

**Examining Land Conflicts, Land Dispute Resolutions and Women  
Farmland Rights in the Dormaa Traditional Area, Ghana**

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# **Examining Land Conflicts, Land Dispute Resolutions and Women Farmland Rights in the Dormaa Traditional Area, Ghana**

A Dissertation Submitted to  
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## **Abstract**

In Ghana, land conflicts are ubiquitous largely because of its unique land tenure traditions and governance practices. These conflicts have seriously affected economic development. In some parts of the country, land dispute issues took nearly three decades to reach court judgments. The Dormaa traditional area, on which this paper focuses, has long been the food basket of Ghana, producing a considerable amount of food crops and poultry. The area shares boundary with Cote D'Ivoire and has a unique trans-border land tenure tradition. In this area, the outcome of land disputes is determined by traditional authorities, statutory institutions or/and trans-border land claims from Cote D'Ivoire.

This study examines land conflicts in this area by analyzing court documents, the field data and interviews with key informants. I found that three major factors triggered land related conflicts and litigations. These are (1) undocumented lands, (2) lack of awareness of land related laws, and (3) overlapping jurisdictions and mandates between state and traditional authorities. After discussing these with details, I recommend that (1) citizens be encouraged to document their lands; (2) lawyers are regularly updated about the complexity of land laws under both traditional and statutory authorities, and (3) creation of system to offer proper dialogues among stake holders.

This study also analyzes land dispute mechanism in the area. In Ghana, prolonged land disputes are costly and have serious implications on the regional economic development and food security. Ghana's land disputes also have been handled by both modern courts and traditional institution. This study examines land dispute in this area by analyzing field data and interviews with key informants. It also analyzed land dispute resolution mechanisms by examining resolution proceedings. My analysis found three major factors that triggered land disputes at court: (1) land trespassing, (2) lack of clear ownership documentation, and (3) bias towards traditional owners or defendants.

The study also looked into women's land rights as a vulnerable group. Due to the traditional inheritance system and customary land tenure system, women's right to land ownership are sometime not protected. It analyzed the courts proceedings of statutory and traditional court documents to examined the women's land right to find out if women go to court for redress and what happened at the court if they do. This result shows that women in the area go to courts for redress when their land right is threatened. And when there do, they are not discriminated against.

Additionally, this thesis recommends that various stakeholders should be involved in dealing with the challenges of land conflict. There should also be an advocacy for the knowledge of statutory and customary land laws. Creation of more alternative dispute centers and the traditional dispute resolution mechanism and the statutory law court alternative dispute mechanism could be merge for a speedy resolution mechanism.

Keywords: Land conflict; Dispute resolution; Women's land rights; Traditional land governance

## **List of Acronyms**

ADR	Alternative Dispute Resolution
DSLS	Dormaa Stool Land Secretariat
DTA	Dormaa Traditional Area
FAO	Food and Agricultural Organization
GHS	Ghanaian Cedi
GJS	Ghana Judicial Service
GLAP	Ghana Land Administration Project
GSS	Ghana Statistical Service
LC	Lands Commission
MLF	Ministry of Lands and Forestry
NGO	None Governmental Organization
OASL	Office of Administrator of Stool Lands
TI	Traditional Institution
US\$	United States Dollar
UNECA	United Nation Economic Commission for Africa
UNW	United Nation Women

## **Glossary**

<b>Word</b>	<b>Meaning</b>
Abunu	Half and half crop sharing agreement
Abusa	One third crop sharing agreement
Abusua Panin	Family Head
Adunahene	Sub-chief in Ghana
Akan	Tribe in Akan
Amasu	Town in Dormaa Traditional Area
Amasuhene	Chief of Amasu
Babianiha	Town name Dormaa area
Drink Money	Payment for land transaction
Nkrangyedua	Name of a tree
Nso Nyame Ye	Name of a Law Firm
Ntome	Name of a tree for demarcation
Nyamedua	Name of a tree for demarcation
Odikro	Village Leader
Ohene	Chief
Omanhene	Paramount Chief

## Table of Contents

Abstract.....	i
List of Acronyms .....	iii
Glossary .....	iv
List of Tables .....	vii
List of Figures.....	viii
Chapter 1 Introduction.....	1
1.1 Background.....	1
1.2 Objectives of the research.....	2
1.3 Literature review.....	2
1.4 Methodology.....	4
1.4.1 The methodological framework and data collection.....	4
1.5 The significance of this study .....	5
1.6 Structure of the dissertation .....	6
Chapter 2 Land Acquisition and Ownership in the Dormaa Traditional Area .....	8
2.1 Introduction.....	8
2.2 Methodology .....	9
2.2.1 Study area.....	9
2.2.2 Data collection .....	9
2.3 Results and discussion .....	10
2.3.1 Lack of documentation of traditional ownership.....	10
2.3.2 Insufficient knowledge about land-related laws .....	11
2.3.3 High court decision on land dispute.....	12
2.4 Summary .....	13
Chapter 3 Assessment of Women’s Land Rights in the Dormaa Traditional Area.....	15
3.1 Introduction.....	15
3.2 Methodology .....	15
3.3 Results and discussion .....	16
3.3.1 Farmland ownership.....	16

3.3.2 Farmland tenure fairness.....	17
3.3.3 Farmland accessibility .....	19
3.4 Summary .....	21
Chapter 4 An Analysis of Land Disputes in the Dormaa Traditional Area, Ghana.....	31
4.1 Introduction.....	31
4.2 Methodology .....	31
4.2.1 Ghanaian courts and the study area .....	31
4.3 Results and discussion .....	32
4.3.1 The disputants .....	32
4.3.2 Types of pleadings by the plaintiffs.....	33
4.3.3 Type of relief sought.....	33
4.3.4 Time span of the cases .....	34
4.3.5 Opinions of the courts .....	35
4.4 Summary .....	36
Chapter 5 The Traditional Land Governance System in the Dormaa Traditional Area .....	39
5.1 Introduction.....	39
5.2 Methodology .....	39
5.3 Results and discussion .....	40
5.3.1 The disputants .....	40
5.4 Customary court and traditional leadership in the Dormaa traditional area .....	41
5.5 Traditional dispute resolution in the Dormaa traditional area. ....	43
5.6 Summary .....	44
Chapter 6 Conclutions and Recommendations.....	46
6.1 Findings .....	46
6.2 Recommendations.....	47
Acknowledgements.....	49
References.....	50

## List of Tables

Table 3.1 Farmland ownership in relation to social background.....	22
Table 3.2 Farmland ownership in relation to age .....	23
Table 3.3 Farmland ownership in relation to marital status.....	24
Table 3.4 Farmland tenure fairness by social background .....	25
Table 3.5 Farmland tenure fairness by age .....	26
Table 3.6 Farmland tenure fairness by marital status .....	27
Table 3.7 Farmland accessibility in relation to social background.....	28
Table 3.8 Farmland accessibility in relation to age .....	29
Table 3.9 Farmland accessibility in relation to marital status .....	30
Table 4.1 Number of civil cases in Dormaa traditional area .....	38

## List of Figures

Figure 1.1 Land tenure system in Ghana .....	7
Figure 1.2 Land governance gaps under the dual system .....	7
Figure 2.1 The Brong Ahafo region (GDP, 2010) and Dormaa traditional area .....	14
Figure 4.1 Why people go to court .....	37
Figure 4.2 Relief sought by the plaintiff .....	37
Figure 5.1 The structure of Dormaa traditional institution .....	45
Figure 6.1 Integrated framework of the study findings .....	48

## **Chapter 1 Introduction**

### **1.1 Background**

Land is an important natural resource. About 50% to 75% of assets of developing countries are in land. (Bell, 2006). According to the United Nations (UN), there is direct relationship between land tenure, agricultural investments and production (UNECF, 2004). Giving the importance land plays in the livelihoods of developing countries, issues of land governance and security of tenure are critical. The UN Sustainable Development Goals (SDGs) explicitly features land. The SDGs (Goal 1) address land as a parameter for sustainable development (IAEG -SDGI, 2017). Goal 5 promotes gender equality and reforms to provide women's access to, ownership of and control over land. The vulnerability and exploitation of women have resulted into gender inequality and the disempowerment of women (UNW, 2015).

Ghana practices dual land governance system (Kwabiah, 1988; Brempong, 2006), consisting of the customary (traditional) and the statutory (state) land governance. The traditional institution functions mainly at the local level. The state government is represented at the local level by the district administration and other statutory agencies. The overlapping land governance has created complex and unique practices.

This dual system can be traced back to the indirect rule by the British colonial authorities in 1878 (Ayee, 2000). As depicted in Figure 1.1, the customary tenure system still dominates land governance practices. This system is often called stool land and skin land. Customary lands are lands owned by traditional institutions such as families, clan or individuals. These lands are usually held in trust by chief, head of family, clan leader, or land priests for the people. Allodial owners of customary lands hold their interests in land under the customary law. The traditional institution in which the allodia title is vested has absolute freedom in dealing with the land.

The stool land governance is generally practiced in the southern part of the country. It is characterized by matrimonial inheritance practices. The skin land is generally practiced in the north of the country. The patrimonial inheritance system is associated with this system.

In recording ownership, traditional practices used oral contract. For the demarcation of land, traditional authorities used tress, hills and rivers. Customary law and traditional institution are to protect the rights of its subjects including women lands rights (WLR). Women generally appear to depend on their husbands for land access (Kaunza et al., 2016).

They may lose land in the event of husband's death. These practices have created land related problems and have increased land conflicts in the area.

The state lands are lands lawfully acquire by the government for a specific public purpose or for the general interest of the public. The state lands are vested in the president and held in trust by the state for the people. As showed in Figure 1.1, the state manages about 20% of the land in the nation through its agencies such as the Lands Commission (Pande and Udry, 2005; Bugri, 2013). The central government also established the Office of the Administrator of Stool Lands to liaison with the chiefs on customary land issues. These agencies sometimes overlap in governance and practice (Quan et al., 2008; Ubink, 2008). These overlapping administrations can lead to land conflicts and communal violence (Eck, 2014).

Figure 1.2 summaries the problem statement of the study in an integrated research problem framework. Land conflicts are ubiquitous largely because of the unique land tenure traditions and governance practices. In some parts of the country, land dispute issues took nearly three decades to reach court judgments. Land dispute resolution is time consuming, complex process and expensive. The traditional land practices such as the inheritance system have affected the land rights of the vulnerable such as women. These conflicts have seriously affected economic development.

## **1.2 Objectives of the research**

In this study, I attempt to find out the factors that can trigger land conflicts. In addition, this thesis attempts to understand how the traditional land governance system works and how land dispute is traditionally resolved. In dealing with these objectives, I attempt to answer the following questions:

- (1) What are the factors that trigger land conflicts?
- (2) Do women depend on men for having access to land?
- (3) Is there a link between women's land rights and land conflict?
- (4) What factors do people get driven to go to court for resolving land dispute?
- (5) How does traditional land governance contribute to land conflicts and dispute resolution?

## **1.3 Literature review**

The past studies have examined the causes of land conflicts with focus on natural resource scarcity, environmental degradation, and population growth. Ariza-Montobbio and Lele (2010)

emphasized that the value people put on natural resources can be an underlying factor for conflict. Homer-Dixon (1999) reiterated that scarcity in natural resource can lead to conflict. Svampa (2015) argued that land conflicts directly affected control over natural resources.

Researchers also examined cultural and socio-economic causes of land conflicts. Magnus (2008) found that socio-economic factors like poverty and institutional instability were more important than land degradation. Breslow (2014) argued that misunderstanding about resource management created land related conflict and unrest. Resource abundance and dependence may also aggravate grievances, leading to conflict if a particular resource is controlled by only one group (Wick and Bulte, 2006), or if citizens perceive the distribution of resource rents to be unfair (Østby et al. 2009; Murshed and Gates, 2005; Humphreys, 2005).

Studies by Hauge and Ellingsen (1998) concluded that environmental challenges have significant impact on armed conflicts. Raleigh and Urdal (2007) examined the consequences of conflicts over natural resources scarcity and argued that conflicts occurred when humans interfere with wildlife. In contrast, Hendrix and Glaser (2007) showed that land degradation has no direct impact on land conflicts.

In other studies, Urdal (2005) shed light on the correlation between population growth and civil conflicts. He found that population growth and land scarcity did not have a direct relation to land conflicts. Ross (2004), Humphreys (2005), Tir and Diehl (1998) similarly argued that population was weakly related to conflict initiation. Urdal (2008) later revised his earlier study and argued that land scarcity and population growth increased the risk of civil unrest. Shortage of agricultural lands influenced civil unrest.

Studies on women's land rights are relevant to land conflict issues as women in rural areas of developing countries tend to depend on natural resources around their households. These studies tend to focus on women's assets management, legal knowledge, tenure security, credit facility and agricultural productivity. Bugri (2008) noted that men had better land tenure security than women did. Meinzen-Dick et al. (2014) found positive correlations between women's land rights and poverty reduction in agricultural communities. Quisumbing et al. (2001) discussed women's natural resource management in Ghana and Indonesia. Johnson et al. (2016) and Quisumbing et al. (2014) showed a strong relationship between women's land rights and assets management. Quisumbing and Kumar (2014) argued that lack of women's legal knowledge had negative impacts on women's soil conservation practices. In Uganda, Deininger et al. (2008) found that land rights knowledge positively influenced tree planting, soil conservation, and investment.

As women are more vulnerable in making living, they tend to make sure they had sufficient security and access to land for future economic investment. Antwi-agyei et al. (2015) found that due to the complex land tenure system in Ghana, women were less likely than men to invest in soil conservation. In West Bengal, India, Santos et al. (2014) suggested that women who owned registered land were more likely to receive credits for building agricultural facility. Persha et al. (2017) observed that women more likely had access to micro financing. Bezabih et al. (2016) found a positive link between land certificate and agricultural output and more so with women's household. The studies by Newman et al. (2015) examined the impact of land certification on household rice productivity in Vietnam and found that women with certification had higher productivity.

Further research is needed to more clearly categorize the cause of land conflict and to develop effective solution. Not many studies have discussed the correlation between land conflict and the traditional institution for land governance. Little is also known about the relationship between women's land rights and land conflicts. In this study, therefore, I attempt to fill out this gap. I argue that traditional institutions and practices have played a major role in land governance and resolving the challenges that come along with them.

## **1.4 Methodology**

### **1.4.1 The methodological framework and data collection**

This study combines the qualitative and quantitative research methodologies due to the problem and question it seeks to answer Antwi-Agyei et al. (2015). Impacts of land tenure arrangements on the adaptive capacity of marginalized groups: the case of Ghana's Ejura Sekyedumase and Bongo districts. *Land Use Policy*, 49, 203-212, 1998). According to Johnson et al., (2007) the key elements of the mixed methodological approach to a study is for the breadth and depth understanding. In this study, interviews, documentary analysis and survey questionnaire were conducted for data collection and analysis. These approaches were adopted to validate the data through cross verification (Johnson and Onwuegbuzie, 2004; Johnson et al., 2007; Denzin et al. 2006; Leech and Onwuegbuzie, 2007).

In order to understand the nature and complexity of the problem, I conducted a qualitative research. Qualitative methods generally aim to provide an interpretation on a social phenomenon (Pansiri, 2005; Jogulu and Pansiri, 2011). To have in-depth understanding and perceptions about localized research questions (Guthrie, 2010; Creswell, 2013; Noyes et, al., 2018), fieldwork is a useful method. I conducted fieldwork to collect the data. Through

my personal network to various people in the Dormaa area, I conducted open semi-structured interviews in April and May 2017.

The interview questions focused on factors that may trigger land related conflicts and how disputes are settled. These informants belong to (1) the Lands Commission (District Director), which represents the government, (2) the Dormaa Customary Land Secretariat (Coordinator/Secretary), representing the traditional authority, (3) the Office of the Administrator of Stool Lands (District Director), which liaises the government agency to the traditional authority, and (4) the *Nso Nyame Ye* Chambers (and its chief lawyer), a law firm that represents citizens on land disputes. To better understand interview contents, documentary evidence was used to categorize, investigate, interpret and identify the limitations of the content (Payne and Payne, 2004). The law court documents, especially those from the High and the Appeal Courts were collected and examined. Traditional court documents were also used to supplement the research.

For validity and reliability, the quantitative research was largely based on a semi-structured questionnaire (Noyes et al., 2018). The target population was farmers in the traditional area. In all, 311 farmers were randomly sampled and 307 responded. To easily highlight changes, differences and compare the data, the question focused on issues related to farmland. The questionnaire was administered in April and May 2017.

Ethical considerations in this research included informed consent, anonymity and confidentiality (Ritchie et al., 2013). The help from an assemblyman in the area and the secretary of the Dormaa poultry farmer's association was obtained to collect the questionnaire data. Their service was extended to non-poultry farmers.

### **1.5 The significance of this study**

The outcome of this study on land conflicts is expected to reveal the relationship between land conflicts and women lands rights. I believe this study will help (1) better understand the causes of land conflicts in the study area. It will also help (2) share knowledge with the academic community about land conflicts and conflict resolution mechanisms. This study also seeks to share important knowledge about traditional land governance and traditional alternative dispute resolution (ADR). In the larger context my study will help (3) Contribute to regional studies on human geography and conflict resolution. This study sheds light on the importance of land governance in achieving land and gender related SDG goals. For example, some of the SDG goals explicitly talks about land and gender for sustainable development.

## **1.6 Structure of the dissertation**

This thesis has six chapters. The first chapter discusses the background of the thesis and investigative objectives. Past studies are reviewed to identify the research gaps for the foundation of this study. The methodology of the studies is discussed and the rationale for adopting the methods reviewed. The significance of the studies is demonstrated and the structure of the thesis presented.

The second chapter discusses the factors that contribute to land conflicts. To critically address land acquisition and ownership problems, the chapter tries to understand how the land tenure system works. The chapter attempts to identify factors that triggered or exacerbated land conflicts. This chapter examines land conflicts in this area by analyzing the field data and interviews with key informants.

The third chapter discusses women's farmland rights. The chapter comprises of farmland ownership, land tenure and farmland accessibility. It seeks to better understand how women's rights to farmland are affected by social status, tenure, and accessibility. Based on the fieldwork and the survey, this chapter identifies Dormaa people's perceptions about customary land use and ownership practices.

The fourth chapter analyzes the dispute resolution mechanism at court. The chapter analyzes court proceedings at High and Appeal courts. To better understand how Ghanaian courts have handled land disputes and why Ghanaian disputants were not satisfied with courts, the chapter identifies factors that contributed to land disputes and resolutions in the Dormaa traditional area.

The fifth chapter sheds light on the traditional land governance. This chapter analyzes traditional dispute mechanisms by examining dispute resolution proceedings. It attempts to fill the knowledge gap about the roles of traditional institutions in land governance and better understand how the traditional land governance system contributes to conflict resolutions.

The sixth chapter, the final chapter, discusses the findings of this thesis and offers recommendations for reducing land conflicts in the Dormaa area.

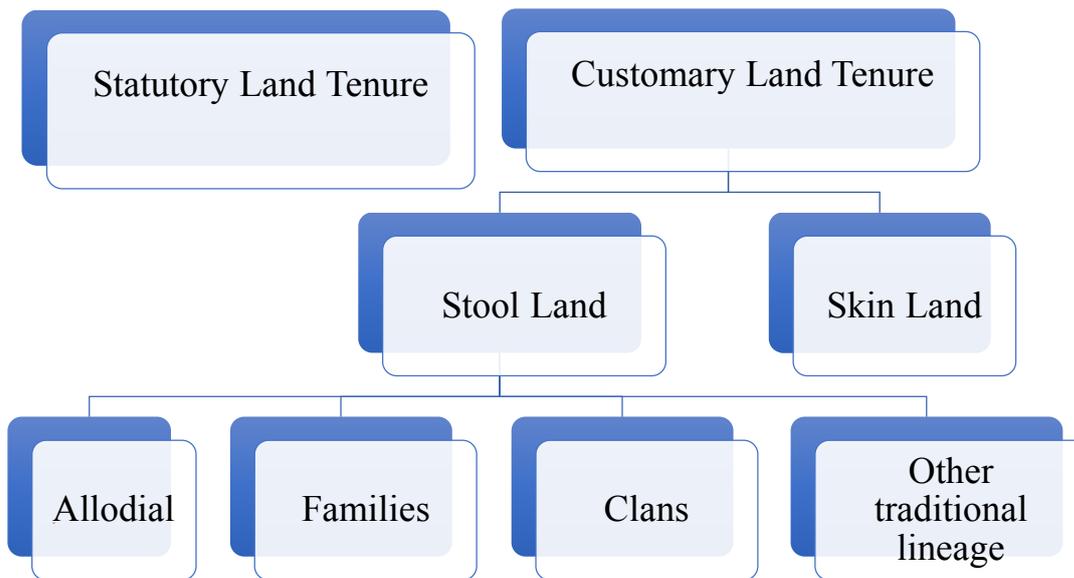


Figure 1.1 Land tenure system in Ghana

Sources: Fieldwork

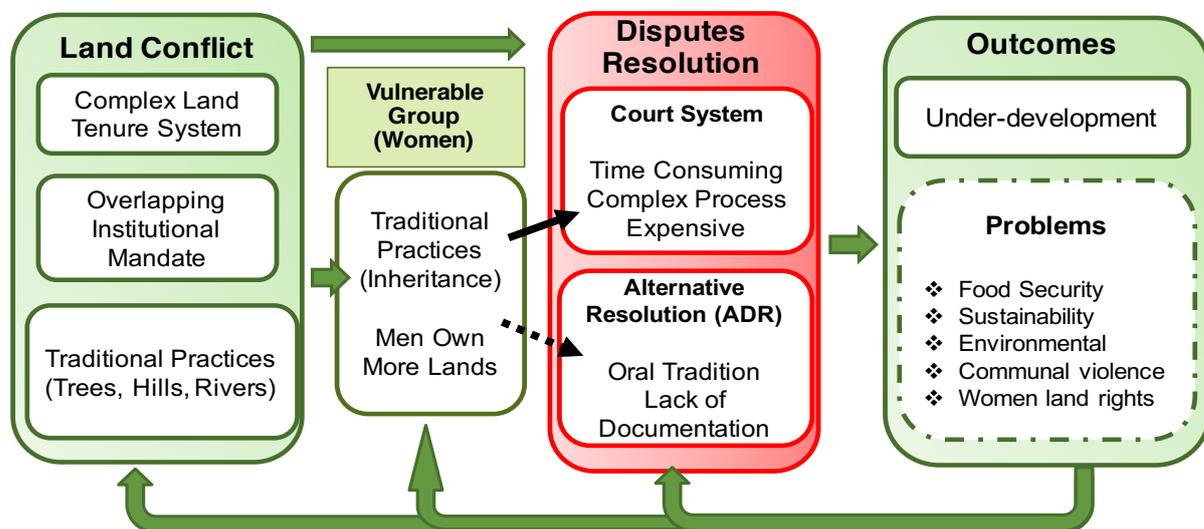


Figure 1.2 Land governance gaps under the dual system

Source: Fieldwork

## **Chapter 2 Land Acquisition and Ownership in the Dormaa Traditional Area<sup>1</sup>**

### **2.1 Introduction**

In Ghana, land conflicts are ubiquitous largely because of its unique land tenure traditions and governance practices. These conflicts have seriously affected economic development. In some parts of the country, land dispute issues took nearly three decades to reach court judgments. Land conflicts take various forms. They are related to inheritance, boundaries and land use (Boone, 2014). Some are associated with group invasions or evictions (Wehrmann, 2008). Conflicts over land access and ownership occur in villages due to insufficient information about land tenure systems (Kapfudzaruwa and Sowman, 2009). At family level, land conflict may occur when a family member sells a piece of the family land without consulting other members.

In addition, external interventions have changed the value and existing balance of land ownership (Rulli and D’Odorico, 2013; Ahmed et al., 2017). The emphasis of many African countries on foreign direct investments (FDIs) in the agriculture sector has resulted in the sharp increase of farmland demands (Boamah, 2014). In particular, Ghana has become a prime destination for large-scale farmland investments (Schoneveld and German, 2014).

In Ghana, the customary land tenure system has caused insecurity and uncertainty for developers (Boni, 2008). For instance, customary authorities may engage in land transactions without informing or consulting with key stakeholders. Conflicts often erupted, especially when parcels of land were transferred to outsiders by a chief or traditional leader (Adams and Turner, 2005). Ghana’s national land policy aims to increase the security of land tenure by officially registering lands (MLF, 1999), but little has been done to consolidate efforts of various agencies and institutions that implement land policies (Asiama et al., 2017).

Despite the increasing land conflicts, previous studies have been limited. They tend to focus on some specific incidences that are related to large-scale civil strife or politically motivated conflicts. To critically address land acquisition and ownership problems in Ghana, there is the need to understand how the land tenure system works. This study attempts to show this and also identify factors that trigger or exacerbate land conflicts.

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<sup>1</sup> This chapter is based on the paper presented at The IAFOR International Conference on Sustainability, Energy and the Environment in Honolulu, the U.S., in January 2018.

This chapter examines land conflicts in this area by analyzing the field data and interviews with key informants. In the following discussion, I argue that three major factors mainly triggered land related conflicts and litigations: (1) undocumented lands, (2) insufficient awareness of land-related laws, and (3) overlapping jurisdictions and mandates between state and traditional authorities.

## **2.2 Methodology**

### **2.2.1 Study area**

This study was conducted in the Dormaa Traditional Area (DTA), located in the Brong Ahafo Region, western part of Ghana (Agyare et al., 2014). The DTA has the area of about 2,047.28 km<sup>2</sup>, and its economic activities are mainly agriculture (69%), forestry and fishery (12%), and other services like trading and hospitality (19%). Its population is about 210,660 people, of which 48.9% are males. The average literacy rate is about 67.8% (GSS, 2014). Among Ghana's 2,410 commercial poultry farms, 510 (21%) are located in the Brong Ahafo Region, 202 of them in the DTA (FAO, 2014). Traditional authorities have governed the majority of the traditional area under customary laws (Pande and Udry, 2005). Furthermore, the DTA shares its border with Cote D'Ivoire, and because of this, a lot of trans-border trade and economic activities takes place.

### **2.2.2 Data collection**

The discussion in this chapter is mainly based on the data collected by semi-structured interviews that took place in April and May 2017. These interviews were conducted with four key informants who have in-depth knowledge about the land tenure system in the study area. The interview questions focused on factors that may trigger land-related conflicts. These informants belonged to:

- a) The Lands Commission (District Director), government authority;
- b) The Dormaa Customary Land Secretariat (Coordinator/Secretary), traditional authority;
- c) The Office of the Administrator of Stool Lands (District Director), which liaises the government agency to the traditional authority;
- d) *Nso Nyame Ye* Chambers (Chief Lawyer), a legal representative for citizens on land disputes.

## **2.3 Results and discussion**

The interviews revealed that three major factors influence land conflicts in the DTA: (1) undocumented land ownership, (2) insufficient knowledge about land-related laws, and (3) fragmented/overlapping of jurisdictions. In the following, I explain each factor with details.

### **2.3.1 Lack of documentation of traditional ownership**

In Ghana, the Lands Commission registers and administers customary land transactions. However, this practice has been loosely observed (GLAP, 1999). Traditional authorities do not feel obligated to register traditional stool lands at the Commission.

In the study area, the Dormaa Stool Land Secretariat (DSLS) is responsible for keeping land records for the traditional authority. The Secretariat also arranges an alternative dispute resolution (ADR) in case land disputes occur. It sets up a traditional court at the Queen Mother's Palace in accordance with the customary law. From May 2006 to May 2017, for example, the Secretariat recorded about 72 land-related cases at the traditional court. According to my informant at the Secretariat, one case may take from one to ten years to settle. The reasons behind this long process are largely due to (1) lack of cooperation among sub-chiefs, (2) lack of resource and finance, and (3) no historical written documents about land ownership as traditional land transactions were done orally.

The roles of sub-chiefs are important in land dispute resolution. The customary law requires them to represent the paramount chief of the traditional authority. They report the disbursement of stool land to the Dormaa Stool Land Secretariat for record keeping. However, our informant told me that some sub-chiefs do not report mainly because they fear that, by reporting, they will have to disclose the income and gratuity they received from land transactions. They know that the Secretariat is financed mostly from land transaction fees and land taxes on stool lands. The Secretariat has power to discharge them. In addition, the secretariat depends partly on the taxes collected from land users by the Office of the Administrator of Stool Lands (OASL). Challenges such as insufficient collection of the ground taxes due to unwillingness of other stakeholder's cooperation indirectly affect the finances of the DSLS.

The history of land ownership in the Dormaa Traditional Area has been kept through oral stories among elders. Traditions established boundaries by using river courses, trees, hills and other natural landmarks. These landmarks often change. The DSLS mostly depends on oral stories that cause confusion due to inaccurate information it collected. It does not have

reliable maps/plans that show boundaries of stool lands. Some unauthorized, old or inaccurate maps have exacerbated land conflicts and litigation between stools, skins and other land-owning groups (GLAP, 1999).

### **2.3.2 Insufficient knowledge about land-related laws**

The Office of the Administrator of Stool Lands (OASL) is responsible for the collection and disbursement of stool land under Article 267 of the 1992 Constitution. It has attempted to increase revenue from disbursement, expedite the survey process for farmlands, and assist in the establishment of customary land secretariats under the Ghana Land Administration Project (GLAP). It also has documented customary land issues to reduce conflicts in collaboration with chiefs.

My informants, two district directors of the OASL, pointed out that land conflicts often happened due to lack of cooperation from traditional authorities and some locals who are related to chiefs. The jurisdiction and mandate of the OASL also overlaps with the traditional authorities and the district administration in tax mobilizations. Before the establishment of the Office, chiefs and sub-chiefs of the area had collected various forms of land tax for centuries. These taxes or tributes included drinks, cash, agricultural products, and gifts. After 1992, chiefs continued to receive these tributes from land users. Chiefs view that the Office of the Administrator has challenged their traditional authority as the trustees of the land. They also worry that eventually they may lose land revenue. The district administration also collects other form of property taxes from land users. The land users see it as double taxation.

So-called “royals” who are related to the paramount chief’s family do not pay taxes to the traditional authorities. The tradition says that their ancestors fought and, in some case, died to secure the stool land. As compensation, these ancestors and their descendants were promised to be exempted from traditional taxation. However, the Ghanaian law does not recognize this tradition, and asks these royal members to pay tax, leading to confrontation with the Office of Administrator of Stool Lands. The Office of Administrator of Stool Lands often asks the police to assist its tax collection activities.

Overlapping responsibilities for land boundary surveys have caused confusion and exacerbated land conflicts in the Dormaa Traditional Area. For example, the Town and Country Planning Department, the Lands Commission, and the District Administration have dealt with land transactions in this area. The District Administration has collected property taxes on land usage and ownership. The Town and Country Planning Department has

surveyed lands for city or town planning. The Lands Commission has kept records of land ownership records. Only some landowners and leasees registered their lands at the Lands Commission. This inconsistency has partially led to the duplication of land sales, leading to overlapped land ownership.

The lead lawyer of the law firm, Nso Nyame Ye, has long been involved in land disputes and litigation in the traditional area. He emphasized that the problem mainly lies in insufficient knowledge about land-related laws. This is the case even among some legal practitioners. For example, on July 17, 2014, the Sunyani High Court ruled on *Chadoma Co. Ltd v. Jacinta Soroya Namih and Owusu*. Judge Alexender Osei Tutu said: “The understanding of the legal regimes of land administration in the country was somewhat not known to some lawyers” (Osei, 2014). In this instance, the lawyers had limited knowledge about Article 257 (2) of the 1992 Constitution. For example, the defendant lawyers submitted to the court the Lands Commission Act of 1994 [Act 483] as evidence but the statute had been repealed by section 43 (1) of the Lands Commission Act of 2008 [Act 767] (Osei, 2014).

In addition, according to this lawyer, lack of legal knowledge among the locals is one of the causes that triggered land conflicts in the DTA. Furthermore, locals tend to be indifferent to clarifying land ownership and previous owner or caretaker before buying or leasing. This indifference also has resulted into land conflicts.

### **2.3.3 High court decision on land dispute**

The Lands Commission manages public lands. All lands are vested with the President in accordance with the Constitution (GLAP, 2014). The Lands Commission also advises the government, local authorities and traditional authorities on land policy for development. Local authorities have challenged this power in court. The Sunyani High Court in April, 2014 ruled that the Lands Commission did not have authority to manage stool lands vested in the President as compulsory acquisition of land. In *Chadoma Co. Ltd of Sunyani v. Jacinta Soroya Namih and Owusu*, the Lands Commission allocated land inherited by Soroya Nimih from her father to the Chadoma Co. Ltd. The court was asked to determine whether or not the disputed land belonged to public land and, therefore, the Lands Commission could allocate it to the Chadoma Co. Ltd. The court ruled against the Commission (Kasanga and Kotey, 2001).

## **2.4 Summary**

It is imperative to better understand Ghana's complex tenure system and overlapping government jurisdictions over land in order to reduce land conflicts. In my field survey, I found that the Regional House of Chiefs or the National House of Chiefs could also be more effectively governed to resolve mounting land conflicts. It is important to update the knowledge of land ownership and tenure systems among lawyers and officials who often deal with land conflicts. At the community level, citizens could be encouraged to document their lands. The involvement of all stakeholders in education, training and social learning about traditional tenure systems as well as proper dialogues can also facilitate communal resolutions.

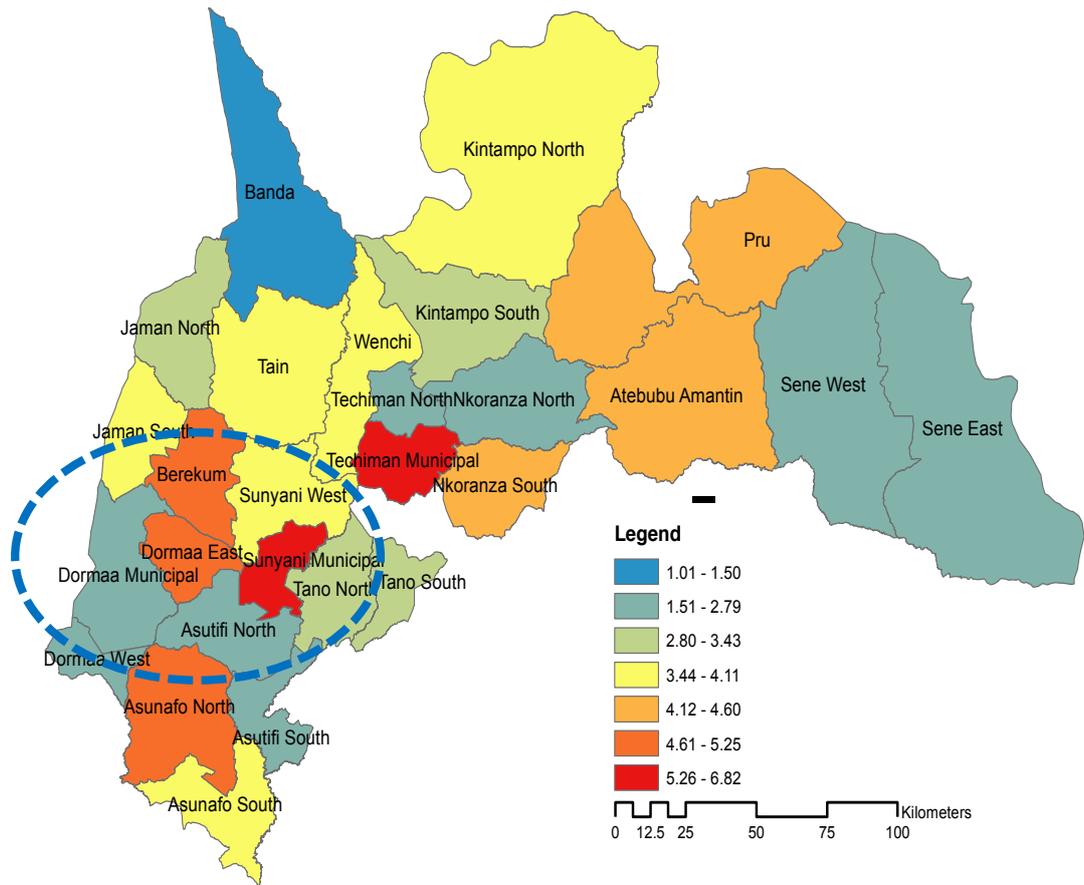


Figure 2.1 The Brong Ahafo region (GDP, 2010) and Dormaa traditional area  
 Source: National spatial development framework (2015-2038), 2014

## **Chapter 3 Assessment of Women's Land Rights in the Dormaa Traditional Area<sup>2</sup>**

### **3.1 Introduction**

Ghana has ratified international treaties to protect women's rights and has made laws and policies to deal with these issues. In implementing these laws and policies, it has faced customary land laws that have governed land transactions for centuries. Customary lands are held in trust by traditional authorities, who supposedly guarantee women to have equal rights to land as men do. However, Ghanaian men are said to have more farmland and favored positions in gaining land ownership. Women generally appear to depend on their husbands for land access and may lose farmland in the event of husband's death. This chapter seeks to find if these perceptions are true in the Dormaa traditional area. In doing so, it seeks to better understand how women's rights to farmland are affected by social status, tenure, and accessibility in the Dormaa Traditional area. Based on the fieldwork and the survey among 307 farmers in the area, this chapter identifies Dormaa people's perceptions about customary land use and ownership practices.

### **3.2 Methodology**

Based on the objectives of the study, I used semi-structured questionnaire among 311 farmers who were aged between 20 and 70 years old. They engaged in farming food crop, cash crop, and animal rearing. The questionnaire was administered in April and May 2017. Ethical considerations included informed consent, anonymity and confidentiality. The help of an assemblyman and the secretary of the Dormaa poultry farmer's association was sought to collect survey questionnaire data. They were asked about: (1) farmland tenure fairness, (2) farmland accessibility and (3) farmland ownership. The data obtained were processed for analysis. The results were obtained by using descriptive statistic, percentages, frequencies and co-relations among tenure fairness, tenure accessibility, ownership and age, social background, age, and marital status.

Also, the chi-square test was used to establish relationships between the variables. The null hypothesis of the chi-square test is that no relationship exists. For the null hypothesis to be true or accepted, p-value should be less than 0.05 ( $p < 0.05$ ). From the results in table 3.1

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<sup>2</sup> This chapter is based on the paper presented at the 381st International Conference on Natural Science and Environment at Ottawa, Canada, in March 2018.

through to table 3.9, the p-value ( $p=0.021<0.05$ ) indicates the variables are not independent of each other.

### **3.3 Results and discussion**

#### **3.3.1 Farmland ownership**

I tried to find out what type of land ownership the respondents perceived to have in the area. I first looked into the tenure system practiced among the respondents. The data I examined show that 53% of the respondents own the land and 24% practiced fixed rental system. The remaining respondents practiced crop sharing with the land lord. Among the respondents who practiced crop sharing, 11% practiced “Abunu” (1/2) and 7% “Abusa” (2/3). The remaining 5% of the respondents used the land for free (Abunu is sharing the produce of the harvest with the landowner by half and Abusa, farmer taking two-thirds of the yield). It was not quite surprising to found out that the majority of the respondents owned their farmlands, considering the traditional tenure system practiced.

I then tried to find out the perceptions of the respondents about land ownership. I asked if land acquisition is very easy, easy, difficult or very difficult. The result shows that 11% of them perceived that acquiring land was very easy, 50% easy, 33% difficult, and 6% very difficult. The respondents who perceived ownership to be very easy were low considering the ownership rate of the respondents. This may be due to the process of ownership or the increase in land conflict in the area.

I tried to see if there were any perception differences by gender, native or non-native status. Does the traditional ownership discriminate against migrants and/or women? The results revealed that there was not much difference in the perception in gender as well as social background (Table 3.1). However, 40% of native female respondents perceived land ownership to be difficult compared to 30% of male native respondents. Non-native inhabitants depended on natives’ help for acquiring land through the local chief or family head. After consultation with other members of the family or land committee, land is then allocated to the applicant. The result shows no major differences in the perception between native, non-natives and gender.

Traditional land governance is normally managed by the elderly male in the area. I, therefore, wanted to find out if there are perception differences by ownership, age and gender. The result reveals that 22% of the respondents of 30-39 years old perceived ownership to be easy whereas 37% of 50-59 years old thought so. Also, 42% of 30-39 years old respondents

perceived ownership to be difficult compare to 46% of 50-59 years old respondents. This confirms the general perception that ownership is easy for elderly as they manage the land. It may also be the inheritance system practiced where older people tend to inherit the assets of a deceased person. In terms of gender difference, I found that only 27% of women of 30-39 years old perceived ownership to be easy compare to 44% of men of the same age group (Table 3.2). In addition, 73% of women of 30-39 years old perceived ownership to be difficult compare to 56% of men of the same age group. This result show that even younger women perceived ownership not to be easy compare to men of the same group.

Women generally depend on men for farmland access and ownership through marriage due to socio-cultural practices (Afutu-kotey and Adjei-holmes, 2009). However, traditional leaders in Ghana are mostly elderly. The traditional inheritance system does not recognize woman's land right after their husbands' death or divorce. Women normally lose farmlands to husband's family (Lambrecht and Asari, 2016). To find out if this perception existed in the Dormaa area, I tried to find out the difference in perception of the respondents between gender and marital status. The results revealed that 33% of the male widows perceived ownership to be very easy whereas 18% of the female ones thought so. Whereas 50% of the male widower respondents perceived ownership to be easy, only 30% of the female widow respondents thought so. Moreover, 47% of female widows perceived ownership to be difficult, but none of the male widowers thought so. In addition, none of the divorced women perceived ownership to be very easy, but 20% of the divorced male respondents thought so. Whereas 17% of the divorced women thought ownership is very difficult, none of the male widow thought so. This perception affirmed the previous studies and general perception that widow and divorced women are discriminated against in land ownership. This result may suggest that the laws that protect the right of the woman widow or divorcee of a spouse are not observed.

### **3.3.2 Farmland tenure fairness**

As shown in Table 3.4, regarding my question about fairness of the traditional land tenure system for women, 69% of the respondents perceived it to be fair and 31% thought not fair. Among the respondents who perceived tenure not fair, 11% thought the traditional system favored males and 18% thought it favored females.

It is quite interesting to note that 69% perceived land tenure to be fair. Moreover, the respondents who perceived land tenure to be not fair, more than half of them thought tenure

favoring females. Contrary to a growing body of research that demonstrates male dominance in land ownership (Deere and Doss, 2006; Deere et al., 2013; Quisumbing and Maluccio, 2003; Deere and León, 2003). This result shows that the customary land tenure system does not have substantial gender bias.

I examined the residence status of the respondents. The Dormaa area attracts migrant farmers. The result revealed that 68% of the female respondents and 65% of the male respondents thought tenure was fair to both native and non-natives. Among the female respondents who thought the tenure system was fair, 72% were natives and 47% non-natives. The male respondents who perceived tenure was fair, 69% were natives and 45% non-natives. This result shows that the majority of the non-native respondents perceived tenure not fair. This can be attributed to the traditional tenure system that requires non-natives to acquire land through native inhabitants.

I wanted to know the opinion of the respondents who perceived tenure not fair. Among them, 24% of the non-native female respondents perceived that the tenure system favored males and 29% of them thought tenure favored females. Among those non-native male respondents who thought tenure was not fair, 29% perceived tenure favored males and 25% thought it favored females. Among the non-native female respondents who thought tenure was not fair, 24% perceived it to favor males and 29% thought it favored female. Among the native male respondents who also thought tenure was not fair, 11% perceived it to favor males and 16% thought it favored female. Based on this result I argue that the respondents who perceived tenure not fair thought it favored women.

I also tried to find out if respondents' age influenced land tenure fairness as well as genders. I wanted to see if the tenure system favored the old as customary tenure is managed by traditional leaders who tend to be elderly males. The result reveals that about 65% of 40-49 years old perceived tenure to be fair. Among those who perceived tenure not fair, 22% thought it favored male and 24% thought it favored female. Moreover, 10% of 40-49 years old women who saw unfair tenure practice thought it favored males whereas 24% thought it favored females. The result shows tenure practiced perceived to be fair according to women of 40-49 years old and those who thought it is not fair thought it favored women.

The results of the 50-59 years old also showed that 56% perceived tenure to be fair. Among those in this age group who perceived tenure not fair, 25% thought it favored males whereas 23% of them thought it favored female. However, if I focus on men respondents of 50-59 years old, 48% perceived tenure to be fair. Among those who perceived tenure not fair, 30%

thought it favored males whereas 13% thought it favored female. There was not much difference in perception of age in general but older men perceived land tenure favored men more than women. It also confirms the general believe that older men tend to control land ownership.

I tried to find out the respondents' perceptions about farmland tenure fairness by their marital status (Table 3.6). As divorced and widowed women conventionally inherit farm land from their husbands, I wanted to know if this is the case in the Dormaa area. The result shows that 33% of the divorced female respondents perceived tenure to be fair, and 1% of the male counterparts thought so. However, 67% of the divorced males perceived tenure favored males and 50% of the divorced females thought it favored males. Whereas 59% of widowed females thought tenure was fair, but only 17% of the male counterpart thought so. Among those who thought tenure was unfair, 18% of the female widows perceived it favor males and 67% of the male widowers thought it favored females.

This perception could be due to the traditional widowhood rite that allows the extended family, not wife, of the deceased husband to inherit the assets. And also, the inability of the state and/or individuals to ensure the enforcement of the interstate succession law that protects women's land rights (Whitehead and Tsikata, 2003) may be the cause.

### **3.3.3 Farmland accessibility**

As customary land tenure system is generally perceived to be accessible, I tried to find out if there are any gender differences about land accessibility. The respondents were asked if land accessibility was good, fair, average or poor. About 14% perceived it to be good, 52% thought it was fair, 31% thought it was average, and 3% thought it was poor. This result reveals that the respondents perceived customary lands not easily accessible as generally perceived.

I then tried to understand if these perceptions can be different by gender. About 15% of the male respondents perceived accessibility to be good, 58% thought accessibility was fair, 24% perceived accessibility to be average, and only 5% thought it was poor. However, among the female respondents, 12% perceived accessibility to be good, 43% thought it is fair, 39% thought it is average, and 5% thought it is poor. This result shows that men perceived accessibility to be easier compare to the female respondents.

I also tried to see if there are any differences in opinion between native inhabitants and non-natives. Among the natives, about 14% perceived accessibility to be good,

49% thought it was fair, 34% thought it was average and 4% thought it was poor. However, 15% of non-natives perceived accessibility to be good, 62% thought it was fair, 23% thought it was average and only 2% perceived land accessibility to be poor. Surprisingly, non-natives perceived land accessibility to be easy compare to native inhabitants of the area. The percentage of native male respondents who perceived land tenure accessibility to be good was low considering the customary tenure system practice in the area. This result might be attributable to increasing land conflicts and disputes in the area. About 42% of the respondents have been involved in land dispute before when asked. Native men found accessibility to be positive partly because men manage traditional lands and have more access to land than women (Boni, 2008; Goldstein and Udry, 2008).

I tried to find out if there was any difference in opinion by gender, age and accessibility. The result revealed that 43% of the female respondents perceived accessibility to be fair compared to 58% of the male respondents. Also 38% of the women perceived accessibility to be average compared to 24% of the men. This result suggests that men are perceived to have more access to land than women.

I then focused my attention on age and gender. As earlier stated, older male mostly manages traditional lands and own more land than women. I wanted to know the respondents' opinion about land accessibility as far as age and gender are concerned. The result revealed that 18% of the female respondents who were 30-39 years old perceived land accessibility to be good compared to 29% of those males who were 30-39 years old. Moreover, 55% of the female respondents who were 30-39 years perceived accessibility to be average whereas 29% of those males thought so. These results suggest that accessibility tend to favor males even in the younger years.

I also tried to look into the difference in opinion among the middle age group. I find out that among the 40-49 year-old women, 18% perceived accessibility to be good and 55% thought average. On the other hand, 22% of 40-49 year-old men perceived accessibility to be good and 33% thought it was average. The results also revealed that men perceived accessibility to be generally good compared to women among the respondents of 40-49 years old.

I then looked into the opinion of the elderly. None of the 50-59 years old female respondents perceived accessibility to be good compared to 13% of the male counterpart. About 50% of the women of the same age group thought accessibility was average and 26%

of the men of the same age thought so. As far as age and gender are concerned, accessibility was better for men in the area (Table 3.8).

I also tried to find out the opinion of married and single respondents about land accessibility as well as gender. The result revealed no major difference in opinion among the married and single respondents who thought they had good access to land. Among those respondents who found accessibility fair, 59% of the single respondents said accessibility was fair whereas 51% of the married respondents thought so. Also 23% of the single respondents perceived accessibility to be average compare to 34% of the married respondents. This result suggests that single respondents perceived accessibility to be easy compared to married respondents. Regarding different opinions by gender, 50% of the single women respondents perceived accessibility to be fair and 30% thought accessibility is average. Compared to single males, 67% of them perceived accessibility was fair and 12% thought accessibility was average. The single men perceived that men had more favored accessibility than women to the land.

Looking into married respondent's opinion about accessibility, the data revealed that 44% of married women perceived accessibility to be fair and 41% thought accessibility was average. However, the results of married male showed 57% perceived accessibility to be fair and 27% thought accessibility was average.

### **3.4 Summary**

Based on the fieldwork and the survey I identified Dormaa people's perceptions about customary land use and ownership practices. The majority of the respondents perceived tenure to be fair. Those respondents, who found it not fair, thought it favored women. Natives perceived tenure favored males, and non-natives thought it favored females. Most of the respondents perceived land accessibility to be fair. However, the 40-49 year-old group perceived accessibility to favor males and the 50-59 year-old group thought it favored females. Non-natives perceived land accessibility to be fair. Less than half of the respondents perceived land ownership to be easy. The 40-49 year-old respondents perceived land ownership to be easy for both male and female. However, women felt that they needed men for securing customary ownership to land. The native respondents thought the land tenure system was fair while the non-natives respondents perceived it not fair. The non-natives perceived land to be accessible compared to native inhabitants of the area.

Table 3.1 Farmland ownership in relation to social background.

	<b>Background</b>	<b>Very Easy</b>	<b>Easy</b>	<b>Difficult</b>	<b>Very Difficult</b>	<b>Total</b>	<b>Chi-Square</b>	<b>P Value</b>
Female	Native	10 (12%)	36 (43%)	34 (40%)	5 (6%)	85 (84%)		
	Non-Native	0 (0%)	10 (59%)	4 (24%)	3 (17%)	17 (16%)		
	<b>Sub Total</b>	<b>10 (10%)</b>	<b>46 (45%)</b>	<b>38 (37%)</b>	<b>8 (6%)</b>	<b>102 (34%)</b>		
Male	Native	22 (12%)	87 (49%)	54 (31%)	14 (8%)	177 (86%)		
	Non-Native	1 (4%)	19 (68%)	6 (21%)	2 (7%)	28 (14%)		
	<b>Sub Total</b>	<b>23 (11%)</b>	<b>108 (52%)</b>	<b>60 (29%)</b>	<b>14 (8%)</b>	<b>205 (66%)</b>		
<b>Total</b>		<b>33 (11%)</b>	<b>154 (50%)</b>	<b>98 (33%)</b>	<b>22 (6%)</b>	<b>307 (100%)</b>	<b>9.757</b>	<b>0.021</b>

Table 3.2 Farmland ownership in relation to age

	Age	Very Easy	Easy	Difficult	Very Difficult	Total	Chi-Square	P Value
<b>Female</b>	Unknown Age	0 (0%)	31 (91%)	3 (9%)	0 (0%)	34 (33%)		
	Under 30	1 (14%)	4 (57%)	2 (29%)	0 (0%)	7 (7%)		
	30-39	2 (18%)	1 (9%)	7 (21%)	1 (17%)	11 (11%)		
	40-49	2 (10%)	5 (52%)	12 (57%)	2 (33%)	21 (21%)		
	50-59	3 (18%)	4 (25%)	7 (44%)	2 (33%)	16 (16%)		
	Over 60	2 (15%)	3 (23%)	7 (54%)	1 (17%)	13 (13%)		
	<b>Sub Total</b>	<b>10 (10%)</b>	<b>46 (45%)</b>	<b>38 (37%)</b>	<b>8 (6%)</b>	<b>102 (34%)</b>		
	<b>Male</b>	Unknown Age	5 (7%)	56 (82%)	6 (9%)	1 (2%)	68 (33%)	
Under 30		1 (20%)	1 (20%)	3 (60%)	0 (0%)	5 (2%)		
30-39		5 (15%)	10 (29%)	12 (35%)	7 (21%)	34 (17%)		
40-49		6 (12%)	21 (42%)	19 (38%)	4 (8%)	50 (24%)		
50-59		2 (8%)	11 (44%)	12 (48%)	0 (0%)	25 (12%)		
Over 60		4 (17%)	9 (39%)	8 (35%)	2 (9%)	23 (11%)		
<b>Sub Total</b>		<b>23 (11%)</b>	<b>105 (52%)</b>	<b>60 (28%)</b>	<b>14 (8%)</b>	<b>205 (66%)</b>		
<b>Total</b>			<b>33 (12%)</b>	<b>154 (50%)</b>	<b>98 (31%)</b>	<b>20 (6%)</b>	<b>307 (100%)</b>	<b>69.80</b>

Table 3.3 Farmland ownership in relation to marital status

	<b>Marital Status</b>	<b>Very Easy</b>	<b>Easy</b>	<b>Difficult</b>	<b>Very Difficult</b>	<b>Total</b>	<b>Chi-Square</b>	<b>P Value</b>
<b>Female</b>	Married	7 (11%)	31 (49%)	21 (33%)	4 (6%)	63 (62%)		
	Single	0 (0%)	7 (70%)	3 (30%)	0 (0%)	10 (10%)		
	Divorced	0 (0%)	4 (33%)	6 (50%)	2 (17%)	12 (12%)		
	Widow	3 (18%)	4 (24%)	8 (47%)	2 (11%)	17 (17%)		
	<b>Sub Total</b>	<b>10 (10%)</b>	<b>46 (45%)</b>	<b>38 (37%)</b>	<b>8 (6%)</b>	<b>102 (34%)</b>		
<b>Male</b>	Married	18 (11%)	80 (50%)	49 (31%)	13 (8%)	160 (78%)		
	Single	2 (7%)	18 (67%)	7 (27%)	0 (0%)	27 (14%)		
	Divorced	1 (10%)	5 (50%)	4 (40%)	0 (0%)	10 (5%)		
	Widower	2 (25%)	5 (63%)	0 (0%)	1 (12%)	8 (3%)		
	<b>Sub Total</b>	<b>23 (11%)</b>	<b>108 (52%)</b>	<b>60 (29%)</b>	<b>14 (8%)</b>	<b>205 (66%)</b>		
<b>Total</b>		<b>33 (12%)</b>	<b>154 (49%)</b>	<b>98 (33%)</b>	<b>22 (6%)</b>	<b>307 (100%)</b>	<b>10.42</b>	<b>0.318</b>

Table 3.4 Farmland tenure fairness by social background

	<b>Background</b>	<b>Yes: Its Fair</b>	<b>No: Favor Male</b>	<b>No: Favor Female</b>	<b>No Idea</b>	<b>Total</b>	<b>Chi- Square</b>	<b>P Value</b>
Female	Native	61 (72%)	8 (9%)	14 (16%)	2 (2%)	85 (84%)		
	Non-Native	8 (47%)	4 (24%)	5 (29%)	0 (0%)	17 (16%)		
	<b>Sub Total</b>	<b>69 (68%)</b>	<b>12 (11%)</b>	<b>19 (18%)</b>	<b>2 (2%)</b>	<b>102 (34%)</b>		
Male	Native	120 (69%)	21 (11%)	28 (16%)	8 (4%)	177 (86%)		
	Non-Native	12 (43%)	8 (28%)	7 (25%)	1 (4%)	28 (14%)		
	<b>Sub Total</b>	<b>132 (65%)</b>	<b>29 (14%)</b>	<b>35 (17%)</b>	<b>9 (4%)</b>	<b>205 (66%)</b>		
<b>Total</b>		<b>201 (65%)</b>	<b>41 (13%)</b>	<b>54 (18%)</b>	<b>11 (4%)</b>	<b>307 (100%)</b>	<b>15.308</b>	<b>0.002</b>

Table 3.5 Farmland tenure fairness by age

	Age	Yes: Its Fair	No: Favor Male	No: Favor Female	No Idea	Total	Chi- Square	P Value
	Unknown Age	29 (85%)	3 (9%)	2 (6%)	0 (0%)	34 (33%)		
	Under 30	3 (50%)	0 (0%)	4 (50%)	0 (0%)	7 (7%)		
	30-39	7 (64%)	2 (18%)	2 (18%)	0 (0%)	11 (10%)		
Female	40-49	14 (67%)	2 (10%)	5 (24%)	0 (0%)	21 (21%)		
	50-59	10 (59%)	4 (21%)	3 (17%)	0 (0%)	17 (17%)		
	Over 60	5 (42%)	2 (15%)	4 (33%)	1 (8%)	12 (12%)		
	<b>Sub Total</b>	<b>69 (68%)</b>	<b>12 (11%)</b>	<b>19 (18%)</b>	<b>2 (2%)</b>	<b>102 (34%)</b>		
	Unknown Age	60 (90%)	4 (6%)	2 (3%)	1 (2%)	67 (33%)		
	Under 30	3 (60%)	1 (20%)	1 (20%)	0 (0%)	5 (2%)		
	30-39	17 (50%)	4 (12%)	11 (32%)	2 (6%)	34 (17%)		
Male	40-49	28 (54%)	8 (15%)	15 (29%)	1 (2%)	52 (25%)		
	50-59	13 (48%)	8 (30%)	4 (15%)	2 (8%)	27 (13%)		
	Over 60	11 (55%)	3 (15%)	5 (25%)	1 (5%)	20 (10%)		
	<b>Sub Total</b>	<b>132 (65%)</b>	<b>29 (14%)</b>	<b>35 (17%)</b>	<b>9 (3%)</b>	<b>205 (66%)</b>		
<b>Total</b>		<b>201 (66%)</b>	<b>41 (13%)</b>	<b>54 (18%)</b>	<b>11 (3%)</b>	<b>307 (100%)</b>	<b>41.68</b>	<b>&lt;.001</b>

Table 3.6 Farmland tenure fairness by marital status

	<b>Marital Status</b>	<b>Yes: Its Fair</b>	<b>No: Favor Male</b>	<b>No: Favor Female</b>	<b>No Idea</b>	<b>Total</b>	<b>Chi-Square</b>	<b>P Value</b>
<b>Female</b>	Married	47 (74%)	5 (9%)	11 (16%)	0 (0%)	63 (63%)		
	Single	8 (80%)	1 (10%)	1 (10%)	0 (0%)	10 (10%)		
	Divorced	4 (33%)	2 (17%)	6 (50%)	0 (0%)	12 (12%)		
	Widow	10 (59%)	3 (18%)	3 (18%)	1 (6%)	17 (16%)		
	<b>Sub Total</b>	<b>69 (68%)</b>	<b>12 (11%)</b>	<b>19 (18%)</b>	<b>2 (2%)</b>	<b>102 (34%)</b>		
<b>Male</b>	Married	109 (69%)	18 (11%)	25 (16%)	7 (4%)	159 (75%)		
	Single	21 (78%)	3 (11%)	1 (4%)	2 (7%)	27 (13%)		
	Divorced	1 (11%)	3 (22%)	6 (67%)	0 (0%)	10 (4%)		
	Widower	1 (7%)	5 (67%)	3 (17%)	0 (0%)	9 (7%)		
	<b>Sub Total</b>	<b>132 (65%)</b>	<b>29 (14%)</b>	<b>35 (18%)</b>	<b>9 (3%)</b>	<b>205 (66%)</b>		
<b>Total</b>		<b>201 (66%)</b>	<b>41 (13%)</b>	<b>54 (18%)</b>	<b>11 (3%)</b>	<b>307 (100%)</b>	<b>44.28</b>	<b>&lt;.001</b>

Table 3.7 Farmland accessibility in relation to social background

		<b>Good Accessibility</b>	<b>Fair Accessibility</b>	<b>Average Accessibility</b>	<b>Poor Accessibility</b>	<b>Total</b>	<b>Chi- Square</b>	<b>P Value</b>
<b>Female</b>	Native	10 (11%)	34 (40%)	35 (41%)	6 (7%)	85 (84%)		
	Non-Native	2 (12%)	10 (59%)	5 (30%)	0 (0%)	17 (16%)		
	<b>Sub Total</b>	<b>12 (12%)</b>	<b>44 (43%)</b>	<b>40 (39%)</b>	<b>6 (5%)</b>	<b>102 (34%)</b>		
<b>Male</b>	Native	27 (15%)	98 (55%)	46 (26%)	6 (3%)	177 (86%)		
	Non-Native	5 (18%)	18 (64%)	4 (15%)	1 (4%)	28 (14%)		
	<b>Sub Total</b>	<b>32 (16%)</b>	<b>117 (57%)</b>	<b>50 (24%)</b>	<b>7 (3%)</b>	<b>205 (66%)</b>		
<b>Total</b>		<b>44 (14%)</b>	<b>157 (52%)</b>	<b>90 (29%)</b>	<b>13 (4%)</b>	<b>307 (100%)</b>	<b>3.316</b>	<b>0.345</b>

Table 3.8 Farmland accessibility in relation to age

	<b>Age</b>	<b>Good Accessibility</b>	<b>Fair Accessibility</b>	<b>Average Accessibility</b>	<b>Poor Accessibility</b>	<b>Total</b>	<b>Chi- Square</b>	<b>P Value</b>
	Unknown Age	4 (12%)	26 (77%)	4 (12%)	0 (0%)	34 (33%)		
	Under 30	1 (14%)	1 (14%)	5 (72%)	0 (0%)	7 (7%)		
	30-39	2 (18%)	2 (18%)	6 (55%)	1 (10%)	11 (11%)		
Female	40-49	3 (14%)	5 (24%)	12 (57%)	1 (5%)	21 (21%)		
	50-59	0 (0%)	6 (38%)	8 (50%)	2 (13%)	16 (16%)		
	Over 60	3 (23%)	5 (39%)	4 (31%)	1 (8%)	13 (13%)		
	<b>Sub Total</b>	<b>12 (12%)</b>	<b>44 (43%)</b>	<b>40 (39%)</b>	<b>6 (5%)</b>	<b>102 (34%)</b>		
	Unknown Age	4 (6%)	60 (88%)	4 (6%)	0 (0%)	68 (34%)		
	Under 30	2 (40%)	2 (40%)	1 (20%)	0 (0%)	5 (3%)		
	30-39	10 (29%)	13 (39%)	10 (29%)	1 (3%)	34 (16%)		
Male	40-49	11 (22%)	19 (39%)	16 (33%)	4 (7%)	50 (24%)		
	50-59	3 (13%)	14 (57%)	6 (26%)	2 (4%)	25 (12%)		
	Over 60	2 (9%)	9 (39%)	12 (52%)	0 (0%)	23 (12%)		
	<b>Sub Total</b>	<b>32 (15%)</b>	<b>117 (57%)</b>	<b>50 (24%)</b>	<b>7 (3%)</b>	<b>205 (66%)</b>		
<b>Total</b>		<b>44 (14%)</b>	<b>157 (52%)</b>	<b>90 (29%)</b>	<b>13 (4%)</b>	<b>307 (100%)</b>	<b>58.29</b>	<b>&lt;.001</b>

Table 3.9 Farmland accessibility in relation to marital status

<b>Gender</b>	<b>Marital status</b>	<b>Good Accessibility</b>	<b>Fair Accessibility</b>	<b>Average Accessibility</b>	<b>Poor Accessibility</b>	<b>Total</b>	<b>Chi-Square</b>	<b>P Value</b>
<b>Female</b>	Married	7 (12%)	27 (44%)	26 (41%)	1 (2%)	63 (62%)	<b>11.846</b>	<b>0.222</b>
	Single	2 (20%)	5 (50%)	3 (30%)	0 (0%)	10 (10%)		
	Divorced	0 (0%)	4 (33%)	6 (50%)	2 (17%)	12 (12%)		
	Widow	3 (18%)	8 (47%)	4 (24%)	2 (12%)	17 (17%)		
	<b>Sub Total</b>	<b>12 (12%)</b>	<b>44 (43%)</b>	<b>40 (39%)</b>	<b>6 (5%)</b>	<b>102 (34%)</b>		
<b>Male</b>	Married	21 (14%)	89 (57%)	44 (27%)	6 (3%)	160 (78%)		
	Single	4 (15%)	18 (67%)	4 (15%)	1 (4%)	27 (13%)		
	Divorced	2 (20%)	6 (60%)	2 (20%)	0 (0%)	10 (5%)		
	Widower	4 (50%)	4 (50%)	0 (0%)	0 (0%)	8 (4%)		
	<b>Sub Total</b>	<b>32 (15%)</b>	<b>117 (57%)</b>	<b>50 (24%)</b>	<b>7 (3%)</b>	<b>205 (66%)</b>		
<b>Total</b>		<b>44 (14%)</b>	<b>157 (52%)</b>	<b>90 (29%)</b>	<b>13 (4%)</b>	<b>307 (100%)</b>		

## **Chapter 4 An Analysis of Land Disputes in the Dormaa Traditional Area, Ghana<sup>3</sup>**

### **4.1 Introduction**

Of all court cases in Ghana, land disputes account for about 50% (Wood, 2002). In civil cases, about 85% of all disputes are related to land (GLAP, 1999). Ensuing dispute resolutions in court is time-consuming and complicated (Tudor et al., 2014; Berry, 1993). In some parts of the country, a land dispute took nearly three decades to reach the judgment (Bennet et al., 2001).

Some studies have shown that there has been a growing concern among Ghanaians about the reliability of the court in dispute resolution. Somewhat condescending and authoritarian approaches at court have left uneasiness and mistrust among disputants (Crook, 2005; Mireku et al., 2016). One may lose the rights to his land over civil litigation even though the land may be registered (Mireku et al., 2016).

To better understand how Ghanaian courts have handled land disputes and why Ghanaian disputants were not satisfied with courts, I attempted to identify factors that contributed to land disputes and resolutions in the Dormaa traditional area. In particular, I wanted to know the extent to which disputes in court reflected or conflicted with traditional norms for land tenure and dispute resolution. For this, I selected the Dormaa traditional area, where both statutory and traditional courts have handled land disputes.

While there are studies on legal institutions in Ghana, a study on the role of the judicial system in dealing with land disputes in the Dormaa traditional area has gained little attention. To fill this gap, I examine a land dispute resolution mechanism by analyzing 11 court cases that were heard at the High and Appeal courts in the study area.

### **4.2 Methodology**

#### **4.2.1 Ghanaian courts and the study area**

At the apex of the judicial system in Ghana is the Supreme Court, followed by the Court of Appeals and the High Courts. These three courts are the superior courts of adjudication. The Circuit Court and the District Court are categorized as lower courts. The Dormaa Traditional area is administratively a district and municipality. It has only circuit and district courts.

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<sup>3</sup> This chapter was based on the paper presented at the International Institute of Social and Economic Sciences, 36th International Academic Conference in May 2018 at the University of London, U.K.

However, due to the value of land in the area, most of the cases are filed at the High Court at the regional capital. In the Ghanaian jurisprudence, an application for civil lawsuit can be made at the circuit court, district court or High Court. Inland cases, the value of the disputed land determines the court. The circuit court has jurisdiction over the land with the value of GHS 10,000 cedi or less, an equivalent of about US\$2,200 (GJS, 2017). Most land cases are filed in the High Court due to the rising value of lands in the area. This also explains why cases are piled up at the High Court.

#### **4.2.2 Data collection**

This study analyzes court records of land dispute cases in the Dormaa traditional area. Permission was granted from the Court Registrar to have access to land cases. Cases that did not fall under the jurisdiction of the Dormaa traditional area were excluded from the study. In the course of the research, I identified 11 cases. Six were heard at the High Court and five at the Appeals Court. The oldest case commenced in November 1957, and the most recent one commenced in January 2017. In my analysis, I identified disputants, pleadings brought by the plaintiffs, the processes adopted by the courts in resolving the disputes, and rulings. Thematic analysis technique was used to collect data, process and analyze.

### **4.3 Results and discussion**

#### **4.3.1 The disputants**

To better understand the identity of the parties in land disputes, I conducted a frequency analysis: I categorized parties as individuals, chiefs, government institutions and private companies. I first looked at the proportion of the plaintiffs, and found that about 64% of them were individuals, chiefs consisted of 18%, state institution 9% and companies 9%.

Then I identified the defendants. In the DTA, traditional authorities are customary caretakers of the land and are not usually challenged in court or elsewhere. Therefore, the research assessed if traditional authorities were taken to court. About 18% of the defendants were chiefs. Despite their authority over lands, they have land dispute with citizens. About 37% of the defendants were individuals, and 18% was both state institutions and individuals as a group.

### **4.3.2 Types of pleadings by the plaintiffs**

In traditional society, suing in court is not customary practice to solve land disputes. However, some people decide to go beyond this traditional practice to solve disputes. The survey attempted to find out why people go to court. I found that about 37% of the plaintiff filed a claim due to land ownership disputes. Other principal pleadings include trespassing (18%), boundary dispute (18%), farm property damage (18%), and inheritance (9%) (Figure 4.1).

In my fieldwork, I found that land ownership and trespassing claim was filed mainly because "trespassers" did not know about traditional ownership. Customary land transactions in Dormaa occur without survey and map (Mireku et al., 2016). It is based on an oral agreement. In the land tenure system, the land is orally allocated before witness after "drink money" price is paid. Therefore, traditionally the witness and the members of the society do not provide base proof or evidence of land ownership on a written document; but rather, the ownership is based on possession, occupation, and recognition. Under Section 3 of the 1973 Conveyancing Decree (N.R.C.D 175) land transaction is allowed without writing documentation. This does not encourage people to register or documents lands and contribute to dispute.

### **4.3.3 Type of relief sought**

To find out the types of relief sought by the plaintiffs, the study examined the statements of claims. From figure 4.2, the common pleadings were compensation from damages and harms (37%) and restraining order (27%). Also, some plaintiffs asked for document review (18%), royalty payment from the defendants (9%), and dismissal due to technical faults (9%) such as filing case at wrong court.

Legal technicalities such as pre-trial processes before the actual case proceeds causes unnecessary delays. Pre-trial legal processes like documentation review and court jurisdiction can cause a delay in adjudication. The pretrial processes need to complete before the substantial case starts or continues. For example, the case of *Nana Opoku Ababio vs. The Lands Commission and Others* took almost four years since it was first filed. The legal process allows documentation amendments and some legal teams sometimes take advantage of it to delay cases. Although money was awarded, it does not prevent litigants from abusing the legal processes. In the case, the plaintiff filed to amend the statement of claim (C1/51/2013) further. In the judgment rendered in January 2017, the court dismissed the application and awarded Ghana Cedi GHS 1,000 (US\$ 350) to the defendant. It stated that:

"the amendment by the lawyer of the plaintiff (chief) is evidence and not material to the formulation of the cause of action or defense."

#### **4.3.4 Time span of the cases**

According to the Ghana Judicial Service report of 2016/2017 when court dispute takes more than six months for adjudication, it is regarded as delay (GJS, 2017). To expedite the process of cases, in 2001, the automated fast-track court system was introduced. However, according to the World Bank, the automated courts gradually got clogged with cases and judgments. In 2005 to 2006, cases disposed at the automated fast-track court were only 1.1% faster than regular courts (Atuguba and Hammergren, 2010).

Court cases are generally time-consuming. The research investigated case duration in the DTA. From our data, about 9% of the cases were settled within six months. This is an acceptable time frame for dispute settlement according to the Judicial Service of Ghana (GJS, 2017). About 55% of the cases were settled between seven months and two years, and 36% above three years. We also found that about 55% of the actual land dispute cases were still pending. The most extended case that was still pending was about four years.

There is uneven distribution of courts and court registries within the study area. According to the Annual Report of Judicial Service for 2015-2016, there were 368 courts and 253 registries (GJS, 2017). This has created a situation where a single registry serves a cluster of courts. In our field survey, an informant told us that the situation aggravated the burden on the court registry and caused problems, such as missing documents and dockets. Moreover, the administrative processes are largely manually done from registration to retrieval of case dockets. Furthermore, in filing claims, witnesses are required to present statements in person at the court.

The Dormaa traditional area courts face many lawsuits. The cases were delayed (Table 4.1) due to missing case dockets, slow document processing, and bureaucracy. As mentioned above, manual filing and witness appearing in person causes delays and scheduling for hearings at the courts (Atuguba and Hammergren, 2010). Multiple adjournments causing scheduling and management difficulties to the courts also contribute to the delays in the dispute resolution.

#### 4.3.5 Opinions of the courts

Those plaintiffs who bring their disputes to court generally assume that the court will rule in their favor. The study examined the records to see if the plaintiffs in Dormaa disputes received favorable decisions. I found that only 33% of the judgment went in favored of the plaintiffs. Many of the plaintiffs lost the case because of lack of knowledge on statutory and customary laws. Under the statutory tenure system, trespassing is partly defined by section 157 of the Criminal Offence Act of 1960 as “a trespasser dispossesses the actual owner of the land if the trespasser occupies the land for 12 years and within such period, the real owner fails to assert his ownership.

However, many cases tend to rely on the existence of written documents. For instance, in the case of *Yaw Kusi Kyeremh vs. Dormaa Stool Lands Secretariat of Sunyani*, the High Court judge did not recognize the undocumented traditional ownership and ruled that “the plaintiff testified and tendered documents of title which was admitted in evidence without any objection and has a legal right to the land. He has persuaded the Court on the preponderance of the probability that he owns the land.” The defendant, the traditional authority, could not show evidence. According to Scott (1984) and MacGee (2006), Ghanaian courts do not recognize customary land title agreements.

Other studies even argued that registered land with title documentations could even be contested at the court. One can forfeit the rights to his land over civil litigation contrary to the widespread knowledge that land registration provides security to land (Mireku et al., 2016). For example, 1,211 land conflict cases heard in court, about 17% of the cases were disputes over ownership of registered lands (Abdulai, 2011).

However, the court cases I examined showed that land registration could protect the ownership of land. In *Chadoma Co. Ltd vs. Jacinta Soraya Namih and Co. Ltd*, the plaintiff acquired the land from the regional land commission, registered and allocated to the defendant. The land commission later reallocated this land to the claimant. This was a case of overlapping allocations. It appeared that the commission abused its power. The High Court clearly emphasizes the importance of land ownership documentation and ruled that "non-owner of land cannot transfer property." It further said: "In the absence of the plaintiff's documentation proving that the plot is a government land he is not persuaded to grant the reliefs sought by the plaintiff." (Sunyani High Court, 2014)

In another trespassing case, the court recognized the common ownership claim and supported the reasonable use of land. After the land was allocated to a newcomer for 20 years,

he developed only part of the land. The traditional authorities reallocated the uncultivated land to other subjects. The land user went to court, claiming his right to keep the entire premise and challenged the power of the traditional authorities to reallocate his land. The Court of Appeal ruled that: "it is unreasonable to permit large tracks of virgin stool land to lie idle while stool subjects and other seek land to cultivate or otherwise develop. The customary right of re-entry of stool land ensures development within a reasonable period after the grant of land."

To ensure speedy and effective justice delivery services, the Judicial Service introduced alternative dispute resolution (ADR) in 2005 (Atuguba and Hammergren, 2010). An ADR pre-trial settlement could have given disputant information about their case to make an informed decision whether to go for a trial or arbitration. From our analysis, the processes are time-consuming. After paying attorneys and heading to court, the ruling may go against the plaintiff and may also be ordered to pay compensation. In many cases, ADR serves a good alternative by offering the disputants speedy consultation.

According to the Dormaa customary land secretariat, 72 land disputes were handled under ADR between May 2006 and March 2017. Sipe (1998) argued that ADR cases were settled less costly and better than court processes. ADR is becoming a preferred means of dispute settlements (Andrew, 2001).

#### **4.4 Summary**

The courts in Ghana are overburdened with cases especially land cases. A large proportion of the civil cases are related to land disputes. These cases take time to come to judgment because of the complex nature of the judicial process. The court dispute resolution is also expensive. In this study, I identified parties and reasons behind court disputes. The study examined what happened in court and how judgments were rendered. Most court disputants were individuals. Although traditional leaders seemed to be immune from court disputes, a number of them were brought to court. In one instance two traditional leaders went to court for redress over a boundary dispute. Pleadings were mainly related to trespass primarily due to lack of land documentation. The judgments were mostly in favor of defendants and individuals tend to win the cases.

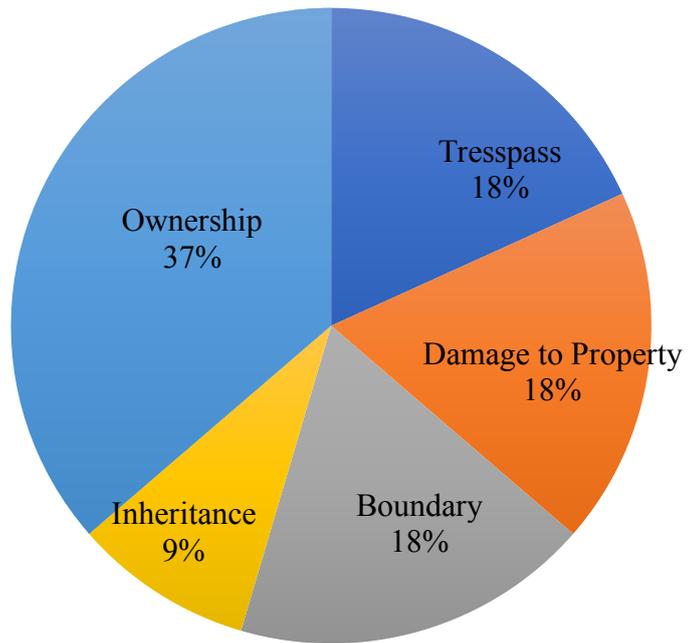


Figure 4.1 Why people go to court

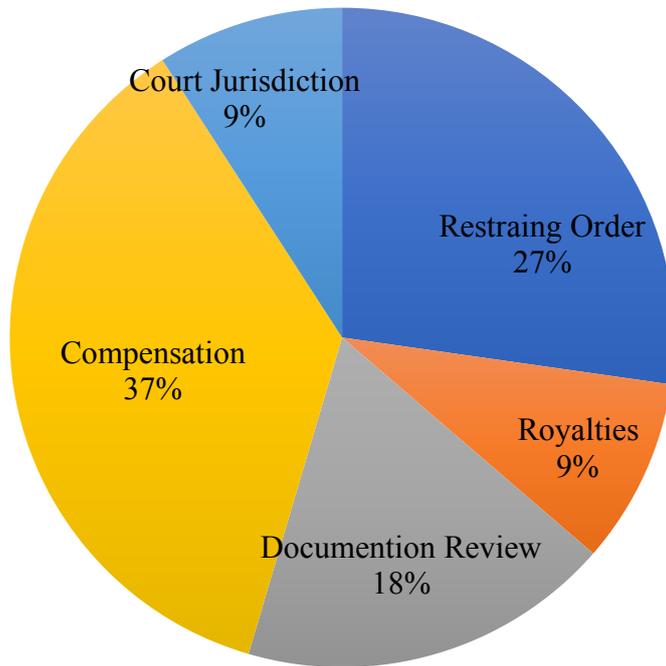


Figure 4.2 Relief sought by the plaintiff

Table 4.1 Number of civil cases in Dormaa traditional area

Courts in DTA	Cases Pending (July 2015)	New Filed Cases (July – May 2016)	Cases Disposed of (July – May 2016)	Cases Pending (End of May 2016)
High Court	753	217	168	802
District Court	114	96	129	81
Total	867	313	297	883

Source: Judicial Service of Ghana annual report 2015/2016

## **Chapter 5 The Traditional Land Governance System in the Dormaa Traditional Area**

### **5.1 Introduction**

Traditional Institutions have been part of the Ghanaian society and played important roles in land governance. The customary tenure is flexible and engrained in the culture of the people. The flexibility of the system can sometimes lead to abuse and create conflicts (Arko-Agyei, 2011). As discussed in previous chapters, the two land tenure systems sometimes overlap in practice and governance (Quan et al., 2008; Ubink and Amanor, 2008). These overlapping administrations can lead to land conflicts and communal violence (Eck, 2014).

In the Dormaa traditional area (DTA), the majority of the lands are “stool lands” and administrated under the customary tenure system (DSLS, 2017). Traditionally, chiefs, sub-chiefs and family heads manage stool lands (Filmer and Fox, 2014). The principle of natural justice is also used in land dispute resolution. Traditional authorities continue to allocate land and settle land related disputes through the traditional ADR mechanism.

However, outsiders are not informed about how it works and what it means for Ghanaians in the DTA. This chapter attempts to fill the knowledge gap about the roles of traditional institutions in governing land. In doing so, I seek to better understand how the traditional land governance system contributes to conflict resolutions. I also find out if women land rights are respected in the traditional court.

### **5.2 Methodology**

This study is based on semi-structured interviews and court records on traditional ADR land dispute cases in the Dormaa Traditional area. The interviews were conducted with four informants who had in-depth knowledge about traditional governance in the area. The interview questions were focused on the role traditional leadership plays in land governance and how it solves land disputes. The informants belonged to (1) the Dormaa Customary Land Secretariat (Coordinator/Secretary) or the traditional land authority, (2) the Office of the Administrator of Stool Lands (District Director), which liaises the government agency to the traditional authority, (3) arbitration committee members representing the traditional court, and (4) *Abakomahen*, history and kingmaker chief.

This study also adopted court cases analysis on ADR land dispute cases in the Dormaa traditional area. Traditional ADR land court cases recorded in the area were collected for analysis. Permission was granted from the secretary of the Dormaa Stool lands secretariat to

have an access to Traditional ADR land case records related to the Dormaa Traditional authority. I identified the total of 71 cases. The oldest case was recorded in March 2006 and the most recent one was in May 2017. In the analysis, I identified the gender of the disputants, whether traditional leaders were brought to traditional court, the processes adopted by the traditional courts in resolving the disputes and rulings or court opinions. Thematic analysis technique was used to collect data, processed and analyzed.

### **5.3 Results and discussion**

#### **5.3.1 The disputants**

To better understand the identity of the parties in land disputes, I conducted a frequency analysis. The parties included individuals (women) and, Chiefs (traditional leaders). Due to the traditional inheritance system practiced in the area, women, especial divorcees and widows land rights are sometimes not protected. I wanted to find out if women in the area use traditional ADR to defend their land rights. I examined the plaintiffs of the cases to determine the identities of the claimants. The results show that about 52% of the traditional ADR cases examined involved women as claimants or defendant. The result shows that 32 % of the plaintiffs were females and 68% were males.

This result clearly shows that women in the area go to traditional courts for redress when their land right is threatened. For example, there was a case between Madam Afia Nyantakyiwaa and four male natives of “Babianiha,” including the chief of Babianiha, Nana Agyemang Nkumsah III. The woman made a complaint at the Dormaa traditional ADR center on 30 September 2016 and said that the defendants intentionally retrieved her land, which was given as a gift because she was not a native of Babianiha. The plaintiff is a native of Benekrom, a nearby village, but she has lived in Babianiha for about 40 years. The case was first brought to Benekrom chiefs’ (subchief) court. The decision was that the 9-acre land in dispute should be divided into two for both parties as the demarcation’s tress had been burnt and the boundaries could not be determined. She did not agree and brought the case to the Dormaa traditional area ADR court. After land inspection, the court ordered a professional surveyor to demarcate the land and divide it into two for both parties.

I also tried to find out if women were taken to traditional court on land dispute resolution. I examined defendants of the cases. The data revealed that among the defendants, 31% of them were females and 69% were males. Among the women defendants, 10% were in a group as women and mix of women and men as defendants. The results indicate significant

number of women we taken to traditional court for land dispute. This reveals that customary land tenure does not discriminate against women. Women can go to court for redress regarding their land ownership.

It is customary in the DTA that traditional authorities are not to be challenged. I wanted to know if traditional authorities were taken to court. I examined the defendants of the cases to ascertain the identities of the defendants. About 13% of the defendants were chiefs and 87% were non-chiefs. The result indicates that a small number of traditional leaders were sued in court. A critical examination of the proceedings also revealed that the chiefs who were sued had a border dispute with other chiefs as plaintiffs, including some sub-chiefs.

#### **5.4 Customary court and traditional leadership in the Dormaa traditional area**

The traditional authority is highly respected and a well-structured hierarchical organization. At the apex is the paramount chief or *omanhene*, follow by divisional chief *ohene* and the village chief *odikro*, the clan or family head *abusua panin*. *Omanhene* is the traditional head in the DTA, ultimate allodial land lord and political leader. The lands are vested in him for the people. The paramount chief is supported by divisional chiefs, sub-chief, council of elders, linguist, village leaders and family heads, who actually manage lands in the DTA. They represent the paramount chiefs in the areas where he is not physically present.

The power to allocate agricultural land is vested in the family heads. In an interview, the Dormaa stool land secretariat secretary/coordinator summarized the land ownership arrangement: “Land ownership exists under three layers. The whole of the DTA is under the ownership of the Dormaa Omanhene. Alongside these arrangements are the ancestral lands appropriated for farming under the care of the various families. If you are not a member of the families, you cannot get access to these lands” (DSLS, 2017). Leaders who do not serve in the interest of people can be removed from power. There are systems in place to remove a traditional leader, however, this is hardly practiced (Quan et al. 2008).

The customary land tenure system practiced in the DTA forbids outright land sales (Asiama, 2008). Land is believed to be for the ancestors, for the living and for the unborn (Agbosu, 2000). However, “*land sales*” (allocation) by traditional leaders in the area has been accepted. Stool lands are not sold outright for commercial benefits but “drinks money” as evidence is received for oral contract or arrangements (DSLS, 2017).

Customary lands are available only for communal use. However, agricultural lands can be owned temporarily or permanently by an individual (Quisumbing et al., 2001). To

acquire land by a native inhabitant or a family member, the person sends a request to the local chief or family head. The request is considered by the elders and/or a land allocation committee if available. Land is then allocated for use. If land is not used for the intended purpose, the applicant may lose the land. The applicant may also lose the land if the land is not developed within a stipulated time period, which is usually two years.

Individual land rights are primarily usufructuary rights in the DTA. Private lands cannot be alienated without the permission from the family head and/or traditional leaders. However, individuals sell land allocated to them without going through the customary process. It is a common practice for siblings allocated to the same piece of land (Barry and Danso, 2014). Leaders sometimes manipulate and redefine the traditional laws to suit their personal interest. Some chiefs were removed from the duty due to mishandling their power (Ubink, 2007; Berry, 2008).

My informant, *Abakomahene*, said that “the allocation of land and land disputes resolution is administered by TI with the help of the community.” When land allocation is decided, parties consult with the council of elders and/or a land allocation committee. The land is then demarcated for the person. The boundary of the land is identified with natural objects like trees, rocks, rivers and hills. Specific trees such as *ntome* tree are planted along the boundaries especially at the corners of the land (Woodman, 1996; Asiama, 2008). Marks such as cuts and gun shoot are made at the bark of the tree (Ollennu, 1962). It is expected that elders, chiefs and other landowners remember boundaries and pass the knowledge to future generations. Witnesses and boundary neighbors are relied upon as points of reference.

These traditional landmarks often change or disappear in time. The dependence on the oral traditions and natural landmarks sometimes caused confusion. For example, in the land boundary dispute case, the ADR court of the DSLS decided on 8 November 2016 that *nkragyedua* trees that had been planted for demarcation were burned by bush fire. As a result, the court inspection committee of the ADR decided to hire a surveyor to provide the land coordinate (Dormaa Traditional Court, 2016).

Customary courts are often used as they are easily accessible, cheap, fast and easy to understand as local language is used in the proceedings (Boafo-Arthur, 2006). The use of arbitration and mediation dates back to the pre-colonial era when people in remote villages without transportation to courts used customary dispute resolution. Arbitration committees were usually family heads, tribal chiefs and queen mothers who resolved issues through settlement processes with the peace of the community in mind. At the early stages of

colonization some traditional areas were allowed to practice traditional dispute resolution whereas other places we required to adopt the statutory, the western common law (Price, 2018).

The customary law of Dormaa traditional authorities has undergone some changes due to colonization experience and modernization (Crook, 2005). The training of the arbitration committee is now done by the judicial service. Land dispute cases at the Dormaa district court are sometimes referred to the customary court. The ADR arbitration committee sometimes serves as witness at the district and the circuit courts (Ubink, 2007). Traditional leadership now can sue and be sued in statutory court. According to the DSLS, about 72 customary land cases were settled from May 2006 to March 2017. Out of the settled cases about 17% involved traditional leadership. One of the cases was a dispute between two village chiefs over land boundary. Decisions of the customary court can be appealed to the top structure if a litigating party feels justice was not served. For example, the case of *Madam Adwoah Sebepe v. Madam Awura and Osei Yaw*, which was settled on 14 November 2012, was appealed further to the *Aduanahene* a sub-chief's court (Dormaa Traditional Court, 2012). According to the DTA arbitration committee, only criminal cases are referred to the statutory court.

### **5.5 Traditional dispute resolution in the Dormaa traditional area.**

Three major factors influence people in the DTA to choose traditional judicial mechanism for land dispute resolution: (1) convenience, (2) cost effectiveness and (3) duration. In the following, I explain each factor with details. The intention of every traditional dispute resolution is to satisfy both parties (Nolan-Haley, 2015). The traditional dispute resolution included consultation, evaluation, mediation, arbitration, and conciliation. According to the ADR panel committee, disputants go to the DTA's traditional resolution center located in the paramount chief's palace because (1) the disputants were familiar with the venue; (2) they can use local language; (3) no lawyer or specialized knowledge is required; (4) they knew about the committee; and (5) they trusted the traditional system (Dormaa Traditional Court, 2018).

The paramount chief's palace is a place known and managed by the community. It is a place of chief's residence. It is used for festival and some important community meetings. The secretary of the DSLS who receives dispute applications said in my interview that: "It is just like a home for all the community members and easy for disputants to access" (DSLS, 2017). He added that some disputants came for consultation before official application were filed. According to one member of the ADR panel committee, because of the trust people

have in the system, it provides disputants with a sense of justice and fairness when their disputes are resolved according to custom and in terms they understand.

Cost is one of the reasons why land dispute cases are brought to the traditional court. The prolonged land litigation sometimes makes it expensive. The longer a case takes the more expensive it becomes. In the Dormaa traditional area, the summons fee ranged between GH 80 cedi (US\$18) to GH 300 cedi (US\$67). Appearance fee ranged from GH 80 cedi (US\$18) to GH 200 cedi (US\$45). Bailiff fess ranged from GH 5 cedi (US\$1) to GH 50 cedi (US\$11). The bailiff fee is used for transportation to serve summons to defendants and other expenses. Sometimes the disputants are exempted from this fee if the summons can be served with no transportation cost. Inspection fee is to be paid when the panel orders for site inspection. In all cases I reviewed, there was only one case, in which compensation was awarded. My informants told me that the Dormaa traditional court normally do not award compensation. The cost includes summons fee, bailiff fee, appearance fee and, in some cases, inspection fee. Although the plaintiff pays these costs when filing the case, the loser of the case bares the cost.

According to key personnel at the DSLS, one to ten cases can be settled in a day. *Nana Alhaji Kofi Kra Adama v. Baffour Atosi* was settled in seven days. In the case of *Ansu Siaw and Kwaa Janet v. Kwasi Agyabeng*, it was first filed on 24 March 2014, witnesses were called to testify on 2 April 2014, the plot was inspected on 3 May 2014, and the judgment came on 21 May 2014 in favor of the defendants. All the ADR cases I reviewed were settled within 6 months, which is an acceptable settlement period according to the Ghana judicial service.

## **5.6 Summary**

Traditional institutions continue to occupy social-political and cultural space. They provide valuable services to the Dormaa community. We cannot ignore many benefits the traditional court brings to the community. Traditional practices like oral traditions and the inheritance system contributes to the increasing land dispute in the area. The traditional alternative dispute resolution help settle land dispute. It is less expensive and land dispute are settled faster than court case. It is simple and does not need lawyers and local language is use in ADR proceedings.

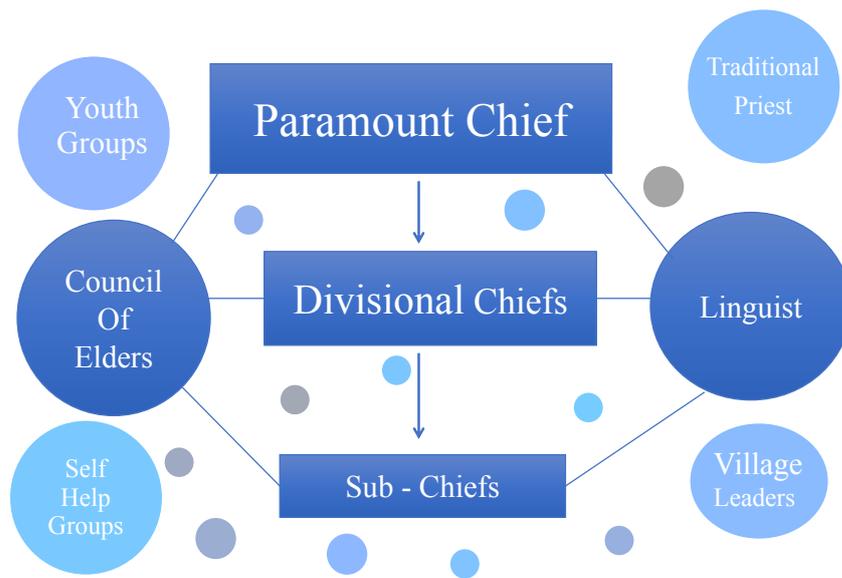


Figure 5.1 The structure of Dormaa traditional institution

Source: Authors abstract

## **Chapter 6 Conclusions and Recommendations**

In order to achieve sustainable economic development needed as a developing nation, it is imperative to better understand Ghana's complex land tenure system. In the previous four chapters, I have examined the factors that contributed to land conflicts and women's farmland right issues in the Dormaa Traditional area. I have also analyzed land dispute mechanism at the court. Moreover, to understand the traditional land governance system, I investigated the roles of traditional leaders in the area.

### **6.1 Findings**

The following findings can be summarized to demonstrate the significance of this study in clarifying land conflicts and women's rights to farmland in the Dormaa traditional area.

- Land conflicts in Ghana mostly occurred as a result of land trespassing due to lack of land ownership documentation, complicated traditional land tenure practices, little awareness of land laws, and overlapping jurisdiction and mandates between state and traditional authorities.
- Courts are overburdened with land cases. Although the judicial service has introduced the automated fast track land court and ADR, the challenges persist.
- Disputants were mostly private individuals although traditional leadership sometimes was involved. The plaintiffs tended to lose due to little understanding about the land laws.
- Regarding women's access to land ownership, my questionnaire results showed that Dormaa women perceived land tenure and accessibility not biased. However, women felt that they needed men for securing customary ownership to land.
- Traditional institutions have played important roles in traditional land governance and resolved many land conflicts. They are favored by locals because these places are easily accessible, flexible, and less expensive. They also operate in local languages that made the litigants feel more comfortable in addressing their claims.

Figure 6.1 summarizes the results of the findings of this study in an integrated framework. It indicates major factors mainly triggered land related conflicts. They are (1) undocumented lands, (2) insufficient awareness of land-related laws, and (3) overlapping jurisdictions and mandates between state and traditional authorities. It also shows the vulnerable such as

women lands right is protected. People go to court and ADR due to land trespassing, unclear land ownership and traditional inheritance system.

## **6.2 Recommendations**

The Dormaa Traditional Area is part of the Akan tribe in Ghana. The Akans are the biggest tribe in the country. They practice similar culture and traditional land governance system. The recommendation offered can be adopted in any of the communities. Therefore, to reduce land conflicts in the area, it is important that various stakeholders should be engaged in dealing with the problem of increasing land conflicts. In order to achieve this the following actions are recommended.

- The Regional House of Chiefs or the National House of Chiefs could be engaged for an effective land governance to reduce conflicts. Regular workshops and leadership training programs can enhance traditional leadership. It is important to update the knowledge of land ownership and tenure systems to traditional leaders along with lawyers and officials who often deal with land conflicts. At the community level, citizens could be encouraged to document their lands.
- To improve women's land right, there should be an advocacy to educate women about their land rights and how to seek redress. It is helpful to educate people about marriage laws that guarantee women's right of inheritance. To achieve a long-term food security women's accessibility to family farmland should be respected.
- Women leadership such as Queen mothers should be encouraged to take part in the decision-making process for land dispute resolution.
- The courts are overburdened and traditional authorities are overwhelmed with land disputes. In dealing with these challenges I recommend the following actions:
  - Systemic land documentation/registration is needed. The creation of more ADR centers and reforming of the dual land tenure system are necessary for this purpose.

Traditional institutions have been around for centuries and continue to occupy social-political and cultural space and provide an important service to the community. Traditional leadership is the main decision makers under the customary land tenure system. The institution needs to be strengthened. I recommend the following ways to improve traditional land governance:

- Logistical support is needed to expedite the administration of the traditional institution. This can be achieved through a collaboration with the district administration.
- The traditional institution can strengthen its judicial services by providing regular workshops and training on arbitration. The traditional ADR system should be adopted in the statutory judicial system of Ghana. Although there is a collaborative work between Ghana judicial service and traditional institutions, there is the need to further merge the dual system as a single judicial window for a sustainable development.

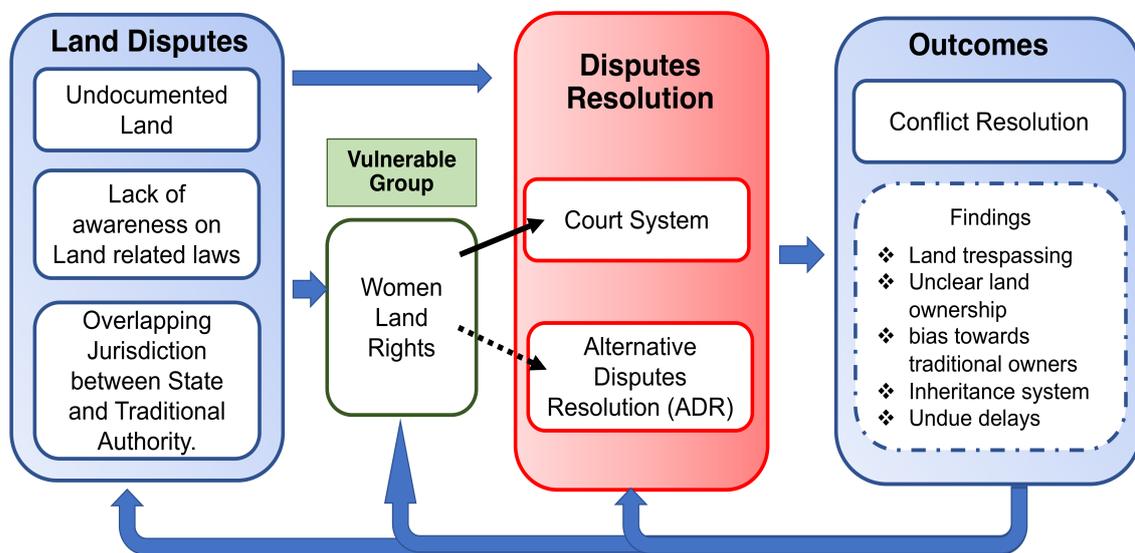


Figure 6.1 Integrated framework of the study findings

Source: Field work

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