



Graduate School of Development Studies

**Social Forces and the Politics of Land Tenure
Reform in Ghana:**

A case study of the Land Administration Project (LAP)

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Dedication

This Research Paper is dedicated to my dear mother Madam Awabu Amadu Alabira for her untiring efforts at nurturing and educating me and my five siblings. I love you mum.

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List of Acronyms

CAS	Country Assistance Strategy
CI	Constructive Institutionalism
CICOL	Civil Society Coalition on Land
CIDA	Canadian International Development Agency
CLS	Customary Land Secretariat
CSO	Civil Society Organization
DFID	Department for International Development
ECA	Economic Commission for Africa
GPRSP	Ghana Poverty Reduction Strategy Paper
GTZ	German Technical Assistance Co-operation
HI	Historical Institutionalism
IBI	Interest Based Institutionalism
ISM	Implementation Support Mission
KfW	Kreditanstalt für Wiederaufbau
LAP	Land Administration Project
LAPU	Land Administration Programme Unit
LPSC	Land Policy Steering Committee
LSTC	Land Sector Technical Committee
MDGs	Millennium Development Goals
MLNR	Ministry of Land and Natural Resources
NDF	Nordic development Fund
NGO	Non Governmental Organization
NI	Normative Institutionalism
NLP	National Land Policy
OASL	Officer of Administrator of Stool Lands
PNDC	Provisional National Defence Council
RCI	Rational Choice Institutionalism

Abstract

Over the decades following the neoliberal revolution in the 1980s, several reform packages were advocated across the world but mainly in developing countries in order to improve economic growth, good governance and development. Among such reforms advocated in Ghana was the need to restructure the country's land tenure system to make it efficient and responsive to the needs of the poor. Consequently, a Land Administration Project (LAP) was approved in 2003 by the World Bank and other multilateral institutions to assist Ghana overcome the problems confronting its land sector. The LAP is a long term project to be implemented over 15-25 years with an initial pilot phase ending this year. This paper sets out to deconstruct the LAP with the view to understanding the reasons behind its genesis and the role various social forces and interest play in it. Using a theoretical tool based on the new institutionalisms, the paper argues that the design and implementation of the LAP has been influenced by mainstream economists thinking that land tenure problems and the inability to use land as collateral results in land market distortions and have adverse effects on economic growth and productivity. The assumption therefore is that reforming the Ghana land tenure system in the nature of the LAP will engender efficiency and equity in land access and have a positive effect on poverty reduction and development.

However, the paper also argues that the issue of land tenure reform in Ghana transcends the efficiency question to include issues of power politics and social positions, something which the LAP seemingly glosses over in the Ghanaian context, thus subordinating issues of equity to the market. As a result, the LAP is playing into the interest of powerful social forces both within and outside the state and its decentralised local bodies. This situation has the tendency to further the concentration of wealth and power on dominant social forces while condemning other minor social forces into landlessness or near landlessness and thus deepening poverty and social exclusion instead of stemming it.

The study therefore uncovers the imperative for further research into the analysis on social relations and ways of genuinely involving weaker social forces into the LAP implementation process beyond work/talk shops. As well, further research is recommended to understand the impact of systematic land titling and registration on the poor and the cost implication of this. The issue of transparency and accountability of chiefs and how to make the Customary Land Secretariats (CLS) responsive to citizens' concerns also requires further exploration.

Relevance to Development Studies

The importance of land in poverty reduction cannot be overemphasized. Land provides a source of livelihood for majority of poor people in developing countries and has the potential to stimulate economic growth. The need to reform land tenure to ensure its equitable access and efficient use in production is therefore crucial to development. However, getting land tenure programs wrong could have the effect of deepening poverty and social exclusion. It is therefore important to study such programs to understand how they can enhance poverty reduction while avoiding the concentration of wealth and power on few influential social forces.

Keywords

Social forces, Land tenure, Interest, New institutionalism, Land titling, LAP, Customary lands, Market driven, Reform

Chapter 1 Introduction

1.1 Background

Since the 1980s, multilateral financial institutions and major donor governments have encouraged developing countries to liberalize their economies in order to be able to capture the benefits of capitalism. Written off in the 1970s, land tenure reform resurfaced on the development policy agenda in the 1980s. However, rather than state-led redistribution of land, neoliberal policy-makers encouraged governments to privatize land ownership, with the argument that this would increase productivity through stimulating land markets and promoting private investment in land-based development (Berry, 2009).

Land tenure reform in Ghana can be regarded as an on-going process dating back to the period of colonial rule. The British colonial powers made several attempts to restructure the land tenure regime in Ghana in favour of the state and British economic interests which culminated in the introduction of the Crown Lands Bills and the use of ordinances and court procedures to reform the land tenure system. The Crown Lands Bill in particular proposed the appropriation of all waste lands, forest lands and minerals in Ghana in the name of the Queen of England, for which future grants of such lands or minerals were to be made by the Governor at his discretion (Aryeetey et al. 2007:20). As a result, the state developed valuable interest in land tenure arrangements and was obliged to administer lands to appease its political base, while responding to traditional power, and satisfying its economic interests. The consequence of colonial land policies is the legal pluralism in land administration in Ghana today (ibid).

Following independence, some patterns of the colonial land tenure reform persisted. The state continued to tinker with institutions and policies by passing several land and related legislations and establishing new institutions in the 1950s and 1960s (ibid). In the 1960s, the state was empowered under the Socialist rule of President Kwame Nkrumah to control land including stool/skin¹ lands. After Nkrumah's overthrow, the succeeding government restored the confiscated lands to traditional authorities (ibid). In 1979, these principles were extended to the three Northern regions where land was hitherto treated as exclusive property of the state (Berry, 2009). Subsequently, the 1992 constitution provided that 'all stool and skin lands are vested in the appropriate stools on behalf of, and in trust for the subjects of the stool in accordance with customary usage' (Ghana, 1992, Art. 267(1)).

The key issue characterizing discourses about land tenure reform in Ghana concerned which direction the reform should take. That is, whether land should be nationalized or not, and whether customary land tenure was an

¹ Stool/skin lands are lands controlled and managed by traditional authorities on behalf of their subjects

obstruction to investment and agricultural development in general (Aryeetey et al, 2007). While the approach to land tenure reform in Ghana has generally been gradual, the more market-oriented governments were, the greater their interest in preserving the traditional systems (ibid).

However, the first major step taken to reform land tenure in Ghana was the Land Title Registration Act of 1986. The purpose of this act was to facilitate the recognition of land transactions and maintenance of records on these transactions through compulsory title registration (Amanor, 2009). Following the 1990s however, the neo-liberal revolution in the world had provided an ideological legitimation for a market friendly land tenure reform in Ghana (Aryeetey et al, 2007). This subsequently led to the development of the National Land Policy in 1999 and the Land Administration Project which is the subject of this research in 2003.

1.2 Research Problem

In Ghana, secured land rights, access and tenure are regarded as central to poverty reduction especially in rural areas where subsistent production dominates. Research has shown that about 60% of Ghana's population depends on land for agriculture. The Poor, in particular women often have weaker land rights and as a result are among the most vulnerable in the society. Also, land tenure insecurity and disputes over land have had a major impact on investment in land and agriculture. Furthermore, growing populations and new opportunities for commercial agriculture have all increased demands and pressures on land at various levels (GPRSP II, 2006-2009). The National Land Policy (NLP) offers a detail overview of the problems in the land sector of the country. Based on the conviction that numerous problems in the land sector has rendered the land market inefficient and obstructive to investments in Ghana, and the need to address the challenges identified in the NLP document, the Land Administration Project (LAP) was developed by the Government of Ghana in partnership with the World Bank and other multilateral donors as a long term program to halt these trends and ensure efficiency and investor confidence in the sector. The project has been running since 2003 and the first phase is due to end this year after receiving extension from some of the donors. The LAP aims to, in the long run promote property rights and reduce transaction cost involve in land administration in Ghana (LAP, 2003, 2008). A detail description of the LAP is offered in chapter 3 of this study.

While the development and implementation of the LAP reflects the more visible public sector responses to the problems of land tenure in Ghana, some analysts have argued that its adoption does not necessarily signify the implementation of land reform (Aryeetey et al. 2007). Nevertheless, the LAP still represents a landmark in the history of land tenure reform in Ghana and deserved to be analyzed critically. It represents a more comprehensive initiative at restructuring Ghana's land sector and thus reforming the procedures involved in land transactions. To a significant extent, its adoption also represents a departure from the ad hoc approach to land tenure reform in

Ghana and serves as a conclusion to years of discourses on what the problems of land tenure are, and how to remedy them in order to ensure growth and development.

However, concerns have been raised about the way in which the LAP is designed and its manner of implementation, most notably by civil society and other weaker social forces in Ghana. The key argument is that the Project has the tendency to exclude and alienate weaker groups such as the poor and vulnerable in favour of the market. It is also argued that there is the potential to entrench the position and powers of the elite and wealthier groups. Indeed, evidence from other countries notably Latin America and some African countries with experience in similar initiatives suggests that, market driven land tenure reform especially privatization and titling of land may also work in the opposite direction- reinforcing inequalities within populations and deepening poverty and social exclusion. Additionally, questions are being asked about the exclusion of some critical issues by the LAP identified by Aryeety et al, as the social implication of the cost of providing land services such as registration to people. However, as argued by the same authors, if the cost of service provision is high, local communities and the rural poor in particular may be excluded. Besides, although the LAP identified various stakeholders in its implementation, stakeholders are mainly identified relative to their visible interest in land. Women are thus excluded. Given that many women farmers have secured their lands from their husbands or from sharecropping and other tenancy arrangements, this stakeholder identification is inadequate and problematic (Aryeetey et al. 2007: 64-5).

It has been argued by Sikor and Muller that by engaging diverse social forces and their interests, particularly at the local levels in the design and implementation of land tenure reform programs, there is likely to be more flexibility and sustainability and hence responsiveness to the interest of diverse social forces (Sikor and Muller cited in Berry, 2009). This raises an immediate question as to what extent diverse social forces or different interests are captured in the design of the LAP particularly with regards to minor social groups. Furthermore, land tenure reform programs that transfer control of land from public to private often benefit some people while excluding others, thus reinforcing existing inequalities and/or creating new ones within the state. In Africa where competition over land is intense and communities are not all egalitarian, land tenure reform programs can be disruptive, arbitrary and exclusionary (Berry, 2009: 1). The question then is, who are the social forces in Ghana that benefit or stand to benefit from the LAP and who are those likely to be pushed to the margins and why? As argued by Amanor (2009), land tenure reform in Ghana is premised on the notion that for land markets to function efficiently, improve information on land holdings and ownership, as well as greater transparency and accountability are desirable hence the LAP is perceived as having the virtue of ensuring these to happen. However, just how transparent, accountable and efficient the LAP is remains to be seen given that it is playing into the normative power of the chieftaincy institution. Also, its concern seems to be on land market efficiency even if at the expense equity.

Furthermore, in a speech to open the LAP registration facility at Bolgatanga, Ghana, the deputy minister for Land and Natural Resources declared that the LAP is a long-term project expected to lay the foundation for a land administration system that is fair, efficient, cost effective and that enhances security of tenure. He further remarked that ‘the successful implementation of the project (LAP) will ensure that land will be a *tradable* asset and will be able to perform its function of creating wealth and reducing poverty’ (Yeboah, 2007; emphasis added). The minister’s speech seems to be oblivious of the fact that making land tradable might have the opposite effect of dispossessing the poor from their user rights to land and does deepen, instead of reducing poverty.

It is against this background that a critical study of the LAP is relevant to ascertain why and how the government of Ghana has adopted the project as best way of reforming the country’s land sector. The study will also help to account for the notion of interest articulation in the LAP.

1.3 Research Objectives and Questions

1.3.1 Research objective

The main objective of the study is to understand why and how donor driven reform packages targeting land tenure systems are adopted by beneficiary countries and ways this impact on different social forces in the local context. The study also seeks to make a contribution to the literature on the discourses of land tenure reforms and the role of social forces in developing countries.

1.3.2 Main Research Question

Given the recent institutional endorsement of the LAP by the Government of Ghana and its development partners, this Research Paper seeks to explore how the LAP has been constructed as best practice reform package for restructuring the country’s land tenure regime and the deep reasons behind its genesis?

1.3.3 Sub – Research questions

1. How has the LAP been projected as a cure to Ghana’s land tenure problems?
2. What is the role of Social forces in the LAP?
3. How do we account for the notion of interest in the process?

1.4 Research Methodology and Limitation

The study employed a methodology that draws its theoretical framework from existing literature on new institutionalism and the concept of social forces. This has been useful in enabling an understanding and critical analysis of the processes involved in the LAP. To achieve this, the study relied essentially on primary and secondary information obtained through literature reviews, desk study, LAP reports, books, journals, websites, etc to obtain and analyze the information gathered. A limitation was however observed within the limited timeframe to conduct the study as the author is a double degree student and

had to leave early for another masters degree at Central European University in Budapest. This could not allow field data collection to complement the analysis. Nevertheless, the overall quality of the study was not affected as every effort was made to work within the constraints to produce an excellent research paper.

1.5 Relevance and Justification

Ghana's land tenure reform trajectory dates back to colonial period. However, the process has been riddled with contradictions, of which some patterns have persisted overtime, notably the piecemeal and legislative processes, while some changes have occurred since the neoliberal revolution culminating in the land policy formulation and the current implementation of the LAP. The question therefore is why has the discussion on land tenure reform become more visible with the adoption of the LAP in Ghana and what is its value addition particularly with regards to articulation of interest of the different social forces in the country? How can we qualitatively understand the on-going LAP process in Ghana? It is in light of this process above and the questions raised that a critical study of the LAP is relevant to ascertain to what extent the process is incorporating or articulating the land use rights and interest of social groups and other stakeholders in Ghana. The outcome of this study will also be relevant to academics, policy makers and the government of Ghana given that the LAP is scheduled to run over a longer period of time.

1.6 Organization of study

The study is organized into six chapters per the outline below:

1. Introduction comprising the Problem statement, Research objectives and questions, Relevance/justification, Methodology and limitation and structure of the paper.
2. Theoretical framework and Methodology focusing on the New Institutionalisms and the concept of social forces.
3. Focuses on Deconstructing the LAP. It offers a detailed description of the LAP, reflecting how it has been constructed as a panacea to Ghana's land tenure problems, and an attempted critique of the process from various perspectives. It begins with an overview of the landholding pattern in Ghana as a prelude.
4. Discusses social forces and interests on the LAP: The chapter analyzes the genesis and implementation of the LAP using the new institutionalism as the entry point and particularly focusing on the role of ideas and interest in the process. Its second part attempts a deconstruction of social forces focusing on the prominent social forces in relation to the LAP.
5. Conclusion: This chapter wraps up the various discussions geared towards answering the research questions and lays out issues for further studies.

Chapter 2 Theoretical Framework and Methodology

2.1 Introduction

This chapter explores the main concept and theoretical tools that are employed in the study. It utilizes the concept of Social forces and draws heavily from the literature on the New Institutionalisms as a theoretical tool for subsequent analysis. The chapter also discusses the overall methodology employed in the study to enable the answering of the research questions in an appropriate manner.

2.2 Social Forces

The concept of social forces is one that is subject to different interpretations. According to Migdal, Social force refers to consensus on the part of a sufficient number of people to bring about social action or change. In plural, social forces are the basic drives or motives which lead to association and group relationship. Social forces thus represent powerful means for associative behavior and can be formal or informal organizations or social movements including those tied together by motivating set of ideas (Migdal, 1994). Analyzing the development of social forces over time, Migdal observes that the process of capitalism constitutes an onslaught on existing distribution of critical resources such as land, and sets off continuous battles and accommodations in which state structures are a center of intense friction regarding how to deal with their integration into the global economy. In the mist of these battles, social forces have emerged as strong players regarding the direction of state policies. However, social forces do not operate in vacuum. 'Their focus is on the arenas of domination; where various social forces engage one another over material and symbolic issues vying for supremacy through struggles and accommodations, clashes and coalitions' (Migdal, 1994:20-2). They compete in policy arenas in an attempt to shape public policy. Struggles and accommodations also occur among social forces over the moral order and structure of rights and wrongs such as what system of property rights should prevail and how will land be distributed? (ibid).

Large scale social forces such as the state, social classes, civil society, and international organizations often try to impose themselves in the arena of contestations. Their motives may vary and be contradictory. Most of the times they seek to extract much surplus or revenue from the arena of contestation. However, in other cases, the agenda of the state can be to preserve existing patterns of economic domination (ibid). Whatever the interest of a social force may be, its quest to dominate in the policy arena is often met with opposition from other social forces. In the process, social forces tend to form alliances and coalitions to achieve their interest. This is well captured by Migdal's observation that 'rarely can any social force achieve its goal without finding allies, creating coalitions and accepting accommodation' (Migdal, 1994: 21). The powers or control by social forces can occur by using the resources it possesses in an arena to dominate in other

arenas. In this regards, social forces try to appropriate the resources at their disposal to further their interests (ibid).

Furthermore, Social forces, based on their unequal abilities and access or control of resources often seek to manipulate key elements in the arenas of contestation. Migdal argues again that the introduction of new factors into an arena such as additional capital, compelling ideas, or innovative forms of social organization benefits and harms social forces in different ways. In the process, resources are reallocated in order to influence outcomes. The state also tends to co-opt influential social figures and forces. Some other social forces seek to enhance their status quo by garnering resources from outside or riding on the backs of existing structures of production and institutional arrangements (ibid).

Another powerful social force in the arena of contestation is civil society. In regard of this, Migdal contends that ‘they assume the existence of a normative consensus’ and attempt to ‘oppose the state’s moral order leading to hegemony of fundamental ideas’ (ibid 28-9). Social forces are therefore dynamic and are always engage in struggles, conflicts, or competition to influence a wide range of issues particularly state policies.

To understand social forces from another perspective, Gramsci’s concept of hegemony is invoked in this study. Hegemony refers to the situation where ‘culture, politics and the economy are organized in a mutual exchange with one another, a constantly circulating and shifting network of influence (Jones, 2006:5). In the quest for hegemony, social forces often seek to dominate the interest of subaltern groups in arenas of contestations. To be successful however, they must take on board subaltern’s worldviews to ensure their active consent and compliance. But to what extent are the views and interest of subaltern groups incorporated in hegemonic classes’ ideas?

Gill observes that social forces operate through time and space. To illustrate this, he invokes the concepts of ‘*events-time*’ and the ‘*longue duree*’ as shaping the interaction of social forces overtime and space (Gill, 2003:48). Whereas the events-time explains ‘the continual flow and succession of actions and events in the movement of history’, the *longue duree* ‘involves sets of ideas, patterns of interaction, institutional forms and a structure of experience that may persist “for an infinitude of generations”’ (ibid, 48-9). He notes further that the continuities of regularities and patterns of history are connected with the *longue duree* and the embedding of social structures where these structures may be persistent in nature. The *longue duree* therefore involves repeated actions and events that form regularities in society. However,

These repeated actions form historical structures that constitute and constraints the limits of what is politically possible for different classes and social groups at a certain moment in time. Sets of historical structures, which are a form of power for some and sets of constrains for others can be identified in the political economy and in broader patterns of civilization (Gill, 2003: 49)

He concludes that the ‘increasing monetization and commodification of socioeconomic relations are aspects of economic longue duree of political economy of modern capitalism’ (ibid, 49).

Social forces also operate at different but interlinked levels identified broadly as structural, political and strategic levels (Gill, 2003). At the structural level, they coalesce around production while at the political level, they revolves around groups’ corporate interest, solidarity and the growing consciousness that corporate interest transcends specific economic group and must become the interest of subaltern groups. This level also sees attempt by dominant forces to both co-opt and marginalize minority groups albeit subtly in order to suppress their opposition and protect the mode of production and social power. The strategic level, which is tangential to this study involves relations of force executed during military occupation of new territories to ensure their subordination (ibid). To this extent, social forces try to use institutions to accomplish their interest. The ensuing section discusses the various kinds of institutional frameworks focusing on the new internationalisms.

2.3 The New Institutionalism

The New Institutionalism emerged as a critique to contextualism, instrumentalism, reductionism, utilitarianism and functionalism assumptions that characterized the Behavioural and Rational Choice schools of thought (March and Olsen, 1983). The New Institutionalism sees institutions as web of interrelated rules and norms that govern social relations and comprise both formal and informal social constraints that shape the choice actors make. Institutions in this sense are regarded as the rules of the game for society or the humanly devised constraints that shape human interactions (North, 1997). Defined as such, institutions are argued to reduce uncertainty in human relations and also delimit legitimate actions in the ways that the rules of a game specify structures within which actors are free to pursue their strategic choices using the specific roles and status position (Nee and Ingram, 1998). Based on the explanatory power of institutions in understanding human interactions, the study employs the following varieties of the New Institutionalism; Rational Choice Institutionalism (RCI), Normative Institutionalism (NI), Historical Institutionalism (HI), Interest Based Institutionalism (IBI) and Constructivist Institutionalism as the main theoretical tools. These varieties have been categorized into two main aspects for the purpose of the study. RCI, NI and HI are regarded as the orthodoxy while IBI and CI are treated as the heterodoxy.

2.3.1 *Orthodox perspective: RCI, HI and NI*

RCI focuses on ‘rational actors pursuing their interests and following their preferences within political institutions, defined as structures of incentives,

according to a logic of calculation' (Schmidt, 2006:1). RCI draws its analytical tools from the 'new economics of organization' which emphasizes the importance of property rights, rent-seeking, and transactions costs to the operation and development of institutions. Influential in its evolution is the argument by Williamson that the development of a particular organizational form can be explained as a result of an effort to reduce transaction cost of undertaking same activity without such an institution (Hall and Taylor, 1996). RCI acknowledges that most political life occurs within institutions. Therefore, in order to explain politics, it is necessary to address the nature and role of political institutions, providing the insight of the nature of social structures and the behavior of individuals within it (Peters, 2005). RCI is characterized by the logic of consequentiality. It posits rationality of the individuals acting rationally to maximize their utilities in a strategic manner that presumes extensive calculation (Hall and Taylor, 1996). It thus gives remarkable importance to incentives and constraints as influencing individuals to obey the rules rather than to defect from them. Within RCI are also varieties based on perspective of authors ranging from Institutions as rule school (North), Decision rules, Principal – Agent and Game Theory models. RCI is applied to explain the market driven outlook of the LAP particularly on the implications of institutionalizing private property rights and the land sector institutional reforms accompanying it in Ghana.

HI emerged in reaction to behaviouralism and the excessive focus on individualized motivations for action in politics (Thelen, 1999). It concentrates on the history of political institutions and their constituent parts, 'which have their origins in the (often unintended) outcomes of purposeful choices and historically unique initial conditions, and which develop over time following logic of path-dependence' (Schmidt, 2006: 1). HI defines institutions as the formal or informal procedures, routines, norms and conventions embedded in the organizational structure of the political economy. Generally, HI exhibits four features. These are, the tendency to conceptualize on the relationship between institutions and individual behavior in relatively broad terms, the emphasis on power asymmetries associated with the operation and development of institutions, the tendency to view institutional development which emphasizes path dependence and unintended consequences and finally, its special concern to integrate institutional analysis with the contribution that other factors such as the role of ideas can make to political outcomes (Hall and Taylor, 1996). Accordingly, HI devotes attention to explaining how an institution produces its path. For example, how institutions structure state responses to new challenges. Many HI scholars classify historical events into periods of continuity marked by 'critical junctures,' or 'punctuated equilibria'. That is, the moments when substantial institutional change occurs, or when there is a rapid burst of institutions, thereby creating a point of departure from which historical development moves onto new path (ibid). The logic of HI is premised upon the enduring effects of institutions and policy choices made at the formative stages of a structure. It therefore concludes that policy choices made at the formative stages will influence the policy far into the future (Peters, 2005). Therefore, when an institution or organization embarks upon a path, there is a stasis and those initial policy choices tend to persist over time

(ibid). HI is thus good in describing the persistence of patterns over time. It is applied in this study to analyse patterns of continuity and critical junctures of Ghana's land tenure reforms culminating in the development and implementation of the LAP and how those patterns have persisted.

NI defines political institutions as socially constituted and culturally framed, with political agents acting according to a 'logic of appropriateness' (Schmidt, 2006: 1). NI emerged as a reaction to the assumptions of full rationality and utilitarianism of the individual and methodologies espoused by the Rational Choice Theory (March and Olsen, 1983). Hence, NI gives an essential role to values and norms in the organization as explanatory of the behavior of its members. Actors are viewed to reflect the values of the Institutions they are associated, their values and behaviors are being shaped by the membership of that institution, alongside procedures and symbols that are more normative, rather than cognitive in their impact on institutional members, as well as routines created to implement and enforce those values (Peters, 2005). Normative Institutionalists argue that organizations often adopt a new institutional practice, not because it advances the efficiency of the organization but because it enhances their social legitimacy. In other words, organizations espouse specific institutional practices because the latter are widely valued within a broader environment. This is described by Campbell as the 'logic of social appropriateness' in contrast to the 'logic of instrumentality' (Hall and Taylor, 1996: 16). Rationality for Normative institutionalists is therefore, socially constructed, and historically and culturally contingent (Schmidt, 2006). Rules and routines thus constitute determinants of appropriate actions in everyday life of institutions (March and Olsen, 2006). NI explains institutional change through the 'Garbage can' metaphor which according to Peters 2005: 35

Conceptualizes solutions looking for problems, with institutions having a repertoire of stock responses available when there is a perceived need to adjust policies. Its argument is that institutions have a set of routinized responses to problems, and will attempt to use the familiar responses before searching for alternatives that are further away from core values.

Therefore, the institutional changes that are eventually implemented conform to the logic of appropriateness rather than the logic of consequentiality. NI is applied to explain how global norms and values have influenced the design and implementation of the LAP and how the LAP is conforming to the logic of appropriateness.

2.3.2 Heterodox Perspective: IBI and CI

IBI sees institutions as a constellation of interest and social relations. It provides the means to comprehend various motivations that exist in institutions through social relations and thus offer a useful tool in understanding the interaction of individuals with their institutions. For IBI, interest can only be realized within the framework of society and the role of social relations, and it is a determinant factor for understanding reality

(Swedberg, 2003). IBI acknowledges plurality of interest as motivating actions in society. As a result,

...interest of the same type, as well as of different types, may reinforce each other, contradict each other or even block each other. Interest is what supplies the force in economic system. Interest also explains why banks, financial markets and similar institutions are so powerful: they can mobilize and energize masses of people into action through their control over economic resources (Swedberg, 2003: 5-6).

Accordingly, for IBI, institutions should be understood as amalgamations of different interests and social relations. Therefore, the interest of individuals as well as of corporate actors and of the state must be acknowledged in policies and actions. IBI thus accounts for how interest should be realized in the society, be it political, economic or other type of interests. Interest however can be subjective as it is shaped by culture or objective since it constitutes a stable and stubborn aspect of social reality (ibid). For Swedberg, interest is ubiquitous and willing to interact everywhere whether in policy circles or social relations. For 'It is mainly interest which makes people take action. Combined with the interest of others, it is a force which can move mountains and create new societies' (Swedberg, 2003:4). However, interests are not just internal; they are also located outside of the rational individual and form a useful analytical tool for engaging the primary motivations for actors' decisions and their implications on the larger society. Accordingly, the most important issue in making norms and institutions that have impact on social life is the link these have with interests (Swedberg, 2003). IBI is employed in the study to account for interest and the interplay of power relations in the LAP.

Constructivist/Discursive Institutionalism is one of the newest varieties of the New Institutionalisms. It focuses on the content of ideas and their interactive process to generate new ideas and their communication to the public (Schmidt, 2006). The analytical assumption of CI is that institutions are in a state of constant disequilibrium, unlike HI which posits equilibrium. CI therefore emphasizes institutional innovations and dynamism and the need for consideration of the process of change occurring over time. Its origin is in the attempt to explain the complexities of institutional change with emphasis on institutional formation and post formation processes (ibid). For CI, institutions embody a codified system of ideas and the practices they sustain and hence the ideational precondition for institutional change is the discursive construction of crises (Hay, 2006). CI considers the discourses that actors engage in the process of generating or legitimizing ideas about political actions in institutional context. It is therefore useful at explaining the dynamics of institutional change and to some extent continuities through ideas and discursive interactions. It also offers a good framework to theorize about how and when ideas in discursive interactions can facilitate actors to overcome constraints (Schmidt 2006). CI is employed along with IBI to account for power relations and interest articulation in the LAP.

2.4 Methodology

To answer the research questions, the study employed a methodology that draws its theoretical tools from existing literature on the New Institutionalisms and the concept of social forces to aid in the deeper analysis of the LAP. Five varieties of the New Institutionalisms are explored and categorized into orthodox and heterodox. This dichotomy is to help in the analysis of the LAP from a broader, deeper and historical perspectives in order to answer the various research questions set in the study. The orthodox comprising RCI, HI, and NI is invoked to explain the design and implementation processes of the LAP. The orthodoxy is employed in this manner because it provides a springboard to analyzing the mechanics of the LAP. In particular, it enables description of policy reforms and issues of capacity, organizational logic and weak/strong institutions which are pertinent to understanding the notion of best practice institutions in contemporary institutional discourse. However, for the most part, the orthodox is largely techno managerial and hence unable to explain issues of power and interest in a concise manner beyond the mechanics of institutions. Since the study is interested in addressing issues holistically, and in order to fill this vacuum, a heterodox account, comprising IBI and CI is employed in order to critique the LAP. This approach, unlike the orthodox examines institutions and policy reforms beyond the mechanics to include formation and post formation processes. As a result, it is able to deal with social forces and power relations within the context. It also enables the problematization of continuity-change nexus and thus addressing issues of who gets what, when, where, why and how. It is for this reason that the heterodox has been employed in order to answer the sub-questions two and three of the study. Overall, the use of the New Institutionalisms as a theoretical tool enabled a deeper analysis of the effects of varied interest and complex power relations underpinning the LAP. The study also engages the concept of social forces from different perspectives in order to uncover the various forces and interests on the LAP. This concept has been applied analytically in line with the orthodox-heterodox dichotomy to ensure consistency. In particular, the Gramscian perspective on social forces discussed by Gill and Jones above is engaged critically to enable a deeper view of how social forces have persisted over time and how they are represented in the LAP today.

To achieve the aim of qualitatively understanding the LAP and deconstructing it from deeper and broader perspectives, the theoretical tools and the main concept have been complemented with critical studies of LAP documents. Consequently, the study engages primary data on the LAP obtained through the project design documents and progress reports. In particular, two main documents of the LAP are reviewed since they coincided with important time periods in the development of the project. These are the design and project appraisal document of 2003 which discusses the modalities of the LAP and its operations, and the document produced in 2008 which reflected a midterm review of the LAP and the subsequent changes proposed and/or incorporated. Other important documents reviewed as primary sources to complement these include project progress reports dubbed ISM reports and

speeches. A secondary information obtained through books, journals, websites, desk reviews and other publications have also been relevant in generating the required materials for the study.

2.5 Conclusion

The concept and theoretical tools discussed above are useful to address the research questions in this study. While the new institutionalism would enable analysis of the design, implementation and interest in the LAP based on the orthodox and heterodox perspectives, social forces would enable a deconstruction of the main players and their role in the genesis and implementation of the program. This would enable the study to answer the research questions critically and holistically.

Chapter 3 Deconstructing the Land Administration Project

3.1 Introduction

This chapter attempts a deconstruction of the LAP in order to understand how it has been constructed as cure to Ghana's land tenure problems. It provides a description of the project and how its design and implementation processes have been viewed by some authors. However, in order to provide a succinct understanding of the LAP, there is the need to examine the landholding pattern in Ghana for which the project is addressing. The chapter thus begins with an overview of the land holding pattern in Ghana as a prelude.

3.2 Land holding in Ghana

In Ghana, land is generally perceived as owned by the dead, the living and the unborn. However, land administration is governed by both customary practices and state enacted legislations. The NLP identifies two categories of land ownership. These are Public and Private lands. The public or state lands are lands compulsorily acquired by the state and vested in the president on behalf of all Ghanaians. Private lands on the other hand are in communal ownership and are held in trust for the people by the stool/skin, spiritual heads, or family. There also exist vested lands which refer to a split ownership between traditional authority and the state. However, some ethnic groups do not recognize skin/stool lands. In such cases, the traditional arrangement comprises vesting land ownership in the family, individual or clan (NLP 1999). Based on the above, the LAP recognizes four category of land ownership, thus the state lands, private lands, vested lands and private lands given or sold as freehold by families, stools/skins (LAP 2003). Customary lands make up about 80% of lands in Ghana. As a result, the condition under which land is held, accessed or allocated varies according to the various ethnic groups. In general, land is administered by traditional authorities through customary arrangements. The OASL collects and distributes rent proceeds in accordance with the provisions of the 1992 Constitution (*ibid*). However, customary land tenure has become a subject of contention in recent years among different social forces claiming original ownership to the lands. They also suffer political interferences by government agencies and bureaucrats as they constitute an arena for revenue sharing arrangements and joint management between traditional authorities and government institutions (Amanor, 2009).

Sarpong (2006) observes that land tenure laws in Ghana emanates from a blend of constitutional, legislative, judicial, customary and Islamic sources. As a result of this plurality, vulnerable groups such as the rural poor, women, migrant farmers etc are faced with difficulties with regards to their land rights. The Ghana Law Reform Commission identifies four categories into which interest on land can be expressed under the Land Title Registration Law, 1986, PNDC Law 152. These include allodial title, freehold title, leasehold title, and lesser interests (Sarpong, 2006). Allodial title is the highest interest to

customary land recognized by most traditional areas and held by traditional authorities. Allodial owners are not subject to restrictions beyond that which is imposed by the laws of Ghana. The stool/skin enjoys freedom in dealing with the land although this is subject to the rights of citizens in the traditional area. However, stool/skin ownership means corporate ownership and not ownership under the personal dictates of the traditional ruler/chief (ibid). Freehold is also known as usufruct. This is an interest on land possessed by subgroups and individuals but owned by the larger community. Customary freehold pertains as long as the subject accepts the superior title of the skin/stool and can be inherited. Usufruct right holders can also enter into sharecropping arrangement through ‘abunu’² or ‘abusa’³ (ibid). Under the common law freehold, interest in land is obtained from a freehold grant made by the allodial owner by sale or gift. However, the holder of a customary law freehold can create a common law freehold through a grant to another person out of his interest (ibid). With regards to the Leaseholds, these are rights of occupation granted to a person and which is specified for a particular period of time. The lease can be granted either by the holder of allodial title or customary freehold. However, the lessee pays annual rents for the right of occupation on the land and has an agreement specifying the ways in which the land will be used. The lessee can also make sublease on the land with the consent of lessor (ibid).

The adoption of the LAP can therefore be seen as a constructed attempt to deal with the various landholding patterns and administration in Ghana. However, it remains to be known how at the end of the day the LAP can engage the dual powers of the state and the influential traditional authorities in a manner that does not lead to the denial of some other minor social forces or groups of their land rights and interest in Ghana.

3.3 How is the LAP conceptualized as cure to Ghana’s land tenure problems?

3.3.1 Background to the LAP

Following the development of the GPRSP I and II, it was recognized that the land sector had a vital role to play in meeting the growth and development goals of the country. However, the sector was inundated with problems that impeded its potential role in poverty reduction. Such impediments include inadequate policy and legal framework; fragmented institutional arrangements and weak institutional capacity; underdeveloped land registration system and inefficient land market; weak land administration system; and compulsory acquisitions of land by government without payment of compensation. These result in problems such as inadequate security of land tenure (NLP 1999,

² Arrangements whereby the beneficiary, usually tenant farmers share half of the proceeds from the land with the land owner

³ Arrangement whereby the tenant shares a third of the proceeds from the land with the land owner

LAP 2008). In a bid to address the problems above, the NLP was launched in 1999. The policy seeks to ensure equity and security of land tenure and to promote socio economic stability and development in Ghana (NLP, 1999). See appendix for details on NLP objectives. The acknowledgement of the problems confronting the land sector which culminated in the development of the NLP precipitated the conceptualization of the LAP. The LAP is a long term program to be implemented in Ghana over 15-25 years. The current LAP represents the first phase of the program designed originally to be implemented over 5 year period but has been extended by some of the donors owing to a slow start of implementation. It is being implemented by Ghana's MLNR in collaboration with other key ministries, the Judiciary and National House of Chiefs (LAP, 2008).

3.3.2 Objectives of the LAP

The LAP was approved by the World Bank and other multi lateral donors essentially to assist the government of Ghana restructure its land sector and address the problems that the NLP had identified over a long term period. It aims to 'enhance economic and social growth by improving security of tenure, simplifying the process of acquiring land by the populace, developing the land markets and fostering prudent land management by establishing an efficient system of land titling, registration and administration base on clear, coherent and consistent policies and laws supported by appropriate institutional structures' (World Bank, 2000) cited in Aryeetey et al. (2007:59). The project had its development objective to 'develop a sustainable and well functioning land administration system that is fair, efficient, cost effective, decentralized and that enhances land tenure security' (LAP, 2003). However, this objective has since been revised after start of implementation for several reasons including the fact that it has been regarded as ambitious and unattainable within the time frame. The new development objective of the Project is to

undertake land policy and institutional reforms and key land administration pilots for laying the foundation for a sustainable decentralized land administration system that is fair, efficient, cost effective and ensures land tenure security (LAP, 2008: 12, LAP, 2009:5).

3.3.3 Key Design and Implementation Components

The LAP is designed to be implemented based on four components. These include;

Land Policies and Regulatory Framework

This component seeks to develop and implement land law reform program through reviewing existing land polices, land laws, regulations and customs in order to reform them in ways that ensure consistencies and harmonization of customary land laws with statutory laws and to promote effective and efficient land administration. This is being done through the provision of technical

support and advisory services to government and land sector agencies. The component pursues programs that aim at reducing the backlog of land cases in courts and to institutionalize alternative dispute resolution mechanisms. It also embarks on reviews of lands acquired through eminent domains to ascertain appropriate compensation for such lands. The component conducts studies in to rights and interest in land and registration of land titles and deeds, determination of finances and fee structures in land administration and on equal opportunities for land rights and administration processes. The studies also include assessment of gender issues and as well as on services provided by customary land authorities (LAP 2003, 2007, 2008).

Institutional Reform and Development

This component aims at conducting reforms in institutions such as reviews of organization, management and operations of land sector institutions and developing decentralized programs for land administration and management in Ghana. It conducts studies on human resources management of the land sector agencies, and also develops systems to prepare cases for full scale reforms in the management of the land sector agencies, and the strengthening of land service delivery in a decentralized manner. It seeks to establish a one-stop shop centers for land agencies in Ghana. Among others, the component facilitates the establishment and functioning of Customary Land Secretariats (CLS). It also strengthens the capacities and capabilities of land administration professionals, private sector institutions, and reviews licensing procedures for private land surveyors, as well as strengthening the capacity of research institutions (ibid).

Land Titling, Registration, Valuation and Information Systems

This component aims at designing and implementing a computerized land information system in Ghana. It seeks to strengthen public land sector agencies and to produce cadastral mapping of lands for customary boundary demarcation, systematic land titling in urban areas and land use planning, as well as, the construction of offices for the Survey Department of Ghana. It facilitates the establishment of model land titling and registration offices in pilot areas, and strengthens deeds and title registries. The component also deals with campaign issues for the general public regarding land titling and registration, land adjudication, boundary demarcation and registration of allodial land boundaries in the pilot areas. It aims also to establish a national land valuation data base for access to the general public and foreign investors (ibid).

Project management and Coordination

This component deals with strengthening institutions and actors for effective project management practices such as finance and procurement, monitoring and evaluation, human resource development and the LAP's communication strategy on land policies. It hosts the LAPU as the main body responsible for overall management of the LAP in collaboration with the project secretariat. To ensure effective project implementation and coordination, the MLNR is assisted by the LPSC and LSTC which provides guidance and supervision on technical and policies issues of the LAP. The component also implements

participatory monitoring and evaluation approaches to track project performance and impact (ibid).

3.3.4 Project Indicators

The LAP has set a number of indicators against which the success of the process are measured periodically and at the long run. These include; completed and approved land legislations, improved land administration procedures and information system leading to a reduction of transaction cost, reduction in land litigation cases in court, increased investment in landed property, increased revenues, strengthened customary land administration authority, restructured public land sector agencies, active role for communities, NGOs, and private sector in land administration, 50 established CLSs, improved land titling and registration, as among other indicators identified by the project (LAP 2003, 2008).

3.3.5 Motivation for donor support for the LAP

According to the LAP document, the project is consistent with the World Bank CAS for Ghana defined as:

- a) Poverty reduction, because of its focus on areas critical to the poor (agriculture and land titling), promoting decentralization and efficient delivery of key services;
- b) Promoting partnerships outside government, particularly with civil society and the private sector; and
- c) Public sector reforms, which are being used to address important issues such as legal reform, governance/ corruption and financial management (LAP 2003: 3).

To this extent, the LAP in its rhetoric seeks to reduce poverty in Ghana by empowering the poor to earn income which is regarded as compatible with the GPRSPs of Ghana. In concrete terms, the LAP will facilitate access to land and improve security of tenure to rights and interests on land, improve land administration, provide secure land titles to ensure security of tenure and peaceful possession, and facilitate investment in housing, agriculture, industry and service sectors of the economy which will lead to employment and economic growth for the country. The LAP will also rationalize land policies and institutional responsibilities in land administration and this is expected to strengthen land use planning, ensure transparency, secure land transactions, reduce transaction costs to rural and underprivileged communities and thus facilitate investment and growth. Furthermore, civil society and the private sector participation is expected to serve as checks and balances on excesses of public sector management, reduce land transaction cost and ensure transparency in land administration in Ghana (LAP, 2003, 2008).

3.3.6 Sector focus of the LAP

The LAP seeks to address land sector issues identified by the NLP through stakeholder participation. It focuses on reviewing land laws in the statute books and rationalizing them to produce legislations consistent with customary practices and Ghana's 1992 constitution. It focuses on reforming public land agencies and strengthening them to deliver improved land administration services. It will eventually overhaul the system for land information storage to

enhance easy access to public, traditional and private land interest through digital search (LAP, 2003, 2008). Traditional authorities are also targeted to assist them develop local land administration in a transparent manner. At the heart of the project are the issues of mapping, registration and titling of lands especially customary lands. Ultimately, the project focuses on establishing One –Stop- Shop centers and local government land administration offices complemented with the setting up of land record data banks. The LAP also works with District Assemblies and sector agencies with the intention of bringing land administration closer to the general public. As part of the process, the MLNR is being targeted for policy formulations, monitoring and evaluation of performance of land sector agencies and the impact of land tenure policies on the populace. The LAP also employs awareness creation approaches through organizing land forums for discussion on concerns and interests (LAP, 2008). But who is being targeted for participation and why? How do they participate?

3.3.7 Project beneficiaries

The LAP identified the following as the category of beneficiaries for its intervention;

- Traditional land owners
- Vulnerable groups
- National and local governments
- Land sector agencies
- Private sector enterprises
- Central government and security agencies
- Research institutions (LAP 2003, 2008).

However, questions must be asked about the basis for the identification of these categories and how each category is envisaged as a beneficiary. Generally, the expected benefits to be derived from implementing the LAP have been identified as improved land tenure security, increased land-related investment, improved efficiency of land resource use, increased information benefits, sustainable land use behavior, and improved poverty focus in the land administration sector (ibid). Perhaps, it is on the basis of these anticipated benefits that proponents of the LAP are projecting it as the best practice reform package and an antidote to Ghana's land tenure problems. However, the issue is benefits for whom? elites? or which social forces?

3.3.8 Progress of implementation

Since its inception in 2003, the LAP has wobbled in its implementation agenda and in producing results. Nonetheless, a speech presented by Ghana's minister for Lands and Natural Resources at a conference on Land Governance in support of the MDGs in Washington DC outlined the following ten (10) points as achievements of the project by far:

- Review of land laws and land use and proposals made for their consolidation and update.

- Government returning excess state acquired lands to original owners
- Six land courts established by the judiciary supported by the LAP
- A new Lands Commission Act 2008 (Act 767) has been passed merging four of the six public land sector agencies.
- 38 CLS established to provide support to the customary Land owners.
- Formation of CICOL.
- 8 Land Registries established in eight regional capitals.
- Re-organization of the Geodetic Reference Network for southern Ghana.
- Piloting of customary boundary demarcation underway in two areas.
- Two beneficiary impact assessments undertaken on established Land Registries which showed a lot of enthusiasm among the populace to register their properties (Dauda, 2009).

A Small Grants Programme (SGP) has also been instituted for NGOs and other CSOs interested in working with the LAP (LAP, 2008).

3.3.9 Challenges

The LAP has identified a number of challenges to its implementation since its inception. This ranges from internal constraints, such as the lack of institutional capacity, procurement delays, to poor delivery capacity of the implementing agencies and slow disbursement of funds. Also, most of the CLS were established without proper diagnosis and consultations with stakeholders creating difficulties in their operations (LAP 2008, Aryeetey et al. 2007). However, little emphasis has been laid on the project challenges in terms of engagement with stake holders at the decentralised grassroots levels. Instead, most of the challenges relate to internal difficulties of the project and its relationship with land sector agencies (Aryeetey et al., 2007). Furthermore, the MLNR noted challenges in the implementation process of the LAP as; managing change processes and dealing with resistance to change, sustaining the CLSs, financing land administration infrastructure such as geodetic reference system and cadastal records and land information system, and power plays, as the implementing agencies are subject of institutional reform. Another challenge is the issue of participation in dealing with diverse stakeholders (Dauda, 2009).

From the foregoing, it can be deduced that the LAP has indeed been conceived as the magic bullet capable of transforming the land tenure system in Ghana from a defective resource to one capable of enabling the country to reap the gains of capitalism. However, to what extent is this the case? The next section examines some criticisms of the LAP from various perspectives.

3.4 Critiquing the LAP as an institution of land tenure reform in Ghana

To the extent that the LAP has a long term goal of reforming Ghana's land sector, it can be considered as an institution that lays the foundation for eventual complete reforms. This section looks at how the LAP has been qualitatively understood and critiqued from different perspectives, focusing particularly on the construction of interest in the process.

Aryeetey et al. (2007) have noted that the various interest groups that have through time actively engaged in discussions on the direction of land tenure reform have been the most influential such as chiefs, land owners, land administration technocrats, land lawyers and academics. The question this evokes is that, is the LAP a construction of the same powerful interest groups or is it a different form of policy that allows the interaction of different set of social forces and various interests? Also, they have argued that the LAP has so far been rhetorical in terms of paying attention to the land interest of the poor and vulnerable populations in Ghana. In particular, concerns have been raised about systematic land titling with the argument that this will facilitate the transfer of ownership and encourage land speculation and high land prices. Moreover, the LAP has identified interest groups in relation to a particular construction of interest. These interests include allodial, usufruct, leasehold, tenancy and occupancy rights. However, this construction of interest is problematic as it effectively alienates other social groups such as women whose interest to land in Ghana is mostly derived (ibid).

Additionally, the LAP has been criticized for overly emphasizing land titling and registration. Although it has made intentions to proceed with caution, nonetheless, the issue still remains its attractive option. However, the fact that titling may lead to insecurity of tenure for most people especially the poor and women with derived rights to land is not stressed. Also, majority of Ghanaians are illiterate and may be alienated from the titling process. There is also the danger of encouraging custodians of communal or family land to assume individual ownership of land and register it in their names, thereby disinheriting future generations (Aryeetey et al., 2007). Also, current customary arrangements appear uncondusive for vulnerable groups to lay claims through registration and titling. Therefore, encouraging registration and titling process without fundamental balance of power between the custodians and communal owners may facilitate skewed ownership rights towards the chiefs as individuals and not as custodians (Toulmin, 2004).

Another focus of the LAP that deserves attention is its CLSs. It has been argued that the LAP's efforts at strengthening the CLS so far has been limited to equipping them with office infrastructure such as computers and compiling a database of all land users and owners. This move by itself excludes many land users whose data may not be acknowledged in the process. The fact that the CLSs are established at the paramountcy levels presumes that chiefs are themselves land owners who should be able to provide information on all their

tenant farmers. However, research has shown that stools or skins in Ghana and most land owners do not have comprehensive information on how much of their land is occupied or who occupies it for that matter. For this reason, the LAP's approach with the CLS is deemed unsustainable as land users may not identify with it (Orgle, 2007). Also, it is argued that addressing customary land issues from the paramount levels rather than at community levels may exclude marginalized groups from participating in decision making processes (ibid). It thus remains a puzzle why the LAP seems to have given so much prominence to chiefs. Hopefully, this will be uncovered by the end of the study.

Besides, it has been argued that the World Bank, which is one of the major social forces directing the implementation of the LAP, hiring international consultants and providing a chunk of the funding might drive the process towards its own interest (Aryeetey et al., 2007). This raises questions about the extent the government of Ghana is free to implement the LAP according to local conditions and not bowing to pressures from the World Bank given that the World Bank seems to favour the development of land market. These questions, together with other points of concern, are analyzed in chapter four when we examine further the role of various social forces and their interest in the LAP.

3.5 Conclusion

The LAP represents a coordinated attempt to address the myriad of problems confronting the Ghana land tenure regime. It seeks to restructure the land tenure regime in a manner that will enhance efficiency while ensuring equitable access to all and contributing to poverty reduction. However, the various criticisms of it have raised more questions than answers. This necessitates a detail analysis of the project in order to ascertain the reasons behind genesis. The next chapter therefore attempts an analysis of social forces and the role of interest on the LAP in relation to its genesis and implementation processes.

Chapter 4 Social Forces and Interest on the LAP

4.1 Introduction

This chapter attempts a qualitative analysis of the LAP with the aim to understanding why it emerged as the preferred option of reforming the Ghana land tenure regime and the deep reasons behind its emergence. It particularly focuses on the role of interest and the various social forces on the LAP, situating the analysis within the context of the new institutionalisms.

4.2 Analyzing the genesis and implementation of the LAP; the role of interest.

Consistent with orthodox perspective of the new institutionalism, the LAP, arguably, has been designed based on the construction of the notion of best practice institutions. No wonder, its genesis and designed was largely directed by the World Bank. Using the orthodox perspective of new institutionalism, this chapter argues that the LAP has been designed to reflect institutional preferences of powerful and dominating internal and external social forces. It argues that the design, and for that matter the implementation processes tend to endorse elite capture and is biased against other minority social forces in Ghana.

Arguably, the design of the LAP reflects the orthodox perspective of institutions as a foundation of land reform. The orthodox approaches identified here as RCI, HI and NI perceived good institutions as capable of reducing uncertainty in human relations. In this perspective, weak institutions are regarded not only as the cause of weak capacity but also convey a conscious consequence of deeper and complex political relations. For this reason and as observed in chapter 3, the LAP is strengthening the capacity and capabilities of land sector institutions and stakeholders in Ghana in order to facilitate efficient land service delivery. The orthodox approach also emphasizes the importance of property rights, rent seeking and transaction cost in the development of institutions. Williamson cited in Hall and Tailor (1996) observes that the development of a particular organizational form can be seen as the efforts to reduce transaction cost of undertaking activities without such institution. This is evident in attempts by the LAP to merge four land sector agencies into one institution- the Lands Commission and reducing registration period of deeds from 36 months to 2 months as well as deeds of sales from 135 days to 34 days (LAP, 2008:7). By cutting down the time spent in land registration and transaction, the LAP is not only seeking to reduce transaction cost but also gives incentives for people to follow the institutional procedures in land transactions rather to defect from them. This is in furtherance with the desire of the proponents to promote investor interest and has an implicit aspiration of commodifying land in Ghana. Promoting investor interest and commodification of land in Ghana is not bad in itself so long as this does not alienate or undermine other people,

particularly the vulnerable, rural poor and women's land rights and interest. However, it cannot be guaranteed that the process will not lead to the above outcome in view of the fact that there is growing competition for land with the most vulnerable being pushed to the margins. Based on RCI perspective therefore, it can be concluded that the LAP has been designed with a market oriented interest and its implementation reflects market outlook. This is exemplified by the LAP's policy of promoting systematic land titling and registration discussed earlier in chapter 3.

HI explains the history of political institutions and their constituent parts. It emphasizes path dependence and how to integrate institutional analysis with the role of ideas in political outcomes (Hall and Taylor, 1996). From HI perspective, the design of the LAP can be analyzed through the analogies of path dependence and 'punctuated equilibrium'. The discussion on land tenure reform in Ghana has persisted over time. However, at best, the approach to land tenure reforms could be described as incremental (Berry 2004, Aryeetey et al., 2007). In this process, the colonial pattern has persisted, manifesting through legislations introduced overtime and also reflecting the preferences of powerful social forces. One remarkable feature that has persisted since colonial period has been the unity of the state with the chiefs in land administration in Ghana. This has consistently raised the question of elite and stronger social forces dominating the land tenure reform process. Although the Nkrumah regime sought to disentangle this bond by introducing legislations that enabled the state to control and manage lands without recourse to the chiefs, this process was reverted when the regime was overthrown (Aryeetey et al., 2007) and the path continued. Despite the continuity of some patterns however, punctuated equilibrium did occur. Arguably, the development of the NLP and the subsequent approval of the LAP represent punctuated equilibria in Ghana's history of land tenure reforms. These two junctures demonstrate a wide departure from the previously incremental process. The LAP in particular came as a form of rapid institutional burst, resulting in the conglomeration of existing institutions while creating new ones such the CLS, CSOs, and coalitions. It is the introduction of the LAP that has sparked off broad stakeholder interests in land administration and made the process more visible than previous efforts. The LAP therefore represents a critical juncture, the moment when market oriented tenure reform seems to have gained currency in Ghana. This is amply demonstrated by the heavy influence of multilateral institutions in its design.

From an NI perspective, the values and norms in an institution explains the behavior of actors. For example, in the case of the LAP, the values and norms projected are pro market hence actors especially government bureaucrats are preoccupied with getting the institutional frame work right to support private property rights. This is demonstrated in the processes by the LAP to encourage individualization of land through titling as observed in the description of its third component. Also, NI scholars contend that organizations adopt new institutional practices mainly because it enhances the social legitimacy of the organization or its participants. In other words, organizations espouse specific institutional practices because the latter are widely valued within a broader cultural environment (Hall and Taylor, 1996). In

line with this, the LAP arguably, has its genesis from the new wave of reforms across the developing world based on certain norms and values promoted by multilateral institutions such as the World Bank. Ghana therefore jumped on the bandwagon of these reforms probably as part of gaining international legitimacy based on the dominant neoliberal order. Indeed, consistent with the logic of appropriateness thesis, actors in the LAP especially the state and its alliance of social forces see it appropriate to embark on such reforms based on international norms, regardless of the outcome of the process on the poor and the vulnerable in the society. Also, in line with the 'Garbage can' metaphor through which institutional change is explained, the LAP can be seen as an outcome of various policy reform considerations. For example, the approach could have taken the form of redistribution or classic land reform by the state. However, it tends to emphasize administrative reforms as the best from the policy repertoire.

From the heterodox perspective, the genesis and design of the LAP can be analyzed using the IBI and CI as the theoretical tools.

IBI, as discussed earlier, conceptualizes institutions as constellation of interest which represents the primary driving force behind human actions and interactions. Interest however can be internal or external and may reinforce, contradict or even block each other (Swedberg, 2003). IBI thus provides the means to comprehend various motivations that exist in institutions. Consistent with IBI, the LAP arguably is a constellation of different interests both internal and external. It can be argued that the deep reasons behind its genesis and endorsement by external social forces is to unlock the dead capital on land which a majority of Ghanaians possess, in line with De Soto's argument of transforming dead assets into productive resources to capture the gains of capitalism (De Soto, 2000). This is evident by the manner through which capitalist oriented and neoliberal institutions such as the World Bank substantially support the program - (See appendix II for detail financial allocations by multilateral institutions to the LAP). The motivation behind this is in line with the World Bank's interest of making land tradable with the rhetoric of encouraging investment and poverty reduction as noted in chapter three on its CAS for Ghana. However, this can also be interpreted in line with Harvey's accumulation by dispossession thesis where, in this case the capitalist institutions seek to enhance their accumulation of land in Ghana by pursuing policies that arguably have the tendency to dispossess the poor of their precious asset. This process can also in the long run lead to abundant supply of labour for the corporations, as the poor who are alienated from their source of livelihood will constitute a source of cheap labour in Ghana and elsewhere. Furthermore, the manner with which the LAP creates alliances between different social forces hitherto divergent raises more questions than answers. Indeed, its introduction seems to have consolidated the powers of the chiefs who have traditionally been the landed elites in Ghana. For example, the introduction of the CLS by the LAP and its management under the auspices of traditional rulers attest to this fact. This is not surprising in view of the fact that the state and traditional authorities and the multilateral institutions seem to have a mutually reinforcing interest. Of concern however is the manner with which civil society seem to have been co-opted by the LAP. Traditionally, civil

society and NGOs in the land sector have conceived themselves as fighting for and protecting the land rights and interest of the poor and vulnerable. With the introduction of the LAP, one will expect that civil society be more aggressive in terms of campaigning to achieve this. Although coalitions have been formed in this regards, arguably, civil society constitutes another set of emerging elites that seek to maximize their share of the LAP and hence their co-optation and loss of focus. One can appreciate the LAP's introduction of the Small Grants Programme as an endeavor in this regard. However, there seems to be a tension between the State and elite interests and that of other minor social forces such as women, migrant farmers and the youth. Although the state argues for efficiency and pro poor LAP in its rhetoric, the outcome might not be pro poor since the interest of this other social groups are likely to be undermined and subordinated to the market based on efficiency which may come at the expense of equity.

CI on its part focuses on the content of ideas and their interactive process to generate new ideas and their communication to the public (Schmidt, 2006). It presupposes that institutions are in a state of constant disequilibria and emphasizes institutional innovations and dynamism and the need for consideration of the process of change occurring with time. CI attempts to understand the complex processes of institutional change and their links to state – society relationship. Institutions in this context therefore exemplify a codified system of ideas and the practices they sustain (Hay, 2006). From this perspective, the LAP's genesis and design can be conceptualized as discursive construction of crises with regards to the best method of land tenure reform in Ghana. It must be noted that the LAP is a culmination of the persistent debates over how land tenure reforms in Ghana should proceed. Its formation is very much the outcome of discourses on stakeholders' interest on land administration in Ghana. Consistent with CI view, the implementation of the LAP is still riddled with contradictions, with stakeholders uncertain of the outcome. Within these contradictions however, power relations come to play, with elite social forces dominating the process while civil society continue to push for space. The voices of the poor and marginalized land users remain anonymous although this seems to dominate the LAP's rhetoric.

The ensuing section attempts a succinct account of the role and interest of key social forces in the LAP.

4.3 Deconstructing Social forces and the notion of interest in the LAP

This section argues that there are a variety of social forces with asymmetrical power relations and interests on the LAP. However, the LAP seems to have failed to give attention to the concern of weaker social forces but instead plays into the existing domain of elite capture, backed by powerful external social forces. This section identifies the various social forces as the State, Chiefs/traditional authority, Donors, CSOs/NGOs, Women, Migrant Farmers and the Youth. The identification of these particular social forces is based on

the fact that they constitute the most conspicuous actors around which discourses on the LAP and land tenure reforms in Ghana are couched. This choice is to therefore enable an analysis of how these groups interplay on the LAP process.

4.3.1 The State

The role of the State in the LAP cannot be over emphasized. While the State's role may be seen to promote public interest, it is obvious that the state also has its agenda in the whole reform package which it places premium on. Consistent with Migdal's discussion on social forces and their influence, the state has been one of the dominant forces in the LAP; sometimes seeking to appropriate other social forces such as civil society and the traditional institution to consolidate its domain of domination. However, the state is not just a black box, it is a conglomeration of social forces with varied interests sometimes complementing and reinforcing each other while at other times conflictual. Therefore, disaggregating the state will enable a succinct account of the different forces using the state to prosecute their interests and how they form alliances against other social forces to accomplish this. As observed earlier in Gramsci's concept of hegemony, the state arguably comprises different set of actors, some of whom are hegemonic and try to influence state policies to reflect their parochial interests. In the quest to achieve this however, weaker social forces are either co-opted or simply suppressed under the rhetorics of representing the general interest of the people. Therefore, differentiating the state is important to enable understanding of the kind of social forces dominating at different levels of its hierarchy and how they build alliances and coalitions, as well as the kind of struggles or conflicts that pertain in their quest to control the commanding heights in the country. In the context of Ghana, this would mean identifying the different social forces that use state policies such as the LAP to further their interests and which are in opposition to others.

A diagnosis of the LAP viz-a-viz the state indicates that its genesis and implementation has not been independent of the influence of powerful social forces both within and outside the state. The role of the private sector, corporate entities, bureaucrats, political parties and politicians in this direction cannot be ignored. Arguably, the interest of the corporate sector, especially transnational corporate bodies, particularly those engage in agro food, timber, biofuel, and mining sectors in Ghana, have influenced the LAP in the name of investment, since its success may in the long run enable them expand their production, accumulate more capital and preserve their global hegemony.

Also, as observed by Gill with the concept of *longue duree* and repeated gestures, the state has consistently preserved and promoted the interest of chiefs through time. This pattern of regularity has persisted even in the LAP today thus enabling chiefs to consolidate their interest around the reform process. This is obvious in the CLSs being directed by influential chiefs (Aryeetey et al., 2007). Amanor (2009) also noted similar pattern in his observation that the state since colonial periods has sought to propagate and protect the interest of powerful elites notably the chiefs. He contends that the

state has led a process of expropriation of ordinary people and extraction of rents in the interest of its bureaucrats and wealthy economic and political elites. He concurred that, there seems to be a marriage of convenience between the state and chiefs to further the cause of each interest, with the state recognizing the rights of chiefs to control land and revenues while it gains a share of these revenues and actively partaking in the management of stool/skin lands. Also, the state rewards chiefs with economic benefits through compensations and concession fees when lands are transferred to new economic enterprises (ibid). This pattern of expropriation has persisted and is even legitimated by the LAP. In this new arrangement however, the winner is the state and its commercial interest. This is manifested in the LAP's promotion of land titling and registration, and although it seeks to limit this to urban areas in the interim, arguably, the bottom line is to protect the land rights and interest of commercial and corporate sectors to their investment since land titling and registration is notorious for being a complex and expensive process that is often beyond the means of the poor. At the long run, the land rights of the poor and vulnerable might be expropriated as private sector investors seek to capture rents through the state in alliance with chiefs.

4.3.2 Traditional Authority (Chiefs)

As argued by Migdal, some social forces use the resources garnered in one arena to dominate in other arenas with different sets of social forces. Such may be said of the chiefs in Ghana. Using the normative symbol of the chieftaincy institution which they command under their ethnic territories, some chiefs have catapulted themselves into national questions of interest such as the LAP. They have appropriated the resources that the customary notion commands to further their interests in the LAP. By so doing, they have become a powerful social force which has arguably incorporated the state and have transformed themselves in to de facto land owners instead of maintaining their traditional communal role (Aryeetey et al., 2007). Arguably, the balance of power within the state and society seems to favour the chiefs and their allies and this has stood the test of time. As a result, the market oriented nature of the LAP coupled with growing competition and demand for land has made some chiefs less transparent and accountable as they engage in multiple sales of land for commercial and investor interest for their self enrichment to the detriment of their poor subjects and the future generations (Amanor, 2009).

Furthermore, as noted earlier, the CLS which seeks to equip chiefs for better customary land management has the propensity to encourage chiefs to use their enhanced capacity to further dispossess their poor subjects of their land rights (Antwi, 2006). This is supported by Amanor (2009:123) with his argument that

By placing the customary land secretariats under the authority of chiefs, the LAP ignores the fact that the notion of customary powers and rights of chiefs are loaded with political interventions and endorses the roles that chiefs were accorded in land administration in the colonial period.

From the observation above and consistent with the perspective of HI's logic of path dependence and the *longue duree* thesis, it can be argued that,

the modern Ghanaian state is seemingly enacting land policies that are a reflection of what pertains during colonial rule. Therefore, in congruence with IBI, the interest of chiefs and that of the state have colluded since colonialism, and mutually reinforcing each other now in the LAP while pushing to the periphery the interest of other weaker social forces.

Ghana is witnessing a shift in customary norms in recent years more in favour of elite captured interest to land (Willy and Hammond, 2001). Although chiefs had powers to sell land before and to negotiate concessions, this could only be done with outsiders. Indigenes had the free rights to use land in their customary areas which could also be converted into family or clan lands and used by members or descendants of that family. However, modernization has resulted in changes to this freehold rights in favour of elites (ibid) and the LAP seems to be deepening this situation.

The LAP's attempts to empower chiefs to administer customary lands results in a dangerous alliance with expansion of the land markets. Many chiefs are noted to have close family associations and affinities with business interests and are often investors or business persons by themselves. This business interest defines the ways in which those chiefs interact with their subjects to the extent that they are willing to sacrifice the future interest of their subjects to gain revenues from migrant farmers, property developers, timber concessions and foreign investors at large. As a result, both the state and traditional authority have the tendency to conspire in favour of the interest of foreign investors to the detriment of the poor peasants and other vulnerable groups (Amanor, 2009). Therefore, the LAP's overly endorsement of traditional authorities in the reform process advises caution.

4 3.3 Donors

As observed in chapter three, the LAP is a multi donor support reform package involving mainly the World Bank, DFID, GTZ, CIDA, NDF and KfW on one hand and the government of Ghana on the other (LAP ISM, 2009). These multi lateral institutions have an interest that is largely market driven as part of the neoliberal agenda to reduce the size of the state. The World Bank in particular provides a chunk of the funding for the LAP (Aryeetey et al., 2007). The question however is, why is the World Bank promoting this particular type of reform in Ghana? Based on IBI analysis, the study argues that the World Bank is seeking to promote the interest of investors and corporate entities as a means of ensuring efficiency in the land sector of Ghana. It also seeks to financialize land relations in Ghana and for that matter, Africa and linking it with macro economic growth and good governance (Manji, 2006). However, this is veiled under the notion of poverty reduction and equity by the Bank's rhetoric. The Bank has a CAS for Ghana which covers issues of poverty reduction, public sector reform and private sector participation and partnership with other actors. To the extent of the CAS, the LAP is deemed as consistent with World Bank interest and hence a tool to further the course of the Bank other than the course of majority of

Ghanaians. Although the emphasis of multilateral institutions supporting the program seem to be placed on efficiency, there is little evidence to suggest that market driven reforms can result from efficient land tenure reforms. This is noted by Barraclough (1999: 38)

Registering land titles and facilitating real estate transactions between willing sellers and willing buyers do not by themselves change power relationships in favour of the rural poor. In many situations, such policies are likely to reinforce inequitable agrarian structures by providing large landholders and speculators with additional legal protection, while leaving the bargaining power of the poor unchanged or diminished.

Also, evidence suggests that the argument of land titling and privatization providing incentive for farmers investment is only practicable in countries where market economies are well developed (Manji, 2006). This cannot be confidently said in the case of Ghana. On the contrary, the promotion of land markets without getting the fundamentals right may result in mass indebtedness of the poor and vulnerable people. This is in sharp contrast to the neoliberal position espoused by De Soto that land reform and/or titling results in increased efficiency and promotes investment and credit, thus unlocking the capital potential of the sector for poverty reduction (De Soto, 2000).

It is also argued that most of the donors draw their funding from developed country governments and transnational corporations and benevolent foundations or individuals and hence tend to operate in furtherance of the interest of these entities. Also, the ability of institutions such as the World Bank to prescribe reform packages for developing countries is dependent on the financial capacity they command which they seek to protect and to promote regardless of the impact on the poor (Barraclough, 1999). Neoliberals believe that private property rights is the magic bullet to guaranteeing security of access and tenure to land and landed resources which they vigorously promote. This is evident in the promotion and insistence on land titling by the donor organizations driving the process. However, privatization of property rights on land often accrues more benefits to transnational corporations and urban land speculators to the disadvantage of poor peasants (ibid). It is therefore quite worrying that the donor interest on the LAP seems to be on market process rather ensuring equitable processes.

4.3.4 CSOs/NGOs

Social forces are affected differently by the introduction of new policies or initiatives into an arena. While the implementation of these policies may benefit some social forces, it inevitably harms or has the tendency to harm others. This often sets off protracted struggles with the potential for social upheavals and reallocation of resources in order to influence the outcomes. In the process, the state often tends to co-opt influential social groups to further its interest (Migdal, 1994). In Ghana, the role of CSO/NGOs in the LAP cannot be over emphasized. Sandwiched between the state and society, CSOs/NGOs regard themselves as seeking the interest and well fare of the poor and vulnerable in relation to the LAP. They have pressed for the interest

articulation of minor groups and identified themselves as championing a just and equitable course in the LAP. Indeed, communities have long regarded them as representation of their voices in government policies. Recognizing the critical role CSOs/NGOs can play, the LAP has made clear its intention to collaborate with them but mainly in the area of communication. However, CSOs/NGOs go beyond this to perform monitoring and watch dog roles in the process. To further this course, CICOL was formed to ensure a coordinated influence of civil society on the LAP in favour of the poor. Members of this coalition serve in different committees of the LAP and are engaged in various activities such as advocacy and capacity building of communities. However, as IBI notes, sometimes interest may collude and in the process, co-optation may occur. To this extent, there is a tendency for civil society to become co-opted by the LAP or the state. The LAP's introduction of the Small Grants Programme may represent a glaring attempt to achieve this, as some of the CSOs/NGOs tend to look up to the LAP for funding of their activities. This may not only create civil society dependence on the LAP to achieve its financial interest but also makes the institution less critical of the LAP. Indeed, some have argued that civil society in the land sector have become a stooge of the LAP and is even considered accomplishment by the LAP to meet donor requirement. Members of some of these groups are also noted to be another set of elites sandwiched between the state and the poor and are extracting rents from each of this. Some NGOs are therefore using the notion of fighting for the interest of the poor to accomplish their own parochial interest within the LAP. Also, the fact that NGOs depend on government for legitimacy speaks volume of the extent to which they can be critical of government policies such as the LAP. It is also a concern that the wealth of financial resources that these NGOs are awarded could go to strengthen the power of local elites actively engaged in the LAP for various reasons. The fact that NGOs/CSOs depend on donors for a chunk of their funding cannot be discounted regarding the impact this can have on their engagement with the LAP. CSOs/NGOs cannot therefore be oblivious to the desires and perceptions of donors particularly in view of the fact they compete with other NGOs for donor funding (Barraclough, 1999).

4.3.5 Women, Migrant Farmers and youth

Arguably, this constitutes another set of social forces that are at the receiving end in discourses about land tenure reform in Ghana. Not only have they been historically excluded in the debate on the pattern of land reforms, their various interests are also being undermined by the LAP in favour of commercial interest. Women, in particular have a derived rights to land. The question therefore is, with the LAP's emphasis on titling, how will women's rights be registered and will titling not lead to the alienation of their derived rights and further limit their access to land for livelihood? Also, given that some women have land, the cost of registering these lands might be unbearable for them. Similarly, widows and divorcees who have used lands as dependants of primary rights holders stand to lose their main source of livelihood if primary right holders are given incentives to dispose of such lands (Wily and Hammond, 2001). With the LAP's pro-market outlook, there is no guarantee that market pressures will not compel primary right holders to trade their lands.

Migrant and tenant farmers are also prone to market induced risk espoused by the LAP. They are particularly at the mercy of the chiefs whom the LAP is empowering. According to Amanor, chiefs, taking advantage of the growing demand for land have sought to expropriate migrant and tenant farmers through share cropping arrangements and the manipulation of contracts signed with them (Amanor, 2009). Also, it has been observed that recent trends such as growing scarcity of land, commercialization and urbanization have rendered migrant farmers more vulnerable and limited their access to land for production. Even if they do obtain access, it comes with tougher implications such as higher rents and shorter durations (ibid). While it is possible to reverse this trend with the LAP, it is not clear how long this will take to manifest and also whether migrant farmers can indeed have secured access to land in the context of growing pressure from subjects on their chiefs for land and chiefs desire to maximize their interest through opportunities presented by the LAP.

In relation to the youth, their situation is not dissimilar from the women. Traditionally, male youth have the right of inheritance to land and are guaranteed portions of land for agricultural purposes. However, growing value of land and urbanization is withering away this right. Amanor (2009) observes that due to growing agricultural investment on land, coupled with its high demand for commercial purposes, chiefs and landowners prefer to rent out lands for commercial interest to accumulate capital instead of reserving parcels for youth and family farms. This leads to break down of family inheritance system- the main source that guarantees land access for youth and to some extent women. With the LAP on board, the tendency to perpetuate this trend is high especially when communal lands are subject to privatisation and individualization. Additionally, family members may be induced to barter communal lands with richer farmers for sharing of the proceeds rather than to less capable individuals.

4.4 Conclusion

The genesis of the LAP has been shrouded with influence of powerful social forces using the project as a legitimate avenue to prosecute their various interests. This is reinforced by the manner of its implementation. Although these interests are mutually reinforcing for the influential social forces and demonstrate a pattern of persistence and regularities, they contradict with that of the weaker social forces resulting in the disaffection by these groups of the process. The LAP is therefore playing to the gallery of the dominant elites and might remain rhetorical with its poverty reduction mantra.

Chapter 5 Conclusion

This chapter wraps up the discussions by far geared towards answering the research questions. It argues that considering the different issues examined, the problem of the LAP, although argued by some critiques as being in the nature of its design and implementation, there is the need to go beyond these to look at the deep reasons behind its genesis. Consequently, the study claims that the issue with the LAP is in its genesis since this is riddled with constellation of interests of influential social forces, which is in opposition to its poverty reduction rhetorics.

The LAP has been designed and implemented to conform with reform packages that accompany the era of neoliberal globalization which seeks to achieve global hegemony in all facets of development policies. These reform packages have an agenda of reducing the size of the state to that of a facilitator- providing the necessary legal framework and information to actors (Boras Jr. et al., 2007). In accordance with this, the LAP is prosecuting neoliberal land policy agenda that seeks to encourage land titling, registration, and development of land banks in Ghana. It is also promoting processes that seek to individualize communal lands, and empowering chiefs to facilitate easy land transactions. The accomplishment of these will remove distortions to land market and encourage efficient producers to have unfettered access to land (World Bank, 2003). Overall, the LAP is part of contemporary neoliberal land policies that gives a decisive role to free market forces for land allocation and use (Boras Jr. et al., 2007). However, this position is being propelled by a particular interest. As argued by Swedberg (2006), interest is crucial for understanding society, particularly its institutions. The origin of interest lies in the set of interactions among rational actors who are strategically seeking to maximize their utility and realize their parochial goals. Therefore, actors utilize institutions to fulfill their interest and personal utility. It is for this reason that the deconstruction of the LAP must go deeper to uncover the real social forces behind its genesis and how they are utilizing it to further their interest. The literature on New Institutionalism and social forces therefore serve the purpose of enabling this deeper analysis. The heterodox account has been instrumental in accounting for the notion of interest from a counter perspective to the orthodoxy on which the LAP's design and implementation has been largely couched. As IBI argues, the ideas entrenched in a context informs the design of institutions. Consequently, in the context of LAP, the pro- market approach to institutional reforms has been key in its design and implementation process. However, when institutions are interpreted as prescriptions of best practice, they become convenient for the pursuit of elites' interests. They also confer inherent legitimacy (Peters, 2007). Additionally, they provide a set of common rules mapping preferences into decisions, thus producing predictability and regularity of outcomes (March and Olsen, 1989), which makes them attractive avenues for elite capture. This is largely what pertains in the LAP. The LAP is founded on the conviction that institutional reforms are the best way to deal with Ghana's land tenure problems (Aryeetey et al., 2007). However, this ignores the age-old struggles and competition among different social forces over land. Invoking the

Gramscian perspectives on social forces, particularly the concept of hegemony, and Gill's discussion of the *longue duree* and repeated gestures, it is uncovered that the largely commercial motive of various social forces in the state such as the private sector, and corporate bodies has created alliances with rentier bureaucrats to further their course through the LAP under the veil of efficiency and encouraging FDI. These alliances have extended externally to include the donor community and locally to cover the chieftaincy institutions. Also, based on the *longue duree* and repeated gestures, it is observed that some social forces, notably the chiefs, have been in a seemingly perpetual alliance with the state since colonial rule with their individual interest mutually reinforcing each other and largely tilted towards commercial and capital accumulation. This pattern of collusion has been kept alive and even institutionalized by the LAP especially in relation to the origin and mechanics of the CLS. Thus, what emerges as the winner in the long and winding road of Ghana's land tenure reform trajectory seems to be commercial interest. However, the commercial interest of these social forces act against the equity and livelihood quest of women, youth and migrant farmers as noted earlier. Also, political parties are seemingly cementing their ties with chiefs through the LAP as a means of mobilizing their support during elections, since chiefs in Ghana command large ethnic influence over their subjects. This is also evident in the various political parties campaign pledges to return unused state acquired lands and to pay compensation over lands forcefully acquired by the state to the traditional authorities. The case of civil society is however ambiguous. Although civil society largely campaigns in the worldview of the subalterns, pushing for their interest articulation in the LAP, it is unsure whether they will not in the long run get hegemonized by the powerful commercial social forces operating behind the LAP. A symptom of this is already manifesting in the way the LAP and other corporate bodies fund activities of some NGOs.

Furthermore, in an environment where there is power asymmetry among social forces, it is most likely that ideas or issues that get institutionalized would come from the powerful. The donor agencies, in league with the state and its constellation of social forces are arguably using the LAP to facilitate the institutionalization of private property rights in Ghana as a key institution of capitalist development (Boras Jr. et al., 2007). Also, the creation of the CLS and the efforts to equip them may be seen as an attempt to institutionalize the powers of chiefs beyond the traditional setting in a manner that enables them take independent decisions on land without recourse to their subjects. To this extent, the LAP is just an arena where powerful social forces interact to prosecute a neoliberal agenda. Therefore, the manner in which the LAP was designed and being implemented advises caution. Not only does it gloss over the social relations of power in the Ghanaian context, it also seemingly subordinates issues of equity to the market. However, evidence exist to suggests that giving the market a fundamental role in reform initiatives such as the LAP may not after all be pro-poor at the end. On the contrary, this may further the concentration of wealth and power for elites while leading to landlessness or near-landlessness and social exclusion for a majority of the population that it rhetorically argues to serve. This is confirmed by Patel in his argument that pro-market reforms do not acknowledge the differences in

power relations between social groups but rather compound these relations, thus deepening inequality (Patel, 2006).

Consequently, this paper has established that the origin of the LAP has been influenced by mainstream economists' belief that land disputes, insecurity of tenure, and the inability to use land as collateral have adverse effects on economic growth and result in land market distortions (World Bank, 2003). The assumption therefore is that reforming the Ghana land tenure system in the manner of the LAP will engender efficiency and equity in land access, use and practices and will have a positive effect on poverty reduction and economic growth (Okoth-Ogendo, 1976). Indeed, this perception has been given a lifeline by De Soto's findings that formal property rights hold the key to poverty reduction by unlocking the capital potential of assets such as land held informally by poor people in developing countries (De Soto, 2000). The imperative of this argument is that the poor in developing countries have failed to derive benefits from capitalism because they are unable to produce capital, albeit holding vast assets in land. Therefore, they must transform this asset into productive capital by reforming the tenure regimes through instituting property rights and information on property (Musembi, 2007). This notion has found expression with development agencies across the world. It is therefore unsurprising that the design and implementation process of the LAP is essentially influenced by these agencies, particularly the World Bank, in line with the orthodox perspective of best practice institutions.

However, the issue of land tenure reform in Ghana and indeed Africa transcends the efficiency question. As noted by ECA, the centrality of land in Africa implies that the analysis of land tenure must not be restricted to issues of land use, agricultural production, efficiency and access to credit. Instead, this must be broadened to include aspects of power/politics and social positions (ECA, 2004: 21). Consequently, the study engages IBI and CI as heterodox perspectives of new institutionalism, as well as the neo-Gramscian perspective on social forces to enable the analysis of interests, power relations and the main actors in the LAP. The study has therefore established that the LAP has seemingly ignored the unequal power relations governing land tenure in Ghana. As a result, it is playing into the interest of powerful social forces within and outside the state and its decentralised local bodies. This situation as noted earlier has the tendency to further the concentration of wealth and power on dominant social forces while condemning other minor social forces into poverty and social exclusion instead of stemming it.

Therefore, if the LAP actually intends to reform land tenure system in Ghana in a way that does not encourage 'accumulation by dispossession' (Harvey, 2003:137), it must pay considerable attention to 'land based social relationships in a multi dimensional manner, taking into consideration the plurality and diversity of these relationships' (Akram-Lodhi et al., 2007:391). Accordingly, the study uncovered the imperatives for further studies into the following issues: Deeper analysis of social relations and ways of genuinely involving weaker social forces into the implementation process of the LAP beyond work/talk shops; A study into the impact of systematic land titling

and registration on the poor and the cost implication of this and how to cover it if this is the broad goal eventually, as part of institutionalizing private property rights; How to ensure transparency and accountability of chiefs and how to make the CLS responsive to citizens' concerns beyond just equipping chiefs; And last but not least, how CSOs/NGOs can be independent of the LAP, offering constructive criticism without the fear of victimization and/or co-optation by the state or powerful corporate bodies. In the view of this study, the LAP is a 'double-edged sword'. However, the opportunity it presents can be maximized, its poverty reduction rhetoric achieved, and its negative effects minimized if it evolves into a more transformational agenda that is embedded within the broader structural context of social relations of production, power and state - society interaction.

Appendices

Appendix I Ghana Country Information

Official Name: Republic of Ghana

short form: Ghana

former: Gold Coast

Capital City: Accra

Administrative regions: 10

Government:

Type: Multiparty Democracy.

Independence: 6 March 1957.

Constitution: 1992 and entered into force on 7 January 1993.

Geography

Location: Western Africa, bordering the Gulf of Guinea, between Cote d'Ivoire and Togo and Burkina Faso.

Area: 238 538 sq. km. (92 100 sq. mi.).

Terrain: Plains and scrubland, rainforest, savanna.

Measurement : 522 miles from south to north, and 355 miles from east to west.

Main ecological zones: The southern savanna, the forest, the transitional and the northern savanna zones.

Climate: Tropical; warm and comparatively dry along southeast coast; hot and humid in southwest; hot and dry in north.

Economy

GDP (2008): \$16.124 billion.

Real GDP growth rate (2008): 7.2%.

Per capita GDP (2008): \$716.

Natural resources: Gold, oil, timber, diamonds, bauxite, manganese, fish.

Agriculture: Products--cocoa, coconuts, coffee, tea, and wood manufactures, pineapples, groundnuts, shea nuts cashews, timber, spices, other food crops, rubber.

Food crops: rice, cassava, maize, yam, plantain,

Land--70% arable and forested.

Business and industry: Types--mining, lumber, light manufacturing, fishing, aluminum, tourism.

Trade (2008, United Nations): Exports--\$4.03 billion: gold (\$1.8 billion), cocoa

(\$1.1 billion), timber, diamonds, manganese. Imports--\$9.048 billion: petroleum (\$1.15 billion), food, industrial raw materials, machinery, equipment. Major trade partners--Nigeria, China, U.S., U.K., Germany, Togo, France, Netherlands, Spain.

Industries: Mining, lumbering, light manufacturing, aluminum smelting, food processing, cement, small commercial ship building

People

Nationality: Ghanaian(s).

Population: 23 million (estimate).

Density: 88/sq. km. (247/sq. mi.).

Annual growth rate (2007 est.): 2.7%.

Ethnic groups: Akan, Ewe, Ga, Moshi-Dagomba.

Religions: Christian, Muslim, traditional and indigenous beliefs.

Languages: English (official), and about 46 native languages

Literacy: 70%

Sources: Ghana Statistical Services, US State, Department and Nation's online.com 20th August, 2010.

- <http://www.nationsonline.org/oneworld/ghana.htm>
- US Department of State :
<http://www.state.gov/r/pa/ei/bgn/2860.htm>
- Ghana web:
www.ghanaweb.com/GhanaHomePage/country_information/

APPENDIX II

DATA SHEET FOR PROJECT PAPER

Date: October 10, 2008 Country: Ghana Project Name: Land Administration Project Project ID: P071157		Task Team Leader: Charles Annor-Frempong Sector Manager/Director: Karen Brooks/Inger Anderson Country Director: Ishac Diwan Environmental category: B		
Borrower: Republic of Ghana Responsible agency: Ministry of Lands, Forestry and Mines Address: P. O. Box M. 212 Accra, Ghana				
Revised estimated disbursements (Bank FY/US\$m)				
FY	2008	2009	2010	
Annual	7,943,500	1,985,000	807,400	
Cumulative	7,943,500	9,928,500	10,735,900	
Current closing date: December 31, 2008 Revised closing date: December 31, 2010				
Indicate if the restructuring is:				
Board approved		<u> X </u>		
RVP approved		—		
Does the restructured project require any exceptions to Bank policies?				<u> </u> Yes <u> X </u> No
Have these been approved by Bank management?				<u> </u> Yes <u> </u> No
Is approval for any policy exception sought from the Board?				<u> </u> Yes <u> X </u> No
Revised project development objective: <i>To undertake land policy and institutional reforms and key land administration pilots for laying the foundation for a sustainable decentralized land administration system that is fair, efficient, cost effective and ensures land tenure security.</i>				
Does the restructured project trigger any new safeguard policies? <i>No</i>				
Revised Financing Plan (US\$m.)				
Source		Local	Foreign	Total
Borrower		7.56	0.00	7.56
IDA		8.52	11.99	20.51
Canada: Canadian International Development Agency (CIDA)		0.33	1.13	1.46
UK: British Department for International Development (DfID)		3.55	5.48	9.02
Germany: German Technical Assistance Corporation (GTZ)		1.30	2.67	3.98
Germany: Kreditanstalt fuer Wiederaufbau (KfW)		-	-	8.14
Nordic Development Fund (NDF)		-	-	9.10
Total				59.77

Appendix III

Objectives of the National Land Policy

Aim of Policy

The Land Policy of Ghana aims at the judicious use of the nation's land and all its natural resources by all sections of the Ghanaian society in support of various socio-economic activities undertaken in accordance with sustainable resource management principles and in maintaining viable ecosystems.

Objectives of Policy

In specific terms, the objectives of this policy are to:-

- Ensure that Ghana's international boundaries are maintained at all times and cross border activities are managed jointly.
- Ensure that shared water bodies are utilised to the mutual benefit of all stakeholder countries.
- Ensure that every socio-economic activity is consistent with sound land use through sustainable land use planning in the long-term national interest.
- Facilitate equitable access to and security of tenure of land based on registered land.
- Protect the right of landowners and their descendants from becoming landless or tenants on their own lands.
- Ensure the payment, within reasonable time, of fair and adequate compensation for land acquired by government from stool, skin or traditional council, clan, family and individuals.
- Instil order and discipline into the land market to curb the incidence of land encroachment, unapproved development schemes, multiple or illegal land sales, land speculation and other forms of land racketeering.
- Minimise, and eliminate, where possible, the sources of protracted land boundary disputes, conflicts and litigations in order to bring their associated economic costs and socio-political upheavals under control.
- Create and maintain effective institutional capacity and capability at the national, regional, district, and where appropriate, community levels for land service delivery.
- Promote community participation and public awareness at all levels in sustainable land management and development practices to ensure the highest and best use of land, and thereby guarantee optimum returns on land.
- Promote research into all aspects of land ownership, tenure and the operations of the land market and the land development process.
- Ensure continuous education of the general public on land matters. Source: NLP (1999)

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