

Customary Tenure Trusteeships and Land Governance Reforms: A Necessary Convergence.

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Introduction

There is ample evidence that customary tenure systems vary locally but display remarkable similarity regarding the basic organizing principles (Cousin, 2008). The tenure systems define access right to land through membership-based social groups although cultural mechanisms exist for non-members or “strangers” to become members of the landowning group. (Colson 1971:194; Bruce and Migot Adholla 1994:5). Individual families, headed by a family head usually enjoy autonomous control over land as defined by customary norms and practices. Most customary land tenure systems allow lending leasing and other forms of tenancy, both for subsistence and commercial uses (Lavigne Delville, 2000). The similarities in the structure of customary tenure systems extend to concerns about shortcomings in customary land governance, especially the unfettered authority of customary land trustees. Issues surrounding customary land governance reforms remain at the forefront of policy reforms in many countries because of concern over discriminatory allocations of land rights, ownership conflicts and disputes over land boundaries that hinder development, informal land transactions, corruption, elite capture and illegal land occupations (Arko Adjei, 2009). However, with the general acceptance of neo-liberal market-led economic systems in Africa, land commoditization and outright selling of customary land have become more common although such alienations are often challenged as a threat to the long-term survival of social groups (Amanor, 2010).

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Although Chiefs and family head plays a central role in how the rules of land tenure are applied and made operational, not many analytical studies to date have focused directly on the culture of trusteeship to explain the fiduciary responsibilities associated with the management of community land as a valuable sustaining asset. Existing customary land governance analysis often focus on the decision-making processes (Palmer, et al.). Scholars in the field of political science focus on power, politics and issues around pluralism, asymmetrical power relations, and informal elites. Economist tend to focus on individual behavior as explained by self-interest, failure of regulatory instruments, rent-seeking behavior and market-based decisions. As the allocation of customary land rights becomes more commoditized, the political and economic threads of the role of land trustees have crossed with the symbolic ones. But these have seldom been tied completely in contemporary customary land governance reform literature. This paper is an attempt to examine traditional fiduciary culture and to suggest a framework of analysis for policy, legal and institutional reforms. The paper will attempt to answer three questions: What is the trusteeship idea under the customary land law? What are the land governance issues of relevance to the commoditization of customary land? What policy interventions can reverse the abuse of traditional rights of citizens by their trustees?

Customary Land Governance and Land Management

The accepted definition of Land governance is the process by which decisions regarding access to and use of land are made, the manner in which those decisions are implemented and the mechanisms through which conflicting interests in land are reconciled (UN-Habitat, GLTN). Key elements of the definition draw the reader to focus on decision-making, implementation and conflict resolution. It also directs attention to the need to rely on antecedent experiences to understand the decision making process and outcomes. It recognizes the role of statutory as well as customary informal/extra-legal institutions (rules) and organizations (entities), and the role of stakeholders, interest groups, as well as the role, motivation, incentives and constraints faced by customary land trustees.

Equally relevant to effective governance is the fact that land, the basic natural resource of most communities in Africa, is considered both as material and abstract good that includes rights of

ownership, physical attributes regarding adaptability to various functions, specific characteristics, allocation and way of use. To properly manage the land asset of a community, every parcel of land's attribute should be identified, evaluated and taken into consideration. Thus effective management by trustees should result in the most rational use of a community's land resources qualified by the land tenure and ownership structure.

In addition to securing customary land as a livelihood sustaining asset for communities, access distribution and use management decisions by customary land trustees should aim at selecting the best land-based investment activities (Fenske, J., 2011). Others, including Kasanga, (1997) have asserted that customary tenurial systems in some part of Ghana, for example remain egalitarian enough to guarantee security for indigenes as well as strangers. Contemporary evidence as demonstrated by Yaro, (2012, p. 350) indicate changing interpretations of tradition makes this romanticization of customary land access distribution, tenure security and fiduciary obligations of the trustee of customary land a false reality. In fact, customary land governance literature recognizes corruption and elite capture among the key issues at the forefront of reforms to protect customary land rights in many countries.

More importantly, as land becomes more commoditized, the underlying power imbalance between persons responsible for allocation and management of customary land as a community trust ought to be held to the highest standard of care (Sarbah, 1904). But yet, very few studies to date have attempted to establish a framework for evaluating the fiduciary duties implied by the concept of trusteeship and customary land management effectiveness. As observed by Yaro (2012, p.351) social relations are in a continuous state of flux, conditioned by power relations, external influences and sometimes greed, making it difficult to pinpoint tradition. These dynamic influences allow some traditional custodians and family heads, the trustees of customary land, to re-codify tradition in parallel with neo-liberal market forces that appropriates the land and property rights of their citizens.

Effective customary land use management that is consistent with land governance aspirations should also facilitate of land utilization and development to optimize benefits to land-owning communities. This should include sustainable management of growth and population dynamics,

assistance in natural environment management and protection of valuable areas. Trustees should also monitor real estate market development opportunities, and the best use of land assets of the community taking into consideration the rules of sustainable development (economy, environment, and society). Effective customary land use management will therefore require that, as much as possible, both trustees and stakeholders rely on technical analysis and professional advice supplied by land and real property management professionals to determine the highest and best use of land and natural resource assets of the community.

Trusteeships and Fiduciary Culture

Fiduciary culture—the culture of trust and entrustment—is only beginning to come into its own as a topic of study, but it has deep roots and noteworthy antecedents. The Anglo-American common law defines a fiduciary duty as the highest standard of care. A fiduciary owes the duty to the beneficiary. If a common law trustee breaches fiduciary responsibilities, he or she would need to account for the ill-gotten profit. Similarly, should any custodian of customary land breach their fiduciary duties, good governance would require such trustees to account for any ill-gotten profit or failure to manage land and natural resource assets to achieve the most benefit for the community.

However, the concept of trusteeship under customary land law presents a different dimension in the customary land law of Ghana and throughout the West African region. As articulated by Danquah (1928), Coker (1958), and S.K.B. Asante (1965), the fundamental premise that land is an ancestral trust has two significant implications for property concepts under customary law: First, it emphasizes the community interest in property and makes ownership a social obligation that precludes an individual concept of property. Second, it places the political, social and economic onus on persons charged with the administration of community property to strictly discharge their functions in the primary interest of the group in question, (Asante, p 1145). This fundamental concept of ownership as a social trust designates the administrators of customary land (Chiefs, family heads, and caretakers) as “trustees”. In short, “fiduciaries” holding land and real property in trust for the family or community. Although scholars on West African customary land law recognize the similarity with the Anglo-American common law, the trust analogy under the

customary land law has significant differences that affect contemporary efforts to enforce land governance obligations.

Trusteeships and customary land governance in Ghana

The fiduciary responsibilities encountered under customary land governance is rooted in indigenous institutions and culture. In fact, Chiefs, heads of family, successors, and caretakers are executors entrusted with a responsibility to manage land and other real property in the interest of other beneficiaries. A family head, for example, assumes a fiduciary position with limited beneficial interest in the assets of the family and are strictly forbidden to exploit their position of trust for selfish reasons. However, family heads in Ghanaian, Nigerian and Sierra Leonean culture enjoys a unique social standing within the community; a revered status as the father of the household and a representative on the chief's council of elders (Asante, p. 1146). The position of the family head is, therefore, more than that of a common law trustee in the Anglo-American sense. The appointment comes with the exercise of power over allocation, access, and distribution of family property, arbiter of internal affairs as well as lead negotiator of all family transactions. The head of the family presides over all family rituals, business transactions, and is expected to provide financial, legal assistance and counsel to members of the family.

Another distinction of customary trusteeships is the strict separation between the managerial powers of the trustee and title to the family property. Both title and the right to beneficial enjoyment are vested in the family or land owning community. Customary law emphasizes the corporate property as belonging to the collective and never vested in one individual. Furthermore, whereas a fiduciary under common law is strictly forbidden from enjoying the benefits of the trust, the family head, as the trustee, is also a member of the family and one of the beneficiaries of the family estate and is entitled to his share of the proceeds as any other member. This raises the question of whether an interested trustee can separate self-interest, conflict of interest and the appearance of corruption from duty as a fiduciary. Because fiduciary obligations and power as head of the family are based on an affirmative duty to secure and enhance the welfare of the family, customary traditions make no material separation between self-dealing intentions and the family heads fiduciary duties.

In fact, the estate management obligations of customary land trustees can be summarized as follows:

Management of family assets: The family head is entrusted with the management of family property and other assets. To make improvements and such investments as will assure the collective welfare of the family as a duty. In this regard, the family head's role is not limited to preserving family property; he is also required and expected to enhance its value. In fact, according to Asante, "the bolder the improvement project he undertakes, the more rapturous the family acclaim."

Improvements to family property: Customary traditions do not place any restrictions as to the extent of improvement except as dictated by common sense. At the same time incurring excessive expenditures or undertaking risky investments that ignore the welfare of the family can be censured by principals. But even then, as the benevolent patriarch, the head is allowed to use his discretion, so long as they enhance the welfare of the family.

Alienation of family land and real property: Customary land law in Ghana has traditionally regarded land as a sacred heritage with inter-generational linkages to the dead and those yet to be born. A violation of this sacred trust is a fundamental violation of the customary land law. Changing attitudes towards markets and commoditization of land have resulted in a more liberal view of the concept of alienation. Although a family head has considerable freedom as the sole alienating authority, the consent and concurrence of the elders are required to legitimize the conveyance. A deed of transfer without the consent of the head of the family or the elders is not valid as each party needs the other to legitimize the conveyance.

Fiduciary fidelity: Under Anglo-American common law a trustee must administer his trust solely in the interest of the beneficiary with fidelity and must exclude all self-interest, focusing solely on the interest and welfare of the beneficiaries. Self-dealing of any kind that places the interest of the trustee in conflict with the interest of the family is regarded as a violation of the duty of loyalty. Customary law, on the other hand, regards the head's obligation to administer family property in the interest of the family a moral obligation and sacrosanct. Thus any deviation from this core

principle is regarded as an outrageous act requiring drastic retribution and possible impeachment. Unfortunately, customary law has no automatic triggers or pre-emptive rules for deterring reckless behavior or conflict between self-interest and duty to the family. Consequently, the literature is replete with evidence reminiscent of self-dealing by highly interested Chiefs, family heads and customary trustees whose complicity in, for example, large-scale land acquisitions and other questionable transaction, would under common law declare them incompetent to execute their fiduciary obligations.

The customary tenure paradox

This social domain tenure arrangement embedded in customary tenure system is an organizing principle that serves to minimize inequality and access discrimination. In spite of the communal nature of ownership, traditional allocations to kin-groups, individual families, and households by local norms tend to be defined and alienable. The fact that family tenure is considered private to the family is what allows leasing and several forms of share-tenancy arrangements to operate under customary tenure.

The *fiduciary duty of a family head* - to manage the family property with care and skill and to safeguard the integrity of family assets - aligns with the principles of good governance and sustainable land use management. The head of the family is expected to take affirmative action not only to secure the land rights of the family. He is also expected to increase the value of the family property. As a trustee, the head is expected to make investment decisions and incur reasonable expenses to enhance the value of family property. This core desire to improve tenure security and livelihood opportunities is also consistent with land policy reforms aimed at removing obstacles to the emergence and operation of an efficient land market. Such reforms attempt to improve land administration and reduce transaction cost by developing strategies and procedures to make access to land fair, transparent and efficient.

However, as observed by Berry (1993), because customary tenure rules tend to be flexible and open to negotiations, it also allows those with social standing to negotiate rights to communal land resources with customary leaders and primordial members sometimes to the detriment of the

community. Equally problematic for women is the fact that ambiguity of customary land rights and the dominance of patrilineal societies has been used to deny room for action. The proliferation of land sales and rentals involving large monetary payments and trends towards fit-for-purpose documentation of customary land rights represent a deviation from traditional practice. But the trend is also focusing more attention on the need to reform fiduciary culture in the context of customary land governance. This is more apparent in situations where Chiefs and traditional leaders use their power to seize control over community land or sell community land to outside investors, politicians and elite bureaucrats as if it were their private property. Because the system, in its contemporary operation, is not as communal, socially harmonious and egalitarian as advocates seem to imply, continuing abuses of the fiduciary obligations of trustees undermines the desire to make customary tenure systems the basis for progressive land policy reforms.

Summary of the role and contradictions of customary land trustees

With the commoditization of customary land, the standard of duty and loyalty that customary law aspires is becoming more difficult to enforce for a number of reasons:

1. Because the customary trustee is enjoined as a beneficiary of the trust, fraudulent actions, if any is not easily observed because the line between interest and duty is often blurred;
2. Because Ghana's constitutional provisions and statutory laws continue to allow subjective manipulation of customs and traditions by Chiefs and family heads without retribution, this has, over time, insulated self-dealing Chiefs and family heads, often in collusion with rent-seeking elite bureaucrats from retribution even when their land use management decisions harm their subjects.
3. Although individual members hold usufructuary rights with respect to land and real property assets of the family, customary law does not define what share individual members have in the joint enjoyment of the property. As a result corruption by customary trustees has proliferated with no transparent way of requiring accountability.
4. Rendering account by a fiduciary is not required under customary law. Similarly, there is no clear delineation of how family funds are to be allocated. A member of the allodial

community can only expect reasonable support for family purposes although, the amount and extent of support individuals are entitled is normally not defined.²

5. The absence of any objective standard for defining the proportion of the head of family's beneficiary interest makes the head of family the primary judge of the entitlement of each member and this undermines his obligations to demonstrate the highest fiduciary duty.

Unfortunately, as a by-product of the commoditization of land and the absence of strict definition of what constitutes self-dealing under customary land law, the authority of Chiefs and family heads to control access and use rights also provide a strong financial incentive for customary land trustees to by-pass the collective control of their citizens. Equally problematic for women is the fact that ambiguity of customary land rights and the dominance of patrilineal societies has been used to deny room for gender equality. The proliferation of land sales and rentals involving large monetary payments and trends towards cost effective demarcations, documentation and formalization of customary land allocations represent a deviation from traditional practice. Mounting pressure to curb the corruption of traditional leaders, especially in situations where Chiefs and traditional leaders use their power to seize control over community land as if it were their own private property supports the need to focus more attention on reforming fiduciary culture in the context of customary land governance reforms.

Limits on the powers of trusteeship

Customary limitations on the powers of trusteeship are circumscribed by procedural or formal requirements but must be exercised in the interest of the family. Major decisions always require the consent of family elders to be unimpeachable. Statutory law, the Courts and public institutions such as the office of the Administrator of Stool Lands in Ghana play only a limited role in regulating the powers of the head of the family and do not the accent to family heads using the Court to deviate from their trusteeship obligations to the family. However, the judicial system recognizes the family head as the rightful person to institute a lawsuit to protect or recover family

² In the case of *Larkai v. Amorkor* (1933) 1 W.A.C.A. 323, 329, the court decided a head of family has the right to live on the property and receive rents and profits without accounting to any of the junior members of the family. However in the case of *Nelson v. Nelson* (1932) 1 WACA.215, the court held that a caretaker owe a duty to account.

property. The duty to account and furnish information in a transparent manner to the beneficiaries can deter any inclination to abuse the responsibilities of a fiduciary. The immunity provided by custom and the reverence accorded heads of family undermines the duty and loyalty to the community. In fact, profiting from a family or community land appear to be encouraged because the family ties make the sale of the family property as personal property of the head difficult to challenge.

Abdication of Fiduciary Obligations

The customary tenure rules that regulate access distribution are often ambiguous enough to allow flexibility in customary practice and negotiable as demographic, economic and social conditions change (Berry, 2009; Platteau, 2008). However, the absence of codification creates disproportionate opportunities for subjective interpretation by individuals and families with social and financial status. At the same time deeply rooted cultural norms, including patrimony suggests these systems are not as communal, socially egalitarian and gender sensitive as advocates seem to imply. A problematic example is the system's rigidity towards women's land rights reform. As summarized by Lasse Kratz (2015: 5) assessment of the maneuvering space that women have for negotiating their rights are extremely weak and subordinate in customary systems. As observed by Yaro (2012), land commoditization has encouraged traditional fiduciaries responsible for land allocation and land management to collude with rent-seeking elite bureaucrats to "re-codify" tradition to recklessly alienate the land rights of their citizens. Thus, in spite of the acclaimed economic benefits associated with transforming customary tenure systems, reforms to secure and protect land rights and social capital has, in several African examples, encouraged rent-seeking strategies and corruption of the culture of trusteeship emblematic of customary land governance.

With no clear reporting and disclosure requirements for customary land trustees, how should community members judge the land governance decisions of customary fiduciaries? Arguments about the manipulation of customary norms by traditional trustees to accommodate commercialization raise three question about how the abdication of fiduciary duties threatens the social contract underpinning the integrity of the customary tenure system per se.

1. Has commoditization of customary land given rise to a new paradigm that gives more significance to the potential impact of corruption and the apparent abdication of the fiduciary duties of customary land trustees undermined the integrity of the system enough to support public investment in mass regularization of customary land rights?
2. What is the duty of fiduciaries in the commoditization process and what are the disclosure steps to follow in estimating fair value of rural land-based development decisions?
3. Can the principles of highest and best use valuation be used to determine the basis for community land assets and compensation as customary land becomes commoditized at the expense of rural communities for the benefit of national development?

In Ghana, the Office of the Administrator of Stool Lands in Ghana works closely with the Traditional House of Chiefs to ensure traditional jurisprudence and matters normally considered within the purview of the family do not contravene international conventions, agreements, human rights or go beyond flagrant abuse of fiduciary obligations. However, the immunity of heads from accounting can only be explained by the high social status of traditional leaders in Ghana. Contemporary principles of responsible land governance in Ghana's National Land Policy require better accounting although it provides no transparent mechanism for enforcement. Immunity from liability to account is also not absolute, although not an integral element in the administration of family property as a trust.

Requiring standard accounting and keeping traditional leaders on alert can provide a transparent way of providing beneficiaries with information regarding the management of community land assets may fortify good governance. It will also provide information for imposing sanctions to stimulate honest and more effective management and administration family property. Obviously, policy makers are highly aware of the importance of helping customary tenure communities' better secure tenure and land assets by encouraging the involvement of land management professionals and fit for purpose technologies. Finding sustainable ways of how this could be realized in practice is sometimes constrained by entrenched social, cultural and political resistance.

The de-facto commoditization of communal land tenure without paying attention to the abdication of fiduciary obligations by customary land trustees is a threat to the undergirding philosophy and social contract that provides legitimacy to the customary tenure system as a whole. Failure to critically address the abuse of fiduciary obligations by Chiefs and local elites is making the shift towards legal recognition and formalization of existing hierarchy of customary rights and communal tenure equally problematic. As acknowledged by the World Bank, poor governance is characterized by among other things, the abuse of executive power, arbitrary decision making, unaccountable bureaucracies, unenforced or unjust legal systems, a civil society unengaged in public life, and widespread corruption. Efforts to create an enabling environment and to build capacities for good land governance will be wasted if the political and cultural context is not favorable. Ultimately, better governance requires a concerted attack on corruption, by strengthening accountability, by encouraging public debate, and by fostering grassroots support for change.

The Customary Land Secretariat Model: Making effective land management decisions

The dominant economic development paradigm today espouses efficient markets and promotes as one of the core reasons for land rights reform, support for valorization of land as collateral for investments (De Soto, 2000). The introduction of Customary Land Secretariats (CLSs) in Ghana is the desired step for encouraging formal involvement of trained land administration and land use management officers in day to day governance of customary land. It introduces a real estate asset management view of a community's land as an investment asset, and decisions made by fiduciaries are those that impact the performance of land as a livelihood sustaining asset for the community of owners. For example, the CLS models views customary land as wealth creating assets of the land owning community. It encourages the use of land valuation methods to guide customary land management options divided into two groups: static – when valuation does not serve to change land value, but establishes the value that can be substituted for the asset on the land market; and dynamic – when land value is defined in order to assess the highest and best use to which it can be changed.

The analytical approaches used by land economy and asset managers for determining the fair value of the best use of land such as the allocation of value for extraction, land residual, and ground rent capitalization can be used to determine the highest and best use value for customary land assets of a community. Making such land information accessible to the public adds transparency and improves customary land governance. From this perspective, customary land allocations and land use rights management decisions by trustees should be guided by fair valuation approaches and community welfare considerations to be efficient.

Every land administration decision, including the allocation of land assets of customary communities, is connected with the necessity to choose among alternative possibilities. Trustees and family heads usually need information and data on land development and property market trends to inform potential economic and social impacts of land use activities. Advice for resolving the dilemma – whether to continue present activities on the land, improve its conditions or maybe sell it and invest money in some other project with higher expected benefits to the community. Similarly, a potential investor/developer or user may also require help to choose the particular activity, in which invested money brings a faster return and higher profit. The CLS model introduces the use of estate management tools to evaluate land rights management decisions by customary land trustees. The model provides a framework for assessing customary land governance effectiveness both at the family and community level.

Today, the more progressive CLSs provide better public access to information regarding the land assets of the communities that have established them. In addition to their core function of recording new transactions and validation of existing ones, CLSs in some traditional areas located in the peri-urban fringe of Accra for example, now routinely assists clients to formally register their customary land transactions at the Lands Commission. Similarly, the Osu CLS which lies within the boundaries of metropolitan Accra has procured digital orthophoto maps and is developing a database for monitoring physical development, ground rent collection and royalties from highly developed areas within the jurisdictional boundaries of the traditional authority. Because of this increased transparency in land dealings and financial accountability, the CLSs concept has gained popularity as a feasible customary land governance model. The clarity assured by conducting customary land business through the CLS is essential for sound land rights management as well as for reducing land-based commercial investment risk.

Conclusion

The land assets of a community are considered both as material and abstract good that includes rights of ownership, physical attributes regarding adaptability to various functions and specific characteristics, allocation and way of use. These attributes, qualified by the land tenure and manner of land use are linked and dependent on one another. Important activities connected with land resources management include the analysis of ownership structures, valuation of land resources components and the assessment of the highest and best use options. From the community's welfare perspective, land resources management should increase the efficiency of its use regarding economic and environmental rules. Active community land use management should be efficient and proper, no matter who is in charge of managing the resource – traditional leaders, and an individual owner or a licensed property manager.

With mounting pressure to address the corruption of the custodial responsibilities of traditional leaders. To regulate the role of customary communal land leaders, The Malawi Land Act of 2016 was preceded by the introduction of the *Customary Land Management Act No. 33 of 2013*. Under the new land law, Chiefs will no longer be able to make unilateral decisions insofar as allocations of land are concerned. Instead a land committee shall manage the customary land within its area of jurisdiction, on trust, as if the committee were a trustee of and the residents in the area were beneficiaries under a trust of the customary land. Similarly, the Community Land Act No. 27 of 2016 in Kenya established the *Community Land Management Committee (CLMC)* which shall be elected by a community assembly. The functions of the CLMC include, day to day management and administration of community land on behalf of the respective community.

Well implemented land sector reforms in several parts of the world including Thailand, China and some of the former Eastern European economies have had transformative effects. Unfortunately, the social impact of customary land commoditization in Sierra Leone, Malawi and several African countries have also been shown to create tenure insecurity, worsen inequality and often result in

disenfranchisement in poor rural and marginalized communities. As customary land becomes more commoditized and privatized, its ability to support overlapping access rights over the same parcel of land or land-based community resource is also becoming untenable. Although issues of governance and corruption in the land sector continue to draw attention, there is optimism more will be done to focus on the widening power imbalance between trustees and how to regulate their fiduciary responsibilities.

References:

Ahene, R. A. (2002) “Introducing the Customary Estate Tenure, the Traditional Land Management Area and the functions of Land Management Committees: Background Paper and Justification.” Malawi National Land Policy Reform Process. Ministry of Lands, Housing and Physical Planning.

Ahene, R.A.; Bagdonavicius, Arvydas; Barra, Alvaro Federico; Galpin, Claire (2019) “Support to the Sierra Leone Land Agenda: Policy Note.” World Bank, Washington, DC. © World Bank. <https://openknowledge.worldbank.org/handle/10986/32022> License: CC BY 3.0 IGO.

Amanor, K. S. (2002) ‘Shifting tradition: forest resource tenure in Ghana’, in Toulmin, C., Lavigne Deville, P. and Traore E (eds) *The Dynamic of Resource Tenure in West Africa. International Institute of Environment and Development*, London, pp 48 – 60.

Arko-Adjei, A (2009) Adapting land administration to the institutional framework of customary tenure The case of peri-urban Ghana, *Delft Center for Sustainable Urban Areas*. # 39.

Asante, S.K. B. (1965) ‘Fiduciary Principles in Anglo-American Law and the Customary Law of Ghana: A Comparative Study.’ *The International and Comparative Law Quarterly*, Vol. 14, No. 4 (Oct., 1965), pp.1144-1188.

Berry, S. (2001): *Chiefs know their Boundaries: Essays on Property, Power and Past in Asante, 1896 – 1996*. James Currey, Oxford

Campbell, H. F. and R. P. C. Brown (2003) *Benefit-Cost Analysis Financial and Economic Appraisal using Spreadsheets*. Cambridge, New York.

Cousin, B. (2008) Characterising “Communal” tenure: Nested systems and flexible boundaries, in Claassens, A and B.Cousin (eds) *Land, Power and Custom*, LRC, Ohio University press.

Colson, E (1971). *The Impact of Colonial Period on the Definition of land Rights*, in V. Turner (ed). *Colonialism in Africa 1870-1960*, Vol 3, Cambridge; Bruce J.W. and S.E. Migot-Adholla (eds) 1994. *Searching for Land Tenure Security in Africa*, The World bank, Washington, DC.

De Soto, H (2000): *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*. Basic Books, New York.

Fenske, J. (2011) Land tenure and Investment Incentives: Evidence from West Africa. *Journal of Development Economics*, 95 (2), 137 – 165.

Lasse Krantz. (2015). Securing Customary Land Rights in Sub-Saharan Africa: learning from new approaches to land tenure reform. *Working Papers in Human Geography* 2015:1 Goteborgs Universitet Handelshogskolan.

Lavigne Delville, P (2000) Registering and Administering Customary Land Rights: can we deal with Complexity? In Deininger, K 9ed). *Innovations in Land Rights Recognition, Administration and Governance*, World bank/Global Tool Network/International Federation of Surveyors.

Management of Real Estate Principles of Real Estate Development & Management. [URL accessed Aug 13, 2017] <https://www.researchgate.net/publication/304580462>

Platteau, J. P. (2008) ‘The Evolutionary Theory of Land Rights as Applied to Sub-Saharan Africa: A Critical Assessment.’ *Development and Change* 27(1):29 - 86

Sarbah, M. *Fanti Customary Laws* (2ed. 1904); Danquah, *Akan Laws and Customs* (1928); Elias, *Nigerian Land Law and Custom* (3rd.ed. 1960) and Coker, *Family and Property Among the Yorubas* (1st ed. 1958).

Kasanga, K. (1997) ‘Land Tenure, Resource Access and Decentralization: the Political Economy of Land Tenure in Ghana’, in *Managing Land Tenure and Resource Access in West Africa. Proceedings of a Regional Workshop held at Goree, Senegal*. November 18-22, 1996.

Yaro, J. A. (2012) ‘Re-inventing traditional land tenure in the era of land commoditization: some consequences in peri-urban northern Ghana.’ *Geografiska Annaler. Series B, Human Geography*, Vol. 94, No. 4.