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Land Dispute and Resolution Process Among the Youth Under the Customary System in the Techiman Traditional Area of Ghana

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ABSTRACT

Securing land rights of all including the youth to allow for investment is very imperative. This is because access to land is very fundamental to ending extreme poverty especially in the Sub-Saharan Africa where agriculture remains the economic backbone of majority of households. To this end, access to fair and timeous land disputes resolution mechanism to adjudicate and resolve disputes which create tenure insecurity is critical. This study investigates land dispute cases and the resolution mechanisms among the youth land holders in the Techiman area of Ghana. Using a mixed method approach and multi-stage sampling techniques, the study sampled 455 youth respondents and 23 elders in 20 communities. The study revealed that, there were relatively few land disputes (20%) cases recorded among the youth respondents. The study also revealed that the youth do not have the sole capacity to pursue a land dispute case without the involvement of the family head especially when it relates to family land. Again, access to fair and timeous redress to land disputes under the existing customary structures was not felt evenly among all the youth segments. The study recommends a customary land adjudication system that is accessible and fair to all regardless of age, sex or community membership status to safeguard land rights for wealth creation.

Keywords:

Youth,
Land,
Dispute,
Resolution,
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1. BACKGROUND OF THE STUDY

Land remained a critical resource for the survival strategies of mankind. It directly offers livelihood for agrarian households and indirectly sustains the rest of the population from its array supply of goods and services. This immeasurable value of land greatly heightens contestations for control and ownership rights. These contestations are further exacerbated by the growing population and rapidly expanding human settlements. The pressures of population growth, agriculture commercialization, large scale migration, and rapid urbanization have resulted in intense competition and land scarcity, and increased conflict over land (IIED 1999). According to Cook (2005), the case of Ghana like many parts of West Africa, contestations over land rights are particularly acute and will likely to intensify in the coming years. Consequently, land owners especially the elders vested with the authority over land under the customary tenure regime are increasingly yielding to pressure to alienate both urban and rural prime agricultural land regardless of the social mishaps (Kidido et al., 2017a; Kidido and Kuusaana 2014). This creates undesirable outcomes for members within the landowning groups especially the youth, who are hardest hit with land scarcity due to limited resources and alternative access pathways (Kidido et al. 2017b). As observed by Niang and Dieng (2004), land in Africa is increasingly becoming scarce thus creating volatile grounds which easily denigrate into conflicts at all levels of the social strata. Many countries in the Sub-Saharan Africa have experienced tribal conflicts which have left in their trails both human and economic losses. The root causes of many of these conflicts are linked to land rights contestations (Paaga, 2013). Besteman and Cassanelli (1996: ix) opined that behind most of Africa's "political crises lie hidden wars for access to and control of productive resources".

Indeed, land disputes pose a great impediment to land use and tenure security in Africa (Paaga, 2013). Tenure insecurity deters investments and disorganizes rural economy (Aryeetey and Urdry 2010) which revolves around land. Disputes arise from purposeful interaction among two or more parties in a competitive environment (Oberschall, 1978). The dynamics of conflicts relating to land often occurs at different scale of social organization; among two parties or between groups and communities. According to Aryeetey *et al.* (2007) land disputes normally revolves around a myriad of actors such as government, chiefs (stools/skins), family heads, groups in various permutations such as inter-ethnic and intra-ethnic; between chiefs and their people; governments and communities; communities and transnational corporations and between individuals. At the level of group, such conflicting claim is known as social conflict. Oberschall, (1978) defined social conflict as 'conflict in which the parties are an aggregate of the individuals, such as groups, organizations, communities and crowds, rather than single individuals...'. Social conflicts or disputes over land which takes the form of groups, community or tribal struggles over land in Ghana have been well documented. For instance, a number of studies have been done on some protracted communal and tribal conflicts with land claims as undercurrent cause such as the Nanumba-Konkomba conflict in 1981, Gonja-Nawuri in 1991, Konkomba-Nanumba-Dagomba conflict in 1994 and over hundred years land conflict between Nkonya and Alavanyo (see Jönsson, 2007; Tsikata and Seini, 2004; Brukum, 1995a, 1995b).

The focus of this study is centered on the land disputes occurring at the household level with a focus on the youth. As noted by Yamano and Deininger (2005:1) 'households experience small-scale land disputes with relatives, neighbours, landlords, or local governments'. Land disputes especially at the micro level of the family and the household have their own ramifications. The role of land conflict in generating wider insecurity makes it absolutely essential to understand the nature and dynamics of the disputes as well as resolution mechanisms (Toulmin, 2006) to limit occurrence and escalation which undermine land rights and productivity. As noted by Kasanga (1999), without harmony in

land ownership devoid of disputes, investment cannot be sustained overtime and investors are unlikely to be attracted. Effort to reduce poverty and create wealth for the people through utilisation of land will not yield desired outcomes in an environment of contestation without efficient resolution mechanisms. It is important to ascertain what land disputes are common among the youth and how such disputes are resolved within the customary adjudication structures.

2. BRIEF OVERVIEW OF CAUSES OF LAND DISPUTES IN GHANA

Many studies have been done on land disputes and conflicts occurring at individual level in Ghana. The root causes of these disputes have been well documented. For instance, the Ghana National Land Policy noted the causes of land disputes in Ghana to include indeterminate boundaries of customary-owned land, multiple land sales, conflict of interest between and within land owning-groups and the state (GoG,1999). Cook (2005) also identified intra-family dispute, boundary dispute and unauthorized disposition of rights in land by chiefs as common cause of land disputes in some parts of Ghana.

It is instructive to point out that, some of these land disputes both at the level of individuals and groups are engineered by the role of the state in land administration and reform programmes. As noted by Cook (2005) some of the land disputes are linked to the role of the state especially in her attempt to directly control land which tends to rather deepen the marginalisation and exclusion of poor and vulnerable groups. In some specific instances, government appears to take side with a disputing party against the other which deepens the contestations. Boone and Duku (2012) opined that, in the Wassa Amenfi area of Ghana, chiefs' efforts to renegotiate land terms more favourable to indigenes and also reassert authority over migrant farmers were tacitly backed by central government actions. In their observation, the establishment of Customary Lands Secretariat in Wassa Amenfi in 2003 under the Land Administration Project (LAP) among other things strengthened the position of the traditional authorities in their struggle with the migrant farmers. The specific terms and duration of landholdings became contested and highly uncertain for migrant landholders. This development fueled tensions and disputes that were centered on indigene-migrant cleavage. In the northern part of Ghana, the government's policy to de-vest all lands in the northern regions in 1979 provoked land disputes between *tendanaas*¹ and some chiefs. "Struggles over land ... have intensified in recent years, notably in northern Ghana where returns of state-held lands to their original owners have given rise to legal disputes and, sometimes, to violent disputes over land claims and jurisdiction among chiefs, citizens, and the custodians of the earth shrines" (Berry 2009b: 1376). Also see Kasanga (1999) and Lentz, (2001). These disputes have continued as the de-vesting policy was reinforced in the current 1992 Constitution of Ghana.

The land disputes also reflect the entrenchment of customary land laws in local power structures and social group membership (Cook, 2005). As noted by Tsikata and Seini (2004), the tenure regime itself in Ghana has created and exacerbated land disputes and land tenure insecurity with negative implications for national development. Customary tenure regime is dynamic, flexible and negotiated (Berry, 1993), and centred on people's interpretation and experiences. This creates grounds for abuse through authoritative interpretations by the customary authorities often to the disadvantage of the vulnerable groups like women and the youth (see Boni 2008 study in Sefwi area of Ghana). In the midst of increasing land scarcity, customary rules are reinterpreted in a manner that seeks to benefit the customary authorities (chiefs and elders) vested with powers which often precipitate land disputes as these interpretations are contested. As reported by Boni (2008); Boone and Duku (2012), the authoritative power of chiefs to alienate land and also renegotiate land relations with migrants in the West Regions of Ghana culminated in numerous land disputes and tenure insecurity for local youth and migrant farmers. Kuusaana et al. (2013) also opined that, land disputes are more

¹ Tendanaas are land priests found in some parts of northern Ghana.

pronounced in parts of Ghana where land is customarily held by families. They noted that, independent land grant by the family heads without accounting for the proceeds thereof have often been resisted by other family members who also counter grant to other people thus creating conflicting outcomes and disputes. Growing land scarcity is also redefining land relations at the family level between youth and their elders as well as land relation between indigenes and migrants characterised by fierce contestations and disputes (see Amanor, 2010; Ubink and Amanor, 2008; Boni, 2008).

Notwithstanding the above, knowledge on land disputes among the youth landholders remained scanty and generally limited. Youth landholdings and the attendance issues such as tenure security and disputes are normally embedded in studies that reflect the adult population. It is important to appreciate the undercurrent dynamics of the youth land holdings with a focus on disputes and how such disputes are resolved within the customary structures in Ghana.

3.0 THE STUDY AREA

Techiman traditional is located within the central parts of Ghana in the newly created Bono East Region. The area covers two administrative districts i.e, Techiman Municipal and Techiman North District (Figure 1). Techiman is the largest town serving as the traditional capital of the Techiman traditional area and also the capital of the newly created Bono East Region out of the then Bono Ahafo region. The central location of the Techiman and its environs, makes the area important commercial and agricultural centre in the country and beyond.

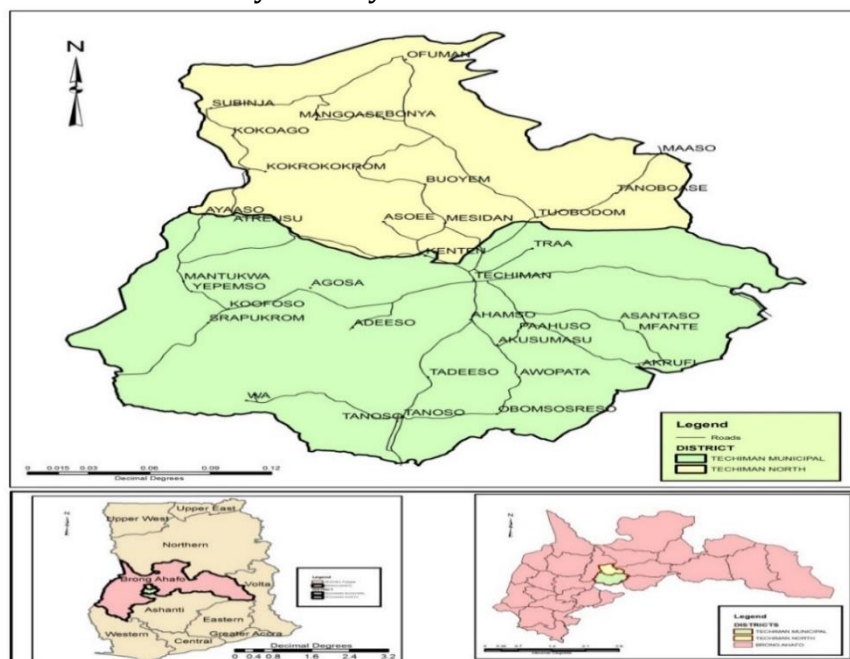


Figure 1: Map of the Study Area Districts in the Bono East Region of Ghana

(Source: Modified from the Techiman North and South Districts Maps).

The rapid expansion of Techiman, contributes to the rapid urbanization of the area. Majority of the population (60%) within the traditional area now live in the urban towns like Techiman, Tanoso, Tuobudom among others with the remaining 40% residing the rural areas (GSS, 2014a). The urban population in the area is comparatively higher than the national proportion of 51%. The high population of the area with increasing proportion of the urban population have implications for the socio-economic of the area (GSS, 2014a) and also access to land. Competition over land is likely to intensify with it concomitance effects.

The favourable climatic condition of the area as a transitional belt laying between the forest of the south and northern savannah ecological zones coupled with abundant rainfall and soil fertility, make the area an important agricultural production corridor. About 36% of the economically active population in the area is engaged in agriculture and related activities (GSS, 2014b). The major crops grown are food crops such as yams, maize, cassava, cocoyam, plantain and vegetables like tomatoes, garden eggs, onions and okro as well as cash crops like cocoa, cashew and mango.

4.0 METHODS

This study employed a mixed of qualitative and quantitative research design approach. This method allows for the combination of qualitative and quantitative approaches in the use of both qualitative and quantitative viewpoints, data collections techniques, analysis and inferences (Angell and Townsend, 2011).

Multistage level of data collection was also used. Youth respondents at the first level and the elders made up of village chiefs, family and household heads at the second level. This provided a platform to obtain the views of the youth and their elders. The claims made by the youth regarding the disputes they encountered and how those disputes were resolved were further triangulated with that of the elders in the various communities covered.

Data was collected through personal interviews with the youth using both open and closed ended questionnaires. Narration of experiences of the youth respondents in land disputes were also recorded and transcribed. This was followed by a tracer survey with the community elders and family heads through in-depth interviews. Elders are custodians of customs and reputed to have deeper understanding of the customary land tenure system and how associated disputes are resolved. Thus, the perspective of the elders was deemed critical in this research process. The in-depth interviews with the elders were recorded and transcribed.

The data from the youth respondents were analysed using the Statistical Package for Social Sciences (SPSS) to generate the statistical data as used in this report. The transcribed data from the youth were also studied and summarized which provided qualitative data support to the quantitative data. Again, qualitative data responses from the elders were also used to triangulate the views of the youth respondents on matters of disputes resolution mechanisms under the customary system in the Techiman traditional area. The results of the study are presented in the next section.

5.0 RESULTS AND DISCUSSIONS

5.1 Land Disputes and Resolution Mechanisms

Disputes are inevitable but what is important is the frequency, the source, resolution structures and the quality of resolution outcome. This section presents the actual recorded cases of land disputes the youth respondents encountered in their land access and holding process. As shown in Table 1, there were relatively few cases of land disputes recorded by the youth. Only 89 (20%) out of the 455 youth respondents encountered some disputes. The commonest land disputes (60%) were boundary related followed by ownership claim (24%). Cook (2005) also identified intra-family dispute, boundary dispute and unauthorized disposition of rights in land by chiefs or strangers as the commonest land disputes in his study in Goaso, Wa and Kumasi in Ghana. Similarly, a study by Kuusaana et al. (2013) also noted boundary disputes and contestation within families over ownership rights as dominance land dispute cases recorded within Kumasi and Wa traditional areas. Land dispute cases among the youth in Techiman area thus reflective the dynamics of the problem within the adult population and across the country.

Table 1: Land disputes encountered by the youth

Encountered Land Disputes?	Responses	Percentage (%)
No	367	80
Yes	89	20
Total	455	100
<i>Nature of Disputes</i>		
Boundary dispute	53	60
Ownership claim	21	24
Multiple allocation	1	1
Disagreement over holding terms	3	3
Dispossession	7	8
Encroachment	4	4
Total	89	100
<i>Whom Did You have Dispute With?</i>		
The land grantor	3	4
Family members of the land grantor	26	29
Family head	2	2
Chief/Queen mother	2	2
Brothers/ Sisters	2	2
Adjoining landowners	35	39
Encroachers/ squatters	2	2
Some members of my extended family	12	14
Others	5	6
Total	89	100
<i>Who Resolved the Disputes?</i>		
Family head	32	36
Chief/ Queen mother	9	10
Village elders	6	7
Court	2	2
Father/Mother	11	13
Others	18	20
None	11	13
Total	89	100

Source: Field data, 2016

Majority of the disputes (39%) were encountered with adjoining land owners, followed by family members of the land grantors (29%). Extended family members of the youth themselves were also a source of disputes. As again seen in the Table 1, 14% of the recorded disputes were encountered with the extended family members of the youth themselves. With the exception of the adjoining land owners, most of the disputes encountered by the youth related to family contestations from within the youth's families or outside families where they accessed land. This have had negative repercussions on innocent tenants and the youth landholders. The experience of Yele, a female youth respondent presented in the case below revealed the harsh reality of family contestations on the youth land rights and investments.

In terms of how the recorded cases were resolved, majority of the cases (36%) were resolved by the family heads. Father/mother resolved 13% of the recorded disputes while Chief/Queen mothers resolved 10% of the cases. A considerable number, 20% were resolved by other persons such as the police, land grantor, grandparents and at the shrine. It is important to note that, 13% of the cases were not brought before any authority for resolution.

Case 1:

A member of a landowning family allocated a 5-acre land to me to do sharecropping. He charged me GHC 1,200 as consideration. I made a part payment of GHC 500 with the understanding that, the rest will be paid when we begin harvesting the crops. I started working on the land and cultivated 2-acres of cocoa as the first phase of the development. But as soon as the cultivated cocoa started fruiting, other family members led by the abusupananin (family head) came to ask me to leave the land. They argued that, the member who allocated the land to me cannot allocate the land alone. He stole the land from the rest of the family. The consideration he received was not brought to the family in view of that, they are taking the land including the portion I have established as cocoa farm. They have seized the farm from me and for about one year now I have been denied access to the cocoa farm. These family members remained quiet for me to toil on the land for five years only for the cocoa to mature then suddenly they come in to take over the farm. (Interview, Yele, 26 years old female youth, Nsuta, 2016).

5.2 Resolution Process

During the interviews with the elders, they outlined how land disputes are resolved. Land disputes can first be settled by the disputing parties themselves. However, if they are unable to settle the matter, the family head or any senior family member can be contacted to intervene to resolve the matter. Where the family head cannot resolve it or is unable to resolve the case, the matter is taken to the chief's palace.

When the matter is taken to the chief, there is cost requirement charged by the chief before the case can be heard and witnesses invited. After the adjudication process, the losing party will be made to reimburse the expenses incurred by the other party. A sub-chief at Tanoso explained;

When a matter is brought to the chief for settlement, the chief will charge all the parties involve in line with customs. The one who brings the matter will be charged and the other party will also pay the same charge to appear before Nana (the chief). This charge starts from GHc 100 and above. Additionally, the elders who will be sent to the land, their transportation cost will be borne by the parties (Sub-Chief, IDI, Tanoso, 2016).

Clearly, it is not easy to seek a judicial settlement of a land case with the chief as a young person. The cost requirement could be an inhibiting factor as the youth are required to finance the process. In addition to the cost element, the family head must be involved or must take over the case. It is therefore not surprising that, only 10% of the cases were resolved by the chiefs or queen mothers.

At the family level, it is the family head who has the capacity to lead and defend the land of the family. If a youth is in possession of land and encounters a counter claim or disputes on the land especially regarding ownership and boundary, the matter must be referred to the family head who then takes over the case and the final determination of the case is binding on the young person. This elder explained during the interview;

Land cases involving the youth are handled by the family head. The youth do not own land; the lands they work on are under the care of the family heads. So if there is a dispute about the ownership or boundary, it is the abusupananin who must lead the resolution process and the outcome will be binding on all members including the youth (Elder 68 years old, IDI, Buoyem, 2016)

Family heads are central to land disputes resolution at the household and family levels, and they have the traditional authority to handle cases relating to lands under their watch and also take over disputes encountered by the young ones. This position is confirmed by the evidence presented in Table 1, where majority (36%) of the cases of the youth were resolved or handled by the family heads.

5.3 Views of the Youth on the Resolution Outcome of their Cases

At this stage it is important to ascertain the views of the youth on the resolution outcome of their cases whether handled by their family heads, the chiefs or community elders. Majority (35%) of the youth respondents who had land dispute described the resolution outcome of their cases as 'Very good' and another 29% described theirs as 'Good'. Only a small number (3%) thought their cases were 'Excellently' handled. Of greater concern were the unresolved cases and those improperly handled. For instance, 16% of the youth who had cases described the resolution outcome of their cases as 'Not good' and 17% also had their cases unresolved (Figure 2). This is not good for the land access and tenure security of the youth if more of their cases were unresolved or not satisfactorily addressed. This tends to create the feeling of insecurity and lack of confidence in the resolution mechanisms.

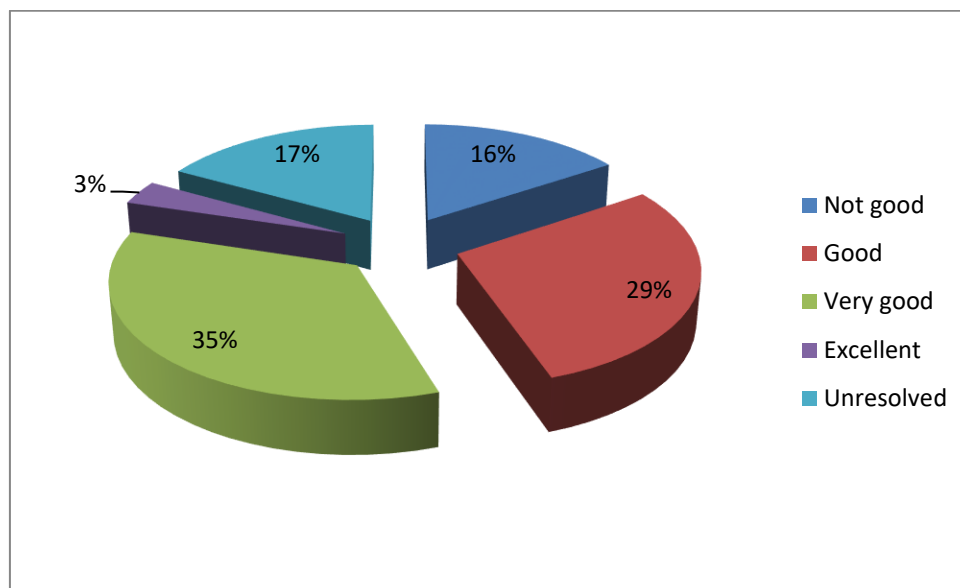


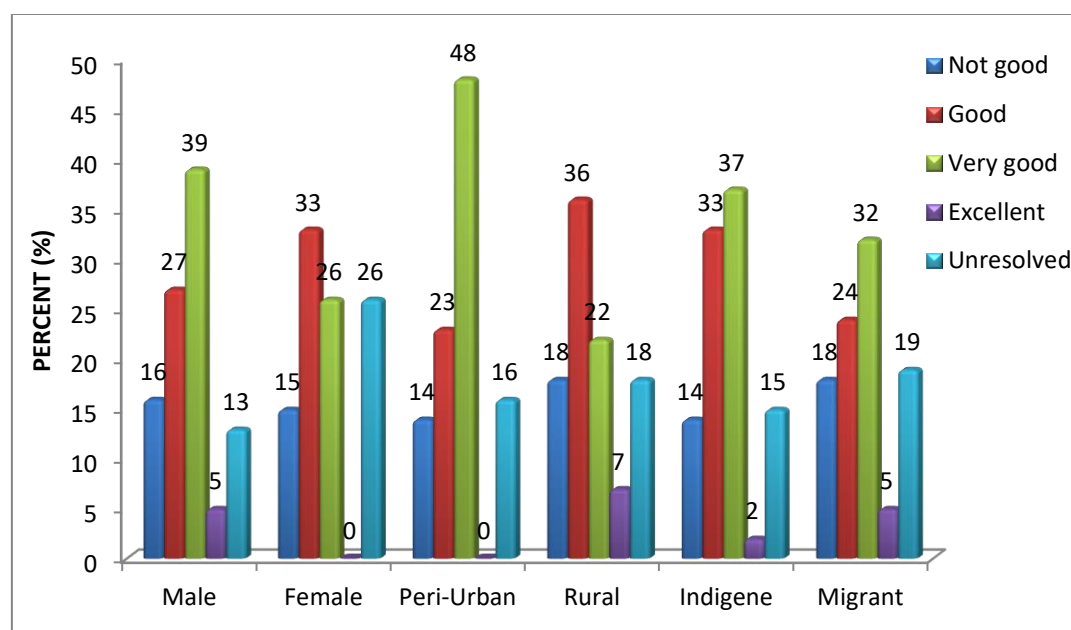
Figure 2: Views on the land dispute resolution outcome

Source: Field data, 2016

It is important to ascertain whether these unresolved and improperly resolved cases were unique to some segment of the youth or they generally cut across. Figure 3 presents the views of the youth on the resolution outcome of their land cases from the perspective of gender, residence and community membership status to understand how these segments viewed the adjudication of their land cases under the customary system.

As shown in Figure 3, with the exception of female and rural youth, majority of the other youth segments described the resolution of their land cases as "Very good". Among the female respondents who had disputes, 33% described their dispute resolution outcomes as "Good" another 26% described theirs as 'Very good'. This, when compared with the male respondents, shows that the male youth rather received a favourable settlement to their cases than the female respondents. For instance, among the male respondents, 39% described the resolution of their cases as 'Very good' compared to 26% among the female respondents. There was no marked difference between the male and female respondents in terms of those who considered that their cases were not properly addressed (see Figure 3). What is very outstanding however, is the high number of unresolved disputes among the female respondents. As depicted in Figure 3, 26% of the female respondents with cases, had their disputes 'Unresolved' compared to only 13% among the male respondents who had cases.

A similar trend resonates among the peri-urban and rural respondents. Majority (48%) of the peri-urban respondents who had disputes on their lands described the resolution outcomes as 'Very good', compared to 22% among the rural respondents. There appears to be a favourable resolution mechanism for the peri-urban youth than among the rural youth. From Figure 3, relatively fewer respondents in peri-urban areas described their resolution outcomes as 'Not good' and 'Unresolved' compared to among the rural respondents. For instance, while 18% of the rural youth described the resolution outcome of their cases as 'Not good', among the peri-urban youth, only 14% thought same. Again, there were 18% unresolved cases among the rural youth compared to 16% among the peri-urban.



Number of recorded land disputes among each category: Male (n=62), Female (n=27), Peri-urban youth (n=44), Rural youth (n=45), Indigene (n=52), Migrant (n=37)

Figure 3: Views on the resolution outcome among the different youth segments
Source: Field data, 2016

In terms of community membership status, Figure 3 clearly shows that, the indigenes had a more favourable outcome to their cases than the migrant youth. Among the indigenes who encountered land disputes, 37% described the resolution outcomes as 'Very good' and another 33% also described theirs as 'Good' compared to 32% and 24% respectively among the migrant youth respondents who had land disputes. There were more unsatisfactorily resolved and unresolved cases among the migrants than among the indigenes (see Figure 3).

It is clear from the above results that, it is not all the segments of the youth who had access to fair and timeous redress to their land disputes cases under the customary system in the TTA. As evident in Figure 3, there were a relatively high number of 'unresolved' and 'unsatisfactorily resolved' cases among the female, migrant and rural youth respondents. Male and peri-urban youth as well as indigenes were more able to have access to a better adjudication outcome to their cases. Being a female, a migrant and a rural resident tends to create some amount of impediment to having access to favourable adjudication outcome. The traditional customary dispute resolution structures appear not to be favourable to these categories of the youth. Being a female or a migrant possibly make the traditional authorities (chiefs, family heads and other elders) who handle land dispute cases not to approach their cases with vigour and interest. The females and migrants were unable to insist on timeous and fair resolution of their cases from the traditional authorities. The disputes resolution authorities under the customary system is male dominated. For instance, as noted by Berry (2008), the power of dispute resolution is largely exercised by chiefs and male elders. Land in traditional African societies is often owned and controlled by the elderly men (World Bank, 2014) and this control

includes adjudication rights. Thus, the patriarchal nature of the customary land tenure system including the exercise of dispute resolution function disadvantage female youth to some extent. As females, they fear to insist on their rights from the male elders under the customary system. The same holds for the migrant youth, who as strangers cannot insist on their right in the pursuit of land cases for fear of being tagged as rude and troublesome by the community elders. Boni (2008) similarly noted that the dispute resolution within the traditional arrangement tends to disadvantage women versus men, migrants versus indigenes as well as youth versus elders. The female and migrant youth from the results of this study were a bit disadvantaged in terms of obtaining favourable resolution outcomes to their land cases relative to the situation among the males and indigenes.

Among the rural youth, it was quite surprising that they also lacked access to a better judicial process under the customary system compared with their peri-urban counterparts. This is because, peri-urban areas are largely under the influence of urban life and modernity where traditional rules are hardly observed. Yet, the peri-urban youth had their cases better handled under the traditional system than the rural youth. This is partly attributable to awareness of rights in the peri-urban areas due to proximity to the city of Techiman where there are a lot of civil education on radio and other media platforms. This, possibly empowered the peri-urban youth to pursue and maintain claim with their elders and insist on their right to be fairly heard timeously compared to their rural counterparts who by their location are not privileged to have more of media education and civil influence. The peri-urban elders thus appear to pay serious attention to cases brought before them as their youth might cry foul on radio and other available media which could damage their reputation.

6. CONCLUSIONS AND RECOMMENDATIONS

The study revealed that, there were relatively few land disputes cases recorded among the youth respondents. The commonest land disputes related to boundary and ownership claim. The findings of the study also showed that the youth do not have the sole capacity to pursue a land dispute case without the involvement of the family head especially when it relates to family land. Again, seeking a settlement of land dispute with the chief as a youth was found to be very daunting. There is a cost requirement that has to be met in order to have a case adjudicated by the chief and this impeded access as many of the land disputes cases involving the youth ended at the level of family head regardless of the outcome.

Essentially, access to fair and timeous redress to land disputes under the existing customary structures was not felt evenly among all the youth segments. There were relatively high number of 'unresolved' and 'unsatisfactorily resolved' cases recorded among the female, migrant and rural youth respondents. The female and migrants were unable to insist on timeous and fair resolution of their cases from the traditional authorities. The disputes resolution authorities under the customary system is male dominated and the female youth were particularly disadvantaged under the system. On the part of the migrant youth, as strangers they are hesitant to insist on their right in pursuit of land cases for fear of being tagged as rude and troublesome by the community elders. The study underscores the need for a customary land adjudication system that is accessible and fair to all regardless of age, sex or community membership status to safeguard land rights for wealth creation. Again, awareness and sensitization programmes are required to help the youth especially the rural, migrant and female youth to be empowered of full knowledge of their rights to enable them demand timeous redress to their cases. Customary Land Secretariats (CLS) within the Ghanaian land governance landscape could lead in the sensitisation effort. Effective discharge of the functions of the CLS at the local will improve local level land governance with the benefits of protecting youth land rights.

7. ACKNOWLEDGMENT

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