

# Customary Land Tenure Dynamics at peri-urban Ghana: Implications for Land Administration System Modeling

Presented by

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## Setting of the study..... 1

- New trends in International research and land administration practice
  - Re-emergence of indigenous/customary interests
  - Spearhead by world Bank and UN-Habitat
- Shift in earlier focus- formalization of customary rights to
  - evolution of property rights;
  - broad variation of land rights;
  - empowering of customary land tenure institutions; and
  - inclusion of customary rules

## Setting of the study.....2

### Example

- Pro-poor land management tools and registration of continuum of land rights (GLTN-UN-Habitat)
- Establishment of customary land secretariats (Sponsored by the World Bank/other donors)

## Setting of the study.....3

### Why the need?

- 80 -90% of land in sub-Saharan Africa lies on customary land
- Most countries has inadequate cadastral data for decision-making
- Most cities in sub-Saharan African exist or have been developed on customary land

## Setting of the Study.....4

### Why the need?



## Setting of the Study.....5

### Why the need?

- Many rights (customary and common law) often co-exist in the same piece of land in hierarchical order
  - Allodial interest
  - Customary Law
  - Share Cropping
  - Customary Tenancies
  - Community's common property rights
  - Range of derived/secondary rights
  - Alienation Holdings
  - Freehold acquired under common law
    - Leasehold
    - Licenses, Easements

## Setting of the study.....6

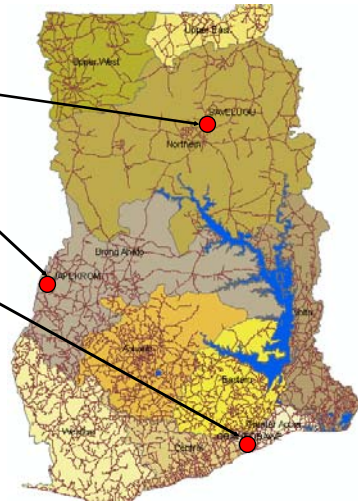
- **Studies indicate that customary tenure systems**
  - evolves to reflect changes in the society and pressure from the growth of urban areas (Österberg, 2002; Torhonen 2004)
  - good workable and key elements of the tenure system are retained while poor ones dropped (Kalabamu 2000)
  - lost in communal and social values in land (Larbi, 2006)
  - results in complex hierarchy of rights, broad variation of tenure and interests results - some of which are not properly defined (Toulmin and Quan 2000; Österberg 2002)

## Setting of the study.....7

- **Conventional land administration systems**
  - does not capture over layering or complexity of individual rights -hierarchy (Oosterberg, 2002, Von Benda-Beckmann, 2000 )
  - focused on recording information of tenure only in its static state (van der Molen 2002);
- **How to record the broad variation of complex rights and dynamics of tenure in land administration?**
- **Paper give account of how customary tenure systems evolve to meet dynamic need of peri-urban communities**

## Study Areas

- Three peri-urban areas were chosen for the study.
  - Tamale Paramount Area (skin land)
  - Japekrom Paramount Area (stool land)
  - Gbawe Kwetei (Family lands)
- Choice
  - Fast development cities
  - Countrywide problem?
  - Land ownership groups



## Jisonayili (peri-urban Tamale)



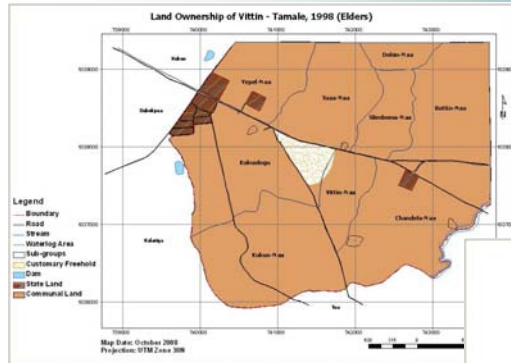
## Methods

- Exploratory case study research (based on embedded case study design approach)
- Qualitative methods (chiefs, family heads, caretaker chiefs, elders, land allocation committees)
  - narratives and oral histories
  - focus group discussions
- Quantitative tools (*structured and semi-structured interviews*)
  - 450 households
  - indigenes and settler

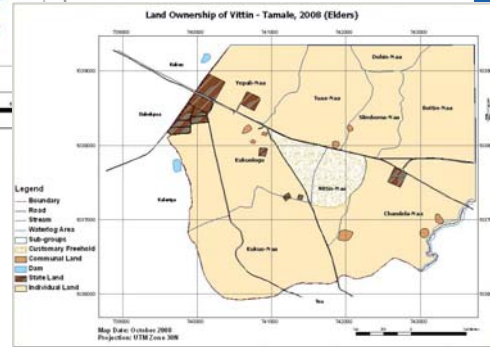
## Dynamics of tenure

Aspect of Tenure	Past	Present
• <b>Rules of land ownership and transfer</b>	• Protects security or individuals and groups	• Modified to suit individualization of land
• <b>Land value</b>	• land is highly valued either for its utilitarian, emotional, mystical, social or religious	• Economic monetary value
• <b>Communal ownership and rights</b>	<ul style="list-style-type: none"> <li>• Every land belonged to the community</li> <li>• Customary freehold was highest</li> <li>• Communal rights</li> <li>• User right</li> </ul>	<ul style="list-style-type: none"> <li>• Other interests/ownership have carved from communal ownership (state and individual)</li> <li>• Leasehold</li> <li>• Common law freehold</li> <li>• Individual rights</li> <li>• Ownership</li> </ul>

# Dynamics in land ownership



1998

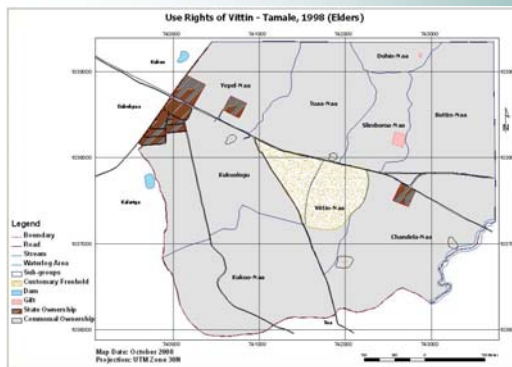


2008

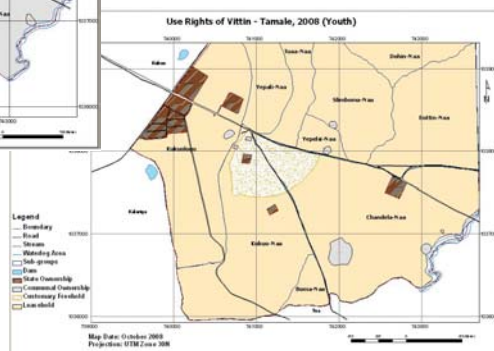
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# Dynamics in use rights



1998



2008

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## Dynamics of tenure

Aspect of Tenure	Past	Present
<ul style="list-style-type: none"> <li>• <b>Methods of Transfer</b></li> </ul>	<ul style="list-style-type: none"> <li>• Inheritance through lineage</li> <li>• Gift</li> <li>• Tenancies</li> <li>• Land pledging</li> </ul>	<ul style="list-style-type: none"> <li>• Introduction of land sales and other contracts based on common law</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Tenure security of the usufruct</b></li> </ul>	<ul style="list-style-type: none"> <li>• Continuous occupation and use of land and honoring obligations</li> <li>• recognized by every member of community</li> </ul>	<ul style="list-style-type: none"> <li>• Forced eviction</li> <li>• Rights recognize through statutory registration</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Land use pattern and tenure practices</b></li> </ul>	<ul style="list-style-type: none"> <li>• Agriculture</li> <li>• Subsistence farming</li> <li>• Land use regulations enforced through myth</li> </ul>	<ul style="list-style-type: none"> <li>• Residential</li> <li>• Commercial farming</li> <li>• Land use regulations enforced through statutory law</li> </ul>

## Dynamics in Land use



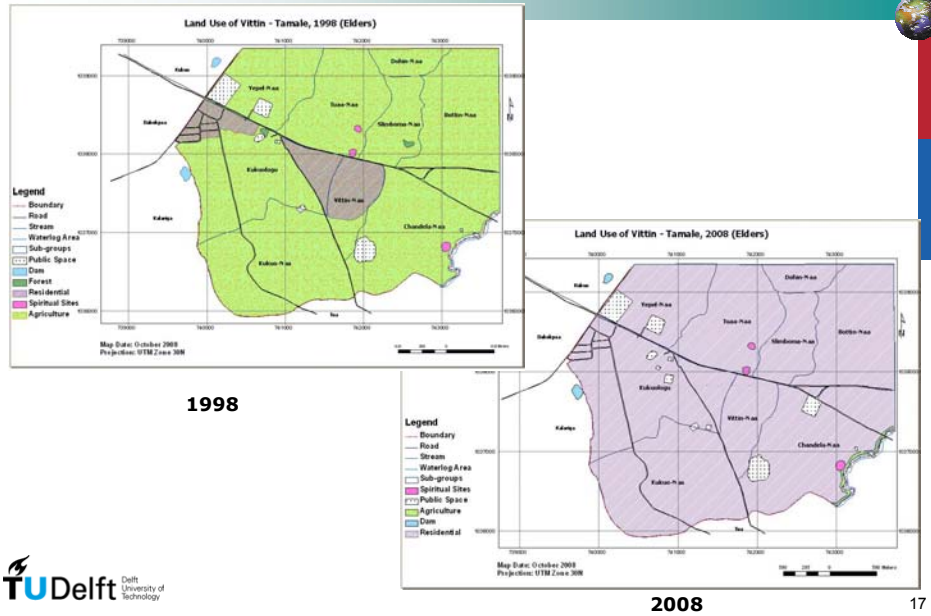
1998



2008



## Dynamics in land use



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## Dynamics of Institutional mechanism for land delivery

Aspect of Tenure	Past	Present
<ul style="list-style-type: none"> <li>• <b>Methods or recording transactions</b></li> </ul>	<ul style="list-style-type: none"> <li>• No written records, yet legitimated publicly endorsed at public ceremonial gathering</li> </ul>	<ul style="list-style-type: none"> <li>• Simple log book, charts and computers</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Land conflict resolutions</b></li> </ul>	<ul style="list-style-type: none"> <li>• Based on arbitration and local knowledge</li> </ul>	<ul style="list-style-type: none"> <li>• Based on local knowledge, arbitration and other land professionals</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Land acquisition and delivery</b></li> </ul>	<ul style="list-style-type: none"> <li>• Land for farming allocated by head of household</li> </ul>	<ul style="list-style-type: none"> <li>• All land transfers must pass through the chief</li> <li>• Allocation note used as evidence of allocation</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Selection of community leaders</b></li> </ul>	<ul style="list-style-type: none"> <li>• Purely based on merit (traditions)</li> </ul>	<ul style="list-style-type: none"> <li>• Other factors such as ability to read and write considered</li> </ul>

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# Recording Land Transaction

**MPUASU-JAPEKROM TRADITIONAL COUNCIL  
LAND AND NATURAL RESOURCES COMMITTEE**

**APPLICATION FORM**

**A: Personal Details**  
 Name: .....  
 Maiden Name: .....  
 Home Town: .....  
 District: .....  
 Place of Residence: .....  
 Occupation: .....  
 Next of Kin: .....  
 Permanent Address: .....

PASSPORT  
 PHOTOGRAPH

**B: Information on Land**  
 Location of Land: .....  
 Quantity/Size of Land: .....  
 Practical use of Land: .....  
 Have you applied for any land in the Traditional Area? Yes/No:  
 If Yes, where? .....

*I declare that the information supplied by me on this form is complete, true and correct in detail. I acknowledge that the committee may vary or reverse any decision made on the basis of incorrect or incomplete information supplied by me.*

Signature of Applicant: ..... Name: .....  
 Date: ..... Date: .....

**OFFICIAL USE ONLY**

Is the applicant qualified for this acquisition? Yes/No: .....  
 Area allocated: ..... Fee paid: .....  
 Lease Period: .....

Signature of Authorizing Officer: ..... Date Issued: .....

This form may be requested to the Secretary, Land and Natural Resources Committee, Mpuausu-Japekrom Traditional Council, P. O. Box 1, Japekrom, Brong-Akara, Ghana

Japekrom

**DAGBON LANDS  
KUMBUNGU PARAMOUNTCY  
LAND ALLOCATION**

TOWN: .....  
 LAYOUT/BLOCK/WARD: .....  
 PLOT NUMBER: .....

Following a request received  
 from: .....

I/We hereby state this ..... Day of (month) ..... (year) .....  
 recommended the allocation of the above-mentioned land shown edged-in pink on the  
 attached site plan to him/her/them for residential/commercial/industrial use.

The applicant has complied with all the necessary requirements for the grant  
 allocation of the land under Dagbon Custom. The applicant has therefore been directed to  
 obtain a generalisation of this plan from the Paramount Chief.

SIGNED: ..... OFFICIAL STAMP/EMBLEM/PRINT: .....

WITNESSED BY: ..... TOWN DEVELOPMENT  
 COMMITTEE CHIEF (U.S.A.N.) .....

Tamale

# Chieftaincy



Old chief



Modern chief

## Conclusions

- Customary tenure dynamics have both positive and negative implications
- Land administration should take the positive aspects of tenure dynamics to counter the negative aspects in order to design an alternative and desirable land administration models for customary areas

## Thank you

