils
- xi) District Assemblies
- xii) Regional Lands Commission
- xiii) Stool Land Boundary Settlement Commission
- xiv) Joint Border Commissions and Minerals Commission
- Informal agencies
- xv) National House of Chiefs/Regional House of Chiefs/Traditional Councils/Individual Chiefs
- xvi) Ghana Institute of Surveyors
- xvii) Ghana Real Estate Developers Association
- xviii) The Judiciary
- xix) Ghana Bar Association
- xx) Environmental Protection Agency
- xxi) National Association of Farmers and Fishermen
- xxii) Ministry of Food and Agriculture
- xxiii) Commission for Human Rights and Administrative Justice

Source: Aryeetey et.al. 2007:67

As a result of the multiplicity of agencies, the Land Administration Project (LAP) has conducted a series of stakeholder workshops since August 2007 to rationalize the number of agencies. This initiative has not gone down well with some of the land sector agencies such as the Survey Department, whose staff have worn red arm bands to draw government's attention to their dislike of the rationalization exercise.

The Phenomenon of Land Guards

The phenomenon of land guards, that is, the recruitment of youth from within and outside community to patrol and protect contested lands, has dogged the land sector in the Greater Accra region. It has largely resulted from the commodification of land as well as the lack of trust among the various stakeholders and the inability of the courts and security agencies to ensure order. The activities of land guards have been detested by the police and law abiding citizens. In addition, the use of land guards is also seen as a means of protestation from the Ga, who are under the impression that their lands have been expropriated by 'foreigners and therefore depriving them of sources of revenue'. In the Afram Plains District, the use of land guards is minimal because there is not much pressure on the land. On the other hand, the cosmopolitan nature of Accra as the capital city with its concentration of facilities makes it attractive to most people, and this elicits pressure on land acquisition and distribution.

Contradictory Laws

One of the problems with the land sector is the contradictory laws that govern the sector. In the words of the World Bank (2002:6):

Some 180 state laws that regulate land administration and establish mandates for different agencies exist in the statute books. Many of these laws and regulations conflict with one another and some are outdated and irrelevant. Their existence is often used to confuse issues, delay implementation of programmes and prolong land litigation in courts.

One objective of the August 2007 stakeholders workshop organized by the Land Administration Project was to harmonize all the laws in the land sector into a common document to ensure clarity and consistency and assist in the resolution of land disputes.

