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Land, Labour and the Family in Southern Ghana

A Critique of Land Policy under Neo-Liberalisation

Contents

Introduction

In recent years research on land reform has undergone a resurgence mirroring economic transformations in developing countries and the former Soviet bloc brought about by economic liberalisation and structural adjustment. These seek to bring about new institutional arrangements and reforms that give a greater role for civil society and local communities in the administration of land. This report critically examines the framework of these approaches in the light of a comparative case study located in two areas of southern Ghana. It argues that rural areas are undergoing considerable transformation at present under liberalisation and it examines the implications of this fluidity for the conception of the role of the "community" in land administration.

Evolutionary Property Rights School

The evolutionary property rights school has been highly influential in defining the World Bank's position on land reform, particularly as stated in the Bank's 1975 Land Tenure Policy Reform Programme. The document presents an ideal vision of what land reform should strive to attain.

The ideal unit of agricultural production is seen as the owner-operated family farm. This property-owning family unit is not socially defined, but it is clear that the evolutionary property rights school very much see this family in the image of the ideal American Judo-Christian conception of family. This is a nuclear two parent family, with children who help their parents on the farm with the aspiration of taking over the family farm from their ageing parents one day (Deininger and Bisnwanger, 1998). The problems of defining families, households, units of production, consumption and reproduction, one parent families, matrilineal conceptions of kin, and extended networks of kin are not considered. The farm unit is also not defined and it is presumed that the family farm consists of one contiguous unit which is passed down from parents (probably the assumption is the father) to children (probably thought of as sons). The concept of a farmer working on several different plots that were acquired in different ways from different people does not feature in this conception of farm.

The evolutionary property rights school argue that the 'family farm' is the most efficient unit of agricultural production and the most equitable. Family farms are seen as more efficient since family members are residual claimants to profits and thus have higher incentives to provide effort than

hired labour. They share in the risk of production and lower the transaction costs—they can be employed without incurring hiring or search or supervisory costs (Brandão and Feder, 1995).

The main concern with tenure reform in this framework is with promoting forms of secure, private ownership for the agrarian nuclear family and a free market in land. The emergence of private land markets is seen as promoting the transfer of land to more efficient users and equity in which family farms can purchase more land when they need it and sell off surplus land. Secure and enforceable property rights are seen as a precondition for investment and economic growth. The development of a land market enables farmers to access credit markets through land as collateral, to gain risk insurance, and to smooth consumption by selling land (Carter and Zimmerman, 1993).

According to the evolutionary property rights school the emergence of credit markets enables farmers to gain access to loans to purchase new technologies for farm improvement and increased production. Increased population density requires that farmers substitute land fallowing technologies with fertility-restoring technologies. This requires farmers to change their practice and invest in new technologies and make a long-term commitment to farm investment. This commitment to investment requires that farmers have security of land ownership and confidence to put capital into the land. Security and proof of land ownership give banks and financial services confidence to give loans to farmers against the collateral of the land.

Without access to credit and insurance, farmers develop inefficient and costly substitute strategies. They diversify production into low-risk low-return sectors as a cushion against unpredictable shocks and to ensure satisfaction of minimum subsistence requirements (Rosenzweig and Binswanger, 1993; Brandão and Feder, 1995; Feder and Feeny, 1991). Access to credit and insurance enables farmers to enter into high-risk high-return economic activities. It enables them to consume modern technologies developed by international agricultural research and agribusiness. Land reform is seen as being critical to the uptake of modern agricultural technology. Land titling is seen as the major avenue promoting land reform and security of land tenure, as enabling farmers to have access to collateral through which they can gain credit.

These premises remain at the heart of the World Bank's programme on land reform. However, in line with the recent structural adjustment programme, economic liberalisation approaches and reflections on experiences since the 1970s in implementing land reform these positions have been reappraised. Current land policy thinking is concerned with conceptualising land reform within a framework of institutional reform in which civil society plays a greater role in the administration of land. This role will complement or replace the government role in setting up land titling and cadastre programmes. The involvement of civil society in land administration is seen

as promoting greater efficiency, by creating institutions that can absorb the transaction costs of successful land administration or suppress the increasing transaction costs of poor state administration.

Feder and Feeny (1991) argue that property rights need to be placed within their institutional setting. They define three distinct types of institutional structure: constitutional, institutional and normative behaviour. The constitutional order consists of the major rules that define how society is organised—"the rules for making the rules" (Feder and Feeny, 1991). Institutional arrangements are laid down by the constitutional order and they consist of the laws, regulations, contracts, associations, and include property rights. The normative values consist of the cultural values which legitimise institutional arrangements and constrain behaviour. In the process of social and economic transformation these three orders of institutional structure may develop discordantly. While the formal institutional structure of land tenure may support private property through a formally established legal framework, the corresponding registration and enforcement mechanism may be absent. The normative values of the majority of farmers may be based on forms of customary tenure which are not recognised in law, or even made illegal (e.g. pledging of land). The institutional arrangements necessary for enforcement of property rights, including courts, police, financial institutions, land surveys, record keeping may not be in place, or may create expenses in land registration that the majority of farmers are unwilling to bear.

Unless appropriate institutional arrangements are created for the administration of land rights, disincentives will be created that will lead to land market distortions. Unless financial institutions and technology development options are in place which will enable increased security in land to be transformed into collateral, loans and modern technology, land titling can lead to speculation in land for rentier capital (Feder and Feeny, 1991).

With these factors in mind property rights analysts have tempered their original optimism in land titling as a mechanism of fostering land reform and access to credit for improved agricultural performance. They have developed a model of an evolutionary sequence of land rights. Private property is seen as evolving in response to increases in the scarcity value of land. Forms of private titling and the institutional infrastructure necessary for regulating land ownership develop when the benefits from precise and secure land rights become clear. When land is abundant and labour scarce, property rights in labour are of more concern than property rights in land. Under these circumstances people can be used as pledges rather than land. Within small communities land rights are often secure and transparent, since land is transferred according to established customary norms and communities can prevent outsiders from encroaching. With increasing commercialisation of agriculture and increasing scarcity of land, people move to frontier areas and new areas are opened up for cultivation. Land

disputes become endemic and land acquires a scarcity value. Considerable costs are spent on disputes and litigation. Under these circumstances it becomes economic to introduce a comprehensive framework of land administration with record keeping, surveys and legal administration. This is further enhanced by the development of financial institutions, insurance institutions and modern technology which enable land to be used as collateral for access to technologies for production and insurance against risk. Titled land becomes highly valued and a land market develops according to the productive needs of farming units (Feder and Feeny, 1991).

This concept of evolutionary land markets supports a more demand-driven approach to land reform in which titling only becomes one option adopted in relation to the level of development of agricultural support services. Where conditions for the operation of formal titling programmes do not exist, community-based solutions can be devised (Bruce, 1993). Programmes can be developed which seek to strengthen community-based administration of land, strengthen definitions of rights in "communal tenure systems" and facilitate their further evolution into a private land market:

> Instead of recommending abandonment of communal tenure systems in favor of freehold title and subdivision of the commons (as in the LRPP), the Bank now recognizes that communal tenure systems are often a more cost-effective solution than formal title and that, in situations where this is the case, efforts to reduce the cost of cooperation, improve accountability, and facilitate evolution of communal systems in response to local needs may be needed (Deininger and Binswanger, 1998: Introduction, p. 2).

This new approach stresses that greater attention must be paid to the conditions under which titling is viable, since where credit markets are imperfect titling can favour richer and more influential sectors in society. Under these distortions land sales markets may neither increase efficiency or equity but lead to land speculation and expropriation of land to the disadvantage of small-scale producers. A more integrated approach to the development of rural factor markets is required. The focus is moving towards developing integrated and decentralised pilot projects in specific localities rather than supporting national land titling programmes (Deininger and Binswanger, 1998).

However, within this framework the underlying premises of the Land Tenure Reform Policy still remain intact. Individual land ownership and the emergence of a land market are seen as the ultimate objective of land tenure reform, and the ideal institutional forms promoting security of land, equity and economic efficiency. Various transitional programmes are supported to facilitate the evolution of individual land property and the owner-occupied family farm, and to support security of land ownership in the transition from communal land to private land. As Deininger and Binswanger (1998) comment:

Group titles that specify boundaries and thus limit encroachment by outsiders are a promising solution but more efforts are required to develop rules of accountability to guide administration of such rights within the community and to ensure a smooth and decentralized transition towards full private property rights at the appropriate moment.

Institutional arrangements: The communitarian approach

In contrast to the evolutionary school of land rights and its roots in neo-liberal economics, the communitarian approach to land tenure is influenced by anthropological, cultural studies and customary law approaches. The communitarian approach stresses that tenure relations are rooted in social relations and cultural beliefs. It holds that these relations do not fit into a pattern of evolutionary determinism and insists on the diversity of human societies and diversity of institutional solutions to social problems. It is concerned with *local* perceptions of land relations, and local norms and practices relating to land tenure, and the administration and regulation of land, customary practices and customary authority (Lavigne Delville, 1998). It challenges perspectives solely based on private ownership and economic efficiency and argues that land reform needs to meet the needs of rural communities and their socio-cultural value systems. Toulmin and Quan (2000:3) argue that land reform should:

> ... search for approaches that are practical, democratic and consistent with African socio-cultural values. In most African customary traditions, rights are established to land by birth, kinship, and investment of sweat and toil, as well as by social contract. In a continent where poverty, vulnerability and human suffering have been endemic in many regions, the approach to land policy and land rights needs to be strongly human-centred, and less driven by economic prescription than government and donors have frequently allowed. Land policy and land law need to be more even-handed in relation to the various stakeholders, particularly the poor. This requires a fundamental recognition that imported western notions of property rights are not the only principle which may be appropriate in Africa.

Communitarians reject the framework of the evolutionary property rights school, in which the objectives of land tenure reform are to create a land market that will enable farmers to gain loans for investment in improved agricultural technology. They are more concerned with the existing insecurity in land tenure arrangements. They argue that under customary arrangements land tenure can be secure and land administration can be effective. They see insecurity in land relations as a product of state-led policies and legal pluralism. Legal pluralism is a product of colonialism, in which colonial powers imposed their legal traditions on top of local land-holding systems. They attempted to interpret African tenure systems and codify them, but in the process the working of these systems was distorted

by lenses fashioned by European perceptions of land at the end of the nineteenth century. Modern land law in Africa refers to legislation founded on colonial law at the beginning of the last century (Lavigne Delville, 2000).

Customary land tenure systems are not inherently unstable. Local land use rights and rules are frequently clearly understood within the communities in which they operate. However, they are often not legally recognised. The existence of legal pluralism creates confusion in which the rights to different areas of adjacent land may be established by different legal codes. This creates uncertainty in rights to land, since they can be challenged and cancelled through appeal to different state authorities. The confusion surrounding land rights benefits the politico-administrative class and their allies. They can take advantage of the confusion and use their influence to acquire land and control various forms of rents and bribes gained from the land (Lavigne Delville, 2000). Statutory frameworks governing relations between the state and the populace are often based on decisions that favour a particular group of people. They are based on specific political alliances (Lavigne Delville, 1998). Statutory frameworks are not neutral.

Communitarians are concerned with harmonising local practice and state administration in land. They seek to facilitate dialogue between different stakeholders to achieve a better integration of land policy and a more transparent land policy that meets the needs of various land-users and stakeholders.

Communitarians are also concerned with building local capacities to manage land and engage in dialogue. As Platteau (2000:72) comments:

> What is therefore needed is an approach based on cooperation rather than confrontation. This implies, whenever feasible, a strengthening of local capacities for management, information, and dispute settlement rather than imposing from above the mechanisms of a formal legal system. In most cases, it also implies recognising the rights of original occupants to "vacant" land located in their ancestral territory.

Problems in defining the community

The communitarian approach successfully challenges some myths that underlie the evolutionary property rights theory of land tenure. It challenges the ethnocentricism of evolutionary property rights theory and shows that property has other significance than a means of gaining loans to purchase modern agricultural technology. It argues that the significance of land should be determined by the various stakeholders to that land rather than by western notions of property, masquerading as objective, neutral, scientific or technocratic definitions. It shows that what is construed as a tenure system consists of different elements interacting in political space and that tenure systems are not solely evolving in relationship to systemic factors of population, land scarcity and technological development. Political

factors have an important influence on tenure systems. The communitarian approach demonstrates that what is construed as evolution towards higher individuated tenure systems often consists of a struggle between customary forms of land tenure and legal forms of private property which the state attempts to impose. Far from being modern, these state forms of land tenure are based on colonial models of tenure which were imposed at the beginning of colonial rule and which do not reflect the realities of contemporary rural Africa. Customary forms of land tenure are seen as dynamic with the capacity to respond to changing conditions.

Arcadian Africa and authentic culture

In counterposing the state to the customary world, the communitarians fall back on an inverted dualism which mirrors that used in modernisation theory, between the traditional and modern sector. It is inverted in the sense that while economic dualism portrayed the traditional sector as backward and the modern sector as progressive, the traditional or customary sector is now being characterised as dynamic.

For many communitarianists this dualism does not constitute a problem. They are happy to fall back on the image of an Arcadian African tradition rooted in a deeply egalitarian moral order in which to portray the customary against a modern corrupt and inequitable state. A typical example of this Arcadian position is stated by Okoth-Ogendo (1994:23-24):

> In former days, indigenous land use communities recognized the harshness of the environment and sought to cope with it through a number of institutional structures, principles and techniques. Over time these communities also devised ways of addressing the population issue, especially as it approached critical dimensions in particular localities.

> ... The purpose of vesting the control function in the political authority of the community—the head of the family, the common ancestor or a council of elders—was generally three-fold. First and foremost, it was meant to guarantee security of opportunity for all who had access rights to those resources. If there were a possibility that some of these rights would be taken away, the tenure system assured that these would occur only in exceptional circumstances, and only upon a collective decision made at the highest level of social organization. Second, it was designed to ensure equity between and across generations. Thus the control function determined the rate of expansion or contraction of membership in the unit by means other than birth, and the distribution or redistribution of access rights in response, *inter alia,* to increased demand for land. Third, the control function also determined important land use decisions, such as specific land usages in particular areas of community territory, including planting, weeding and harvesting times, the duration of fallow periods, and the nature of resource preservation or conservation measures, where these required collective action by the community.

Communitarians often contrast this moral, egalitarian Arcadian tradition with a corrupt and inequitable modern state. For instance, Kasanga (1996:100) argues that the postcolonial land machinery in Ghana has been "inequitable , unjust, callous, inefficient, wasteful, and hopelessly corrupt". This is contrasted with the essence of customary tenure:

> Ghanaian customary tenurial systems are therefore a source of social security and continuity. The full enjoyment of the fruits of one's labour and efforts are guaranteed, and in regard to land, no man is "big" or "small" in his own village or town (Kasanga, 1996 :89).

He advocates that the chiefs and landowners rather than decentralised district authorities should be made responsible for land administration and that they should run their own autonomous land offices independently of the elected district assemblies.[1]

Other communitarians are troubled by this Arcadian perspective. As Lavigne Delville (2000:114-115) states:

> ... to recognise the existence and legitimacy of rights is not the same as going back to some idealised notion of "traditional" systems. The local context in Africa has changed; landholding practices and rights to land have progressed. The existing reality, with all its complexity and hybrid forms, must be taken as the starting point, rather than taking a neo-traditionalist stance and advocating "customary" rules which are no longer enforced, or simply allowing customary authorities complete control.

Lavigne Delville (2000:98-99) attempts to overcome the Arcadian position by unravelling underlying principles that inform the evolution and diversity of African land tenure systems:

> The distribution of rights is, therefore, based on the socio-political system (the political history of the village and region from which the alliances and hierarchical relationships between lineage are derived) and on family relations (access to land and resources depending on one's social status within the family), so that social networks govern access rights (Berry, 1993). Far from being the result of a series of precise rules, rights held by individuals are the fruits of negotiation in which the local land authorities act as arbiters; customary law is by nature "procedural" and not codified. It does not define each person's right, but the procedures by which access to resources is obtained.

> These basic principles continue to apply in most of rural Africa, even though the authorities, socio-economic conditions and the rights themselves have profoundly changed over time.... As is demonstrated by many case studies,

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[1] This returns to the state of colonial administration under indirect rule, preceding reforms in the 1950s that introduced elected local councils.

local landholding systems do not consist of the rigid rights so often prescribed in earlier academic literature. They are flexible, and evolve in accordance with customary practice whereby rights are negotiated with the authorities on the basis of a number of shared principles.... Tenure rules often evolve in the face of major changes in the condition of production, or when the pressure on resources increases. There is no system that is "traditional" or customary in itself, but there are forms of land management based on customary principles.

There are also some problems with this schema. Firstly, it is not clear whether the underlying customary principles are projected as emic principles discovered by the researchers or etic principles, recognised as core values of authentic African culture on which they construct their tenure systems. Since no evidence is provided of their conscious articulation in African societies as principles they would appear to be emic categories. Secondly there is some confusion as to whether they are cultural principles confined to and characterising African societies or common underlying structural principles of accommodation and consensus-forming that are common to all societies. If these are emic principles of a more structural nature then there is a possibility that they are being imposed upon African societies by European researchers. The authentic African culture that is projected by these researchers is based on value systems that harmonise with the present niche role that Western politicians, policymakers and some Africanists have taken on as facilitators of peace and development, and as facilitators of dialogue between the state and civil society. In this respect they may be no more objective statements than colonial interpretations of African land tenure systems. If colonialist land theorists required rigid concepts of customary land law welded to tradition and traditional authority in which to construct their codification of customary land law, then present day facilitators require concepts of flexible land law which establish rights through a process of negotiation.

This tinkering with cultural values becomes most evident when community values conflict with global protocol. For instance, when dealing with issues of the environment, Dubois (1997) extols the virtues of the *Dina* in Madagascar as a model example of a customary institution that can be used for the modern regulation of natural resources. *Dina* are bye-laws enacted by traditional authorities, infringement of which includes fines, ritual sacrifices and expulsion from the community. That these may conflict with the human rights of peasant cultivators does not bother Dubois. However, when it comes to issues of *gender,* then he is concerned that customary institutions do not often promote women's interests and may need to be modified. Similarly, Egbe (1996) advocates the preservation of customary practices that are in accord with modern global environmental sensibilities and the modification of those which are at variance with global environmentalism:

This is not a wholesale justification of customary practices, but an argument for perspective and balance. Slash-and-burn agriculture, shifting cultivation, hunting with the use of fire and poisonous substances, and the rule that "he who chops down the forest first establishes title", are certainly factors which render customary practices invalid in terms of possible legislation.... In ethnic groups with a pyramidal power structure, such as most of the *lamidos* of the Northern provinces, peasants are discouraged from planting trees because they enjoy only usufruct. Consequently, they cannot develop the land on a permanent basis. Efforts should be geared towards encouraging the abandonment, or at least modification of such practices. But a practice by which certain animals enjoy royal status and therefore cannot be killed or hunted could be beneficial for sustainable management. In the centralised system of the West and North West Provinces, because the chiefs are the tutelar owner of all land, their authority is respected in all matters pertaining to the land. Sustainable management and conservation can be encouraged through such centralised authorities (1996:31-32).

The depiction of an authentic African culture built on core values of processes of negotiation, accommodation and consensus-building, does not easily fit with what we know of the history of Africa, particularly the large number of wars between competing states and revolutionary upheavals within societies that occurred in the nineteenth century. For instance in writing on the development of militant Islam in West Africa, Levtzion (2000:85) comments:

It is significant that all leaders of jihad movements in West Africa came from the countryside and not from commercial or capital towns. The challenge to the marginal role of Islam in African society could not have come from those who had benefited from the existing political order—neither from traders who were protected from by the rulers nor from clerics who rendered religious services in the chiefly courts.

The new Muslim leaders articulated the grievances of peasants. In Hausaland 'Uthman Dan Fodio criticized the rulers for killing people, violating their honour, and devouring their wealth. He declared that "to make war on the oppressor is obligatory by assent". 'Uthman's son, the sultan Muhammad Bello, evoked the wrath of Allah over "the *amir* (ruler) who draws his sustenance from the people but does not bother to treat them justly".

In this account of radical upheaval carried out under the inspiration of militant Islam, the rulers who were overthrown by an aggrieved rural society are perceived in very much the same way as communitarians today perceive contemporary states. But, the rural peasantry embrace radical Islam as an ideology that would redress the injustices of their world, including rulers who oppress and marginalise them. The peasantry do not resort to a doctrine of authentic African egalitarian values, which are being violated by bad rulers and policymakers. The existing political system is seen as corrupt and exploitative, in need of radical transformation through a reorganisation

of the political and social institutions and structures that existed in the nine-teenth century.

Social differentiation and control over land

The issue of social differentiation is not easily dealt with by communitarians in their search for an authentic African democratic tradition which mirrors contemporary global morality. This issue is either avoided or sidestepped. Platteau (2000:72), for instance, skirts the issue of social differentiation, but then dogmatically asserts African communal values:

> ... even though social differentiation is not to be underestimated, African vil-lage communities tend to provide social security to all their members and to ensure that everybody can participate in new opportunities. Such considera-tions of social security and equity usually dominate pure efficiency concerns, which should be regarded as a positive contribution in a generally insecure economic environment. Third, even today, customary systems continue to generate a remarkable degree of consensus, in particular on the norms and values justifying land claims.

Perhaps, an issue of more fundamental concern is that communitarians deal with social institutions but not the social alignments around these institu-tions. They do not pay sufficient attention to the relations between social classes or social interest groups around which institutions are organised. They do not go beyond the social sensibilities of global protocol, which require gender, street children, and various "minority" groups to be consid-ered, or beyond the concept of a stakeholder. These liberal social concepts are imposed on the societies in question rather than arising from a social analysis of the social relations around production and market exchange. Stakeholders are conceived of as autonomous interest groups with an inter-est in a resource, which they come to negotiate with other users around a negotiating table. Stakeholders are not usually conceived of as locked into pre-existing socioeconomic relations with each other.

A number of researchers have highlighted the relationship between po-litical struggles to define and redefine social relations and rights in land. These relationships and struggles are transformed by changes in the condi-tions of production and different historical circumstances. For instance, Parkin (1972) argues that the main avenue of social differentiation among Giriama in Kenya is the acquisition of land for cultivation of coconut palms. Entrepreneurial farmers are investing in land and palms. The Giriama are an egalitarian society in which wealth in the past has been expressed by attracting and maintaining supporters, rather than by investing in land. To create a land market the entrepreneurial farmers manipulate bridewealth and funeral expenses to gain access to land. Through increasing ostentation the costs of hosting these two occasions are increased and many families are

forced to sell land to raise finances. These enterprising farmers maintain a
network of influential elders who act as informants on available land for
sale and as witnesses to land transactions. Since land sales are not registered
it is important for the purchasers of the land to have elders as witnesses.
Government courts also regard the testimonies of elders more favourably
than other members of the community. The enterprising farmers continue to
subscribe to the "common language of custom" playing important roles in
customary institutions and upholding the authority of elders and lineage
heads. By acting as witnesses in land transactions the authority of elders is
upheld, but the elders also sanction the rights of young farmers to buy land
and gain access to land without reference to kinship relations (on which the
authority of the gerontocrats is ultimately based). The elders attach them-
selves as clients to young wealthy farmers. Through their role as witnesses
the elders uphold the gerontocratic ideal and yet subscribe to the capitalist
spirit which threatens to undermine the ideal of age as the prerequisite of
authority. The enterprising farmers support the ideals of redistribution and
the principle of seniority, but conceal illicit capitalist principles under the
cloak of gerontocratic authority. Parkin refers to the process as the
"mystification of social inequality".

In the Murang'a district of Kenya, MacKenzie (1993) shows how Kikuyu
men seek to gain control over land claimed by women by manipulating the
tradition of *mbari* or patrilineal sub-clan authority. She argues that this re-
course to "traditional" lineage structures is used to mask an ongoing proc-
ess of socioeconomic differentiation. This has eroded women's individual
rights in land. However, women have responded by manipulating other
social idioms to organise for their rights, and developed other idioms which
combine modern organisation with appeal to tradition. MacKenzie argues
that both the customary and statutory spheres are arenas for the struggles of
men and women for land.

In a study of conflicts over irrigated rice lands in the Gambia, Watts
(1993), focuses on household gender conflicts over access to land and labour.
Men attempt to gain control over land and crop rights in the irrigation
project by classifying the newly created plots as household plots on which
all household members must work. Under this arrangement women find
themselves losing the individual plots they used to farm as they become
incorporated into irrigation land and reclassified as household plots.
Women have resisted these developments by withdrawing their labour from
these plots and challenging their classification as household plots. Property
rights are thus defined by evolving social relations, including gender roles
and labour arrangements. Watts (1993:161-162) argues that:

> ... property rights must not be seen as narrowly material for they represent
> rights with respect to people, including rights over their labour power. Rights
> over resources such as land or crops are inseparable from, indeed are isomor-
> phic with, rights over people; to alter rights is , as Robert Bates says, to rede-

fine social relationships. And second, by seeing economic life as a realm of representations, we perceive struggles over land and labor to be simultaneously symbolic contests and struggles over meaning. In the case I examine, specifically, who works where under what conditions, and the conjugal contract. In conditions in which households are contracted on as the basic unit of production, the consequences for the labor process (the social organization of work) and property are always domestic in character, reflecting the dominance of kinship and gender in the access to, and control over, resources.

On the basis of such detailed case studies, the dichotomy between a state which promotes capitalist spirit and land grabbing by its allies and a community committed to egalitarian social values and social welfare principles is difficult to substantiate. The capitalist spirit eats deep into communities and becomes internalised in its social institutions and representations of custom and culture.

In a study of the Guro, Meillassoux (1978) argues that the incorporation into the world market economy was accompanied by a transformation of the expropriation of the land. This resulted in a relaxation of kinship relations that had become incompatible with the relations of production that emerged from the "valorisation of the product of labour" (1978:327). Land became the object of contract between owners and tenants, employers and labourers that replaced earlier relations of personal dependence. Meillassoux argues that peasant society is transformed, but its traditional sector features continue to be retained because it continues to have value to international capitalism, in providing the social welfare functions and basic needs which capitalism refuses to assume. Thus, the persistence of customary institutions is less dependent upon their innate "conservatism", "adaptability" or "flexibility" than on the continued interest of international capitalism in perpetuating these forms. Meillassoux (1978:328) concludes that:

> [In Guro society] community organisation is already in the process of disintegrating through the spread of trade, the commercialisation of food products and agricultural specialisation. Around cash crops there tends to develop a fragmented peasantry still rooted in former structures and representations which conceal the emergence of a new class of landowners. But the new peasantry will be able to recognise the true nature of the new social relations, as the wage-earners push the young villagers away to the city, as the competing immigrant planters ruin local farmers and as big private owners expropriate the village community.

Community boundaries and community representation

Without a concept of a wider social structure in which communities are integrated the boundaries and social representation of communities are difficult to define. The concept of community comes to define the institutions in which the peasantry live, the institutions within a settlement. But these institutions are not placed within a social structure in which they

operate. They are not placed within polities or other social and political structures and the hierarchies of settlement which come to define polities.

This leads to much confusion in the identification of rights of representation between different groups. As we have seen above, Platteau (2000:72) defines community representation in terms of "recognising the rights of original occupants to "vacant" land. Lavigne Delville (2000:118), on the other hand, recognises the danger of this position:

> Claims based on "prior occupancy" or "indigenous occupancy" are particularly problematic. While they are an issue for legitimisation, they are often the basis used to justify the revival of "ancestral" rights that may have been lost, or to challenge open-ended loans of land that have, over time, been transformed into de facto ownership. In some cases, the intervention of the Rural Land Plan in Ivory Coast has enabled local people to claim ownership of land that has been made available to a group of incomers several generations ago.

It is not clear how contested rights between different groups, who may use different idioms of custom to represent their interests or alternative discourses can be dealt with within this framework of community consensus.

Problems of representation very much influenced the dismembering of Indirect Rule in British colonies, during the 1950s. It was realised that the rapid social change and migrations that had accompanied the economic developments of staple crop farming and extractive industry resulted in a social flux. The heterogeneous populations of villages, towns and districts reflected a situation of cultural pluralism rather than conformity to a single customary code. The imposition of conceptions of native administration based on a concept of tribal chiefs resulted in much discontent. This realisation resulted in reforms to develop local administration in the 1950s based on elected councils.

The major focus of communitarians is on totalizing discourses centred on strong social relations with a clearly defined political structure that represents the community. These institutions share a common culture with an underlying system of shared values to which all actions and discourses are connected. While history is not denied, it is seen as a vehicle through which these underlying values are recognised. While conflicts and contestation of resources are not denied they are attributed to be a characteristic of this underlying authentic culture.

The communitarian approach recognises patterns of inequality at the national level between the state and the locality, but is weak in analysing social differentiation within the rural or community structure. This is not surprising since it centres its analysis on authority structures. It fails to develop a framework through which processes of contestation, transformation and domination can be analysed (Asad, 1979), in which a variety of discourses can develop around land including potentially subversive positions.

Change and transformation

By defining the customary as flexible, adaptive, dynamic and hybrid, the communitarian approach creates problems for examining processes of change, since change has now become an intrinsic feature of institutions rather than a product of struggle between different social forces. While the communitarian approach paints African cultures in a positive way, the concept of adaptive social-welfare oriented communities may not actually correspond with the realities of living at the turn of the century. Some recent research has suggested that the last twenty years of readjustment policies following on from recession have resulted in a "declining coherence of peasantries, with respect to their marketable farm production, family structures, class position and rural communities" (Bryceson, 2000).

Diminishing incomes from cash crops have undermined the position of men as family providers. Many children and youths have been forced to become involved in income-generating activities outside of family farm labour and outside of the agricultural sector. This has resulted in a new individualisation of economic activity which undermines family labour and the pooling of resources, as members of families begin to assert their economic independence. There is an increasing mobility with large numbers of people moving between rural towns and villages and between urban and rural areas. Many rural households are involved in non-agricultural activities and agricultural incomes are often supplemented with non-farm work. There is increasing social differentiation. Family networks and reciprocal relations are increasingly becoming ambiguous as family units are being transformed (Bryceson, 2000). Structurally, there is an outflow of capital and labour from agriculture towards service sector oriented economic activities.

Tensions within the units of rural production, consumption and distribution have been exacerbated by adjustment policies. Under these policies communities have become responsible for raising funds for their own development and supporting their own social safety networks to see to their welfare, for bearing the transaction costs of development. While this is heralded by new institutional economists as a radically new path-breaking theory, this is an old theory, which lay at the heart of colonial Indirect Rule, of "government on a shoestring". Behind the attempt of communitarians to build a new participatory local-level democracy, based on notions of redistributional community institutions with responsibility for social welfare and arbitration of disputes, lies this concept of communities bearing the transaction costs of development. If community social welfare and redistributional institutions are being rapidly transformed under the pressure of increasing hardship, immiseration, social differentiation, and as a result of the new roles ascribed for them by international development policy, then the foundations of present policy will be badly informed. Without subjecting notions of African society and popular participation to careful scrutiny, social scien-

tists and development theorists run the risk of developing vicarious para-
digms with unforeseen consequences. As Parkin (1972:104) concludes in his
study of changing Giriama land relations:

> Insofar as we follow unquestioning many customs and conventions in our
> own particular culture, we are all mystified into accepting certain assump-
> tions about our place in society and about human existence generally. Yet at
> the same time we remain unaware of the long-term implications of our values
> and beliefs.

An outline of what lies ahead

This work examines property relations in the Akyem Abuakwa area of the
forest region of Ghana. The Akyem Abuakwa area is the old cocoa frontier
zone in Ghana in which migrant cocoa farmers started purchasing lands
during the nineteenth century. It is an area rich in agricultural land and gold
and diamonds. The study focuses on two areas: the Atewa Range and the
New Suhum area. In all three settlements the dominant kinship organisation
is matrilineal—although in the Suhum area a large proportion of the
migrants are not matrilineal. The main crop in the New Suhum settlement is
cocoa. Cocoa production has declined in the Atewa Range settlements. Ex-
periencing difficulty in rehabilitating cocoa, roots and tubers have become
the main farm produce. The main cash crop is plantain.

Two adjacent citizen Akyem communities are examined in the Atewa
Range, where communities are hemmed in by a forest reserve and suffer
some consequences of land shortage resulting from this appropriation of
land by the colonial state. Social differentiations in landholdings are not so
pronounced in this area and the main differentiation takes place across
generations. The grandparent generation has the most access to land by
virtue of establishing ownership through land clearance in the pioneer fron-
tier days of cocoa cultivation. The youth suffer the most from land shortage,
and become dependent upon their families for land. Unlike in the past, they
no longer have the option of going out and clearing their own patch of for-
est, because uncultivated forests, outside of the forest reserve, no longer
exist. However, the male youth also find family dependency constraining
and no longer wish to serve their fathers and uncles on the farm. This is
partly because their elders cannot support them materially and meet their
basic needs in an increasingly expensive world. Elders cannot guarantee
them access to land at the end of their service, since land has become scarce
in relation to the number of people with rights in land. Family disputes may
develop around elders giving out land or leaving land as an inheritance to
their children or sisters' children. As a result of tensions between male
youth, fathers and mothers' brothers over rights to land and rights to labour
service, many male youth attempt to get land from other sources, appealing
to grandparents who have more land than their parents (and fewer desires),

or entering into contractual sharecrop arrangements with farmers outside their families. Others gain their income by hiring themselves out as casual labourers to other farmers, engage in goldmining, diamond mining, and carry timber boards for chainsaw operators (many of whom operate illegally). Many young people migrate to towns and cities and other villages, all in search of work.

As a result of these livelihood strategies of youth, their seniors no longer have access to family labour and have to hire labour. Those that cannot afford the cost of hiring labour or are unwilling to supervise labour, engage in sharecrop contracts with "youth" tenants. Elders are also selling land. This is sold under the cloak of family distress, but frequently this is a deliberate strategy to destroy family property and recreate land as individual property. By developing a land market elders can transform family land into individual land. They may use some of the proceeds gained from sales of family land to purchase their own individual land. In contrast to family property, they can use individual property as they wish and are free to disburse it as they please. At the level of land sales the interests of youth and elders may coincide. The development of a land market enables youth with money to purchase their own land and farm independently. It enables fathers to pass on land to their children without other family members contesting this process. While land can be purchased easily, purchases are limited because of lack of capital within the area and the lack of a prosperous agricultural base.

Land relations and disputes also have a gender dimension. Many women are concerned that men are attempting to pass on land to their own sons at the expense of their daughters. Women are defining their rights in land according to a new interpretation of matrilineal inheritance which attempts to exclude men such as brothers, nephews and uncles from matrilineal land. They argue that if land is passed on to male heirs the men will give portions of the matrilineal land to their wives and children, thus diminishing the land the matrilineage has at its disposal. In contrast, if the land goes to the women of the lineage, their husbands will help them to develop the land, but it will be inherited by children who are of the matrilineage, thus consolidating matrilineal property. This ideology promotes the role of women as custodians of the matrilineage. In contrast with many contemporary approaches to gender equality which seek to strengthen the rights of wives and children to the property of men, this discourse prefers to strengthen women's direct rights in matrilineal land. Land is seen as an asset through which a woman can gain a good hardworking husband and retain rights in land. This is seen as preferable to the situation where a wife serves her husband and gains secure rights in his property. This reflects a situation where marriage is frequently unstable. While this discourse is articulated to appeal to matrilineal sentiments and custom, it essentially subverts matrilineal authority by questioning the allegiance of the male

head of the matrilineage to matrilineal principles. It takes advantage of attempts of males to shift the burden of their responsibility towards their sisters' children and the rift between male elders and male youth, to rede-fine matriliny according to matrifocal principles, based on the unity of three generations of female relatives.

The Aburi section of Kofi Pare in the New Suhum area also has a matri-lineal ideology. However, there are significant differences in the way land is organised around this matrilineal ideology to the Atewa Range settlements. The Kofi Pare land was purchased in the late nineteenth century by wealthy farmer traders, who had accumulated capital in oil palm farming. A small group of wealthy male associates purchased a large tract of land jointly. They divided the land according to their contribution and then invited rela-tives to join them in their farming enterprise. The family members were given small plots of land on which to make their farms and provided labour service to their patrons for developing their large plantations and the set-tlement infrastructure. The wealthy patrons also brought labourers to the settlement. Some of these were rewarded with gifts of portions of land. As the settlement developed migrant labourers also gravitated towards the settlement. The large farmers released land to them on sharecropping arrangements. The large farmers had many farming ventures in different areas and managed these plantations by placing family members as care-takers and labourers in different localities and supplemented their labour with hired labour and sharecroppers. The various settlements in which they farmed developed a mosaic of social relations based on social differentia-tion, large holdings surrounded by small holdings and various forms of labourers, labour tenants and tenant farmers. Social differentiation within agriculture has a deeper history than in the Atewa Range settlements. Sharecropping arrangements are more deeply entrenched here, and are less generationally bound than in the Atewa Range settlements. Many latter day migrants moved to Kofi Pare in search of employment as labourers or as sharecrop tenants. However, similar tensions between youth and elders exist and are generated by the macroeconomic contexts. Youth are insecure about their future access to family land, are unwilling to spend long years in service to their elders for promises of land in the distant future, and are unsatisfied with the material support they gain from their elders. They seek to gain sharecropping land and develop alternative livelihood strategies to farming. Large numbers of youth migrate to towns and cities. The elders are unable to look after a large number of dependants and can no longer control the youth through demands of labour service. They attempt to limit their own family responsibility to their children and depend more upon share-crop contracts than on hired labour. Thus, the same crisis of redistribution of land and labour, and increasing commodification of these relations occurs, as in the Atewa Range. Again, this is represented as an intergenerational

conflict and as a moral crisis. The elders portray youth as lazy and disrespectful and the youth depict the elders as greedy and exploitative.

Most residents at Kofi Pare are adamant that a land market does not exist, since the land is family land, having being portioned out by matrilineal benefactors. However, more land sales occur at Kofi Pare than in the Atewa Range settlements, although they are kept very discreet. This probably reflects a higher demand for land than in the Atewa Range, given the greater wealth generated by cocoa than plantain. By maintaining a discreet sphere of land sales related to distress, land prices are maintained at a high level since land purchasers have to expend considerable resources in gaining information on available land. This assures that sharecrop tenants are not able to easily move from the economic sphere of dependent tenants to independent landowners, and that dependent youth cannot usurp their elders by purchasing land.

In contrast to the Atewa Range settlements, a matrifocal discourse is absent. Women exert little control over land and have very limited access to land. The position of most women in the settlement is defined by their relationship to men rather than to land. Many women define themselves as wives rather than farmers. This results from the origins of the settlement. A group of male associates came together to purchase land. They disbursed land to matrilineal supporters who helped them open the land and built up a following of labourers. The service and labour relations were relations between men. The role of women was in placing the men in matrilineages and maintaining the consumption and reproductive units of the men. The wealthy male farmer traders, cemented their economic partnerships by engaging in marriage alliances, which assured that their properties would be consolidated by their descendants. While they did apportion some land to female relatives, this was essentially for the benefit of their male children. Most women went to these frontier towns as wives of cocoa farmers. They were able to farm food crops on land their husbands were developing as cocoa plantations. As time went on the area of mature plantation expanded and the area of new plantation in which they could plant food crops diminished. Women's roles as farmers became increasingly marginalised.

Contemporary land relations cannot be analysed against a backdrop of customary relations, for what we construe to be customary relations have been developed in specific and changing historical relations. The customary setting of matrilineal land relations in Kofi Pare is different from those in the Atewa Range, because they reflect quite different historical processes. The original farmers at Kofi Pare, were wealthy pioneer frontier farmers, who created the cocoa economy of Ghana. The farmers in the Atewa Range who went out to create cocoa farms in the forests surrounding their settlements, were smallholder farmers, imitating the efforts of the large cocoa investors in a small way, to gain a little wealth from cocoa. Each of these categories reproduced the culture, organisational forms and material wealth that had

been bequeathed to them by organisations rooted in family structures organised around three generations of sibling groups emanating from a grand old lady, in different ways.

Land relations need to be understood in terms of their historical roots in economic and material conditions, and how they are perceived and organised in terms of popular perceptions of those material conditions and the relation to the past. Every epoch produces its interpretation of the past and the present, of custom and modernity, of progress and transformation.

With this in mind, this first chapter of this study develops a historical overview of the Akyem area, and the changing significance of land, labour, polity and lineage in this changing political economy. The second chapter builds up a description of the three settlements that are the subject of the research and their economy. The third chapter examines the kinship relations between elders, youth, men and women in agricultural production, and how these relations are mediated by concepts of rights in land and labour, rights to service and welfare, and the commodification of land and labour. The final chapter examines the implications of these findings for present interpretations of the land question and the relevance of a land policy for rural development.