

Access to Land Resources under Customary Arrangement: Emerging Issues among the Bassaris of North-Eastern Ghana

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Received: December 1, 2013 Accepted: December 16, 2013

doi:10.5296/emsd.v3i1.4635 URL: <http://dx.doi.org/10.5296/emsd.v3i1.4635>

Abstract

This study examined how land resources are shared and used as well as the emerging issues from the perspective of customary rules, norms and practices in Bassari communities of northern Ghana. A qualitative survey was undertaken in four Bassari communities in north-eastern Ghana. The results revealed that though communal rights exist in Bassari communities, individualisation of communal resources is increasingly becoming dominant and consequently narrowing the scope of communal rights. This is attributable to changing social values and customs, increasing population, diminishing land resources as well as monetisation and economic incentives. Again the traditional role and powers of the land priest (Otindaan) with respect to resources access, allocation and ownership are now merely symbolic. The movement towards private holding of communal resources requires the existence of effective rules and strong customary system of enforcement over private rights and at the same time create access channels for the vulnerable groups.

Keywords: Land access, communal, private, rights, customary practice and Bassari

1. Introduction

Across the world, access to land resources remains an essential element in the definition of property rights, land reform programmes and formulation of national strategies towards poverty reduction and enhancement of human wellbeing. This is mainly because equitable access to land resources such as water, food, farm fields, fuel, timber, medicinal plants among others influences social and economic circumstances of people. Underlying this important role of land resources is sustainability of the benefits accruing thereof. According to Kasanga (1988: 3) “an equitable and sustainable relationship between human and natural resources is, in the fullest sense, fundamental and essential to stability and to progress at national level”. The manner in which resources are managed and the trickle down mechanisms of benefits to members of the resource owning community are in greater part shaped by local customs and practices. Existing customary law and traditional practices empower local communities’ access to communal resources along private and communal rights arrangement. The mechanisms governing community resource usage are changing over time in response to both external and internal factors. The materialism and consumerism attributes that man has developed over the years calls for a reflection of how local rules of engagement in the use and management of resources have evolved and ascertain changes that are occurring.

In most traditional African communities, multiple tenure systems co-exist due to the availability of lands of varying quality and varying modes of exploitation (Plateau, 2002). Members of these communities have a guaranteed access to land and other natural resources as a ‘general right’ and different from ‘specific rights’ to a specific portions of the resource. While general rights can only be lost through expulsion from the group, specific rights can be reallocated as and when evolving circumstances demand same (Boserup, 1965: 79–80; Ault and Rutman, 1979: 172). Indeed, communal and private property rights are uniquely distinguishable since the latter is carved out of the former. Also, these rights have come through series of evolution over time due to population growth and other externalities.

A qualitative case survey of four (4) Bassari communities in the north-eastern Ghana was undertaken to provide evidence on how this ethnic group access land resources within the context of customary tenets and practices. Bassaris are indigenously an agrarian social group in the Northern Region of Ghana. Though the Bassaris are popular in Ghana for their cultivation of yam, their property rights system and traditional mechanisms for exercising resource control and usage remain unknown beyond Basariland. Yet, these emerging property rights, changing roles of customs and traditions have both implicit and explicit impacts on future production potentials. This paper offers an understanding on how land resources are accessed by households for their livelihoods. It explores the intricate interplay of communal and private property rights and the emerging trends in communal resource management among Bassaris.

2. Property Right Regimes

Property rights refer to a bundle of entitlements specifying an owner’s entitlements, privileges, obligations and limitations for the use of a resource (Tietenberg and Lewis, 2009). It is an enforceable authority to undertake particular actions in a specific domain (Ostrom and

Hess, 2007). The right to control and benefit from a thing denote property ownership (Gwartney, 1985). According to Bromley (2006) the essence of property rights is the vital correlation of inclusion and exclusion. In Bromley's view, to be a property owner is to have capacity backed by the coercive independent authority of the state to exclude others. The duty of the state is to protect private investments. Bromley believes that property rights are created not discovered. Under traditional arrangements, locally established authorities such as chiefs and land priests in sub Saharan Africa are responsible for the enforcement of property rights evolving from the customary system in similar fashion as the courts in the urban areas. Many forms of property rights exist. Schlager and Ostrom (1992) identified access, withdrawal, management, exclusion and alienation (Table 1) as most important property rights in the use of environmental resources.

Table 1. Forms of property rights in resource usage

Property Right	Right to:
Access:	Enter in a defined physical area and carryout activities (for example hiking).
Withdrawal:	Obtain resources from the land or property (for example, fishing, hunting and harvesting of firewood or medicinal plants and herbs).
Management:	Regulate and take decisions on the use and improvement of the resources.
Exclusion:	Preclude others and non-interference in the access, management, enjoyment and transfer of the resources.
Alienation:	Sell or lease the property to a third party.

Source: Modified from Schlager and Ostrom (1992)

Three types of property ownership are commonly noted; private, communal and state or government (Gwartney, 1985). Private property rights are rights vested exclusively in an individual or private group to control, benefit, and transfer the property. A private property owner has the right of use, right to exclude others' and right of disposal (Dumashie, 2009). The owner under this system is free to use the property in a way so desired provided it not injurious to others or their properties. Gwartney (1985) believes private property rights breed selfishness in property ownership, yet it is the only means owners are protected against the selfishness of others. Private ownership over property has been widely supported and promoted because of its perceived efficiency in property management, use and strong role in the free market enterprise.

Many researchers including Gwartney (1985), Ostrom and Hess (2007) and Tietenberg and Lewis (2009) have considered private property ownership as a means to promoting wise and efficient use of resources. Private property among other things encourages current resources to be conserved for the future, owners use the resources most beneficially, and this leads to continuous innovations in confronting scarcity of resources (Gwartney, 1985). Sustainability and efficiency are promoted under private property stewardship. Some economists believe private ownership is critical to economic development due to many incentives associated with the system (Ostrom and Hess, 2007). A private owner would be more inclined to focus on sustainability and profit maximisation in his resource exploitation since wanton use would result in a private net loss. Diligence and conservation are much more cardinal under the regime of private ownership of property. As noted by Aristotle, "what is common to many is taken least care of, for all men have greater regard for what is their own than for what they

possess in common with others” (Gwartney, 1985: 1). Private property rights however require the establishment of rules which will define and monitor the exercise of rights by individuals and how the returns thereof can be allocated. These rules must be enforced by appropriate authorities (Ostrom and Hess, 2007). Where there exist exclusivity, transferability and enforceability in property ownership, resources are better managed as the market tends to reward prudence and efficiency (Tietenberg and Lewis, 2009).

Communal rights on the other hand are held, used and managed in common rather than privately. Tietenberg and Lewis (2009) opined that entitlements to communal property rights may be regulated by formal, specific legal prescriptions or informal rules protected by tradition or custom. Under communal arrangement, individuals have the right to access resources and use the land but the ultimate ownership is vested in the community (Benneh, 1976) and the management responsibility lies with the group. Membership of the community guarantees one access to these resources as a right.

Communal property use in Ghana for instance, is managed through traditional and customary mechanisms such as prohibition and taboos on farming, hunting or fishing on certain days of the week or year. Communal property management requires effective enforcement of rules governing the use of such resources. For example, overgrazing on the Alpine meadows in Switzerland is prohibited by enactments by the association of users prescribing the amount of stock permitted by each user (Tietenberg and Lewis 2009). A breakdown of the rules and norms governing the enjoyment of communal rights will result in overexploitation, degradation and unsustainable outcomes. A classical case is the experience of Mawelle in Sri Lanka where initial effective rotational fishing rights protected the fishing stock, but with increased in population; traditional rules became unenforceable resulting in overexploitation and consequent reduction of income for the population (*ibid*).

It is important to distinguish communal resource rights as noted above from open-access (*res nullius*) resources. The two types of property holding regimes are sometimes confused and interpreted to mean the same. Open-access resources “are exploited on a first-come, first-served basis and no individual or group has the legal power to restrict access” (Tietenberg and Lewis 2009: 74). Open-access resources arrangement grants every member of the resource owning group unrestricted access to the resource. No one has an exclusive right over the property and no one can prohibit others from enjoying the property. Open-access resources are by nature difficult to partition (Kagwanja, 2006). They have been aptly described as ‘free for all’ (Nsiah-Gyabaah, 1994). The property is used by all, in a manner they desire and no one bears the management responsibility.

Since the users of the open-access property bear a small fraction of the cost arising out of the use, it often leads to over exploitation and conservation failure. “Ruin is the destination toward which all men rush, each pursuing his own best interest in a society that believes in the freedom of the commons” (Hardin, 1968: 1244). With each member pursuing his individual interest, it culminates in the ruin of what belongs to all, due to misuse, selfishness and inefficiency in management. Economists summed up the inefficiencies of open-access into three folds (Ostrom and Hess, 2007); namely, rent dissipation as everyone engages in

unproductive race to capture part of the common resource (Cheung 1970; Clark 1976, 1980; Dasgupta and Heal, 1979), high transaction and enforcement cost if owners were to attempt to limit the externalities of their overuse (Demsetz, 1967; Coase, 1960) and low productivity as there are no incentives for people to work hard to increase private net returns (North, 1990).

3. The Study Area

The study covered four (4) main Bassari communities in the Tatale-Sangule administrative district in the Northern Region of Ghana. The communities are Tatale, Kuyoli, Kandin and Sheine (see Figure 1). These communities were purposefully selected guided by their varied sizes and unique representativeness of both urban and rural characteristics so as to give an appropriate overview of the prevailing practices in the entire Bassariland. These communities are the major Bassari settlements at the eastern plains of the Oti River towards the Ghana-Togo border. The area lies within the northern savannah ecological zone characterised by grassland interspersed with trees such as shea, baobab, kapok and various shrubs. There is one season of high rainfall between May and mid-September with prolonged dry season lasting for about seven months. The mean annual temperatures are ca. 25 ° and the annual rainfall varying between 1000-1500 mm in the area (ODI, 1999). The rainfall pattern is erratic and tends to hamper farming activities occasionally resulting in poor crop yields. The main economic stay of the people are farming and trading in foodstuffs in the major market centres in the Northern Region of Ghana and the neighbouring Togo. The area is noted for the cultivation of yam, cassava, millet, corn, cowpea and sesame as well as rearing of livestock.

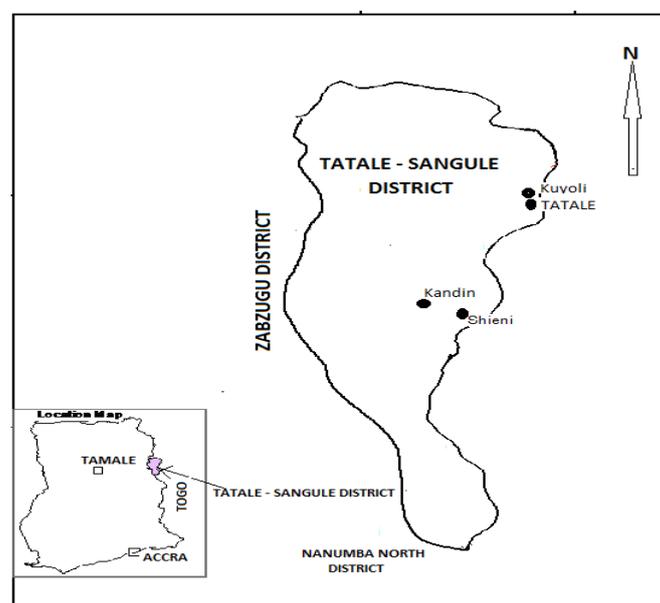


Figure 1. A map of Tatale-Sangule District showing location of Bassari Communities covered by the survey. Source: Modified from Tatale-Sangule District Assembly, 2012

4. Background Information of Bassari Ethnic Group

The Bassaris live some kilometres from the eastern-bank of the Oti River towards the Ghana-Togo border stretching to the western Togo town of Bassar. Bassaris in Ghana are

concentrated mainly in the administrative district of Tatale-Sangule District carved out of the then Zabzugu-Tatale District in the northern region (see Figure 1). Tatale is the largest Bassari town in Ghana and serving as the traditional capital. Bassaris also live in the northern part of the Volta Region and southern Ghana especially cocoa growing areas where they work as sharecroppers and caretaker farmers. The neighbours of Bassaris in northern Ghana are the Dagombas to the west, Konkombas to the north-east, Bassari in Togo to the east and the Nanumbas to the south. The Bassaris speak a language of the Gur cluster dialect and are mainly agrarians.

Farming is the major occupation of the people since the collapse of the pre-colonial iron ore industry. It is documented that when Germans arrived in the Bassari area within the then Trans Volta Togoland in 1894, they sought to discourage the then prevailing primitive iron extraction practices which was detrimental to the environment. As an alternative, the Germans began importing cheaper and high-quality iron bars from Europe for their own use to save the environment. However, this eventually collapsed the local iron industry (Digbun, 2001; Mani & Adu-Agyem, 2010). Bassaris, since then resorted to farming of cereals and tubers. Bassaris are patrilineal and polygamous society. Traditional pagan religion dominates in the area with Christianity fast gaining grounds. Bassari people celebrate a number of festivals including the Yam Festival and Fire Dance Festival known in Bassari as “Tibooli”.

4.1 Bassari Land Tenure Practices in Northern Ghana

Land tenure is the institutional framework within which various interests in land are granted, acquired, held, and utilised. It denotes the system of landholding, which has evolved from the peculiar political and economic circumstances, cultural norms and religious practices of a group of people (Kasanga and Kotey, 2001). Land tenure system in the Northern Region of Ghana varies across the region. Many research reports exist on land ownership system in this part of Ghana. Gildea (1964) reported that in northern Ghana, there existed a separation of land trusteeship and tribal administration responsibilities. The former responsibility vested in the land priest (*tendana*) and the later under the authority of a chief. As was reported by Gildea, (1964:103), the religious phase of land ownership is less intimately related to the responsibilities of chieftaincy. This is due in part to the fact that the chiefs in northern Ghana are mostly new arrivals who overcame the native inhabitants. Chiefs then generally respected the traditional form of land tenure by allying themselves with the religious figures (*the tendana*) that governed the land. Kasanga (1988) accepted Gildea’s claim as true only within the jurisdiction of Upper East and West Regions of Ghana but pointed out that the claim does not cover the Northern Region where chiefs exercise the same rights as some of their southern counterparts. According to Kasanga, in the Northern Region of Ghana unlike the Upper East and West Regions, chiefs are bestowed with land trusteeship and tribal administration responsibilities similar to the practice in southern Ghana. In this respect, chiefs in the Northern Region have under their bosoms both territorial and proprietary jurisdictions.

It is however respectfully submitted that, Kasanga’s assertion on land ownership system in the Northern Region of Ghana is not applicable across the entire geographic boundaries and all the cultural groups within the northern region. Bassari land tenure practice within the

Northern Region is similar to that prevailing in the Upper East and West regions of Ghana where land trusteeship is under the care of the *Tendana*¹ (*Otindaan*² in Bassari dialect) with chiefs performing tribal administration roles. The fusion of both land trusteeship and tribal administration responsibilities under the authority of a chief as pertained in most parts of the northern region is alien to Bassari customary land ownership. The Bassari land ownership system differs in substance and in form from the system prevailing among the neighbouring Dagombas and Nanumbas for instance. Bassaris maintain a unique cultural identity as well as separate traditional arrangement on landholding in northern Ghana and this differs from other as-cephalous groups in the area.

The chiefs in the Bassari areas are bestowed with tribal political and administrative powers and do not derive their authority from the ownership of land. They exercise rather a territorial political role over their people and assist the land priest (*Otindaan*) to enforce norms and rules in the management and use of land resources. The land priest also provides spiritual services for the chief on matters of land pacification and other traditional rituals. The land priest is the trustee of land on behalf of the “earth god” for the benefit of all the members of the community within the dominion of the “earth god”. The “earth god” is revered in Bassari areas as the paramount owner of land in spiritual realm and the land priest mediates between the “earth god” and the people. The four communities covered in this study all have land priests exercising traditional control and power over land and other natural resources within their traditional jurisdictions. The ‘earth god’s spiritual authority has physical geographic limitation. The territorial influence of the “earth god” defines the physical boundaries of the land each land priest controls. This has created land units among the various Bassari clans and given them separate land area of ownership and proprietary jurisdictions. Though these boundaries may not be geo-referenced in modern day, they are still traditionally recognisable through prominent and somewhat permanent boundary aids like trees, rivers, valleys, hills and mountains among others.

5. Methodology

The study was qualitatively based, and relied on focus group discussions (FGDs) and key informant interviews. Four FGDs were held in four communities to discuss the traditional system of land ownership, management and resource access under the past and prevailing Bassari customary rules. The FGDs had between 5-8 participants depending on the community size and number of identifiable groups. The representatives of the youth, women and farmer groups were appointed by their respective groups following our request. The leaders of these groups were incidentally made to participate in the FGDs. The participants discussed issues relating to Bassari land tenure, customs, resource access arrangement and changing trends. The discussions were guided by questions and clarification comments. Questionnaires covering how Bassaris access land resources, customary normative orders on

¹ *Tendaana* or *tendamba* are terms used by Dagomba, Frafra, Dagaaba/Waala and some other tribes in Northern, Upper East and West regions of Ghana to mean ‘land owner’; (*Tendana* is singular and *Tendamba* is the plural form). In Dagaare, *Tenga* means land and *Daana/Deme* refers to owner/owners respectively.

² ‘*Otindaan*’ is a Bassari term meaning ‘land owner’ and the priest of “earth god” (*Ting* means land, *Daan* means owner in Bassari dialect; *Otindaan* is singular, *Betindambe* is plural).

resources sharing and usage, the role of community land priest among others were first administered to randomly selected community members (Tatale 15, Kuyole 15, Kandin 10 and Sheini 8 respondents). Summarised responses from these questionnaires were also presented to the respective FGDs in the communities for validation. The responses of the FGDs were recorded and transcribed, and this formed the basis for further engagement with the key informants. FGDs results were further refined following input from these informants.

The key informants under the survey were the land priests, chiefs and selected community elders in each community. These key informants were purposively selected due to their in-depth knowledge of Bassari customs and involvement in local land resources issues. In the communities covered, 7 key informants each were interviewed in Kuyole, Kandin and Sheini except Tatale which had 8 key informants. This is because Tatale had two different land priests controlling different land areas and it was imperative to engage both land priests. In Bassari jurisdictions, it is normal for each community to have a chief and a land priest(s) performing different traditional roles.

The resultant information from these engagements was qualitatively analysed using descriptive narrations and the discussions are complemented by existing literature on the subject matter. The next section presents the findings of a survey conducted.

6. Results and Discussions

6.1 Land Resources Sharing Arrangement

Enhancement of economic wellbeing and poverty reduction efforts can be successfully executed if land resources are fairly distributed and land rights of the vulnerable are particularly protected. In assessing how land resources are owned and allocated among the Bassari, specific land resources were evaluated based on the opinions of key informants, (land priest, chiefs, selected community leaders) and focus group discussions across the communities. The prevailing land tenure and customary arrangements in the Bassari communities directly dictate the management structures, the use and how community members access land resources. Across all the communities covered in this survey, land resources as captured in table 2 for example water and pasture were found to be communally appropriated but are vested in the authority of the land priest (*Otindaan*). As shown in table 2, land resources access in the Bassari communities is a three-dimensional arrangement but manifest in practice as communal and private rights. In the three-dimensional arrangement, the land priest exercises a distinctive right over certain resources (overlapping both communal and private rights) while the larger community members hold communal rights over other resources and exclusively controlled individual rights (private). In practice and in line with the nomenclature of property rights, the distinctive rights exercised by the land priest are classified as private stemming from his position in the community.

Communal and private rights co-exist in a number of cases over the appropriation and use of resources under the Bassari traditional system. This co-existence is regulated by customary rules and practices. Farming, fishing in rivers, harvesting of economic trees such as dawadawa (*Parkia clappertoniana*), sheanut tree (*Butyrospermum parkii*), dead wood,

pasture, thatch for roofing, medicinal herbs among others are communally accessed and managed (see Table 2). Each community member enjoys equal right of usage. Specifically, fishing in commercial quantities in rivers and creeks during dry seasons, harvesting of dawadawa and shea nuts in the wild are exclusively owned and controlled by the land priest (*Otindaan*). Such resources even on private property are customarily reserved for the land priest. The land priest is entitled to a portion of the harvest of these resources even on private farms or fields. The larger communal rights exist only for subsistence. That is, resources reserved for the land priest can be appropriated by other community members only on subsistence basis and not for commercial purpose.

Private rights exist largely over resources contained on duly appropriated portion of communal land where private investments have been expended to bring such property into beneficial assets such as self-cultivated crops, vegetables, fish ponds, orchards and structures. The right to enjoy and exclude non-owners, transfer the improvement made within private property boundary are well protected by the traditional rules. Since the land priest is part of the community, he enjoys these general rights as an individual member of the community inclusive of the special rights over specified resources. At any point in time, the land remains the property of the *Otindaan* though the crops belong to the individual who cultivates. This revelation is similar to that of Wilks (1993: 99) in his study of the Ashanti when farmers revealed to him that '*afuo ye dee, asase ye ohene dee*' (literally meaning the cultivated farm is our property, the land is the stool's). It is noteworthy that plots of land are never lost even when under private cultivation; they remain the property of the *Otindaan*.

There is wide recognition and social respect for private investment and landed assets acquisition especially on farms and residential building space. The traditional system offers mechanisms for seeking remedies for breach of private property rights. Affected person(s) can petition the community land priest at first instance for redress. Unsatisfactory outcome from the land priest's court would then involve the community chief in the enforcement process. Individuals can also resort to the formal court system for redress if the traditional system fails to provide satisfactory remedies to the interference by non-owners. However, none of the informants in this survey said they have personally or witnessed land resource access dispute reaching the formal court. They however maintained it is an option which could be relied upon though it is customarily frowned upon.

Table 2. Access to selected Resources along the Customary Rules in Bassari Areas

Communal rights	Private rights	Land priest (<i>Otindaan</i>) ownership rights ³
<ul style="list-style-type: none"> ○ Water in streams and rivers ○ Roofing thatch ○ Pasture for grazing ○ Fishing in rivers (during rainy season) ○ Farmlands ○ Bamboo trees ○ Medicinal herbs ○ Hunting of games ○ Shea nuts ○ Firewood in the wild 	<ul style="list-style-type: none"> ○ Firewood on private farms ○ Shea nut on farms ○ Medicinal herbs on farms ○ Cultivated crops ○ Planted/wild fruits and vegetables on farms ○ Dug-out wells ○ Bamboo on farms ○ Thatch on farms ○ Ponds ○ Tree plantations 	<ul style="list-style-type: none"> ○ Fishing in creeks and rivers (dry season) ○ Dawadawa (both wild and on private farms) ○ Farm lands (unoccupied) ○ Building or urban land ○ Hunting rights⁴ ○ Timber rights⁵

Source: Field Survey (2012)

Traditionally, the land priest is vested with the hunting and timbering rights. Individual members as well as strangers require the permission of the land priest to hunt or fell trees for domestic needs including housing construction. The customary arrangements institutes that, during the dry season if community members wish to embark upon hunting expedition, the land priest grants the permission with the performance of certain rituals and symbolically setting fire to the bush to signal his approval and blessings for the expedition to commence. This entitles him one of the hind legs of a big game such as antelope captured.

All vacant farm lands besides active fallow lands are vested in the land priest. Families appropriate portions with the permission of the land priest. However, once the family appropriates and continue to occupy the land, the use rights remain with the family and its successors. Strangers who need land to establish a farm, access land through the land priest who either allocates available vacant land or negotiates with any family holding excess land that is productively needed, for a portion to be allocated to the stranger. From the survey, all the four communities did not have any ‘vacant land’ in the direct control of the land priest. Families and strangers have appropriated virtually all the agricultural land and the lands are either under active farming or fallowing in line with the farming and soil conservation practices. In the past, enough vacant land existed when population density was low and farm sizes were relatively smaller. An informant in Kuyoli (*qualitative interview with 56 year old, male*) noted “now you can’t find any vacant land anywhere in this community. Any direction you take, you see a farm. We have grown in numbers and people also want to have large farms to enhance their yield”.

6.2 Population Pressures on Land Resources

The ever increasing population in the study areas has put a strain on land appropriation and resource use. Population pressure is mounting on land, water resources, vegetation cover, and

³ Ownership in this context relate to *Otindaan* rights where certain resources are exclusively entrusted into his care and use. Such resources cannot be accessed without the consent of *Otindaan*. Dawadawa on private farm still belongs to *Otindaan* and he shares the harvest with the farmer on whose farm it is found.

⁴ Hunting rights of the *Otindaan* gives him a proportion of games captured by hunters in his jurisdiction. *Otindaan* is the only one who organises hunting expeditions and has the right to set fire to the bush for hunting to commerce.

⁵ Though under the Ghanaian Forest Law, timber resources are vested in the State, *Otindaan* is recognised as the owner of timber resources and any individual or communal access needs the consent of *Otindaan*.

wildlife among others. The community elders interviewed recounted, how in the past farm lands, water, pasture, roofing thatch, firewood were in abundance. Many of the resources have now become scarce and some animal and bird species are extinct due to over exploitation. An informant at Kandin, Tachoun (*qualitative interview with 68years, male*) in expressing his view on the declining resources stated “now when we set traps, we no longer catch animals, they are all gone. There is no thatch to roof our houses, thatch fields have all been transformed into farms and grazing fields”.

Land management practices such as land rotation helped to regenerate soil nutrient after a period of use and enhanced sustainable land use. The practice is very common in the study area and has been practiced for centuries. The system has sustained yam and cereal cultivation in Bassari communities. However, increasing population is hampering this land rotation as land area per household becomes less. The rotation period acceptable for full regeneration to take place has reduced drastically especially in densely populated areas like Tatale and Kuyoli. The less populated areas like Sheine still achieve appreciable level of fallow periods. The ideal fallow period according to the informants, is eight years and above. The table below summaries the fallow periods in the communities covered.

Table 3. Fallow Period for Agricultural Land

Town	Fallow Period (Years)	Population Estimates ⁶	
		2000	2010
Tatale	0 – 1	6,592	13,228
Kuyoli	0 – 1	2,692	5,804
Kandin	2 – 3	1,038	2,161
Sheine ⁷	4 – 5	-	-

Source: Field Survey (2011)

It is only Kandin and Sheine areas that farm lands are allowed to rejuvenate after a cropping season. The population in these areas is relative low. In Tatale, land is continuously cropped (Table 3). No fallow period can be realised because, almost all productive farm lands have been appropriated and farmers do not have alternative lands to depend on. This is making farming expensive and affecting outputs. High productivity is only achieved through application of chemical fertilisers. This revelation is consistent with Boserup’s theory of agriculture intensification arising from population growth. Soil degradation and vegetation cover depletion is apparent in Tatale and its environs. Water is scarce due to depleting vegetation cover and erratic rainfall. Rivers quickly dry up during dry season. In more rural environments like Kandin and Sheine with low population, soil fertility and dense vegetation cover are relatively high. The productivity of land is high, ecosystem goods and services are easily obtainable. Due to the dense vegetation cover, rivers are able to contain water for the entire dry season, making water access less stressful as compared with Tatale.

Population growth poses immense challenge to land resource use, management and

⁶ 2000 and 2010 Ghana Population and Housing Census figures from the Ghana Statistical Service and Tatale-Sangule District 2010 Census Field Enumerators.

⁷ No population figures were available for Sheine community and field observation also shows that it is the smallest of all the communities visited.

environmental quality. Quality and quantity of resources are affected by population. Increasing population shortens rotation period culminating in intensive cropping with devastating ecological effects. As noted by Boserup (1965:20) “the invasion of forest and bush by grass is most likely to happen when an increasing population of long-fallow cultivators cultivate the land with more and more frequent interval”. But as population hardly declines, robust management regime of land resources is relevant to sustain life and environment. Cooperation and social understanding is vital towards equitable land resource use and sustainability.

6.3 Women Access to Land Resources

Women in Bassari areas have very limited access to land and its resources. Existing customary practices bar women in many respect in their ownership of land resources. The position of the land priest is only held by males. Though the position is hereditary, girls have no such hereditary right. Inheritance and succession to the position of *Otindaan* are determined by patrilineal descent. Women are viewed as strangers and are not permanent part of the family for land to be entrusted into their care. Again, since the position of *Otindaan* is spiritual and involves purification of the ‘earth god’ women are forbidden culturally to engage in spiritual exercise on behalf of a community.

The women land rights are largely limited to harvesting of firewood, vegetable production, water for domestic use, shea nut, dawadawa among others. Women cannot own farm land and pass it on to their heirs. Their access to farm land is only by either express or implied seasonal licensing from their husbands, brothers, uncles or fathers. Characteristically, parcels held by women are used primarily for seasonal production. The landholding rights are insecure. The land can be taken from them at any time and at the discretion of their husbands or brothers who gave out their share of family or private land. Male relatives who perhaps need land to establish new farms or expand existing ones normally fall on land held by women in their families when no alternative land can be sought. This aptly affirms Toulmin’s findings that across West Africa and Sahelian regions women access land indirectly and the size of their landholding always smaller than the male counterparts (Toulmin, 1999).

6.4 Overlap of Statutory and Customary Rights in Land Resources Use

Customary rights exist within the framework of the statutory regulations and control. Statutory ownership of land resources most often than not truncates and limits the scope of the communal rights of resource access and usage. The local community understanding of the substance of their land resources ownership run counter with statutory ownership. The ownership of land by the land priest (*Otindaan*) is believed to include rights to or over resources on or under the land. Land priest is understood by the community members to own any minerals, water bodies and timber found on, under or within the land he controls. This position is inconsistent with Article 257(6) and Section (1) of the Minerals and Mining Act, 2006 (Act, 703) which both vest the ownership of minerals within the jurisdiction of Ghana in the President. Again, water resources in Ghana according to Section 12 of the Water Resource Commission Act, 1996 (Act 522) are vested in the president in trust for the entire people of Ghana. Similarly, the Forest Protection Decree of 1994 (N.R.C.D 243) vests the

management, use, control of forest resources in the President. These statutory interventions in the resource ownership and management conflict with the communal and private usage rights of these resources in the local communities.

Land priests among the Bassaris firmly believe that their rights of ownership cover resources such as minerals, timber and water rights oblivious of the statutory vesting of these resources in the state. For instance, it was revealed from the survey that, the customary practice has been that, felling of trees on communal land or commercial fishing during the dry season always required the permission of the land priest. This arrangement is in variance to the statutory ownership of these land resources. The legislative provisions on the extraction of forest, water and mineral resources require necessary licence from the appropriate institutions such as the Forestry Commission, Water Resource Commission and Mineral Commission respectively acting on behalf of the State.

Statutory rights often conflict and overlap with customary rights which directly spells out the operation rule for land resources use in the local communities. Statutory and customary systems tend to produce differing practice on the ground, and together produce a set of overlapping and often contradictory mechanisms for deciding how access to resources should be allocated (Toulmin, 1999). Local communities often lack knowledge of the existence of statutory rights and even where there is some awareness, legitimacy is often lacking since statutory rights directly conflict with communal rights. Statutory rights sometime lack legitimacy at the village level and therefore rely on government agents for enforcement (ibid). Local communities are incapacitated by statutory interventions in exploiting the valuable component of land resources. The most valuable resources come under direct state control. Figure 2 shows the conceptual framework of the various categories of rights over resources and the possible conflicts and interactions arising.

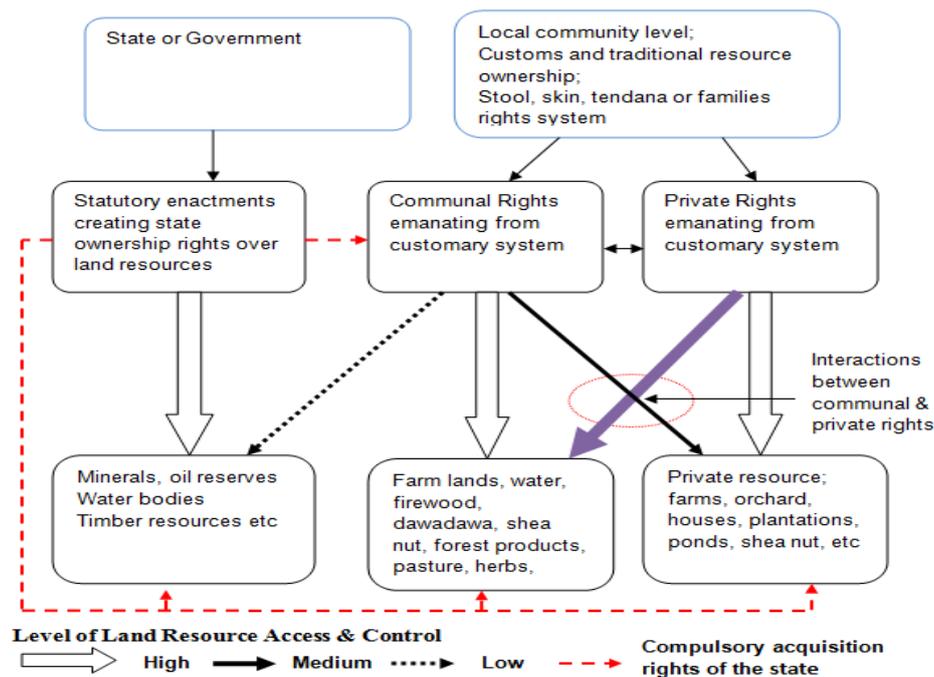


Figure 2. Interaction between categories of rights in land resources access. Authors, 2012

Invocation of the statutory right of the state automatically over-rides any customary rights. This right is embedded in the state's power of eminent domain. Throughout West Africa, the power of eminent domain has given the state the authority to expropriate land and other resources in the national interest (Toulmin, 1999). Where private or communal rights are directly truncated, compensation is a necessary requirement under article 20(2) of the Constitution of Ghana and the State Lands Act, 1962 (Act 125).

6.5 Emerging Trends with Land Resources Sharing Arrangement in Bassari Communities

Access to land resources is largely governed by customary rules which broadly vary from community to community. Traditional mechanisms for sharing resources are well embedded in the customary practices. These mechanisms are not static but are constantly changing in response to societal needs and emergence of new value systems. In the recent past, communal rights of access to land resources in Bassari areas remained extensive and covered a wide range of landed resources since land is in principle communally owned and resources therein must be accessible by all. The land priest (*Otindaan*) reserved certain rights and entitlement to resources such as access to dawadawa, fishing in creeks and to a share of captured animal from community hunting expedition. This was in recognition of land trusteeship functions vested in the land priest and for the recovery of cost involved in purifying the 'earth god' (the ultimate landowner). However, two key changes were revealed in this land resources usage arrangement across our studied communities. These changes are presented below:

6.5.1 Usurpation of Land Ownership and Appropriating Authority of the Land Priest

Our engagement with the key informants and land priests in the four communities covered by the survey, revealed that, the community land priest no longer enjoy exclusive control over resources which hitherto were under his control. In time past, dawadawa on private farm was regarded as the property of the land priest and upon harvest; the farmer carries the harvest to the land priest where a portion is given to the farmer for his effort. This is no longer the case according to the informants and the land priests we interviewed. Farmers now appropriate resources directly for themselves. It emerged that, the land priest is almost now powerless in enforcing his rights over the resources customarily believed and respected as belonging to him. Societal value systems have changed and people no longer honour their traditional obligations to the land priest. Money making attitude has engineered people to disregard the traditional practices in the use of resources. The authority of the traditional land priest in the use and management of land resources are now been usurped, undermined and merely reduced to a symbolic feature.

6.5.2 Individualisation of Communal Rights

Private or individual rights are increasingly taking centre stage in the land resources arena in the Bassari communities in the Northern Region of Ghana. Communal resources such as shea nuts, bamboo, roofing thatch and medicinal herbs (see Table 2) now become private assets if such resources are located naturally within private individual property boundary. This trend is gradually exterminating the proprietary rights of land priests (*Otindaan*) and also limiting the communal access to resources. Access to such resources requires the express permission of

the private holder of the land and not the *Otindaan*.

Land holding systems of the communities in this survey are largely devoid of any direct control of the state machinery and mechanisms. Land and property titling introduced into indigenous communities by the state and which set the stage for private rights ownerships are not effective on the ground and in fact remain largely unknown to the people in the four Bassari communities. Thus, the emerging ‘individualisation’ of land resource holding and usage rights is largely driven by internally induced factors of population growth, changing economic behaviour of people and breakdown in local social value systems which greased the wheels of the communal rights. Importantly, increasing population has concomitantly necessitated the creation of more private property units with the greater tendency to diminish the quantity of communal resources. Population pressure has not only necessitated the creation of individual property units out of the communal holdings, but has also in subtle terms orchestrated the breakdown in the traditional values system and enforcement mechanism. The land priest’s enforcement authority of the customary rules and regulation governing access and enjoyment of land resources are overwhelmed and undermined by large numbers of people within his sphere of authority. The land priests we interviewed indicated it has now become extremely difficult to monitor and ensure compliance of community members to the local customary rules regarding communal resource access and exploitation. In the past, when the numbers of people living within their jurisdictions were fewer, the land priests indicated they could effectively enforce the customary rules and insist on their customary entitlements.

This observation in the Bassari communities is consistent with Boserup’s “evolutional theory of property rights” where communal land holdings gradually evolve into a more individualized rights attributable to increased population pressure (see Boserup, 1965). Indeed, customary mechanisms for resource appropriation are readjusting to cope with the pressure mounted by the growing population and increasing aspirations of the people. Amanor and Ubink (2008) have noted that customary systems are evolving towards individual property rights in response to economic changes. The evolving arrangements in many African regions amply confirm the economic hypotheses that the nature of property rights in land has changed towards increased privatization and allocation processes increasingly executed by market mechanisms (Platteau, 2000). Bruce and Migot-Adholla (1994) observed that, in Africa, there is ‘evolution’ of local property systems from the communal arrangement to a more individualized rights to land and other property rights which is attributable to population pressure and agricultural commercialization. Toulmin (1999: 16) similarly noted customary land rights have increasingly focused on families and in some cases on individuals rather than lineages driven by population growth and commercialisation of agriculture. As population pressure on land resources increases with production becoming more commercialised, the customary system becomes more individualised and the rights become more exclusive and alienable. One immediate upshot of the growing privatization or individualisation of land rights and access is that vulnerable groups such as women are increasingly denied their rights of access to land, especially to plots of relatively high quality (Platteau, 2002) and in proximity to the villages, road

infrastructure and water sources. Women in the Bassari communities are faced with similar fate and require specific support to survive the emerging land access and holding landscape. Their access rights to land resources are limited and their land holding terms are discriminatory and insecure.

7. Conclusion

There is increasing need for communities to sustain resource base to meet both present and future demand. Good stewardship and robust management structures over resources are essential ingredients towards averting potential and irreversible consequences of resource destruction. Modernity underpinned by changing economic, political, social and cultural factors impact on the arrangement system for resource usage and management. In particular, the exercise of rights over resources either by individuals or by a collective body as defined by customary rules and statutory enactments has great bearing on resource management outcomes. It has been widely argued that communal management of resources is not promoting efficiency, equity and sustainability of resources (Cheung 1970; Clark 1976, 1980; Dasgupta and Heal 1979; Demsetz 1967; Coase 1960; North 1990). Increasing population, growing interest in wealth and greed are resulting in rapid depletion of resources. Communities covered under this survey attributed soil fertility decline, water pollution, overgrazing, extinction of certain animal and plant species and general reduction in environmental quality to the unrestricted communal rights of access, greed and weakening position of the land priest now unable to enforce customary rules.

It has been variously argued that private right of control could achieve efficient and sustainable resource use. Private proprietorship among other things encourages current resources to be conserved for the future; owner(s) use the resources in the manner most beneficial to them (Gwartney, 1985). An individual proprietor understands the direct relationship between investment and the benefits arising thereof from his property in the long term. However, there is a loose appreciation of the connection between the personal investment and benefits when these same individuals form part of a larger society in the use of resources, the attitude of free riding becomes more pervasive (see Ostrom and Hess, 2007) which is most inimical to long term sustainable resource management.

Given the increasing population and the soaring scarcity of land resources, the most appropriate way for adjustment to withstand the negative outcomes of resource stress and mismanagement is prudence anchored on the wheels of private ownership. As proposed by Smith (1981: 467) and cited in Ostrom, (1990:12), “the only way to avoid the tragedy of the commons in natural resources and wildlife is to end the common-property system by creating a system of private property rights”. This study found an already gradual movement from communal property rights towards private property rights regime in the resource management in Bassari communities. As a result, resources are increasingly falling under private proprietorship with the communal rights reducing to obscurity. The increasing dominance of private proprietorship of land resources observable in the study is due largely to population pressure, economic motives and breakdown in the local value system. There is the need for the existence of effective rules and strong customary system of enforcement to protect private

rights over resources such as farm land, water bodies, forest products and wild life as well as define how benefits are distributed among community members. The on-going efforts of the Land Administration Project (LAP) in Ghana towards the reformation of land rights and management regime in the country should pay attention to the emerging trends in resources access.

Communal rights system traditionally makes it possible for the poor groups such as women and other vulnerable persons to access land resources for their livelihoods. Community commons perform very critical roles such as cushioning communities' poor against distresses (Plateau, 2002). Unfortunately, with the emerging individualisation of property access, the risk of these already vulnerable groups being excluded and impoverished is high. Thus, access channels must be created for resources to trickle down to community members who do not have the economic capacity and strong social network to appropriate and hold private property units but need to depend on communal rights. Vital resources such as water, shea nut, dawadawa and medicinal herbs for instance must essentially remain under communal usage. The capacity of the local institution must be supported by the state to internally manage the evolutionary process in the land resources access regime. While development of formal rules to govern the development of private rights under the customary system are ideal, such formal systems could potentially harm especially women land rights and capital access (see Joireman, 2006: 14; Ensminger, 1997) and should thus be catered for in the formalisation process. While it is practically impossible to still vest entirely appropriating rights over resources in the hands of the land priest given the current developments, traditional rights must still be recognised. Completely usurping the traditional land ownership rights and powers of the land priest could be a potential source of dispute in land resources ownership in the near future.

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