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LAND GOVERNANCE AND CONFLICT IN WEST  
AFRICA THROUGH INTERDISCIPLINARY  
EMPIRICAL LENSES

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## General Introduction: Land Governance and Conflict in West Africa through Interdisciplinary Empirical Lenses

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### **Abstract**

This working paper addresses the following central questions: (i) How does the commodification of land challenge distinctions between rural and urban spaces? (ii) What new forms of differentiation emerge from commodification, for example the alienation of land markets from land governance regimes? (iii) How does commodification help our understanding of the resilience of custom and egalitarianism? (iv) How useful are property rights frameworks, whether customary, statutory or new forms of tenure, for land management and sustainability? Four authors, members of the MIASA Interdisciplinary Fellow Group (IFG 6) on Land Governance, applied ethnographic and cross-sectional research methods to examine case studies in Ghana, Mali and Senegal. This research contributes to an understanding of the perceptions, discourses and practices relating to land commodification and conflicts, as well as the way in which endogenous perceptions of access to land in West Africa are expressed and adapt to changing circumstances.

Keywords: West Africa, land governance, conflict, commodification, legal pluralism

### **Résumé**

Ce working paper aborde les questions centrales suivantes : (i) Comment la marchandisation de la terre remet-elle en question les distinctions entre les espaces ruraux et urbains? (ii) Quelles nouvelles formes de différenciation émergent du fait de la marchandisation, par exemple l'aliénation des marchés fonciers vis-à-vis des régimes de gouvernance foncière? (iii) Comment la marchandisation permet-elle de mieux comprendre la résilience des pratiques coutumières et de l'égalitarisme? (iv) Quelle est l'utilité du cadre des droits de propriété, qu'il s'agisse de droits coutumiers, de droits statutaires ou de nouvelles formes d'occupation, pour la gestion des terres et la durabilité? Quatre auteurs, membres du groupe interdisciplinaire de recherche du MIASA (IFG 6) sur la gouvernance foncière, appliquent des méthodes de recherche ethnographiques et transversales pour examiner des études de cas au Ghana, au Mali et au Sénégal. Cette recherche contribue à la compréhension des perceptions, des discours et des pratiques liés à la marchandisation de la terre et aux conflits, ainsi qu'à la manière dont les perceptions endogènes de l'accès à la terre en Afrique de l'Ouest sont exprimées et s'adaptent aux circonstances nouvelles.

Mots-clés: Afrique de l'Ouest, gouvernance foncière, conflit, marchandisation, pluralisme juridique

Land tenure and access rights are embedded in complex sociocultural contexts and are critical to the livelihoods of both rural and urban citizens in West Africa. Throughout West Africa, land tenure is regulated by people at the grassroots level, government officials and civil servants working for state institutions, as well as traditional leaders, each with their own perspective. In both urban and rural areas in West Africa, the conflicting visions and practices of the citizens



and the state, and the outcomes related to land, regularly result in contestation, confrontation and protests in the media, in parliaments, in municipalities and on the streets. While the specific ways in which land governance occurs vary from one country to the next, various approaches to land ownership coexist in most countries in the subregion. These approaches include laws and regulations inspired by colonial and postcolonial policies, as well as endogenous or customary practices. This mixture of legal frameworks and practices, known as legal pluralism, results in a complex, power-laden and often contested system of land governance in West Africa. Historically, colonially inspired protectionist and isolationist policies over the decades have tended to block people's access to prime land by enforcing state control. However, these policies have been consistently challenged by customary landowners. As it is not always clear who the customary landowner of a specific plot of land is, this leads to conflicts between them. Consequently, disputes between state authorities and customary landowners over land ownership have been common in the subregion, leading to complex configurations of civil land contestations.

This project reflects the work of the Interdisciplinary Fellow Group 6 (IFG 6), which was hosted by the Merian Institute for Advanced Study in Africa (MIASA) from May to August 2022. In this working paper, the authors apply ethnographic and cross-sectional methods to describe different case studies encompassing Ghana, Mali and Senegal. This project contributes to an understanding of the perceptions, discourses and practices related to multiple coexisting norms. It also offers insights into the way endogenous perceptions of land access are integrated into changing circumstances with regard to land tenure in West Africa. The four authors of this combined working paper examine various empirical and interdisciplinary data to analyse and understand the dynamics of land governance as well as its transformation and sustainability in West Africa.

### **Commodification as a conceptual framework**

The concept of commodification is used in this joint project as a conceptual framework to understand key questions around access to and use of land, as well as securing interests in land. Commodification describes and discusses the processes by which land is redefined, as well as the related power relations and outcomes, prioritising its economic value over its cultural, social and environmental significance. This often occurs to benefit the interests of some actors at the expense of the majority of landowning groups, whose identity, lives and livelihoods are connected to the land. This is a dynamic process with no clear dichotomy, as actors of the grassroots level may also view land as a commodity.



Commodification as a conceptual framework in land governance allows for questions to be raised around equity, power and space, as well as identity, livelihood and sustainability. To this end, our analysis, undertaken within the framework of commodification, seeks to analyse four key questions:

- i. How does the commodification of land challenge distinctions between rural and urban spaces?
- ii. What new forms of differentiation emerge from commodification, for example the alienation of land markets from land governance regimes?
- iii. How does commodification support our understanding of the resilience of custom and egalitarianism?
- iv. How useful are property right frameworks, whether customary, statutory or new regime forms, for the management and sustainability of land?

The value of land is embedded in complex sociocultural contexts and institutions. Therefore, to understand the meaning and relationship between people and their land, it must be viewed within the context of historical processes and cultural values. For many African societies, land is not merely a commodity but an extension of ancestral lineage and kinship ties; it is a site for identification, and it structures social relations. The way in which land is accessed is grounded in complex processes and values that are often not the subject of economic considerations.

According to Roger Levesque (2015), “commodification” describes the process by which something without an economic value gains economic value, which may replace other social values. This process changes relationships that were previously untainted by commerce into relationships that become commercial in everyday use. In 1867, Karl Marx (1976) described a commodity as a good or service within the capitalist economic system, highlighting the difference between use value and exchange value. In this sense, use value depends on the cost of making and distributing a product. We explore the issue of land commodification in West Africa through the framework of Marx’s notion of primitive accumulation, thus allowing an examination of the historical process of neoliberalism.

Economic liberalisation in Africa has accelerated urbanisation and promoted privatisation on the continent. In Ghana, for instance, this began with the gradual withdrawal of the state to the position of providing an enabling environment for private capital accumulation. Such neoliberal processes have transformed countries’ social and economic spaces (Kashwan et al. 2019; Olajide and Lawanson 2021) and are felt most in relation to land. The implementation of neoliberal policies has also increased the commodification of land in many African countries (Gillespie 2016; Yeboah 2000). Central to commodification processes are privatisation, marketisation and the deregulation of land access and rights. Using commodification as a conceptual lens, we examine how communal assets like land are privatised across West Africa. The various chapters in the working paper demonstrate how land commodification creates



spaces for exploitation and inequality (Harvey 2004). Commodification thus results in deprivation of rightful land possession (Bennett et al. 2015), resulting in conflicts and creating uncertainties for various groups of landowners, including women and youths. Commodification leads to the appropriation of communally owned land for revenue extraction by powerful interest groups (Kan 2019).

Karl Polanyi (1957) described land, labour and money as “fictitious commodities”. This distinction allows us to illustrate that land, unlike other commodities, has strong connections to the “common”, i.e. it is deeply embedded in community life. To be considered a commodity land must, according to a purely legal approach, meet the definition of “property”. To legally qualify as property, there are two complementary requirements: it must have a pecuniary value and it must be susceptible to appropriation. Thus, to be a commodity, a good must have a value that is determined by the market, as “a meeting place for the purpose of buying and selling” (Polanyi 1957: 87). It is important to stress that the issue of commodification is context-bound and linked to legal pluralism, which acknowledges the multiple normative systems that humans are confronted with. In the following chapters, the four authors of this working paper offer insights into this discussion from the perspective of different case studies, while further exploring the entanglements between legal pluralism and land commodification.





## A Social Pathway to Land Governance and Production in Rural Ghana

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### **Abstract**

Customary land disposition in Ghana is governed by a set of state and customary legal procedures. However, following these legal procedures has not protected nor secured expected benefits of customary landowning communities. This chapter critically examines this legal procedural approach in customary land disposition in the Ashanti region of Ghana. The research is based on a qualitative method which allowed for in-depth inter-actions with key state and non-state actors in customary land governance in the region. This study shows that while land investors claim legitimacy of their land acquisitions through the existing legal procedures, communities contest these dispositions because their benefits are marginal. Thus, conflicts between land-owning communities and investors are frequent in the region. For achieving more equitable benefits to landowning communities this study suggests a social procedural approach to customary land disposition governance that recognises the broader social and cultural needs of communities in customary land disposition to complement the legal procedures.

Keywords: customary land, disposition, conflict, equity, investment

### **Résumé**

La disposition des terres coutumières au Ghana est régie par un ensemble de procédures juridiques étatiques et coutumières. Cependant, le respect de ces procédures légales n'a pas permis de protéger ni de garantir les intérêts anticipés des propriétaires fonciers coutumiers. Ce chapitre examine cette approche procédurale légale dans la disposition des terres coutumières dans la région Ashanti du Ghana. La recherche est basée sur une méthode qualitative qui a permis des interactions approfondies avec les principaux acteurs étatiques et non étatiques de la gouvernance foncière coutumière dans la région. Cette étude montre que bien que les investisseurs fonciers revendiquent la légitimité de leurs acquisitions foncières par le biais des procédures légales existantes, les communautés contestent ces dispositions parce que leurs bénéfices sont marginaux. Ainsi, les conflits entre les communautés propriétaires et les investisseurs sont fréquents dans la région. Afin d'obtenir des avantages plus équitables pour les communautés qui détiennent des terres, cette étude suggère une approche procédurale sociale de la gouvernance de la disposition des terres coutumières reconnaissant les besoins sociaux et culturels plus larges des communautés dans la disposition des terres coutumières afin de compléter les procédures légales.

Mots-clés: terres coutumières, répartition, conflit, équité, investissement

This study investigates the governance of customary land disposition in rural areas. By drawing on empirical data and existing literature, the outcomes of customary land governance in Ghana are discussed, with the goal of securing equitable and positive transformative social outcomes for landowning communities. This chapter introduces a socio-regulatory framework of customary land governance that complements the current emphasis on legal-procedures. This framework seeks to better align and regulate the outcomes of customary land disposition and production with the broader values and needs of landowning communities. In this paper, these



broader values include continued access to adequate land and land resources such as water, forests, and pastures for grazing; secure and equitable control over outputs from their land; and equitable shared risks and responsibilities with investors in relation to land degradation. In this context, land investors refer to private capital owners and investors who are not members of a landowning community and primarily acquire land for investment in agribusiness purposes, including crop production on a smallholding or a largeholding commercial basis.

In the literature, land governance typically involves the regulation of access to, and use and management of land, through the application of various legal frames, including customary and statutory norms and rules (Lavigne Delville 2007). This process often entails the negotiation of influence and legal frames between different actors. This involves agency and economic, political and legal re-sources, leading sometimes to conflictive outcomes (Chauveau et al. 2006). With the growing interest in rural land among a range of actors (Ibrahim et al. 2020), customary land disposition and production have become critical issues for customary landowning groups. Based on this, land governance in this work denotes legal and socio-regulatory processes that integrate and sustain the values and aspirations of customary landowning communities and investors. In this regard, the values and aspirations of landowning communities are conceived broadly to include the sociocultural, economic, and political basis for customary tenure in Ghana, including identity, belonging, spirituality, and sustenance. This centring of sociocultural, economic, and political values in Ghana adds a social regulatory frame to complement the legal procedures for customary land acquisition, use and management.

Over the past few years, this author has observed that the legal procedures for acquiring customary land do not protect the social and cultural values of customary landowning families and individuals. This oversight often leads to conflicts and tensions within and between landowning communities and land investors. The current approach to customary land governance prioritises efficiency and adherence to law, promoting the interests of land investors over those of landowning families. Once a land investor has adhered to the legal procedures, the land may be acquired, and the broader community values and needs are often neglected. The governance of customary land acquisition and production has been predominantly focused on defining the legal rights of landowners and land investors. This approach has created a legal framework that prioritises legal procedures over the social values of landowning groups. To demonstrate the effectiveness of land governance in Ghana, the emphasis is on adhering to laws and efficiently implementing the legal framework including the Customary Land Secretariats and the Lands Act 2020, Act 1036. According to this legislation, allodial rights holders, as the custodians of landowning communities, such as chiefs, family heads and sometimes the state as well, allocate and govern land using a combination of defined customary norms and statutory laws with the aim of ensuring efficient adherence to procedure.



Although allodial land rights holders profess to allocate land on the basis of social equity principles, as enshrined in the 1992 Ghana Constitution and the Lands Act 2020, the current land governance process does not regulate or incentivise the pursuit of social outcomes for communities. By focusing solely on adhering to the legal procedures to define and secure rights to land and land production, land investors who acquire community land often become isolated from the social, political, cultural, and economic changes that occur within landowning communities as a result of their activities. The core limitation of the current form of land governance is that it lacks an incentive for integrating the social visions and values of landowning communities. This efficiency-based, legal-procedural approach often leads to conflicts and tensions.

The increasing pressure on land due to land commodification and disposition has led to complex responses from various actors, including customary landowners and land investors. These actors have responded in various ways to the increasing value of customary land, often resulting in conflicts and contestations over land (Amanor 2010; Lund 2000). Despite this, the state, custodians of customary land and land investors across Ghana are still deeply fixated on the dominant legal procedural path for land governance. This approach prioritises efficient land disposition and production over other considerations, often leading to recurrent conflicts and contestations around land use in various parts of the country (Amanor 2010; Nolte and Vãth 2015). While this study acknowledges the importance of land governance in facilitating efficient land disposition and clear rights definition, it also recognises that the dominant legal procedural frame is not the only cause of conflicts and contestations over land. Another important cause of land-based conflict is the absence of emphasis on customary land governance which fails to integrate the visions and values of landowning communities.

As agribusinesses are expected to grow in Africa and viewed as a major path to prosperity (Yumkella et al. 2011), the increasing commodification and disposition of land is likely to lead to more complex conflicts. Without social frameworks that incentivise landowning communities and land investors to align their visions and values around land use, the risk of conflict will persist. In response to the anticipated growing demand for customary land acquisition for investment, land reforms across Africa have established clear legal procedures for land disposition. For example, the Ghana Lands Act 2020, Act 3016, outlines the legal procedures for land acquisition and use. However, these alone may not be sufficient to address the inadvertent transfer of control over land from communities to investors.

Although the literature highlights that the social effects of the disposition of land to investors is usually not beneficial for landowning communities (Amanor 2010; Nolte and Vãth 2015; Boone 2012; Otchere-Darko and Ovadia 2020; Meinzen-Dick 2023) no meaningful efforts have been made by the state nor the customary sector to define a socially oriented discourse for customary land governance to complement the emphasis on legal regimes. This study aims to fill this gap. The next section gives an overview of land governance in West Africa, followed



by a conceptual framework for analysing land-related conflicts and decentralised land governance, before outlining the methodology. The results and discussion are presented together, followed by the conclusions.

### Land governance in West Africa

In West Africa, control over land as well as the regimes and discourses of land governance are key contested features of land governance (Chauveau et al. 2006). Investors in land, in particular, bring their own agency and power, often overlapping, converging with or displacing community concerns about the benefits from their land. As a result, land governance is frequently associated with conflict and tension. Land governance in West Africa is characterised by a mix of customary and state regimes. The parallel application of these regimes has complicated the relationship between communities and land investors across the region. Thus, the dominant approach in the literature and policy formulation in addressing land governance is to frame land governance in dualist narratives (Ibrahim et al. 2020; Kansanga et al. 2018). In Ghana, for instance, state institutions such as the Lands Commission, which are mandated by statutory laws, exist alongside customary land law institutions such as the Customary Land Secretariats. This coexistence of regimes often undermines customary land laws, as state regimes seek to control land dispositions even at the local level. However, this co-existence of regimes with the Lands Commission, often confirming the completeness of land disposition, creates an opportunity for powerful land investors to exploit communities in their land transactions. This dichotomy and plurality of land governance regimes have been described as often leading to conflictual outcomes (Chauveau et al. 2006).

The complexity and negative impact of land governance on landowning communities is likely to increase, given the projections of growth in agribusinesses and subsequent land acquisitions (Yumkella et al. 2011). As a result, land governance regimes may be distorted by powerful actors. The influence of these actors on land governance can be seen in the large-scale land acquisitions across Africa since the 1980s (Debonne et al. 2021). Rising food prices, population growth, increasing demand for agrofuel, and climate change, among other things, have created a space in which foreign investors are encouraged to acquire large tracts of land, often at the expense of customary owners (FAO 2012; Yumkella et al. 2011; Barrett et al. 2017). Consequently, land acquisition has been characterised by investors' control over customary land, environmental degradation in agriculture, and a high debt burden for farmers (Narh 2021; Koch et al. 2019). Despite the negative consequences for landowning communities, these land acquisitions are often legitimised by investors following legal procedures defined by the state and customary land regimes (Amanor 2010; Nolte and Vöth 2015; Ahmed et al. 2019).



The issue of inequality and social deprivation resulting from land dispossession so far are addressed primarily by establishing a combination of state and customary regimes to ensure efficient and strong legal institutions and enforceable procedures in land disposition, access, use and management. In West Africa, the coexistence of multiple land governance regimes has been recognised since the colonial era. In this regard, the challenge in land governance has been to find ways to reconcile and harmonize these different legal regimes over land to minimise conflicts, tensions and power struggles (Lavigne Delville 2007). In this work, the author contends that this harmonization is not enough, if land disposition has to benefit customary landowning communities.

Despite the emphasis on efficient adherence to legal procedures in land disposition and acquisition, conflicts and contentions persist within landowning groups, and between these groups and land investors. This is largely due to the failure to incorporate the social and cultural values of customary landowning communities into legal procedures for land acquisition. For example, the infiltration of customary land management by investors and state regimes has marginalised the ontologies of landowning people about their land (Stamm 2009). As Niels Debonne et al. (2021) and Peter Narh (2021) note regarding Kenya, the economic interests of land investors often exert considerable control over the values and interests of landowning communities.

In essence, land governance in West Africa faces a profound challenge regarding how to prioritise the sociocultural needs of landowning communities. Currently, the neoliberal policies that encourage investments in agricultural lands override social policies grounded in egalitarian principles. As Walker DePuy et al. (2021) and Sian Sullivan (2017) rightly caution, land is not merely a resource to be harnessed for economic gain. It can also be developed in a way that minimises disruption to the ontologies and epistemologies of landowning communities. Accordingly, to mitigate the negative effects of land commodification on landowning communities, it is essential to emphasise the development of social frameworks in land governance that promote collaborative and integrative relations between landowning communities and land investors. The collaborative approach, as advocated by Abdul-Salam Ibrahim et al. (2020), acknowledges that although challenging, collaborative and integrative land governance can simultaneously advance the interests of the state, the landowning communities, and private land investors.

### **Deprivation and conflict relations: An analytical framework**

In Ghana, the relationship between landowning communities and land investors is often characterised by conflict. The processes that lead to this conflictive relationship provide a framework through which to analyse the phenomenon of customary land disposition governance and its outcomes for communities. Deprivation is a key lens through which field results in this



paper are examined. Land conflicts and social tensions in Ghana are understood as a condition of deprivation, where communities are denied access to and benefits from their lands. In this regard, this deprivation is often seen as a form of injustice, resulting from a deviation from established principles of equality and justice. It is not in doubt though that customary land tenure has been a source of inequalities, deprivation, and the marginalisation of social groups, leading to conflicts (Boone 2012). Yet, while large-scale land acquisition and investment has brought some benefits (Huddleston and Tonts 2007), social conflict arising from unmet expectations is a common outcome of land acquisition from landowning communities (Amanor 2010). However, it is possible to reverse or minimise land conflicts by guiding investors to proactively respond to community social, cultural, environmental, and economic needs.

In customary land disposition, the state is complicit in community deprivation and loss of sociocultural values. With its enormous political power as well as the economic and technological power of investors, the state and investors unjustifiably centralise values and laws around customary land on landowning communities. For instance, behind the land reforms, the state often uses its power to delegitimise community cultural values in land. In Ghana, the current land law reform, leading to the Lands Act 2020, Act 1036, emphasises state control over customary land disposition through confirmation of land registration and supervision of Customary Land Secretariats. This control by the state makes customary land disposition vulnerable to manipulation by state elites who collude with investors to infiltrate the land acquisition process. Historically, the state has failed to protect communities in land disposition. Joseph A. Yaro et al. (2018) show that the state's deliberate agricultural policy, from the precolonial to the present era, has persistently encouraged large-scale commercial agricultural interests in land in Ghana, perpetuating land conflicts and marginalisation. In their work, Yaro et al. (2018) allude to a state that creates and facilitates favourable conditions for investors to acquire land for agriculture, often leading to conflict with communities.

Deprivation and resource conflict arise from unmet expectations and needs in process of unharmonized state and customary land governance regimes. However, in this paper, mere expectations of benefits pose the risk of creating and encouraging a discourse that reduces communities to mere recipients of investor benevolence from customary lands. This can unduly legitimise investors' control over community land. Such a discourse is not useful for communities and should not be encouraged. While investors frequently attempt to legitimise their control over land through corporate social responsibility and monetary compensation, these do not meet the sociocultural and economic needs of communities (Hayk 2019; Otchere-Darko and Ovadia 2020). Furthermore, land investors may utilise their corporate social responsibilities to justify displacement and dispossession of customary landowning people from their lands. This control and undue legitimisation not only lead to unfair distributional outcomes of economic benefits against customary landowning communities, it also alienates these commu-



nities from their sociocultural values such as identity and belonging. When corporate social responsibilities serve as a tool to merely enhance corporate image, the value differences between landowning communities and investors become a powerful source of land conflicts (Otchere-Darko and Ovadia 2020).

For landowning communities, land values have evolved over generations and are deeply rooted in their history. Investors' corporate social responsibility measures, which can be described as distributional approaches to provide economic and infrastructural benefits to communities, cannot replace such historically grounded values (Hayk 2019; Otchere-Darko and Ovadia 2020). For example, in Northern Ghana historical claims to land are crucial for securing land rights and mediating land conflicts (Ibrahim et al. 2022). In the eastern region of Ghana, the disposition of land to investors often erodes historical communal and family values of landowning communities (Amanor 2010). The erosion of these values, which occurs through the imposition of individualistic and commodified values that investors bring to land, deprives communities of their historically grounded legitimate rights to land, fuelling conflicts around land and deepening poverty. In this sense, values related to land are historically grounded and transcend the contemporary economic rents of compensation and corporate social responsibility benefits alone. Land disposition that transfers control over land to investors without guided efforts to integrate sociocultural values and needs of communities, not only deprives these communities economically but also their identities and the social relations embedded in land. This is the basis for a socially grounded framework for customary land disposition that is suggested in this paper to complement the legal procedures for customary land disposition.

The decentralisation of land governance has been implemented in Ghana in order to promote democratic land governance and reduce conflicts. Decentralisation involves the regulation of land use and management through institutions at the local level (Onoja and Achike 2015). However, this study argues that land reforms in Ghana have weakened decentralised land governance. Even though 80% of land is owned by customary institutions and people (Kansanga et al. 2018), the Land Act 2020 for instance, imposes state supervisory and registration regulations on customary land management.

In other parts of West Africa such as francophone countries, decentralised land governance has existed since the 1960s but has largely enforced statutory, centralised land tenure ideals at the local level (IIED 1999). In Ghana, though the Customary Land Secretariats (CLS) framework is to promote democratic land governance and reduce land and socio-economic deprivation among landowning communities, the state continues to impose its supervisory, re-



venue, and land registration interests on them. Moreover, most of these secretariats are poorly resourced. To minimise land conflicts, an effective harmonisation of statutory and customary legal and social norms is needed at all levels of land governance.

## Methodology

Using a qualitative approach, this chapter is based on primary data collected in field research in and around Kumasi in the Ashanti region of Ghana. This region was chosen as a representation of customary landowning areas because the Asantehene's Customary Land Secretariat is one of the few that hold strong influence on customary land disposition in Ghana. In this respect, the disposition of customary land in the Ashanti region can clearly be observed from the local level through to the Customary Land Secretariat to the Lands Commission. Situated in the middle of the country, the region is endowed with rich agricultural land that has attracted agribusinesses, hence there is high disposition of agricultural lands. Land ownership at the local level is governed by customary norms, with a clear hierarchy of traditional authority on land, from the town chief up to the divisional chief, then to the paramount chief and to the King (the Asantehene at the apex of the hierarchy). Any land dispositions made by chiefs at the local level must be confirmed and approved by the Customary Land Secretariat and subsequently by the State Lands Commission.

The ontological basis adopted in this study is that land is a construct of the relationships within a specific group. Although land is physically a material product, it is often imbued with sociocultural meanings that influence the relationships between a defined group of people and the land. In recognition of this construction, land in Ghana is clearly defined – physically, socially and culturally – as belonging to a specific group. To this end, the qualitative methodology of this work enabled the researcher to approach land disposition as a reconstruction of community relations, introducing land values other than those of the landowning group. Thus, the methodology traced the processes of land disposition to identify whether land disposition and land governance enforce the harmonious integration of the new values of the investor on the existing sociocultural relations of the landowning community or rather disrupt these relations.

Field visits were conducted from June to August 2022. The visit enabled interactions with the Customary Land Secretariat and the Regional Lands Commission both located in Kumasi. Interactions were also held with the Paramount chief of a customary landowning chieftdom near Kumasi. In addition, primary data was obtained from an agribusiness company located near Kumasi, involved in the production and sale of palm oil on rented land, as well as through an outgrower scheme. Research participants were identified concurrently using purposive and snowball sampling.





## Results and discussion

### Deprivation through legal procedures of land disposition

Drawing from the analytical framework above, which constructs land disposition and related conflict as deprivation, the field data coalesces in different ways to enhance the understanding of current land governance as the deprivation of not only land but also sociocultural values. Ironically, deprivation is inconsistent with the social equity on which customary land tenure is premised.

In the Ashanti region of Ghana, land disposition and governance are predominantly oriented toward efficient adherence to customary and state legal procedures, with minimal attention to sociocultural considerations. This contributes to tensions over land between communities and land investors and deprives people of both land and livelihoods. The strict adherence to legal procedures in the disposition and acquisition of land is described in the field as providing the grounds for land investors to deprive landowners of control and power over their own lands. Ironically, these landowning communities are sometimes outgrowers for and tenants of these investors. A palm oil outgrower farmer lamented that:

Once legal rights are established, land investors assume control of land use and management decisions. They determine what inputs you have to buy, what minimum volume of produce to obtain, and where to sell to; in fact, a lot is happening here that we cannot anymore decide for our lands. But we got into this situation ourselves by the contract we signed which makes the firm think they own our lands. I will get out of this contract soon.<sup>1</sup>

In the quote above, efficiency of the legal process in customary land acquisition serves as the primary basis for the relationship between community members and land investors. This relationship, particularly in rural areas, effectively deprives small customary landowners of their livelihoods. It enables powerful outside actors, such as the state, business investors, and international organisations, to exert control over land (DePuy et al. 2021). Once investors comply with legal procedural requirements, small landowners lose control over their lands and become the recipients of the goodwill of these investors. This is evident in the importance placed on the site plans, cadastres, allocation notes, and title deeds or registered titles for securing land for investors. Yet, this focus on legal procedure remains a central emphasis of land governance today. The individualistic and neoliberal ontologies and epistemologies used by investors to justify land acquisition, legitimised by the legal procedure they follow, differ from those of the landowning communities, further deepening conflicts (Koch et al. 2019). To this end, investors'

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<sup>1</sup> Informal interaction with research participant, July 2022.



capitalist framing and development of land, coupled with continued emphasis on a legal process without consideration for social needs of people, can lead to deepening alienation and challenging socioeconomic conditions for customary landowning communities.

### **Traditional authorities and the state as deprivation agents**

The legal process of land disposition significantly involves authorities over land, both customary and statutory, such as divisional chiefs who issue allocation notes, the Customary Land Secretariats that endorse these notes and issue indentures, and the Lands Commission that confirms and registers the disposition of the land. This process therefore centres on these authorities as key players in the legal framework of land governance and assumes that these authorities automatically share the land benefits of their people. Traditional authorities are implicated in land conflicts and tensions, albeit covertly in the Ashanti region. Chiefs, by virtue of being the allodial holders and custodians of customary land, are often accused by their own community members of siding with the state and investors.

In terms of land governance regarding the disposition of customary lands in the Ashanti region, the process appears smooth during initial negotiations between chiefs and investors. However, when this phase is over, individuals and families who own the usufructuary rights to customary land lose control over the process which becomes more centralised within the Customary Lands Secretariat and the state Lands Commission. Whatever agreements may be reached at the local level between the chief and investor may not necessarily reflect the socio-economic and cultural needs of the larger community. In Ghana generally, however, openly questioning land dispositions signed by a chief can lead to tensions at the community level.

State land agencies like the Lands Commission are also deeply implicated in denying benefits to customary landowners. Ironically, land governance reforms in Ghana, besides favouring the accumulation of control over land by investors, can also be manipulated by the personnel of state land governance institutions for their own benefits. A research participant shared the following experience:

After obtaining the site plan, I proceeded privately to do a search on the land at the Lands Commission. The search I privately initiated for legal ownership of the land, which is a part of the land title registration process, shows that the land was rightly owned by the landowner who “sold” it to me. Subsequently, I applied to the Customary Land Secretariat for endorsement of the indenture to enable me to register my title to land. However, this time the official search on the land by the Lands Commission shows that the land had no layout at all



and could not be acquired. This was contrary to the report I obtained from my private search application. The conflictive search reports reveal that all is not well at the Lands Commission.<sup>2</sup>

Experiences like those of the research participant in the quote above erode confidence in state land agencies to provide avenues for landowning groups and individuals to seek redress to promote their benefits from their lands. As affirmed in the field research, a socially grounded approach to land governance that represents the interests of landowning people is needed to correct these injustices over communities. However, insights such as the one shared by the research participant in the earlier quote are indicative of the challenges that customary land governance continue to face.

In this paper, decentralization is expected to minimize land conflicts. Yet, it does not address the absence of checks and balances on the power of local elites, state institutions, and some traditional authorities. This system still prioritises the legal procedures that facilitate the placement of lands in the hands of investors, thus depriving communities. Nonetheless, some argue that the legal procedural orientation has gained increasing importance in reducing conflicts between landowning groups and land investors (Ibrahim et al. 2020). Amid contestation by community members, this does not, however, guarantee favourable social outcomes, as elites often control the discourse on what is legitimate (Meinzen-Dick 2023).

### **Commodification of land and deprivation of identity**

The commodification of land often benefits only some social groups with the resources to acquire land while excluding the majority of others. Land disposition is constructed in the customary sense as a process to ensure benefits are shared by everyone in the landowning community. However, individual landowners and family members often lack the authority to influence or decide on land economic values. Since customary authorities only manage land on behalf of the individual and groups of community members who are the actual users of the land, the uncritical construction of the relevance of control over land economic values for community people in the land governance process highlights the injustices and deprivation of land disposition.

To be regarded as benefactors, investors compensate individuals and families as usufructuary land users whose lands are disposed of with new land or money. However, this chapter contends that this monetisation of land in the form of compensation monies paid to affected individuals and families, does not compensate for the historical and traditional social identities grounded in land. Regarding compensation in monetary terms in particular, the value of land is further commodified and individualised. Such monetary compensation is paid to

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<sup>2</sup> Informal interaction with research participant, July 2022.



social units or “households”. Yet, in terms of land, the lowest unit is not the “house” of just those who live in a dependent relationship with each other in a dwelling. It is rather a family of people connected historically and culturally to a piece of land. Thus, historical connections to land in the form of identity and belonging cannot be bought, disposed of and compensated for to benefit a unit defined exclusively as individual farmers. The payment of compensation to an individual user removes the land from its communal connection as a resource for the wider family and community, which is guaranteed by custom. Thus, the findings of this paper relating to payment of compensation to individual landowners reinforce the individualised, neoliberal value that investors bring to land, which fails to address the socio-communal value of land. Yet, compensation payments and other distributional and formal legal procedures are viewed as legitimising land disposition and acquisition (Ahmed et al. 2019; Lawry 2014). In contrast, this paper posits that compensation does not qualify as a socio-orientational path to legitimising land disposition and incentivising cooperation between communities and investors. It is for these reasons that even when compensation is paid to landowners, it is almost always inadequate, and conflicts occur.

### **Deprivation is not disposition**

The power of landowning individuals and families is based on historical and communal customs. While these individuals and families may lose their land to investors, they are not completely displaced from their lands nor are they powerless. While they are deprived by such disposal of their lands, they are not completely displaced; historically, culturally, and communally they still lay claim to such lands for their livelihoods. In the communities studied, many community members whose lands are disposed to land investors fight back. Often, the disposition of customary land occurs through the chief and family head without much deliberation with usufructuary rights holding families to seek their consent. Thus, these usufructuary rights holders refuse to go anywhere, remaining deeply attached to their original lands. They confront and contest land investors in various ways, from refusing to sell products to them as outgrowers to protesting their presence in the area altogether. Landowning individuals and families point out that, in customary terms, land is not sold but leased, meaning that they are not displaced from their lands totally as though they lose everything including their identities and belonging to the land. A farmer in a landowning paramouncy in the study area claimed that:

Though the land I occupy may have been taken from me and “sold” to the foreigners, I have an ancestral right to continue to eat from it and to solve my family economic challenges from it. I have not lost the land permanently be-



cause since it belongs to my forefathers, it cannot be taken away completely by anyone. Even if foreigners acquire the land, they must understand that I can also eat from it in any way possible.<sup>3</sup>

The 1992 Constitution of Ghana and the Lands Act, 2020, reinforce the non-freehold status of all lands in Ghana as the research participant in this quote claims. Land investors often respond to this with monetary compensation, but this seldom satisfies the landowning communities, thus conflicts persist (Amanor 2012).

The focus on land disposition as a form of deprivation in the analytical framework of this chapter is significant because it suggests that deprivation can be reduced or avoided through cooperative collective action in land governance. This cooperative interpretation is consistent with the socio-orientational discourse on land governance that this chapter seeks to promote. The chapter calls for investors' understanding and consideration of the social, cultural, economic, environmental, and political interests of communities in their lands. The recognition and satisfaction of these interests need to be pivotal in processes towards land acquisition. This is the social procedural approach to customary land disposition suggested in this paper. It needs to complement the legal procedural approach to enhance the flow of satisfactory benefits from land disposition to customary landowning communities. However, in the commodified land governance context in Ghana, elite capture of land governance poses a serious challenge to this social approach, accelerating deprivation among customary landowning communities (Meinzen-Dick 2023).

While the term "community" is used frequently throughout this paper, it is important to recognise that landowning communities can be highly heterogeneous. This heterogeneity of communities can weaken cooperative and collective action and perpetuate conflict, especially when it is not consciously considered and inequalities for various groups such as youth, women and migrants are addressed. This work acknowledges also that power differences within a landowning community pose an important challenge when implementing the egalitarian principles enshrined in customary land norms. Nonetheless, communal as well as equity values in regard to social, cultural, environmental, and even economic spheres are common in most communities in Ghana. Even if these communal and equity values are not achieved in customary land governance, this may be shortcomings in land governance that can be identified and addressed. In this regard, interventions for checking and balancing power could reduce inequalities, conflicts and deprivation in relation to customary land disposition. Although imposing checks and balances on customary land authorities may be difficult to institute, they are

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<sup>3</sup> Informal interaction with research participant, July 2022.



essential for ensuring that chiefs and powerful actors fulfil their socially and culturally legitimate functions to safeguard the diverse interests and values of the community (Boone 2012). Ultimately, minimising power differences and inequality can promote cooperative natural resources management and equitable flow of benefits to communities.

## Conclusion

The chapter presented key findings that together highlight the lack of a socio-orientational framework for land governance in Ghana:

- i. Land disposition and governance in the Ashanti region are predominantly directed by legal procedures, with limited consideration for a socio-orientational approach.
- ii. Traditional authorities and the state in the Ashanti region are, in some cases, covertly implicated in land conflicts and tensions. Similarly, land governance reforms in Ghana, while leading to the accumulation of power over land by investors, are also manipulated by elites and land governance institutions for their own narrow benefits.
- iii. Customary landowning individuals and families are connected to customary lands as historical and communal assets beyond land as just an economic material. Customary landowning communities have the power to actively challenge and overturn the commodification of land and its unequitable flow of benefits to investors. This power should be harnessed by all socially minded actors in land governance to ensure that customary land disposition benefits the landowning community.

These findings demonstrate that the current focus on a legal procedural framework in land governance is only partially relevant for achieving meaningful transformation in Ghana through harnessing its natural resources. Contrary to the principles of social equity on which customary land governance in Ghana is based, the prevailing emphasis on legal procedures is socially inequitable and unfavourable. However, landowning individuals and families who are deprived of their lands through land commodification are conscious of the fact that they are not completely dispossessed; they can effect a change of the unjust land governance processes for their benefit. On this basis, this chapter contends that landowning communities, though deprived, retain agency and power to fight back to reclaim their rights from land investors. They can be supported by all actors in land governance including policymakers, chiefs, academics, and development agencies, to adopt a socio-orientational discourse and framework to complement legal procedures for customary land disposition and governance. This discourse should emphasise favourable social outcomes as defined by communities, integrating them as part of the legal procedural framework for land disposition and governance.



## Commodification of Land in Dakar (Senegal) and Kumasi (Ghana)

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### **Abstract**

What do grassroots communities do in cities like Dakar (Senegal) and Kumasi (Ghana) when they have settled based on customary norms and regulations but find themselves affected by rapid urban expansion as well as new regulations of the state? This chapter focuses on a case study based on long-term fieldwork conducted in Dakar (Senegal) where the Lebou people are claiming their ancestors' lands in the area of the former Leopold Sédar Senghor International Airport. In addition, the chapter considers fieldwork conducted in Kumasi (Ghana), where most of the land is controlled by chiefs and stools. While the Dakar case reflects a centralist statutory approach to land governance, the Kumasi case shows how the state was able to incorporate customary regulations and to institutionalise them within various procedures. In both cases, however, conflicts were experienced, driven mainly by the effects of land commodification.

Keywords: commodification, land governance, Senegal, Ghana, legal and economic anthropology

### **Résumé**

Que font les communautés locales dans des villes comme Dakar (Sénégal) et Kumasi (Ghana) lorsqu'elles se sont installées sur la base de normes et de règles coutumières, mais qu'elles se trouvent confrontées à une expansion urbaine rapide et à de nouvelles réglementations de l'État ? Ce chapitre se focalise sur une étude de cas basée sur un long terrain mené à Dakar (Sénégal) où le peuple Lebou revendique les terres de ses ancêtres dans la zone de l'ancien aéroport international Léopold Sédar Senghor. En outre, le chapitre considère un travail de terrain mené à Kumasi (Ghana), où la plupart des terres sont contrôlées par les chefs coutumiers. Alors que le cas de Dakar reflète une approche statutaire et centraliste de la gouvernance foncière, le cas de Kumasi montre comment l'État a été en mesure d'intégrer les règles coutumières et de les institutionnaliser dans le cadre de diverses procédures. Dans les deux cas, cependant, des conflits ont éclaté, principalement en raison des effets de la marchandisation des terres.

Mots-clés: marchandisation, gouvernance foncière, Sénégal, Ghana, anthropologie juridique et économique

This chapter uses a legal and economic anthropological framework to explore land governance in West Africa.<sup>4</sup> The contribution aims to describe the dynamics of urban land governance from an empirical perspective and to demonstrate how land governance and usufruct rights are context-bound and subject to commodification and reconfiguration. I analyse the way commodification and usufruct of land are perceived and empirically practised in Senegal (Dakar) and

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<sup>4</sup> Many thanks to the members of the IFG 6 and especially to Susann Baller for the critical thoughts and feedback. In addition to the support by MIASA, this research benefitted equally from sponsorship offered by the Max Weber Foundation in the context of the Transnational Research Group on "Bureaucratisation of African Societies" (GHIP and CREPOS) based in Dakar.



Ghana (Kumasi). Both systems (in Senegal and Ghana) are blurred and conflictual, partly because of the increasing dynamic of neoliberal commodification which amplifies the situation. The chapter does not offer a comparison *per se*, but rather showcases the diversity and pluralism in land governance in West Africa.

The chapter focuses mainly on a case study based on long-term fieldwork conducted in Senegal, where the Lebou people lay claim to their ancestral land, but with little success because of the 1964 centralised *Loi sur le domaine national*. This chapter reflects on ongoing conflicts over the land of the former Leopold Sédar Senghor International Airport in Dakar, illustrating the increasing competition for land and its commodification. When I arrived in Ghana, I participated in smaller-scale collective fieldwork organised by the Interdisciplinary Fellow Group on “Land Governance in West Africa” (IFG 6) conducted in Kumasi.

Recent literature suggests that land governance is moving away from the centralist tenure model towards a localist paradigm which asserts the roles of customary authorities or institutions (Otto and Hoekema 2012; Amanor 2012). This development takes place within a context of the increasing demand for land and the process of land commodification. Land, as well as labour and money, is a “fictitious commodity”, meaning that its transformation into a commodity generates profound social dislocations and that these dislocations generate counter movements for social protection (Polanyi 1957; Levien 2021).

Against this background, both the Senegalese *centralist* statutory approach to land governance and the Ghanaian *pluralist localist* system are undergoing reform. However, state authorities have limited capacity to address demographic pressures, while land speculation is driven by many actors, including state representatives, investors and even grassroots organisations. At the same time, households continue to be evicted by state authorities for projects deemed to be “urban redevelopment” or “public utility”. In return, some citizens are creating associations aimed at fighting eviction and displacement.

The central question of this chapter is how the relationship with land changes. This question refers to the issue of what grassroots communities do in cities like Dakar (Senegal) and Kumasi (Ghana) where they once settled based on customary/endogenous norms and regulations, but were then caught by the speed of spatial expansion in the city as well as new state regulations. Inspired by the publication “Competing norms: State regulations and local praxis in sub-Saharan Africa”, edited by Mamadou Diawara and Ute Rösenthaller (2016), this topic refers to the interplay of power, legality and legitimacy in the context of urban sprawl and contestation. It addresses the bureaucratic practices employed by the state to control the city, as well as the grassroots movements that interestingly employ the same practices to claim their rights. Catherine Boone (2015: 173) asserts:





Land tenure regimes can be understood as varying across subnational jurisdictions (rather than as invariant across space) in ways that can be grasped in terms of a conceptual distinction between neo-customary and statist forms (rather than as infinitely diverse). Differences between the two have implications for the character of political authority in the rural areas, the nature of political identities and community structure, and the nature of property and land claims.

Building on this statement, this chapter aims to move beyond the dichotomy between the “neo-customary” and the “statist”, focusing instead on a diachronic analysis of the phenomenon (Doumbia 2018a). As the data in this chapter shows, civic organisations in Dakar (*Association des jeunes Lébou de Dakar*) and Kumasi (Customary Land Secretariat) join forces with local communities to achieve decolonisation, sustainability (Amanor and Moyo 2008) and social justice in land governance.

Land governance in Senegal is based on state ownership which was introduced during the French colonial era and reinforced after independence with the *Loi sur le domaine national* in 1964. Nonetheless, urban land governance in Dakar is characterised by a bureaucratic “imbroglio” and significant variation in the processes for accessing land through national, regional and municipal institutions and regulations, as well as grassroots communities (urban dwellers/residents of different places). Since independence, land governance in Senegal has been at the heart of every governments’ politics. Thus, the former government of Macky Sall also undertook a series of urban redevelopment measures, calling for a Senegal that “emerges in 2035, with a united society, in a rule of law”.<sup>5</sup> The Emerging Senegal Plan (EPS) included plans for creating housing infrastructure and putting an end to the occupation of land without a formal permission. While state officials appear to have a clear idea of what they consider the “illegal” occupation of urban land, the reality on the ground relating to the different logics of ownership is much more complex.

In contrast, the usufruct right of land in Ghana is based upon the idea of common land ownership (stool, skin, family) (Land Act 1958). The 1992 Constitution of Ghana states:

The state shall recognize that ownership and possession of land carry a social obligation to serve the larger community and, in particular, the state shall recognize that the managers of public, stool, skin and family lands are fiduciaries charged with the obligation to discharge their functions for the benefit respectively of the people of Ghana of the stool, skin or family concerned, and are accountable as fiduciaries in this regard.<sup>6</sup>

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<sup>5</sup> “About the ESP”, online: <https://www.senegal-emergent.com/le-pse/> (accessed on 5 Sept. 2024).

<sup>6</sup> Article 36 (8) of the 1992 Constitution of Ghana, see for the full text: [https://lawsghana.com/constitution/Republic/constitution\\_content/41](https://lawsghana.com/constitution/Republic/constitution_content/41) (accessed on 5 Sept. 2024).



Stefano Boni (2008: 90) contextualises this statement critically in more detail:

This exercise of fixation and codification was presented by the colonial administration as a mere continuation of pre-colonial custom. A close look at the context and motive of the demarcation indicate that the evocation of tradition was, from the start, a strategic and rhetorical mystification.

Accordingly, Boni questions the idea of tradition, as elaborated in the Land Act of 1958. His argument concerns, in particular, the places in the Greater Accra region where colonial power was concentrated. Overall, “stools” and “skins” can be described as public corporate authorities who hold what is called the “allodial” title to all unoccupied (i.e. not actively farmed) land in their traditional areas.

### **Belonging in the context of land governance in Dakar**

The Dakar peninsula covers the area from the Atlantic coast in the west to Thiès in the east, including the cities of Dakar and Rufisque and other towns. The French colonial administration first used Dakar as a port and then made the town into the capital of the entire French West Africa in 1902. This had a strong impact on the way the Lebou people were able to handle the land on which they were living. Lebou villages at the site of the old Dakar (now Plateau) were incorporated into the city’s fabric. After independence, urbanisation accelerated in Dakar, which had become the capital of Senegal in 1958. The implementation of the *Loi sur le domaine national* in 1964 further complicated the situation for the Lebou people on the peninsula (Doumbia 2024).<sup>7</sup> In fact, after independence, Senegal partly retained its colonial legislation and reinforced some of its centralising tendencies, with the aim of consolidating national integration into the state (Le Roy 2018, Lavigne Delville 1998, Doumbia 2018b). Land was officially recorded (matriculation), which led to the formal abolition of customary systems. Customary authorities were denied any official responsibility, as stated in early 20th century documents on land tenure, apart from conflict management in, for example, Niger, Mali and Burkina Faso.<sup>8</sup> Since then, legislation has been based on legal principles and a conception of law that is fundamentally out of step with customary principles and the land tenure practices of local people.

Eventually, this situation created a context of legal plurality, where different, incompatible norms overlapped. The Senegalese Ministry of Urban Planning recognises just two categories of landowners, “regular” or “irregular”: only the holders of a land title, an occupancy permit or a long-term lease are considered regular owners. From the implementation of the *Loi*

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<sup>7</sup> Part of this ethnography was published in Doumbia 2024.

<sup>8</sup> Archives Nationales du Sénégal, L 30-Régime de la propriété foncière et du domaine public à Dakar-1896-1917.



*sur le domaine national* onwards, land that individuals had not registered was automatically considered state property, despite the fact that when the law was introduced in 1964, most inhabitants of Lébou villages and neighbourhoods had no school education and did not read or write French. Consequently, their lands were not registered, although a few Lebou elders took advantage of this regulation in order to appropriate even more parcels of land. The fields that used to surround the traditional villages became urban expansion zones, to the point that they became part of the city (Sidibé 2015). This chapter examines the case of the three Lebou villages, Ngor, Yoff and Ouakam (see map below).

### **Fieldwork in Dakar: Lebou narrations of belonging**

The emergence of social movements and associations of evictees in Dakar in relation to land governance can be understood as an attempt by the state to control the commodification of land (legal references). In contrast, local communities (and chiefs) aim to maintain and regain their access to land and to draw benefits from this commodification. Many people are frustrated owing to their lack of land tenure security, which contributes to the growth of social movements.

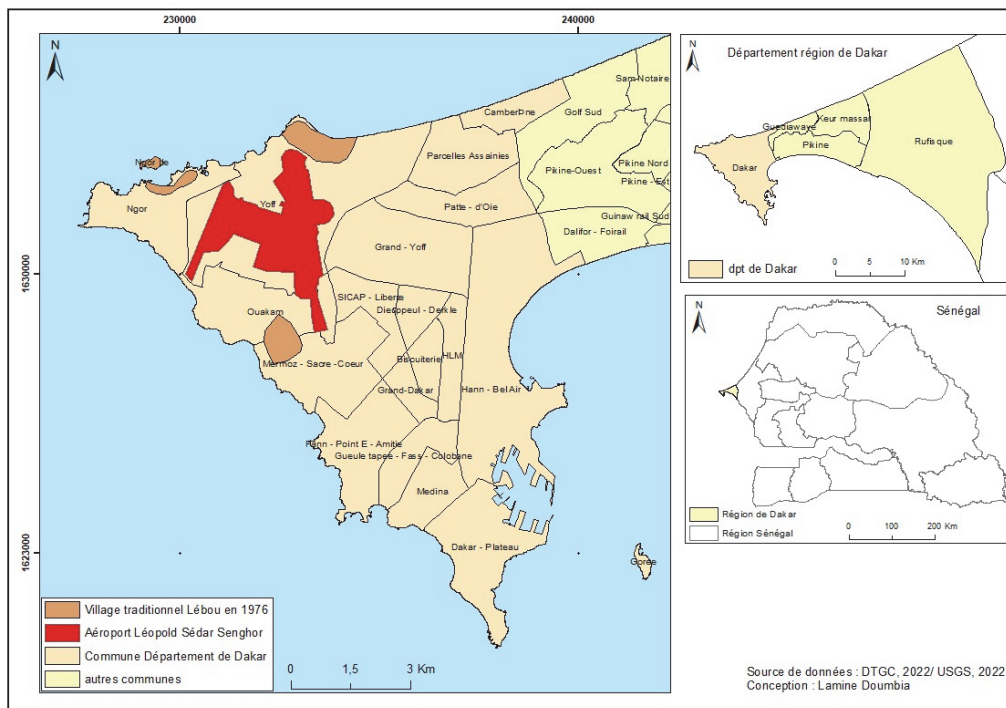


Figure 1: Direction des Travaux Géographiques et Cartographiques (<https://dtgc.au-senegal.com/>), United States Geological Survey (<https://www.usgs.gov/>), design by Alpha Diagne



The Lebou people of Ngor, a village in the northern part of Dakar, and the Senegalese government are in conflict over the land on which the former Léopold Sédar Senghor International Airport is situated, which has not been used for commercial flights since 2017. The airport site, formerly used for international flights, is highly coveted, with the Lebou community claiming that the site belongs to them and seeking to have the land returned. The airport was initially built as a military facility during the Second World War. In interviews, members of the Lebou community from Ngor, Yoff and Ouakam explained that the French colonial administration had made agreements with their forefathers to acquire the airport site through a requisition process, while the colonial authorities demanded the use of the area through an official decree.

Various Lebou communities claim to be autochthonous to Dakar. According to Papa Demba Fall (1986), the Lebou are an ethnic group that arrived in Dakar from Cayor, Bawol and Djollof in the 15th century, settling on the fertile Cap Vert Peninsula. The historian, Mamadou Diouf (1990), suggests that the Lebou arrived later in this geographical area, and some of my interlocutors noted that the Mande people were already there but left when Lebou people started settling in the area. Despite the complex history of Lebou settlement in the Dakar area, Lebou communities assert their status as “first-comers”, which they believe justifies their right to land ownership across the Dakar peninsula.

As land values have increased due to urban sprawl and population growth, interest in land from both state and non-state actors has intensified. The former government of President Macky Sall planned to develop a West African Central Business District on the site of the Léopold Sédar Senghor Airport in collaboration with the Moroccan government. However, the Lebou communities have asserted their claims to their ancestral land and have defended what they perceive as their rightful ownership. In Ngor, the Lebou people I talked to characterised the state approach (*Loi sur le domaine national*) as “suufu maam amatul” (Wolof: the ancestors’ land no longer exists), to which they respond: “seen maam dafa amul suuf famu dekk” (Wolof: your ancestors do not have land where you live).<sup>9</sup>

During my last field trip to Dakar in July 2022, I observed that young Lebou families were occupying some areas on the outskirts of the airport site without formal permission. They explained that the state should allow them to settle there as their villages around the airport lacked space. One interlocutor, Mrs Ndiaye, expressed this as follows: “Naa Koon, laa Koon, faa koon: Ceux ce jadis, pour la cause de jadis, à l’endroit de jadis” (Wolof and French: Those of the

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<sup>9</sup> Quotes from the archives of the president of the *Association des jeunes Lebou de Dakar*.



past, for the cause of the past, in the place of the past).<sup>10</sup> This quote highlights the way the Lebou people narrate their own history, and illustrates the strong connections they claim to the land of their forefathers.

According to Mrs Ndoye, a retired teacher, the village of Yoff was originally called Yoffi-Guethie because its inhabitants primarily produced palm wine. The area from Yoff to what is now called Médina (close to Dakar's original city centre) was once full of palm trees. Mrs Ndoye further explained that the name Ouakam takes its origins from the time when the Socés (Manding people) abandoned the village of Mbokhèkhe and settled in the fields of Kaam, with the people then becoming known as *Waa Kaam* (people of Kaam). During a conflict in Mbokhèkhe, Mrs Ndoye explained, those who decided to remain neutral founded the village of Ngor (meaning "noble").<sup>11</sup> The three villages, Ngor, Yoff and Ouakam, are connected through kinship. Owing to the urbanisation and significant demographic pressure that affect the Lebou, they defend themselves socially and politically against potential displacement and expropriation by the state's commodification policies and land grabbing.

### **Actors and contestations**

The Senegalese *Loi sur le domaine national* of 1964 was inspired by and based on the French colonial code, which states: "les terres vacantes et sans maîtres appartiennent à l'État" (see also Diawara 2012: 69), reflecting the principle of political alienation (Doumbia 2018b). The law asserts that "the state owns all vacant land in the country", which grants the state the property rights to use land as an instrument of political domination over the population. This has led to the commodification, entitlement and privatisation of land in the sense that land, or the soil, is assigned a monetary value based on the metric system of measurement for individual property.

Meanwhile, keeping the land within the national domain is a bureaucratic attempt by the state to protect it as public heritage. Under the colonial administration the techniques for land holding were limited to individual property rights. The proclamation of the Code Faidherbe in 1865 recognised only regular (individual) ownership titles (RocheGude 1982: 144), excluding customary (communal) land appropriation, which was the norm for precolonial land regulation. This contrasted with the provisions of the *Code civil français* (see Diawara 2012: 77). In 1906, the former French West Africa introduced matriculation as a compulsory document for individual ownership (see RocheGude 1982: 145), despite the persistence of customary regulations based on communal land ownership.

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<sup>10</sup> Interview with Mrs Ndiaye in French and Wolof in Ngor, 13 July 2022.

<sup>11</sup> Interview with Mrs Ndoye in French and Wolof in Ngor, 12 November 2021.



As the demand for urban land and housing increased, the supply diminished within the colonial and postcolonial systems of state intervention. The 1964 land proclamation, which aimed at nationalising land (the “Etatisation”, i.e. nationalisation), attempted to fully monopolise access to urban land. Yet, this has never been fully achieved. Julia Eckert, Andrea Behrends and Andreas Dafinger (2012: 15) note that “new regimes of governance today emerge in connection with the effects of globally induced structural reforms”, which include land and property reforms and transnational economic and legal reforms.

Mr Ndiaga Samb was president of the “Jeunes Lebous” of Dakar from 1985 to December 2020, when he passed away at the age of 75 years. In November 2020, in an interview at his residence in the village of Yoff, he explained how he conceived of the Lebou’s land ownership on the Dakar peninsula:

When you arrive in a forest ... nobody lives there. Then you cut down the trees, you clear, you clean and you occupy. There is space, you live, you cultivate for 10 years, 20 years, 50 years, 70 years ... The grandfather of the family goes away, the father stays and when he also leaves a family, and then it is the elder who manages. That’s why I say that the land is passed on from great-grandfather to grandson. This is where the word property comes from. Ownership goes to the one who set the fire, who is unleashed, who lived on it, who cultivated it, so to speak, the one who developed it. That’s where the word property comes from.<sup>12</sup>

In an interview with the Freys, a traditional Lebou government or court for intercommunity affairs, the general secretary explained: “We have not been colonized. The colonizers had a tacit agreement with us. The land of the airport was loaned by requisition in 1940 by our ancestors to the Americans”.<sup>13</sup> When I asked if they had a copy of this requisition, they indicated that it could be found in the archives of Nantes in France. In another interview, Mrs Ndoye (mentioned above) also talked about the good relations between Lebou people and the French colonisers. She explained that Léopold Sédar Senghor, the first Senegalese president, imposed the *Loi sur le domaine national* in 1964 because he was not from Dakar and had nothing to lose. In addition, Mr Ndiaga Samb argued in an interview with me that Mamadou Dia, who served as prime minister of Senegal until he was arrested in 1962, had planned a different version of the law, but this version was discarded after he was accused of attempting a coup d’état.

With the *Loi sur le domaine national* in effect, all land is considered part of the domain national, a framework that analytically shapes the dynamics of power through ethnicity, belonging and autochthony, as noted by Carola Lentz (2013: 166–211) in her observations on

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<sup>12</sup> Interview with Mr Ndiaga Samb in French and Wolof in Ngor, 10 November 2020.

<sup>13</sup> Interview with the Freys in French and Wolof in Ngor, 12 November 2021.



Ghana and Burkina Faso. For the Lebou people, autochthony is the main argument for their claim to the land of Dakar. However, the claim to autochthony is not the only form of belonging that people recognise in the current global context as it is dynamic and subject to change, much like religious identity. Peter Geschiere (2009: 2) states: “Yet, certainly to its protagonists, autochthony – the special link to the soil – seems to have some sort of primordial quality”. Geschiere highlights the “perils of belonging” emphasising that the notions of autochthony and allochthony are social constructs, especially in the context of francophone West Africa, where the term “autochthonous” was introduced around 1900 during the expansion of the French empire.

### Case study: Belonging and land governance in the context of Ghana

Unlike the case in Senegal, with its centralistic land tenure system, land in Ghana belongs mostly to the customary chieftaincy and/or families. The communal ownership system places usufruct rights in the hands of the chiefs, empowering them to administer lands in trust for their people (Yankson 2021). The British colonial authorities sought to upend this system by interfering with native rights and ownership, albeit with limited success (Amanor 1999; Brobbey 2019; Yankson 2021). Ghana’s land tenure system is characterised by its pluralism which involves customary, statutory and commercial holding. Therefore, only an estimated 20% of land ownership is directly controlled by the state. This limited state ownership results in a high level of land fragmentation, posing challenges for coherent physical planning (Narh et al. 2016; Yankson 2021). This is illustrated in the following interview that the author conducted together with other IFG 6 members at the regional lands commission in Kumasi: “We wish that the State owns all land and control the access and management to avoid conflicts and chaos”.<sup>14</sup>

The case study conducted in Kumasi (Ashanti region) is inspiring, as land falls under the jurisdiction of the Asantehene (the King), who enstools the paramount chiefs (Amanhene). The paramount chiefs, like the Asantehene, enstool the sub-chiefs (Odikro) to manage their lands. The plural systems of customary land tenure are based on a lease of 99 years, with no alienation or sale of land because it is supposed to revert to the community. The registrar of the paramount chief of Kumasi explained to us: “There are 35 traditional areas (stools) in the Ashanti Region that are governed by the paramount chief and 500 division chiefs (Odikro)”.<sup>15</sup>

The divisional chief (Odikro) acting under the paramount chief, is responsible for issuing an allocation note to the person seeking to acquire a plot of land. This note is accompanied by the cadastral plan provided by the regional lands commission, with the stool covering the fees.

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<sup>14</sup> Interview in the regional land commission, Kumasi, 24 June 2022.

<sup>15</sup> Interview with the registrar of the paramount chief of Kumasi, Kumasi, 24 June 2022.



After the demarcation, one third of the demarcated land is allocated to the Asantehene. The remaining half of the total demarcated land is divided into five parts: one is given to the stool, one to the stool elder, one to the occupant of the stool, one plot is given for the development of the town and one is given to the expropriated family as compensation.

However, this process is no longer followed. Nowadays, the Asantehene gets the value of one third of the demarcated land in money and the rest is prepared for lease. As a result, conflicts emerge among the actors. Boundary demarcation causes many conflicts between stools, with two or more stools fighting over the trespassing of boundaries. However, the Asantehene is respected as a referee and there is mutual accountability between the Asantehene and the people. Nevertheless, in collaboration with the lands commission the Asantehene can evict a group of households in favour of an investor for reasons of public utility. This is very common when mineral resources are discovered or the state decides to develop an area. Consequently, the land tenure system in Kumasi inspired promulgation of the new Land Act 2020 which encourages all stools or skins and families to create a Customary Land Secretariat to work permanently with the regional lands commission. The purpose of this is to organise land tenure in such a way as to avoid conflict.

I was given first-hand information on conflict over land in Kumasi at the Manhiya Archives by a colleague from the Institute of African Studies archives. The colleague reported a problem with demarcation, as well as one relating to a confusing decision by different chieftaincies despite the colleague being in possession of a proper document from the Kumasi lands commission. Many other cases related to conflicts over boundary contestations have been reported to the Customary Land Secretariat. The officer employed there, who works for the Asantehene, is a graduate of legal studies whose research focuses on land tenure. This institution is collaborating with the regional lands commission to fix problems related to demarcation and other land conflicts.

### **Discussions and outcomes: Legal pluralism and commodification**

The main innovation in land administration in Ghana has been a move away from a focus on land titles and registration in state-run cadastres to the community management of land and the registration of customary rights (Amanor 2008a; 2008b). In Senegal, on the other hand, the state claims to be the guarantor and owner of the land in its administrative texts and enforcement practices. Populations are often expropriated and displaced by state public services for purported “development” reasons. As a result, these communities challenge and contest the enforcement of these policies.





### **Land governance and conflict**

Why all this conflict? As we have seen, the way the state organises land tenure is challenging. In Senegal, land tenure is regulated by a legal framework. However, there is a noticeable deficit in the capacity to implement this legislation. Additionally, there are still traditional villages within the city of Dakar whose residents claim ownership over vast tracts of lands on the peninsula based on a different conception of land tenure than that promulgated by the state. Alongside these varying understandings of who owns which land and how, commodification emerges as another major issue contributing to widespread conflicts. While it is not the only reason, it does have a significant impact. Land is an important resource that, in a neoliberal context, is used as an instrument of economic and political power.

People have societal customs and the ability to organise and be organised within the framework of rights and regulations they identify with and treat as law (Tamanaha 1963: 313). Sally Falk Moore (2000: 78) argues: “The law (in the sense of state-enforceable law) is only one of a number of factors that affect the decisions people make, the actions they take and the relationship they have”. This appears apt in the Ghanaian system of land governance. Different systems of land tenure exist that both institutionally and practically work together for the benefit of the people. However, the increasing neoliberal commodification remains a significant challenge.

Legal pluralism and its consequences for the legal order and power of the state are currently at the centre of debates (von Benda-Beckmann 2008: 58). Thus, in terms of land tenure, this is not new. Land has always been a matter of political domination. Evidence of forum shopping (von Benda-Beckmann 1981) can be observed not only among non-state actors but, interestingly, also among state actors as they negotiate under specific circumstances. Adopting “juridicité” as a land tenure-based approach, Étienne Le Roy (2011) describes how the plural social, political, juridical as well as economic norms and rules are not static.

Moreover, the current project emphasises the actors’ points of view which I encountered in the field beyond and within the state. Taking a pluralistic perspective on land tenure in Africa, it is possible to explain how and why the issue of land tenure/governance is deadlocked in Dakar and West Africa in general, in the sense that it is a permanent source of conflict and crisis between different social actors. The following questions arise: Are grassroots actors and chiefs opposing the state, which monopolises all right of ownership on land? Should the endogenous or customary forms of land rights be codified and integrated into urban land practices with the aim of involving as many citizens as possible? The customary perception of land is based on its inalienability. This means that access to land is regulated by the notion of appropriation, which implies a “revolution of the common” (Le Roy 2016: 3). Prior to the arrival of the era of land commodification, access to land was regulated on the basis of the idea of land as a collective, common resource.



The interpretation of the field data, particularly the competing perspectives of the diverse actors, highlights the way grassroots communities engage with policies related to their everyday concerns. Moreover, the results of this research reveal a significant need for empirical research on the state and society to capture the everyday interweaving of social organisations, groups and individuals and the state itself, which is permanently “at work” (Bierschenk and Olivier de Sardan 2014).

This case study resulted from a long-term field study conducted in Senegal, where the Lebou people assert their claim to their ancestral lands, and a shorter study in Kumasi (Ghana). The Ghanaian case illustrates how the state successfully incorporated customary regulations with clear procedures. While I am aware that conflicts over the commodification of land and its increasing value still persist, I find it interesting to see how land can be managed differently from the way it is done in Dakar, and I wonder if such an approach could be introduced in Senegal. However, it has to be acknowledged that the situation in Dakar is totally different. The organisation of the Lebou in Dakar is not hierarchical, as is the case with the Asantehene in Kumasi, and they have become a minority within the urban fabric of the Senegalese capital city. In addition, other people who live in Dakar do not consider them to be their legitimate representatives, as would be the case with the Asantehene in Kumasi. The strongholds of the Lebou in Dakar are their former villages, three of which are located near the airport. This presents an opportunity to reclaim what they consider their lands, especially as the neighbourhoods surrounding the airport become increasingly densely populated and land values soar.



## Land Tenure for Women in the Kita Region (Mali)

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### **Abstract**

Access to land and its management are closely linked to specific social, cultural and political contexts (Monimart and Tan 2011). In most African countries, women have very unequal access to land compared to men (Manji 2006). This is also the case in Mali, where extreme environmental conditions add to gender inequalities, thus reinforcing existing discrimination against women (Tounkara 2015). Since the 1990s, multiple initiatives have promoted policy reforms in Mali, including land commissions, national land policies and new land laws. These reforms have been aimed at liberalising the land tenure system in Mali and, at the same time, enabling marginalised groups (women and young people) to fully enjoy their land rights. In analysing this reform process, it is possible to observe efforts to introduce more democratic and inclusive access to and governance of land. However, in spite of the efforts made by various actors, the situation of women in the district of Kita (Mali) has been less than satisfactory.

Keywords: Mali, governance, decentralisation, land tenure, reform process, women

### **Résumé:**

L'accès à la terre et sa gestion sont étroitement liés à des contextes sociaux, culturels et politiques spécifiques (Monimart et Tan 2011). Dans la plupart des pays africains, les femmes ont un accès très inégal à la terre comparé aux hommes (Manji 2006). C'est aussi le cas au Mali, où les conditions environnementales extrêmes s'ajoutent aux inégalités de genre, renforçant ainsi les discriminations existantes à l'égard des femmes (Tounkara 2015). Depuis les années 1990, de multiples initiatives ont encouragé les réformes politiques au Mali, y compris les commissions et politiques foncières nationales ainsi que les nouvelles lois foncières. Ces réformes visaient à libéraliser le système foncier au Mali et, en même temps, à permettre aux groupes marginalisés (femmes et jeunes) de jouir pleinement de leurs droits fonciers. En analysant ce processus de réforme, on observe des initiatives visant à instaurer un accès et une gouvernance plus démocratiques et inclusifs de la terre. Cependant, malgré les efforts déployés par les différents acteurs, la situation des femmes dans le district de Kita (Mali) reste peu satisfaisante.

Mots-clés: Mali, gouvernance, décentralisation, régime foncier, processus de réforme, femmes

This chapter analyses women's access to and governance of land. It aims to answer the following basic questions: How do women access agricultural land? What are the underlying dynamics in unequal access to agricultural land? And how can land governance become more democratic and inclusive? To answer these questions, this chapter focuses on Kita (Mali), a predominantly rural district located approximately two hundred kilometres west of Bamako that includes a town of around 50,000 inhabitants. In this study, it should be noted that the district of Kita comprises both urban and rural areas, in which land access and governance is practised differently, in particular in regard to gender. The data was collected from ten semi-structured interviews which were conducted in July 2022. In analysing the data, the author



benefitted from earlier research in the region and used a large volume of literature on the subject. The qualitative method allowed for the gathering of information on the sociocultural practices of the “terroirs”, i.e. the specific social, cultural and political contexts related to space, and how social actors in Kita deal with agricultural land. The chapter considers the question of how certain societal norms that subordinate the status of women are perpetuated. In addition, it explores the dynamics that are generated by land reforms and other actions for achieving more equitable access to and governance of land. As this chapter argues, the literature on land tenure must integrate this dimension, as well as the sociocultural and religious constraints that are used to exclude or limit women’s access to land. The chapter is based on preliminary research, which further explains and also exploits the literature on the subject.

### The role of agricultural land in Kita (Mali)

This section describes the general situation of land tenure in Mali, focusing on the district of Kita and considering, in particular, agricultural land. Mali’s territory is vast (an estimated 46.6 million hectares), including many specific land types and great agricultural potential (around 12.2 million hectares is agricultural land, while 2.2 million hectares comprises cultivable and floodable zones).<sup>16</sup> Literature on land tenure in Mali in general and agricultural land tenure in particular recognises that the country has an agropastoral inclination where the land tenure challenges known elsewhere in West Africa are particularly acute (Chouquer 2009). These challenges particularly concern climatic hazards.<sup>17</sup> Their impact is significant, because family farming remains the main source of employment and income for the overwhelming majority of the population, and it serves as one of the main pillars of the country’s food security. Moreover, women play an important role in farming, which often serves as families’ primary of income (see also Sow 1995).

Mali’s economy is largely based on the primary sector (agriculture, livestock, forestry and fisheries) which employs more than 80% of the active population and contributes on average 40-45% of GDP with an average growth rate of 3.6% per year.<sup>18</sup> Moreover, the way in which land is acquired is also influenced by the way the Malian rural and agricultural world is characterised by increasing multidimensional conflicts, not only agropastoral conflicts, but also on the intra-family and inter-community level.<sup>19</sup> The *Loi d’orientation agricole* (LOA, translated

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<sup>16</sup> Report, Minister of Agriculture Politique Foncière Agricole du Mali, May 2014.

<sup>17</sup> The country is divided into five major hydro-climatic zones and a number of socio-fiscal zones can be identified which do not, or only partially, overlap with this climatic zoning.

<sup>18</sup> Agricultural Land Policy in Mali, May 2014. According to the first paragraph of Article 7 of the Agricultural Orientation Law devoted to definitions, the term Agricultural, with a capital ‘A’, designates everything related to the subsectors of agriculture, livestock, fishing and forestry.

<sup>19</sup> Voir Les notes de synthèse sur foncier et développement, N°30, Mars 2020, produit par le Comité technique de la coopération française



into English: Agricultural orientation law), released in 2005, and the *Loi sur le foncier agricole* (LFA, translated to English: Law on agricultural land), issued in 2017, consider this context without really being able to define a unique right. The need for women's rights in land governance has been an ongoing issue (Diop Sall 2011). This makes a study on the Kita district also relevant for the broader context of land governance in Mali and beyond.

Kita is located in one of the regions in Mali that is suitable for agriculture, particularly rice plantations. Rice is grown in various ways (controlled flooding, total water control, free flooding, rainfed) (see Benoit 2021). With a surface area of 35,250 km<sup>2</sup>, the Kita district has several thousand hectares dedicated to industrial agriculture, that is, cotton used by the Malian Company of Textile Development. In 2021, more recent development schemes of more than 700 hectares were introduced to help communities cope with the adverse effects of climate change. The agricultural potential of the Kita district is, however, threatened by the rapid growth of mining operations. Women in the region mainly practise market gardening using irrigation. New agricultural techniques promote income-generating activities for women, who have been encouraged by reforms in the legal framework to access agricultural land in Mali, to the extent that Kita remains the pilot region where the land laws have been implemented and land commissions set up.

### Legal framework and customary practice in land access

The legal framework is based on national and international frameworks, as well as customary and traditional access to land. A few national texts favour women's access to land. These include the constitution of February 1992, the Agricultural orientation law (LOA), and the Law on agricultural land (LFA), Mali's general land policy and the country's national gender policy. In addition, Mali is a signatory to sub-regional and international instruments such as the United Nations' Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979), and the Maputo Protocol (2003), among others. These mechanisms indicate that a legal framework exists which is favourable for women's rights, including land rights. However, the objective of a balanced and fair society with regard to the access of men and women to land resources expressed in these regulations remains a major challenge on an everyday basis.

Among the national texts, the LOA and its revisions encourage access to agricultural land by women and young people. The law stipulates equality between women and men in regard to access to land and natural resources. However, in practice, there is still a significant gender gap in access to and the governance of agricultural land. For example, article 24 of the act stresses that the state shall give priority to the settlement of youth, women and vulnerable groups as farmers. When women were asked during the field research about the advantages granted to them by the legal regulations, they were mostly unaware of the existence of these laws, but mentioned how much the sociocultural organisation in the Kita district affected their



access to and management of land. A male farmer commented this in the following way: “Here, all the land belongs to men. We (the men) are allowed to cultivate our field but when women want to occupy it, they simply take it away from us”.<sup>20</sup>

In the collective imagination of the people in the area covered by this research, land is highly symbolic and remains an exclusively male affair in terms of governance. Women may therefore have access to land in their capacity as simple farmers, but when it comes to ownership, they are kept at a distance because of social or religious considerations. The Law on agricultural land (LFA) was introduced in 2017 to clarify the framework of the LOA. The LFA has created a new legal framework that strengthens customary land rights, improves governance, strengthens women’s rights and makes it easier for rural people to understand the legal regulations and procedures connected to them.<sup>21</sup>

Even though the Malian constitution prohibits gender discrimination, it is traditionally very difficult for women to own land. Usually, they only have temporary land use rights, which can be withdrawn at any time. The new legal frameworks recognise the right of rural communities to collectively own some land on the basis of customary law, which has rather undermined women’s security in land tenure, because they are disadvantaged by some of these customs and traditions. The intersection of “legitimacy” and “legality” has not been sufficiently addressed in order to consider the divergent realities of the different actors in place. Moreover, this raises the difficult question of whether the state, by the mere force of legislation, can undo the local and privilege a purely institutional approach everywhere (Moyo et al. 2015). This question is particularly relevant here, given that the logics of the “terroir” in the Kita district make it difficult for legislative texts to promote women’s rights effectively. One explanation for this is the fact that there is no coherent link between the local and the institutional level. Can the traditional approach to land access and governance be dissolved in the institutional approach? The contrary is often true, as the institutional method is widely undermined by cultural (or traditional) practices. In rural contexts, the gender discrepancy in land access is even more pronounced than in urban ones.

In the district of Kita, the legal regulations (LOA and LFA) which recognise customary practices have contributed to marginalising and discriminating women in terms of access to and the governance of land. As customary practices do not have the same conception of property as the laws, it is evident that the legal regulations themselves contain the seeds of the

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<sup>20</sup> Interview with a farmer, Kita, June 2022.

<sup>21</sup> According to this act (Assemblée nationale du Sénégal, loi n°2017-001, 11 April 2017) Article 13 states about agricultural land that the state and local authorities shall ensure that the different categories of farmers and promoters of agricultural enterprises have equitable access to agricultural land. Moreover, at least 15% of state or local authority land developments shall be allocated to women’s and youth groups and associations located in the area concerned.



discrimination, since women, although very active participants in the socioeconomic development of the family, are still culturally considered as being at the service of men, who in the customary conception remain the head of the family, and therefore the sole master and possessor of the means of production and goods, particularly land.

These realities are mainly valid in rural contexts and depend on the specific local characteristics, as perceptions of land tenure from a gender perspective are undergoing transformation in urban centres. The interviews showed that land tenure in urban areas is more affected by market logic than by any other form of domination or social stratification, as one interviewee underlined: "For example, in Kita town, a woman can buy a part of a house for her personal use in the same way as a man, because the logic behind land tenure remains commercial".<sup>22</sup>

### State actions and women's organisations

In collaboration with local communities, decentralised state institutions and municipalities aim at achieving a common understanding of the legal frameworks related to land tenure and, by extension, to contribute to efforts to reduce discriminatory practices against women in access to and management of agricultural land.<sup>23</sup> They thus promote the idea of more equitable and democratic societies in favour of all people without distinction, but also measures and policies in favour of gender equality by coordinating various actors involved in gender issues through capacity building and awareness raising sessions, as well as via community radio programmes and social networks. For this purpose, a framework for consultation has been set up, bringing together technical services, non-governmental organisations, civil society organisations and women leaders. The members of the framework meet quarterly to discuss the results of activities, problems and possible solutions. As one respondent put it:

The issue of gender equality in general is not easy to address in the district. Legislative measures alone are not enough to change behaviour. We need to plan more advocacy activities aimed at local and national authorities, capacity building and awareness raising for communities to ensure women's access to land. It is also important to work on certain tools such as girls' education in order to help raising their level of schooling and help women to become economically autonomous.<sup>24</sup>

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<sup>22</sup> Interview with a woman leader in the Kita region, July 2022.

<sup>23</sup> Interview with a member of a non-governmental women's organization, July 2022.

<sup>24</sup> Interview with female staff from the Department for the Promotion of Women, Children and the Family in Kita, July 2022.



Civil society organisations, including women's organisations, carry out a number of activities related to gender issues, in particular awareness and information campaigns aimed at women, with a special emphasis on those living in rural areas. Most of these activities are oriented towards preventing gender-based violence in the Kita district. Economic rights are less considered, as this respondent explained:

The issue of women's access to land is complicated in the Kita region because mentalities resist and struggle to tolerate the visible presence of women in land issues because of social and cultural constraints. However, there is still hope with the efforts made by women's organisations, development partners and even the state.<sup>25</sup>

Asking about the political, legal and institutional frameworks related to gender and social inclusion during the interviews also contributed to increased awareness of gender issues in land governance among respondents. While some respondents did not seem to know the political or legal framework for gender mainstreaming at the communal level, others were familiar with this framework. However, in the overwhelming majority of cases, the knowledge was limited to the CEDAW, the Malian constitution and the country's national gender policy. The interviews also showed that despite the adoption of gender-sensitive texts, the lack of mastering and appropriating them by a certain number of actors, including women leaders, public officials (state and civil society organisations) and women's and youth associations, constitutes a major challenge for a more inclusive and democratic land governance. In fact, one of the central articles of the Malian constitution is still far from being applied in everyday practice: "All Malians are born and remain free and equal in rights and duties. Any discrimination based on social origin, colour, language, race, sex, religion and political opinion is prohibited".<sup>26</sup>

## Discussion and conclusion

The social realities for women are not only challenging for women in Kita, but for almost all rural women in Mali. Jessica Nardone (2007: 43) illustrates this perfectly:

Women do not generally own land. A woman is always given a piece of land to cultivate, but it belongs to her family or her husband's family. Customary law is a barrier to women becoming landowners like men ... The role of women in agriculture is very important, but the head of the family is responsible.

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<sup>25</sup> Interview with a local councillor from the Kita district, July 2022.

<sup>26</sup> Quoted from the Malian constitution, see for the full text in French: <https://sgg-mali.ml/JO/2020/mali-jo-2020-15-sp.pdf> (first title, second article, introduced by the 1992 constitution).





The difficult access to land for women in Kita is mainly due to customary traditions. This has been noted by all studies on land governance in Mali. As demonstrated, access as such is not the major issue for women in Kita, but rather the question of exclusive land ownership. Access for usufruct is guaranteed even by custom. Its main purpose is using the land for feeding the family either through direct consumption or consumption from selling the crop (Rondeau 1994). This access is not subject to any restrictions except those relating to the physical and financial capacity of these women to develop the land lent to them.

What is more, land ownership is transmitted within families, and thus, succession not only allows for retaining land access, but also for managing land in accordance with customary rules (Diop Sall 2011). However, this management was not originally based on property rights understood in the sense of private property rights, but on a set of rights (access, exploitation, removal, exclusion, alienation etc.) which is distributed among family members according to their social position (Djire and Keita 2016). These modes of access are valid for other types of actors, notably foreigners who settle in rural localities. Very often this mode is a source of conflict. It is this imbroglio that the country's legal provisions attempt to regulate.

The Agricultural orientation law (LOA) addresses all issues relating to access to land for women and even young people, but because it recognises customary tradition, its impact on gender equality is limited, if not undermined. As a result, in Mali, and thus in Kita, women's right to land access, although guaranteed by legal texts, continues to depend on how local customs will transform. A representative of a women's organisation (quoted in Nardone 2007: 47) expressed this as following:

The number one problem for women farmers is land. Customary law is a law that does not evolve, we have to remodel it. ... For the last ten to fifteen years, women have started to group together and there are now organised women's associations in most villages that work on the land. These associations, which we federate, were involved in the drafting of the Agricultural Orientation Law, which included our demands. If it is implemented as we have requested, the law will be able to do something for us.

This study shows that the sociocultural context in Kita does not favour women's access to agricultural land. Although women are well represented in civil society organisations, they remain relegated to the role of agricultural labourer and are responsible for domestic tasks. Women's access to and management of land thus continues to be a contested issue despite the efforts of state and non-state actors to achieve procedures for more inclusive and democratic land governance. This chapter highlights the shortcomings of formal governance from a structural and operational point of view. In fact, the research indicates a gap between how the local and



the institutional level implement existing texts in regard to strengthening women's rights in agriculture. The involvement of women in land governance is limited and beyond being written in law, information and transparency on how women's positions can be improved are missing. Specific monitoring mechanisms to ensure the effectiveness of the texts adopted for this purpose have not been put in place. Nevertheless, the work carried out by non-governmental organisations, civil society actors, municipalities and state representatives may contribute to establishing a more inclusive society that is accountable to all actors without any form of discrimination.



## Land Commodification: The Youth and Women's Questions in Accra

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### **Abstract:**

Urban transformation in Africa is driven by multinational developers, businesspeople, urban citizen and political stakeholders. From ultra-modern shopping centres and gated communities to privatised cities, urbanisation is reshaping not just the morphology of African cities but also urban social relations. Based on ethnographic fieldwork in Accra, this chapter explores the transformation of hitherto rural communities as a result of the development of privatised cities. This phenomenon is viewed as a globally emerging cultural orientation that generates new forms of sociality that need to be understood in their local context. While the subject of privatised cities has received considerable research attention, little emphasis has been placed on the youth and women who form the core of the social groups that are likely to be the most affected by commodification. This chapter investigates the perceptions and experiences of women and youth in the context of land commodification in Ghana.

Keywords: cities, privatised cities, commodification, land tenure, Ghana, transformation, urban, rural

### **Résumé:**

La transformation urbaine en Afrique a pour moteurs les entrepreneurs multinationaux, les hommes d'affaires, les citoyens et les acteurs politiques. Des centres commerciaux ultramodernes et des résidences surveillées aux villes privatisées, l'urbanisation remodèle non seulement la morphologie des villes africaines, mais aussi les relations sociales urbaines. Basé sur un travail ethnographique de terrain à Accra, ce chapitre explore la transformation de communautés auparavant rurales à la suite du développement de villes privatisées. Ce phénomène est considéré comme une orientation culturelle émergente à l'échelle mondiale qui génère de nouvelles formes de socialité qu'il convient de comprendre dans leur contexte local. Bien que le sujet des villes privatisées ait fait l'objet d'une attention considérable de la part des chercheurs, peu de travaux ont été consacrés aux jeunes et aux femmes qui forment le principal groupe social susceptible d'être le plus touché par la marchandisation. Ce chapitre étudie les perceptions et les expériences des femmes et des jeunes dans le contexte de la marchandisation des terres au Ghana.

Mots-clés: villes, villes privatisées, marchandisation, régime foncier, Ghana, transformation, urbain, rural

Over the past decades, many African countries have experienced rapid urbanisation driven by rural-urban migration, climate change and, in some instances, conflict. While urbanisation presents the opportunity for improving economies and people's livelihoods, the rate and nature of urbanisation in Africa paradoxically has resulted in poverty, increased inequality and major urban management challenges. Characteristically, African cities are rapidly spreading into their hinterlands and the rural communities at the urban fringe (Yiran et al. 2020).

The infrastructure gap that has emerged as a result of the rapid growth of cities, creating a situation where planning has lagged behind development, has raised several questions about the capacity of urban authorities in Africa. State institutions have struggled to provide water,



electricity, roads, healthcare facilities and housing for the rapidly growing population. The implementation of neoliberal policies like the structural adjustment programme (SAP) has seen a change in the role of African states from being a provider of services to being an enabler of the private sector. In the urban domain, the implementation of the SAP by the International Monetary Fund (IMF) and the World Bank saw the withdrawal of the state in countries like Ghana. Housing and healthcare provision, for instance, are among key areas of the Ghanaian economy that have been deregulated and have seen increased private sector participation.

The liberalisation of the Ghanaian economy has also seen a dramatic movement of people from rural to urban areas. The demand for housing and other urban services, and the inability of city authorities to plan and provide needed infrastructure and services, has resulted in sprawling cities like Accra and increased private sector participation in the urban space in recent times. These sprawling African cities have received considerable focus in the research space. A growing body of work has also explored private sector participation in housing provision. This ranges from individually built rental housing to gated communities and other forms of residential development. In recent times, a number of researchers have focused on the trend of private city development. From South Africa, Nigeria and Zambia to Ghana, many so-called privatised cities have emerged and become the centre of research attention (Murray 2016; Watson 2014).

The so-called “private cities” are supposed to be self-contained ideal cities that are well planned and zoned with an emphasis on the provision of high standard residential, commercial and industrial enclaves. Scholars like Austin D. Ablo and Bjørn Enge Bertelsen (2022), as well as Lena Fält (2019), have explored the logics, land acquisition and effects of large-scale land deals for privatised city development. For rural communities on the urban fringe, which are at the centre of attraction for the development of these large-scale private cities, the transformation of livelihoods and social relations requires much more critical attention. In this chapter, emphasis is placed on Appolonia, a rural agricultural community located north of Accra which is the new frontier of urban transformation in Ghana. The rapid expansion of Accra has driven individuals and companies to secure land in communities like Appolonia for urban development projects. Here, I look at the case of Appolonia City of Light (ACL), a privatised urban development, and the way that it is transforming people’s relationship to land. In the context of communally owned land, the chapter examines the following question: What does large-scale land acquisition for a privatised city development mean for women and youth? This chapter pays attention to the experiences and aspirations of youth and women within the framework of the rapid commodification of land. The chapter shows that women and youth are the most affected by the processes of dispossession driven by large-scale land lease for private city development. Paradoxically, women and youth had the least say in the transaction and for many, the future and sustainability of their livelihoods is bleak.



## Land tenure in Ghana

The land tenure system in Ghana is rooted in deep historical processes and embedded in complex institutions. The various ways in which people can access and use land in Ghana is shaped by inheritance systems, chieftaincy and statutory laws. Characterised by legal pluralism, land governance in Ghana is complex and conflict-ridden. Broadly, both customary and statutory laws govern land access in Ghana (Kansanga et al. 2019). Indeed, in the 1992 Constitution of Ghana, legal pluralism is reinforced by Article 267(1) recognition of both customary land ownership and administration, and Article 267(2) setting up the Office of the Administrator of Stool Lands (OASL). An estimated 78% of land in Ghana is customary land which can be administered by stools, skins, clans and families (Larbi 2006). The remaining 22% is either privately owned or state land. Both privately owned and state land was, historically, land acquired by custom.

Customary institutions like stools, which are the symbols of traditional authority and rulership in communities, are the trustees of communally owned land. Thus, chiefs and family or clan leaders administer land on behalf of their people but they do not own the land and cannot completely alienate the land (Agbosu et al. 2007). In Ghana, the allodial title – which is the highest form of ownership of land – is held by a chief, head of a family or stool. The type of use rights (usufructuary interest) people can have in communally owned land emanates from their relationship with the stool or the family that has the allodial right (Boamah 2014). Thus, the allodial title under customary law represents the supreme interest, with no other higher title.

Other forms of land tenure in Ghana are the common law freehold, where interest is derived through expressed grant and leasehold, which entails the right of a person to occupy and use land subject to agreed terms and rent. For communities like Appolonia, how does the commodification of communally owned lands affect people's livelihoods?

## Study context and approach

This study focuses on Appolonia, a rural community located in the Kpone-Katamanso Municipal Assembly (KKMA) of the Greater Accra Region. It is a farming community comprising 943 people. The community practices a patrilineal system of inheritance and the land is stool land with all community members having usufructuary rights. The Appolonia traditional council consists of three clans, Kojo-we, Bediako-we and Sanshie-Sackey-we, which constitute the ruling clans of the community. The community owns about 14,000 acres which has received significant interest from investors as the city of Accra expands northward. This chapter is based on long-term fieldwork conducted in the community spanning 2016 and 2022. Primarily, the fieldwork centres on the land acquisition process for the ACL project and how it has transformed livelihoods, particularly for women and youths. Data collection took place primarily through interviews and focus group discussions. Officials of the ACL project were interviewed



on the transaction process for the project. Community leaders, women and youths were also interviewed on their participation in the land acquisition process, how benefits from the lease were shared and what these changes meant for them.

### **Private city development, land commodification: Perspectives from women and youth**

The ACL is developed by Rendevour, an urban development company with other similar projects such as Tatu City in Kenya, Alaro and Jigna City in Nigeria, Roma Park in Zambia, and Kiswishi in the Democratic Republic of Congo. In Ghana, the ACL was started in 2014 following land acquisition by Rendevour in 2011. The project is a mix of residential, commercial, recreational and industrial land use zones on 2,325 acres (941 hectares) of land acquired from the Appolonia traditional council. In view of the fact that the Appolonia land is communally owned, the lease of a large portion for urban development has changed people's access and land use rights. An ambiguous aspect of the ACL project is the terms of the lease, cost of the lease and distribution of benefits to community members. Community leaders and officials of ACL purported that the project is a partnership between the Appolonia community and investors. However, neither community leaders nor ACL officials have been able to disclose the costs or the methods for sharing proceeds from the lease. According to a key informant from the traditional council, the community is entitled to 10% of the proceeds of the project. This could not, however, be corroborated. Indeed, in a group interview with some community youths, one remarked that "our fathers have decided to sell everything before they die. They inherited the land from their fathers, but we have no inheritance. Our children have no inheritance. We have no idea how the future will be". For many young people, the transition from a rural to an urban community raises significant uncertainties for them. There is despair regarding the kinds of livelihood activities they can pursue as agriculture is clearly becoming unviable.

Initial protest by the youth against the lease of land for the ACL project was met with police action and arrests. But to convince the youth about the benefits of the project, both officials of ADCL (Appolonia Development Company Ltd) and some members of the Appolonia stool council noted that the project would prioritise the youth of Appolonia in employment and training opportunities. The goal was to provide them with opportunities for livelihoods outside agriculture. As agricultural activities dwindled because of rapid urbanisation, it was expected that the ACL project would offer diverse job opportunities in construction for the youth. This is important because youth unemployment and under-employment is a major challenge confronting Ghana. The head of community relations for the ACL project noted that the company liaises with investors to recruit locals to fill job positions. Additionally, they also provide opportunities for the technical and vocational training of community members as part of their skill development initiative. While a few community members were employed in the



initial phase of the project as security, cleaners or day labourers at various construction sites, very few people were permanently employed. By January 2022, no member of the community was employed in any activity at the ACL project site. Many youths believed the promise of employment was a tool by community leaders and investors to quell youth opposition to the project. This has created a volatile situation in the community as more and more youth are idle without any viable source of employment, as agriculture, which previously employed them, is under siege.

For a primarily agricultural community, that depended on farming and livestock rearing, land is an integral part of their livelihoods. The usufructuary rights of the community were based on the first-come principle where community members can occupy any parcel of the community land that is unused. Thus, women and youth for instance can farm any piece of land that their parents have previously used or they can occupy any currently unused land. This principle is very important because of the fact that many patriarchal practices make it challenging for women and youth to access land easily. In Appolonia, the first-come principle gives every community member an equal chance of accessing land for livelihood activities.

The lease of the land for the ACL project has changed these historically important land access rights. According to respondents, the lease of the land for the ACL project was done primarily by members of one of the ruling clans without the involvement of the others. Thus, the negotiation process was non-participatory. According to a 34-year-old man “this decision was taken by our elders. We were not part of it. We had no say in what went on but it is our future and inheritance that is being given away”. This statement is profound, as it captures the overall perspective of women and youth who feel they were not considered in the decision-making process.

The historically unproblematic land access rights have changed with the commodification of a large portion of the community land. The ACL project has become a catalyst for land grab in the community as many urban citizens rush to secure a place in the new city that is expected to be developed from the ACL project. Beyond the land that was acquired for the ACL project, other private developers and individuals in their bid to leverage the development that is expected in the Appolonia area, are rushing for land, which is further eroding people’s access to land for livelihood activities.

One of the responses by traditional authorities to alleviate the effects of urban pressure on land access was the decision to allocate a hundred square feet (100 ft<sup>2</sup>) of land to all community members with documentation. In light of the changes caused by urbanisation, the first-come principle that guided land access then became ineffective as almost every parcel of land is claimed and contested by community members. Community members were expected to pay between 100 and 225 USD as allocation fee for the land. The implication was that many women and youths who typically have lower incomes could not pay the allocation fees. Those who did



manage to pay could not defend their land and hence were dispossessed once wealthier members of the community were able to take their land even though it had not been assigned to them. This increased conflict in the community, as the traditional authority is divided with factions for and against the lease of land for the ACL project. Without firm leadership, the vulnerable segment of the community's population could not defend their land rights against elites.

Agriculture, which was the main source of livelihood for the community, was the most affected by urban development. As more and more land is leased for urban development, more and more people are without cultivable land. The remaining land is contested between the three clans; contestations are also rife within families, further deteriorating agricultural activities in the communities. According to a respondent, the parcel of land that her mother has cultivated for decades, and she has been cultivating to support her 85-year-old mother, was sold by one of her uncles. She has no one to report it to, and when she reported it to her clan head, nothing was done about it. They currently have no farmland and have to rely on petty trading to support their family.





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## Abbreviations

ACL	Appolonia City of Light
ADCL	Appolonia Development Company Ltd
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CLS	Customary Land Secretariat
CREPOS	Centre de recherche sur les politiques sociales
CRIDEV	Centre de ressources et d'interpellation pour un monde sans rapports de domination
EPS	Emerging Senegal Plan
FAO	Food and Agriculture Organization of the United Nations
GDP	Gross Domestic Product
GHIP	German Historical Institute Paris
IFG	Interdisciplinary Fellow Group
IIED	International Institute for Environment and Development
IMF	International Monetary Fund
KKMA	Kpone-Katamanso Municipal Assembly
LOA	Loi d'orientation agricole (translated into English: Agricultural orientation law)
LFA	Loi sur le foncier agricole (translated to English: Law on agricultural land)
MIASA	Merian Institute for Advanced Studies in Africa
OASL	Office of the Administrator of Stool Lands
PEKEA	Political and Ethical Knowledge on Economic Activities
SAP	Structural Adjustment Program
UNIDO	United Nations Industrial Development Organisation





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