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Impacts of Socio-political Organisational Structures Underpinning Indigenous Land Tenure Systems

Evidence from Ghana

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ABSTRACT

To benefit from the underutilised potential of urban land resources, the introduction and improvement of land registration and cadastral systems have been advocated. However, evidence from empirical research in a number of developing economies including those in Sub-Saharan Africa (SSA) continues to show mixed or inconclusive outcomes from the implementation and operations of such systems. This paper argues that for introduced formal systems to succeed in providing the relevant outcomes it is essential to examine the socio-political organisational structures that underpin the prevailing customary land tenure practices. The paper focuses on the examination of the changing roles of authority structures and rules regarding control and access to land resources within the context of the customary land sector. Due to the varying influences of colonial and post-colonial policies and laws, a dualistic land tenure regime consisting of formal and customary structures and rules has emerged that mediates the land delivery processes to varying degree across countries in SSA. The findings of the current study highlight the importance of social organisation that gives form, meaning and relevance to a land tenure system. This suggests that there is the need to be cautious when embarking on land rights formalisation activities, since unintended outcomes can occur given the peculiarities of the social context of a jurisdiction. Particularly, any strategy for improving land registration systems for the provision of land information must take into consideration the nature of the land tenure systems, especially the customary structures and rules in a particular jurisdiction.

Keywords:

Scio-political organisational structures; land registration; customary land tenure; Sub-Sahara Africa

1. INTRODUCTION

To address the challenge of reducing poverty in virtually all developing economies, it has been suggested that developing countries should utilise the potential inherent in their relatively viable land resources to promote economic development and generate wealth (Deininger and Feder 2009; World Bank 2003). In order to benefit from the underutilised potential of urban land resources, several writers have advocated the introduction and improvement of land registration and cadastral systems (Alban Singirankabo and Willem Ertzen 2020; Hanstad 1998; Mahoney, Peter Dale, and Robin McLaren 2007; Dale, Mahoney, and McLaren 2010).

However, evidence from empirical research in a number of developing economies including those in SSA continues to show mixed or inconclusive outcomes from the implementation and operations of such systems (see Barry and Fourie 2002; Fourie 1998; Hammond 2006; Toulmin 2009). Hence, to address deficiencies in the operations and outcomes of land registration systems in general and urban registration systems in particular, this paper argues that it is essential to examine the socio-political organisational structure that underpin the prevailing customary land tenure practices.

2. THE IMPORTANCE OF CUSTOMARY LAND TENURE

Socio-political structures and social context have been shown to impact significantly on the introduction and outcomes of formal systems. For example, findings from the seminal study by Putnam (1993) showed that social context and history profoundly condition the effectiveness of institutions. Trebilcock and Veel (2008) further suggested that, for a given formal property right regime to be well established, it must to a large extent conform to the persisting social norms and customs within a jurisdiction. Barry and Fourie (2002) concurred, attributing the challenges faced in the implementation of cadastral systems to the lack of adequate consideration of peculiar social and political complexity of the context within which they function. In effect, aspects of a society's social structure can influence the performance of its institutions.

The above observations are particularly important given that in most countries in SSA, customary land institutions and processes continue to contribute significantly to the operation and outcomes of urban and peri-urban land and real estate markets as well as the management of information. For instance, it is estimated that 80% of the land area in SSA is under the control of the customary sector (Asaaga 2021; Kwapena 2021; Augustinus 2003), and between 70% to 90% of participants in the land market rely on processes involving customary institutions to access information about land when making real estate decisions (Antwi 2000; Nkurunziza 2008; Knight 2010).

Besides the significant role of customary land institutions, the property rights allocated or alienated to market participants are socially embedded and defined by a social contract regarding access to and use of resources (Lund 2000; Cousins 2007). The property rights are further nested into each other and also into larger diverse and dynamic social institutions which include membership and status in social units such as the extended family or lineage system, chieftaincy regime, marriage and miscellaneous alliances (Biebuyck 1964; Berry 1989; Ezigbalike and Selebalo 1999). The social embeddedness of the land tenure arrangement means that the values and practices of particular social units may either constrain or facilitate the allocation of and access to land resources. This may

in turn impact on the operation of the formal land registration and cadastral system, because only the property rights allocated within a land tenure regime are recorded in the formal system.

Customary institutions and processes are far from static. They have been shaped and continue to be shaped by a number of complicating factors including historical and colonial influences, the socio-cultural differences of various tribes and clans, continuous inter-cultural interactions, rural-urban linkages and economic and demographic changes (Colson 1971; Firmin-Sellers 1996; Cotula and Neves 2007). The combined effect of such factors is the emergence of diverse, complex and dynamic socio-political organisational structures. These complex structures can be categorised into centralised/hierarchical non-centralised/acephalous 'states' (Fortes and Evans-Pritchard 1940; Daannaa 1994).

The diverse organisational structures, discussed in detail in subsection 3.1, can themselves influence and/or define the institutional arrangement of actors, rules, principles, procedures and practices of particular societies regarding the control over, access to, and administration of land resources. In other words, customary land tenure institutions and processes have a significant role to play in the scheme of improving land administration in general and land information management in particular. It, therefore, stands to reason that to deal effectively with the land information challenge the complicating factors influencing a customary land tenure system must be identified and closely studied.

However, there appears to be little consensus on the relevance of customary land tenure and its institutions in economic development. The debate in the theoretical and empirical literature is divided broadly between the 'formalist' and 'traditionalist' schools, with variations in between (Delius and Beinart 2021; Krantz 2015). On the one hand, the 'formalist' school argues that the communal nature of land tenure systems is a major disincentive for investment and for the development and emergence of a well-functioning property market. Hence, the proponents of this school of thought advocate transformation of land tenure systems through the process of formalisation. In particular, they propose that this should occur through the issuing of individual titles to enable the owners to use the registered property in order to secure loans and invest for further wealth creation (De Soto 2000).

On the other hand, the 'traditionalist' school argues that the customary system is generally not a disincentive to investment (Abdulai and Ndekugri 2008), and that in most cases "indigenous tenure may provide equal or higher investment incentives than private rights" (Sjaastad and Bromley 1997, 548). Proponents of this view further suggest that customary institutions have the necessary built-in structures to manage their lands effectively, and that these systems are both dynamic and resilient (Munyuki-Hungwe and Rukuni 2020; Kasanga and Kotey 2001). Given this, there are grounds to advocate for the decentralisation of land administration systems away from central government and centralised institutions, down to the local level.

A further important dimension in this ongoing debate, is that what is today known as 'customary' may be the result of manipulation and reinterpretation to serve the needs of colonialists and the elite in society (Ranger 1983; Peters 2009; Munyuki-Hungwe and Rukuni 2020). Other writers have suggested that customary systems are not transparent or accountable (Ubink 2008a), and moreover

the elite and some customary authorities manipulate the concept of 'custom' and customary rights to the disadvantage of certain vulnerable groups (Whitehead and Tsikata 2003; Amanor 2005).

Findings from research by Arko-Adjei (2011) and Akrofi (2013), appear to point to the possibility of applying good governance principles to adapt formal land administration systems to customary institutions in order to overcome some of the shortcomings identified above. However, for such an adaptation to be successful, it is argued that the persisting structural and cognitive elements of the land tenure arrangement and their interactions with the formal system should be identified and examined. Hence, the nature of customary land tenure systems in Sub-Saharan Africa (SSA) with particular reference to the characteristics of the authority structures and rules that underpin their operations are critically examined in the next section.

3. THE NATURE OF INDIGENOUS LAND TENURE SYSTEMS

Land tenure systems in SSA are diverse. Varied rules and structures, both formal and customary, underpin the institutional arrangements of land tenure and govern the land delivery process in terms of access to and control over land resources. The diversity in the tenure arrangements stems from the varied influences of historical, social, political, cultural and economic factors that are found in different parts of the continent, and even within different parts of the same country (Bruce 1988; L. Cotula, Toulmin, and Hesse 2004; Akuffo 2009).

The combined effect of the above factors influences the socio-organisational structures and rules that underpin land the tenure arrangements. Therefore, to understand the nature and operations of a land tenure system requires an examination of how authority structures in a society control and grant various forms of access to land resources for its members.

3.1 The Social Organisation of African Land Tenure Systems

Okoth-Ogendo (1989) emphasises the importance of the relationship between authority structures and the allocation of access to resources. He argues that, since claims to property are made with respect to the rights held in them, the "existence of a right is best understood in terms of a [form of] power which society allocates to its various members to execute a particular range or quantum of functions in respect of any given subject matter" (Okoth-Ogendo 1989, 7). Further, Cousins (Cousins 2007, 293) points out that "...access to land (through defined rights) is distinct from control of land (through systems of authority and administration)". This distinction is important because, as Cousins (2007, 293) elaborates:

Control is concerned with guaranteeing access and enforcing rights, regulating the use of common property resources, overseeing mechanisms for redistributing access and resolving disputes over claims to land. It is often located within a hierarchy of nested systems of authority, with many functions located at local or 'lower' levels.

In other words, the role of authority structures is to ensure equitable access to land and provides mechanisms that allow the resolution of any disputes that may arise. Okoth-Ogendo (Okoth-Ogendo 2002, 2) elaborates further on the characteristics of the organisation of authority structures that characterise indigenous land tenure. He asserts that, at the structural level, indigenous land tenure is:

...managed and protected by a social hierarchy organised in the form of an inverted pyramid with the tip representing the family, the middle the clan and lineage, and the base the community. These are decision-making levels designed to respond to issues regarding allocation, use and management of resources comprised within the commons on the basis of scale, need, function and process.

The above description of the structure of management of indigenous land tenure suggests that the characteristics of the social organisation that give form, meaning and relevance to a land tenure system may influence the control over and access to land resources for all members of the broader social group. The important role that authority structures play in land control and administration is dependent on how the particular social unit is organised in terms of the political structure and resource allocation (Akuffo 2009; Berry 1989).

One implication of the above discussion is that there may be different groupings such as families, clans and lineages within a jurisdiction that control various aspects of access to land resources. This means that the activities of the diverse groups may collectively shape the pattern of land allocation. The head of a group acts with the consent and concurrence of the principal members and elders of that group, constituted as the 'management committee' of the land owning group (Bentsi-Enchill 1964, 44). None of the members of the committee can act alone, rather, they act on behalf of and in the interest of the broader social group (Mamdani 1996). Hence, there is a system of accountability for the actions of the authority structures of diverse groups.

The nature of the interdependencies among different social groups involved in indigenous land tenure management may have an important influence on access to land resources. Delville (2000, 98) highlighted the importance of the nature of the interdependencies within the wider socio-political structure of a jurisdiction in resource allocation. Similarly, Swallow and Bromley (1995, 111) argued that "[t]he structure of government under which a common property regime operates – whether it be centralized, diffused, or minimal – determines the type of institutions that can be implemented to govern relations among members and between members and non-members".

The implication of the above discussion is that characteristics of the interrelationships among constituent parts of a social group or 'community' may have important impacts on the management of land resources. Hence, there is a need to understand the nature and characteristics of the diverse socio-political organisational structures that may exist in SSA.

3.1.1 Characteristics of the Diverse Socio-political Organisational Structures

As was indicated in subsection 3.1, the diverse socio-political organisational structures that underpin African societies could be broadly categorised into two classes, namely centralised and non-centralised states. Elias (1956, 11) described these states in the following terms:

The first group consists of those with centralised authority, administrative machinery and judicial institutions, while the second is composed of those societies with a very rudimentary political arrangement, without any strong centralised authority, administrative machinery or judicial institutions.

Such a broad categorisation does not reflect the complexities in the characteristics of the socio-political organisational structures between and within countries. These complexities may be due to

differences in the distribution of authority in various groups and the nature of interaction among groups (Kaberry 1957; Eisenstadt 1959). For example political structures may exhibit different characteristics because authority and power may extend from kinship and lineage groups to other forms of association such as age-sets, local groups, cult groups and title societies (Kaberry 1957). Consequently, different variations of centralised and non-centralised states exist in different parts of the continent. With specific reference to West African societies, Brown (1951, 275), relying on how authority figures in various kingship groups, associations and states exercise authority, identified four categories of social organisations, namely (1) where authority is exercised only in and through kinship groups (e.g. Tallensi). (2) authoritative associations with kingship groups (Ibo and Yakö), (3) where authority is exercised by kinship groups, associations, and state organization (Mende and Yoruba), (4) state organization and subordinate kinship groups, while associations are absent or of minor political importance (Ashanti, Dahomey, Nupe). These four categories reflect a continuum of different levels of organisational structures ranging from the non-centralised state of Tallensi in Northern Ghana to the centralised state of Dahomey in Benin.

A fundamental difference between the centralised and non-centralised states is the extent of distribution and exercise of authority, as well as the level of interactions among the sub-units of the states. In the centralised states, authority is exercised hierarchically and there is often an alliance among different lineages, clans and families bonded by common ancestry and operating under the jurisdiction of an overlord who may have both jurisdictional and some level of proprietary control over the subgroups and their land (Elias 1956; Larbi 1994). In addition, there is a well-structured hierarchy of administrative and judicial functions. The extent of control within the power structures of the centralised states depends on the “degree to which (a) the major groups regulate their own affairs in various spheres, and (b) the extent to which the major political offices are vested in various ascriptive groups” (Eisenstadt 1959, 211). This distinction is significant, because in applying these criteria, two subtypes of central states can be distinguished, namely ‘centralized monarchies’ such as those of the Zulu, Ngoni, Swazi, and Tswana kingdoms, and ‘federative monarchies’ such as Bemba, Ashanti, Pondo, and Xhosa kingdoms. In the ‘centralized monarchies’, there is a high level of centralisation and everything works up to the head of the hierarchy. With respect to land tenure in the centralized monarchies, the head of the hierarchy has the final say in all dealings concerning land, even though he may have appointed officers or sub-chiefs acting on his behalf. In the ‘federative monarchies’, power and authority are diffused to a greater extent to other authority structures within the hierarchy and the head of the hierarchy may or may not have direct proprietary control over land matters (Eisenstadt 1959, 211).

In the non-centralised states, authority is vested in the various subunits or groups. Even though the lineages, clans and families may also have common ancestors as in the centralised states, they exist as independent entities within the same jurisdiction. They do not have ‘chiefs’ in the sense of the centralised states. There is a “...wide political influence to men of singular ability, but the influence of these men was not hereditary or authoritarian. Their positions depended on tendering good advice and having it accepted by their peers” (Tignor 1971, 341). Even though there may be some form of association among the independent groups, the nature of the relationship is often not proprietary. That is to say, even if a ‘chief’ is appointed to oversee the alliance, his role will not extend to the administrative control of land of the groups ((Agbosu 2000, 12). This is because, as Eisenstadt (1959,

207) argued, the “...basic lineage groups – the various maximal lineages – are the primary bearers of political roles and tasks” and are therefore vested with proprietary powers such as the allocation and regulation of land use.

The significance of the nature of the diverse social organisations that characterise indigenous land tenure systems in SSA is that they can influence the administration of land in terms of the delivery of land or property rights, which is important for the operation of land markets. The influence on the land delivery process may be positive or negative. In centralised societies, because of the well-structured administrative and organisational structure, it is expected that effective administration of land resources will occur. On the downside, however, the hierarchy may create complex bureaucracies, which may eventually make access to services cumbersome for ordinary citizens or residents in affected jurisdictions. In the decentralised states, because of the dispersed nature of authority to sub-units or lineages, there may be challenges in dealing with, for instance, land boundary disputes among the various lineages in a jurisdiction. However, because of the less hierarchical structure it could be argued that access to land resources may be easier.

The extent of influence of the centralised and non-centralised structures on land administration in SSA can be related to the nature of the changes that have occurred to the different indigenous organisational structures due to colonial and post-colonial influences. The various indigenous structures and associated rules governing indigenous land tenure systems in SSA underwent tremendous changes during over a century of domination by various colonial powers, and the changes have continued in the post-colonial period (since approximately post-1950). Subtle changes to indigenous land tenure systems commenced when Africans first encountered Europeans during the period of ‘gradual colonialism’, around the 15th century. However, manifestations of the changes became apparent during the period from the 19th Century up to the middle of the 20th Century when actual colonialism commenced following the “Scramble for Africa” (Mamdani 1999).

An important conclusion to be drawn from the discussions so far is that the customary sector plays an important role in urban land management through the influences of customary authority structures, rules and processes in the land delivery system. Hence, ‘customary’ land tenure arrangements may have important influences on efforts aimed at improving land registration systems. Any strategy for the provision of land information in the development of the urban land market must therefore take into consideration the nature of the land tenure systems, especially the customary structures and rules. In other words, there is a need to have an empirical understanding of context-specific empirical understanding of key elements of a jurisdiction on institutional outcomes.

4. EMPIRICAL STUDY

To examine the influence of context-specific factors on institutional outcomes in different settings, a comparative approach was followed. The comparative approach allows for in-depth analysis of selected case study data and facilitates the systematic cross-case analysis of a particular phenomenon under different conditions (Hesse-Biber and Leavy 2011; Kaarbo and Beasley 1999). To this end, an empirical investigation was undertaken in two urban jurisdictions in Ghana namely, Accra and Kumasi. Accra, which is the capital city, is located on the coast of Gulf of Guinea, depicts a non-centralised customary land tenure administrative structure in the country. On the other hand,

Kumasi, which is the second largest city, is located approximately 270 km north of Accra, depicts a centralised customary land tenure administrative structure.

The strategy followed for the selection of the case study cities for the empirical study was purposive, based on prior knowledge of the potential cases and theoretical issues (Runeson and Höst 2009). A two-level approach was followed. The first level focused on the selection of a country and the second level on specific cases with contrasting social characteristics within the country. The following criteria guided the selection of Ghana: (a) the prevalence of customary land tenure, (b) the presence of contrasting social structures underpinning the tenure system, (c) the existence of a nation-wide land registration system (deeds and/or title), (d) the potential of the development of a land and real estate market, and (e) familiarity with the terrain.

4.1 Sources of Information

Historical and contemporary data were collected from primary and secondary sources using mixed methods. The research relied on interviews, archival records, documentary evidence, and participant as well as direct observations to collect the evidence needed. The primary data sources included relevant agencies and institutions involved in land administration and real estate, customary land authorities, and property owners within the case study cities. Secondary sources included published and unpublished documents and records from the databases of relevant agencies.

Semi-structured interviews were conducted with key informants to collect mainly qualitative information in order to gain an in-depth understanding of events and key issues from the perception of the informants. To complement the qualitative data, structured questionnaires were administered to 300 property owners within the case study cities. The main purpose for the administration of structured questionnaires, which contained both open-ended and closed questions, was to obtain data about the views of property owners regarding the processes involved in accessing, documenting and registering land. Questionnaires were targeted at persons who had actually gone through the process of acquiring, documenting and registering properties.

4.2 Analysis of Data

Both qualitative and quantitative approaches were adopted in the analysis of the data collected. The qualitative approach to the analysis enabled contextual and holistic understanding of socio-cultural factors that enhance or impede the effectiveness of the land tenure arrangements in the case study cities with respect to processes and procedures relating to acquisition and registration of land rights. The quantitative analysis of the responses to the structured questionnaire generated descriptive statistics with respect to such themes as the effectiveness and satisfaction level of the process of land acquisition, and the quality of services with respect to land registration. The level of satisfaction was assessed based on responses to Likert-type questions.

5. RESULTS AND DISCUSSIONS

The comparative analysis and evaluation of the results of the empirical study were undertaken in four stages. The first stage focused on the effects of historical and socio-cultural factors on the indigenous socio-political organisational structures that underpin the land tenure arrangements. The second stage of the analyses compared the main characteristics of the two phases of the land delivery systems, that is, land acquisition and registration in the two cities. The analysis included the extent

of interactions among the customary and formal land sectors. The third stage of the analysis related features of the social context of the case study cities relative to the observed characteristics of the land delivery systems in order to identify elements and factors that explain the observed outcomes.

5.1 The Social Context

In line with other SSA countries experiences, socio-cultural, historical and contemporary factors have shaped differently the respective indigenous organisational arrangements of Accra and Kumasi. On the one hand, factors that influenced the social structure of Accra included:

- a. The assimilation of various tribes with different socio-cultural values during the formation of traditional towns;
- b. The extended domination of different Akan tribes;
- c. The influx of migrants from all over the country as a result of the status of the city as the capital of the then Gold Coast and later Ghana; and
- d. Influence of foreign culture due to long contact with Europeans before colonisation.

In addition to the above, the introduction of the colonial policy of indirect rule transformed the social organisation of Accra. The underlying conceptualisation of the policy was that the indigenous society of SSA was centralised, hence, its implementation resulted in the forced centralisation of a historically non-centralised society, impacting negatively on the customary tenure arrangement.

On the other hand, external influences have had less influence on Kumasi than Accra. For instance, even though the Denkyiras initially dominated the Ashanti tribe, there was minimal cultural influence, since both ethnic groups were part of the larger Akan tribe. Further, unlike the residents of Accra, who had a long history of contact with Europeans before they were colonized, the people of Kumasi waged a series of wars with the British before they were finally defeated in 1901. Moreover, because the indigenous society of Kumasi was already centralised, the impact of the introduction of the colonial policy of indirect rule was not pronounced. For instance, even though there was interference on the part of colonial authorities into the traditional organisation, such as the exile of the then Asantehene to the Seychelles Island, it did not significantly change the social organisational structure.

One effect of the above influences on the social organisation of the respective societies was on adherence to social values and respect for traditional authority. In the case of Kumasi, due to fewer external influences, the indigenous society was more cohesive and well organised, with a strong belief in social values and great respect for traditional authority structures, especially the authority and power of the Asantehene. The cohesiveness of the society today is aided by the fact that the population of the Ashanti region, of which the majority resides in Kumasi, is homogenous and predominantly made up of the indigenous Akan tribe (77%) (GSS 2012).

With respect to Accra, the cumulative effect of the influences was evident in a breakdown in social cohesion, with fewer adherences to traditional social values and lack of respect for traditional authority structures. For instance, a paramount chief of one of the traditional towns in Accra, the late Nii Kojo Ababio V, was reported to have lamented that, unlike the Ashantis, the indigenous people of Accra, "...do not appreciate their system of political organisation, resulting in a disrespect for

Mantsemei [chiefs]" (Yeboah 2008, 442). A contributory factor to the diminishing social cohesion in Accra was the influx of migrants due to its status as the national capital. Consequently, the population of the city, which is cosmopolitan, consists of approximately only 27% of the indigenous Ga people (GSS 2012).

In Kumasi, the multiple customary land rights vested in different social units are logically related to different levels of authority in the socio-political hierarchy. The Asantehene, who sits at the top of the hierarchy of the socio-political structure, has greater control and authority over the caretaker stools, who undertake day-to-day administration of the land. Consequently, this structure automatically facilitates a functional link with the customary land tenure arrangement in the city. The net effect is that there seems to be order and certainty in the prevailing land ownership arrangement.

In Accra, the non-centralised nature of the socio-political organisation structure in the city has meant that the location of the allodial title is vested in different independent social units. The diffused traditional authority structures regarding the management of customary land have come under increasing pressure. This pressure is mainly the result of increasing demand for land by the state and private actors for development purposes. Consequently, there is often conflict among the different social units who compete for control and for the authority to alienate land. The net effect is that there seems to be uncertainty in the prevailing land ownership arrangement.

Table 3.2 provides a summary of the characteristics of the respective social context of Accra and Kumasi. The table shows that the persisting characteristics of the social structure of the case study cities have shaped the respective land tenure regimes

Table Erreur ! Il n'y a pas de texte répondant à ce style dans ce document..**1 Summary of Findings – Comparative Analysis of the Social Context of Institutional Arrangement**

SOCIAL CONTEXT	SUMMARY OF FINDINGS	
	ACCRA	KUMASI
<ul style="list-style-type: none"> Socio-political structure 	<ul style="list-style-type: none"> Non-centralised traditional structure Less adherence to traditional authority structure system and Social value 	<ul style="list-style-type: none"> Centralised traditional structure Relatively greater respect for traditional authority structure and values
<ul style="list-style-type: none"> Land tenure arrangement 	<ul style="list-style-type: none"> Diffused land ownership arrangement with disparate traditional authority structures Uncertainty in land tenure arrangement 	<ul style="list-style-type: none"> Well organised land tenure arrangement Uniformity in the land tenure arrangement Certainty in the land tenure arrangement

The comparative analysis of the social context of the two cities reveals differences in extent of certainty with respect to the land tenure arrangements. The next section examines how the observed outcomes of the social context of the two cities impacts on the land delivery system.

5.2 The Land Delivery System

Based on the established outcomes of the social context underpinning the land tenure arrangement in the two cities in the preceding section, the analysis now focuses on the clarity of the land delivery systems (focusing on land acquisition and registration processes) in order to draw out similarities and differences. As indicated in subsection 3.1.2, the level of satisfaction of respondents was assessed based on analysis of responses to Likert-type questions. The analysed similarities and differences were linked to the respective outcomes of the social contexts of the two cities examined in the preceding subsection.

5.2.1 Land Acquisition Phase

This subsection comparatively assesses the characteristics of the land acquisition process in terms of the number of steps and time spent, cost, transparency and security of tenure. In Kumasi, the acquisition process consists of three integrated stages, namely land allocation, approval of allocation, and land documentation. Each stage involves different levels of interactions between the customary and formal land agencies. Figure 3.1 shows that a prospective allottee interacts with the customary sector at two levels, namely with caretaker stools and the Asantehene Land Secretariat (ALS). In addition to the customary land sector, the prospective allottee interacts with the formal land sector for the verification of ownership status, approval of site plans, and documentation of the land transaction. An important aspect of the interactions between the formal and customary sectors is the recording of particulars of an allocation note prior to the preparation of a lease document. This finding is a contributory factor to the status of land formalisation in Kumasi.

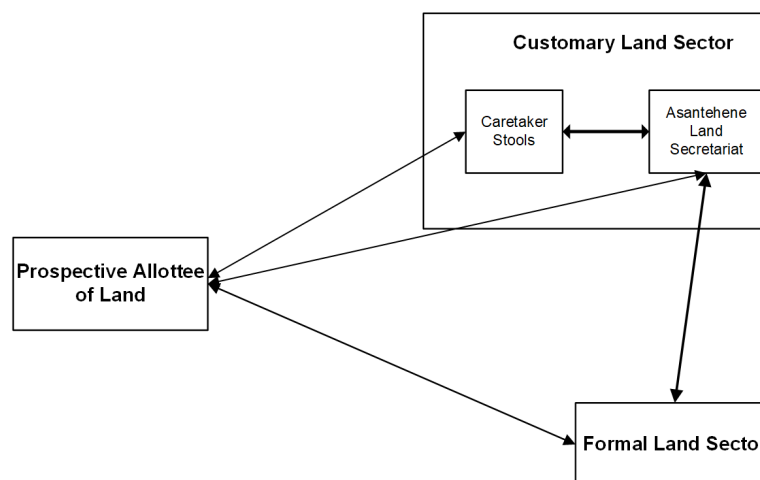


Figure Erreur ! Il n'y a pas de texte répondant à ce style dans ce document.. **1 Interactions in the Land Acquisition Phase in Kumasi**

Source: Author's construct

In Accra, the land acquisition phase, summarised in Figure 3.2, involves the direct interaction between a prospective purchaser of land and an appropriate customary authority structure or a private owner. Unlike the situation in Kumasi, the role of the formal land sector is minimal.

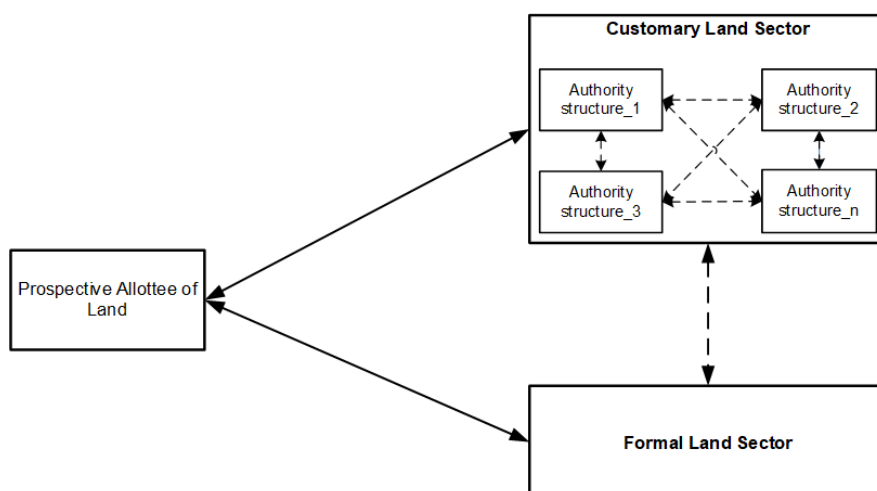


Figure 3.2 Interactions in the Land Acquisition Phase in Accra

Source: Author's construct

Between the formal and customary sectors, the interaction in Accra during land transaction usually involves a customary land authority making a request for a record search to ascertain the status of a parcel. Because of the unclear land tenure arrangement a prospective purchaser of land has to ascertain the validity of different authority structures to avoid litigation in the process. The validation often includes a records search within the formal land sector. In addition, formal sector functionaries must also approve the site plans used in the preparation of land documents.

5.2.1.1 Time Taken for Acquisition

The comparative assessment of the time taken to complete the land acquisition phase suggests that it takes significantly longer to complete the process in Kumasi than in Accra. The results, shown in Figure 3.3, indicate that half (50%) of the sampled property owners in Kumasi took more than one year to complete the land acquisition process, compared to approximately a quarter (27%) of those from Accra. A chi-square test revealed a statistically significant difference in the completion times between Accra and Kumasi, $\chi^2 (4, N = 279) = 29.72, p < 0.001$.

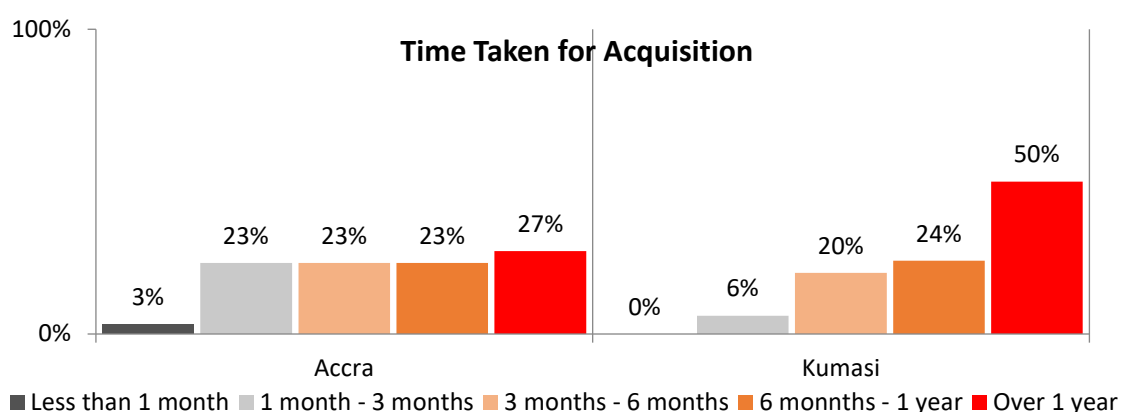


Figure 3.3 Comparison of Time taken to Complete Land Acquisition process – Accra and Kumasi

Due to the longer time taken to complete the acquisition of land, the majority of respondents from Kumasi were dissatisfied with the number of steps and time spent. A Mann-Whitney U test showed significant differences in the response frequency classes between respondents from Accra ($n = 129$) and Kumasi ($n = 150$). With respect to the number of steps, the majority (70%) of respondents from Kumasi expressed their dissatisfaction, compared to those from Accra (53%), $U = 6179$, $Z = -2.51$, $p < 0.05$. Similarly, the majority (60%) of respondents in Kumasi were not happy with the time spent, as against 51% from Accra, $U = 6335$, $Z = -2.17$, $p < 0.05$.

The above finding of significantly longer completion times as well as higher levels of dissatisfaction in the acquisition process in Kumasi, suggests that the processes and interactions involved in the land acquisition phase is faced with challenges. This finding is not unexpected because it is consistent with a conclusion that a downside of the centralised organisational structure is the complex bureaucracy, which may eventually make access to services cumbersome for ordinary citizens or residents in affected jurisdictions. The frustrations in the interactions contribute to the outcome of low land documentation in the land delivery system. Although the analysis revealed less dissatisfaction expressed by respondents from Accra, the fact that more than half of the sampled property owners were still dissatisfied suggests profound challenges also exist in Accra's land acquisition processes. A factor for this could be the extra time and steps that prospective purchasers have to endure to ascertain the status of a prospective grantor of land due to uncertainties in the land tenure regime. This finding is also consistent with the conclusion reached in Subsection 2.1 that in the non-centralised states, the dispersed nature of authority to sub-units or lineages, may create challenges in dealing with the various lineages in a jurisdiction.

5.2.1.2 Cost incurred and Level of Transparency in Land Acquisition

A cross-case analysis indicated there was no significant statistical difference in the response frequencies regarding the costs incurred and the levels of transparency in the acquisition process. In both cases, the sampled property owners were equally dissatisfied. For respondents in Accra, the cost challenges relate to the tendency to make multiple payments for the same parcel of land due to the uncertainties in the land tenure arrangement. Whereas, in Kumasi, cost issues emanate mostly from paying double for drink money because inadequate mechanism exists to ensure that caretaker chiefs account for revenue collected for the Asantehene. The lack of transparency in both cities is often exhibited by the non-issuance of receipts for the full amounts paid for land. The analysis shows that approximately equal proportions of respondents in Accra (18%) and Kumasi (22%) indicated they were not given receipts. These results point to negative aspects of customary land tenure management stemming from the increasing monetisation of land allocation.

5.2.1.3 Security of Tenure

One important observation in analysing the questionnaire returns was that, despite the evident dissatisfaction in both cities with the number of steps, time spent, costs incurred and transparency, respondents from Kumasi were highly satisfied with the security of tenure granted by the land acquisition process. Figure 3.4 shows that most (73%) respondents from Kumasi were satisfied with the security of tenure granted, compared to those from Accra (34%), $U = 3340$, $Z = -7.93$, $p < 0.001$.

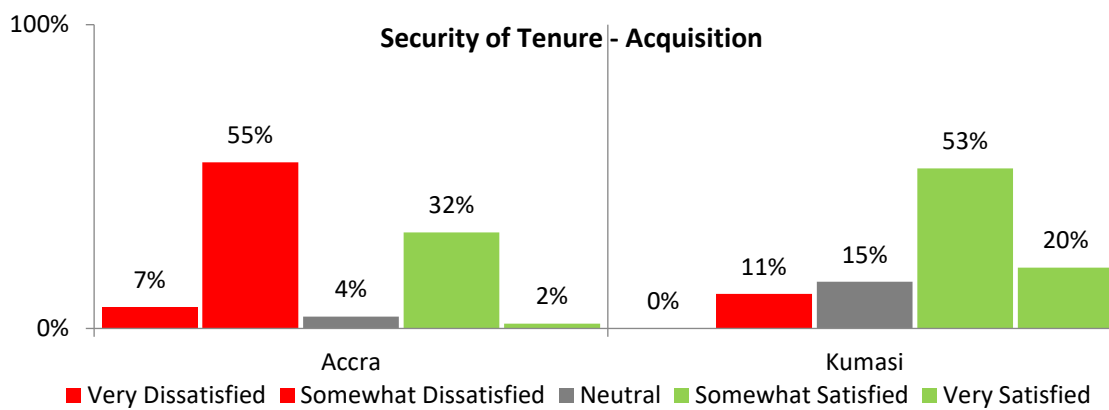


Figure 3.4 Comparison of Level of Satisfaction with Tenure Security - Accra and Kumasi

In Kumasi, the multiple customary land rights vested in different social units are logically related to different levels of authority in the socio-political hierarchy. The Asantehene, who sits at the top of the hierarchy of the socio-political structure, has greater control and authority over the caretaker stools, who undertake day-to-day administration of the land. Consequently, this structure automatically facilitates a functional link with the customary land tenure arrangement in the city. The net effect is that there seems to be order and certainty in the prevailing land ownership arrangement.

In Accra, the non-centralised nature of the socio-political organisation structure in the city has meant that the location of the allodial title is vested in different independent social units. The diffused traditional authority structures regarding the management of customary land have come under increasing pressure. This pressure is mainly the result of increasing demand for land by the state and private actors for development purposes. Consequently, there is often conflict among the different social units who compete for control and for the authority to alienate land. The net effect is that there seems to be uncertainty in the prevailing land ownership arrangement. These results have important implications regarding the nature of land rights registration, and, hence, for land information management in the cities in particular and in Ghana in general.

5.2.2 Land Registration Phase

It has been argued that a well-functioning and accessible land registration system provides opportunity for the protection of land rights as well as being a source of information that contributes to the reduction of transaction costs in the land market (Deininger and Feder 2009). Hence, any impediments in the registration process can have important repercussions for the management of land information.

5.2.2.1 Inter-organisational Arrangements for Land Registration

Similar formal organisational arrangements for land registration govern the land delivery systems in Accra and Kumasi. The formal administration involves interactions among a number of land sector agencies. These agencies include the four divisions of the Lands Commission (LC), namely the Public and Vested Lands Management Division (PVLMD), the Land Valuation Board (LVD), the Survey and Mapping Division (SMD), and the Land Registration Division (LRD). Others include the Office of the Administrator of Stool Lands (OASL), and the Land Use and Spatial Planning Authority (LUSPA). These agencies enforce, to varying extents, the legal framework that governs the land registration

system in the two cities, that is, the Land Title Registration Law, 1986 (PNDC Law, 152) (replaced by the Land Act, 2020 (Act 1036)).

Even though land registration is primarily a formal land sector activity, the pattern of results in this study showed greater interactions with the customary land sector in Kumasi than in Accra. In fact, there appeared to be no clear distinction between the land acquisition and land registration phases in Kumasi. For instance, the preparation of a lease document, which is part of the land acquisition process, is integrated with the granting of concurrence and consent, which form part of the land registration phase. In addition, because the allodial title is vested in the stool, the consent of customary authorities is required to transfer registered title, and this process involves interactions between the formal and customary land sectors. Figure 3.6 provides an overview of the nature of interactions between the formal and customary land authorities during the land registration phase in Kumasi.

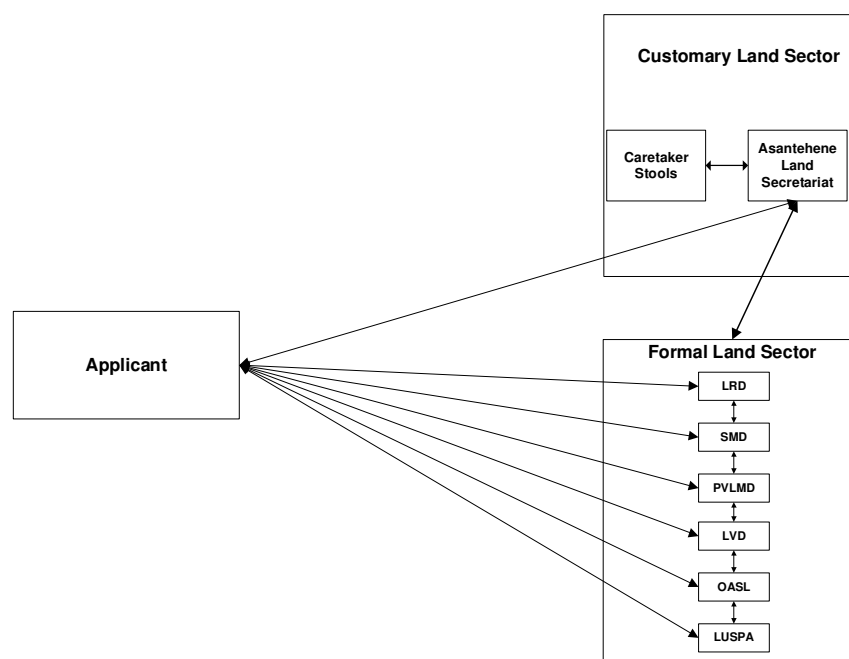


Figure 3.6 Interactions in the Land Registration Phase – Kumasi

In contrast to what pertains in Kumasi, the land registration phase in Accra does not involve the active interaction between the formal and customary land sectors. Figure 3.7 shows that even though an applicant deals with the various formal land sector agencies, the interaction with the customary sector is not particularly strong, as indicated by the broken lines.

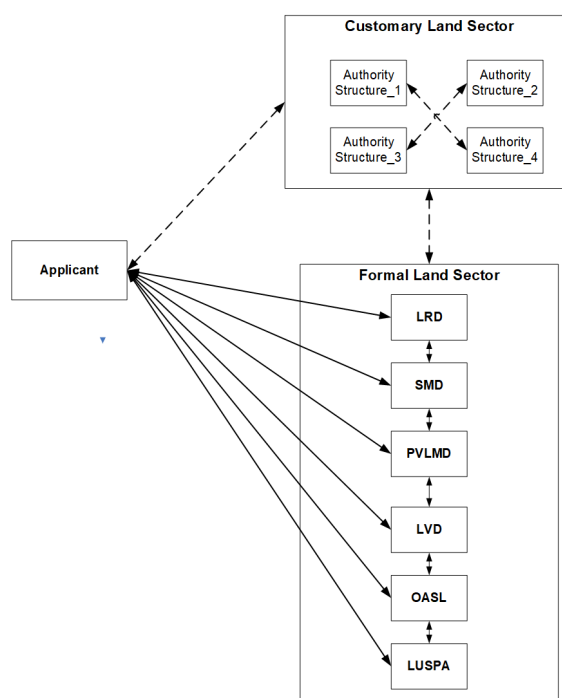


Figure 3.7 Interactions in the Land Registration Phase Process in Accra

For instance, even though the consent of customary land authorities is required to transfer registered titles, it was often not obtained, and where it was obtained, the formal sector was not actively involved. To some extent, the finding of comparatively less established mechanisms of interaction between the formal and informal sectors in Accra can be attributed to the multiplicity of customary authority structures, which are mostly not well organised.

5.2.2.2 Time taken to Register Land

Similar to the land acquisition phase, the assessment of the processes of land registration revealed that it takes longer to complete this phase of the land delivery system in Kumasi than in Accra. The comparative analysis of the time taken, shown in Figure 3.8, show that the majority (49%) of respondents from Kumasi took more than three years, compared to 14% of respondents from Accra, $\chi^2 (4, N = 130) = 21.32, p < 0.001$.

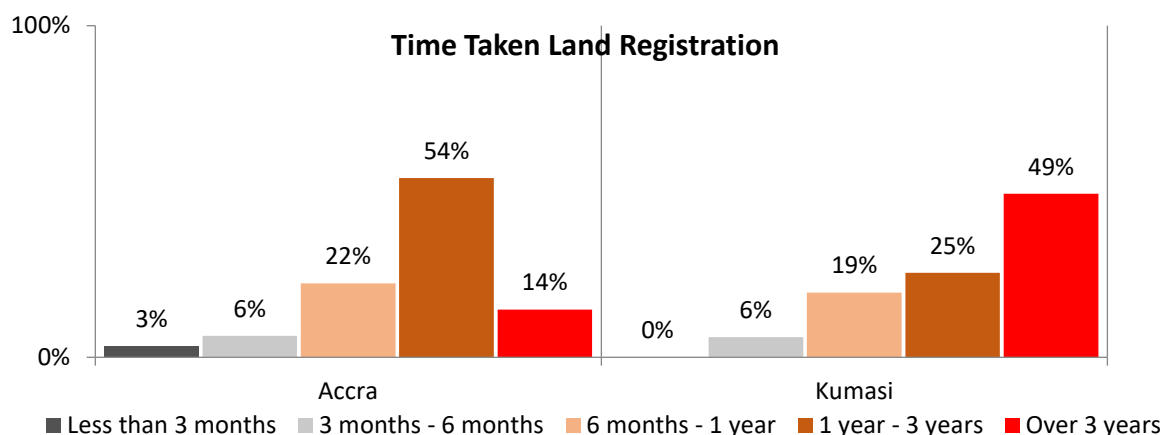


Figure 3.8 Time take to complete the land registration process – Accra and Kumasi

The result that it took significantly longer to complete the process in Kumasi than in Accra was unexpected, since the uniform property rights allocated by the land delivery system give rise to the expectation of a simpler formalisation process. Further, because of the comparatively well-structured customary land tenure arrangement in Kumasi and its active interaction with the formal land sector, the expectation was that the completion times would have been shorter. However, a reason for the longer completion times can be attributed to the difficulty in distinguishing the different phases of the land delivery process in the city. Consequently, some of the sampled property owners may have chosen the extreme option given for the completion of the land registration phase, as provided in the questionnaire.

5.2.2.3 Level of land Documentation

An important determinant of the degree of land rights registration in a jurisdiction is the quantity and types of land documentation. The analysis shows that there were significant differences in the types and quantities of land documentation in the case study cities. Most of the sampled property owners from Accra (87%) had indentures (the legally acceptable document for land registration), compared to those from Kumasi (56%), $\chi^2 (3, N = 272) = 71.25, p < 0.001$. Figure 3.9 also shows that 41% of respondents from Kumasi only had allocation notes (which are offer letters) as evidence of their ownership of land. This result suggests the dominance of the legally required document for land registration in Accra, whilst offer letters were dominant in Kumasi.

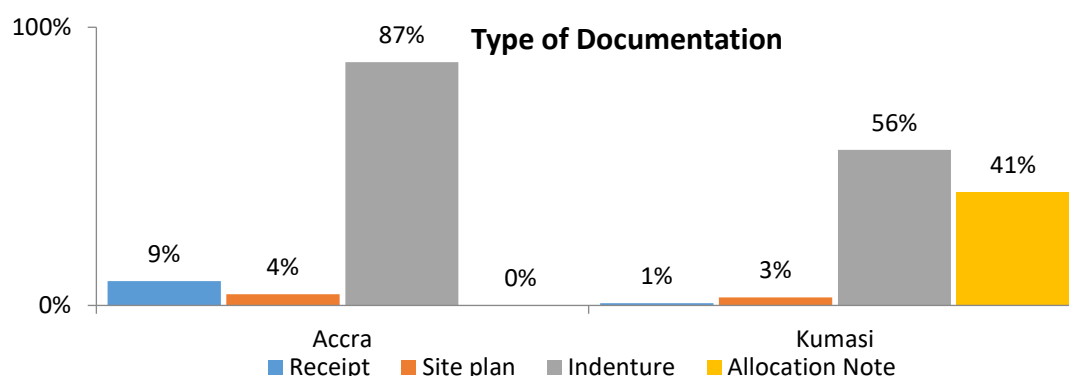


Figure 3.9 Comparison of Status of Land Documentation – Accra and Kumasi

5.2.2.4 Status of Land registration

Reasons given by owners of surveyed property who had not registered their title in Accra and Kumasi, suggest that the nature of the land tenure arrangements and the operation of the land registration systems were the primary causes of the low rate of formalisation. Figure 3.10 shows that the majority (69%) of the owners from Kumasi indicated either that they were secure without formalisation or that registration was unnecessary. In contrast, most respondents in Accra indicated the length (43%) and cost (40%) of the land registration process were the main reasons for their non-compliance with land registration.

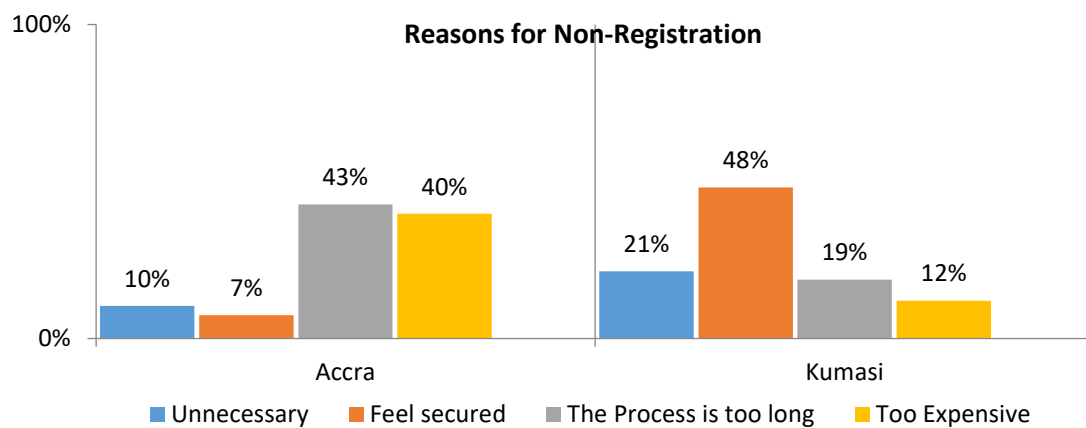


Figure 3.10 Reasons given for non-registration - Accra and Kumasi

The analysis shows statistically significant differences in the responses given, $\chi^2 (4, N = 143) = 55.94$, $p < 0.001$. This suggests that the perception of high tenure security in Kumasi and challenges in the land registration system in Accra accounted for the low rates of land registration.

6. SUMMARIES OF KEY FINDINGS

The findings of the current study highlight the importance of social organisation that gives form, meaning and relevance to a land tenure system. At one extreme, it is clear from the findings that in jurisdictions where there is perception of high land tenure security, a cohesive society, and high adherence to social values, the establishment of an elaborate titling system may not be required since property owners are secure in their land rights. For instance, the study found that the simple act of recording and recognising allocation notes by the formal sector served as an added incentive for some property owners not to pursue land registration, as in the case of Kumasi. In this case, an appropriate mechanism to capture land information could be targeted at strengthening the customary land institutions through the introduction of formal measures aimed at enhancing records capturing and storage capabilities at an early stage of the land acquisition process. In this context, the strategy of encouraging the establishment of Customary Land Secretariats under the Ghana Land Administration Project should be strengthened further.

At the other extreme, in jurisdictions where social institutions underpinning urban land tenure arrangements are weak, ineffective and unable to cope with increasing urbanisation, as in the case of Accra, it may be appropriate to introduce formal systems for the recognition of land rights. However, such formalisation must be appropriate to the local context. In the case of Accra, negative outcomes (for example, the engagement of 'land guards') point to an inability of the formal system to provide adequate title security and suggest that the approach to implement the system was inappropriate. Since the demand for title registration may be in response to insecurity of tenure, a pragmatic approach would be to improve the effectiveness of the formal land registration system. Hence, where land and property values are high and the physical control of land holdings has crystallised, such as in well-developed and commercialised areas, a systematic approach targeted at particular parcels of land may be an appropriate approach to ensure effective capture of relevant land information. In newly developing areas, an approach for improving the land information condition should be targeted at systematically capturing relevant information such as the allodial title of larger social units including families and stools.

7. CONCLUSIONS

A conclusion from the above discussions is that although urbanisation may carry conditions that require formalisation of land rights, there should be differentiated strategies that respond appropriately to the conditions of a social context, since a “one-size fit all” approach is not appropriate in all cases. After all, institutions are not introduced into an ahistoric socio-economic vacuum, since they may not be effective if the conditions existing in the local context are ignored (Chang 2006; Pessali 2011; Evans 2004).

The customary land sector plays an important role in urban land management through the influences of customary authority structures, rules and processes in the land delivery system. Hence, ‘customary’ land tenure arrangements may have important influences on efforts aimed at improving land registration systems. Any strategy for the provision of land information in the development of the urban land market must therefore take into consideration the nature of the land tenure systems, especially the customary structures and rules in a particular jurisdiction.

8. ACKNOWLEDGMENT

I acknowledge the support given by the School of Surveying University of Otago, New Zealand

9. FUNDING

The University of Otago Postgraduate Scholarship provided funding for undertaking the research for PhD.

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10. KEY TERMS AND DEFINITIONS

Customary Land Tenure: It is the arrangement under which land is owned by Indigenous communities and administered in line with their customs and norms. The ownership of land is vested in a collective (whether family, lineage or clan) while individuals enjoy virtual unrestricted rights of usage

Socio-political organisational structures: Consist of the rules and structures, both formal and customary, that underpin the institutional arrangements of land tenure and govern the land delivery process in terms of access to and control over land resources.

Land Registration: it can be defined as the process of official recording of information about the ownership of land either through deeds or as title on properties.