



A University of Sussex DPhil thesis

Available online via Sussex Research Online:

<http://sro.sussex.ac.uk/>

This thesis is protected by copyright which belongs to the author.

This thesis cannot be reproduced or quoted extensively from without first obtaining permission in writing from the Author

The content must not be changed in any way or sold commercially in any format or medium without the formal permission of the Author

When referring to this work, full bibliographic details including the author, title, awarding institution and date of the thesis must be given

Please visit Sussex Research Online for more information and further details

**TRADITIONAL CHIEFS, LAND
AND
THE POLITICS OF DEVELOPMENT**
A CASE STUDY OF BIRIM NORTH DISTRICT,
GHANA

CHARLES ANKISIBA

Doctor of Philosophy

Institute of Development Studies

UNIVERSITY OF SUSSEX

JANUARY 2013

Statement of Declaration

I hereby declare that this thesis has not been and will not be, submitted in whole or in part to another University for the award of any other degree.

Signature:**date**.....

SUMMARY**UNIVERSITY OF SUSSEX****CHARLES ANKISIBA****DOCTOR OF PHILOSOPHY****TRADITIONAL CHIEFS, LAND AND THE POLITICS OF DEVELOPMENT: A CASE
STUDY OF THE BIRIM NORTH DISTRICT, GHANA**

Currently there is a resurgence of the role of traditional chiefs in the development of sub-Saharan African countries. It has been proposed that African countries need to adopt more effective and pragmatic approaches, which are rooted in local societies and cultures and can therefore provide developmental outcomes. This thesis examines whether traditional chieftaincy in Ghana, which is a highly respected institution compared to other African countries can be effective and legitimate providers of public goods. This is done by analysing the way chiefs' exercise authority over community land and the revenue it produces.

The study analysed land management practices under chiefs' authority and the dynamics of the politics of negotiating compensation for land and public goods. The main finding of the thesis is that investment in public goods might be facilitated by the development of multi-institutional arrangement that ensures collaboration among state and non-state institutions at the local level as a form of co-production for development. The implications of this arrangement on the political authority of chiefs at the local level are examined.

The thesis questions the notion that it is custom and tradition that makes leadership provided by chiefs effective, and argues that what matters for development is how legitimate traditional authority is exercised in practice. The main conclusions of the thesis are that: firstly, although chiefs' are important traditional authorities in Ghana, they do not exercise political authority that is effective, as expected, for the development of local communities. There should therefore be caution in elevating traditional authority as the most effective legitimate form of locally rooted authority in Africa, given that Ghana is a country where chiefly authority is still extremely strong and respected. Attention should rather be focussed on the use of local cultural

repertoires and multi-institutional collaborations, which have local problem-solving characteristics for development. Secondly, the thesis also provides evidence that shows how activities of mining companies potentially contribute to development of local communities. As a result there is the need to take a more nuanced view of how mining companies operate in Africa.

Dedication

I dedicate this thesis;

First, to the memory of my late parents James and Sarah Aniateba Atukvum and to my sister Jennifer Lamisi Anable, who supported me in diverse ways in my entire educational life but never lived to see me get this far. The passing away of Lamisi just when I was at the end of my studies has been the lowest moment in my entire life but I thank the Almighty God for giving me the strength and health to come this far,

and

Second, to my beloved wife Akorfa and lovely children Awennaab and Atewen who have always been my sources of motivation and for enduring those long periods of absence I stayed away from them to finish this thesis.

Acknowledgement

To get this thesis completed will not have been possible without the countless efforts of a number of people and institutions. Therefore I wish to show appreciation for all that they have done to help me get this far.

Let me start by first of all giving praise to the Almighty God for blessing me with people and institutions that have been very kind to me throughout my studies.

This thesis will not have been what it is without the expert knowledge and guidance offered by my indefatigable supervisors, Professor Richard Crook and Professor Fiona Wilson. I wish to express my sincere gratitude to them not only for the interest they showed in my work but also for offering me unlimited access to their time. I also thank the Africa Power and Politics Programmer (APPP) of the Overseas Development Institute, UK, which nominated me to the Commonwealth Scholarship Commission (CSCUK) for financial support, and secondly for providing additional funding during the fourth and final year of my studies. I am most grateful to Dr. David Booth and his team of APPP scholars and researchers for making available their resources and training facilities to me during my studies. Next I thank the CSC UK for the scholarship awarded to me that provided the main source of funding for my PhD studies in the UK.

I am also grateful to the chiefs and people of the case study communities, key informants, officials of government institutions and Newmont staff and contractors, and all the people who I interviewed or contacted through various forms of communication, for their cooperation and understanding during this research. I cannot forget Mr. Smyly Bannerman and his team at Landpro Consulting Limited at *New Abirem* who provided me with accommodation and office space during my field work in 2010. Apart from these I also appreciate the sacrifices made by a team of three Research Assistants; Eric Acquah, Eric Owusu and Abigail Okyere, who helped me to administer questionnaires.

I also thank Fellows of the Institute of Development Studies (IDS), who made time to attend or sent written comments during my Research Outline and Work in Progress seminars, and to all the PhD administrative staff. I wish to thank in particular staff of the libraries at the Institute of Commonwealth Studies, of the University of London where I spent the first year of my PhD studies, and the British Library for Development Studies at IDS for their kindness and assistance.

I am also grateful to colleague PhD students at IDS at various stages of their studies and those who successfully left before me including; Dr Pédro Martins, Dr Phemo Kgomo and Dr Rehab Osman. Apart from these I have shared memorable moments both academic and social with Edem Selormey, Erik Manga, Mulugeta Handino and Charlotte Cross who were helpful by reading some of my drafts, provided useful comments and suggestions.

My sincere gratitude also goes to all my family and my in-laws, in particular Mr Moro Anable and his family and Miss Joyce Agbeli for their unconditional support during my studies in the UK. Finally I thank all those who have in diverse ways made my PhD studies a success.

Table of contents

Statement of Declaration	i
SUMMARY	ii
Dedication.....	iv
Acknowledgement	v
Table of contents	vii
List of Tables	xi
List of Figures	xi
Abbreviations and Acronyms	xii
Chapter 1.....	1
Introduction.....	1
1.0 Overview of Thesis	1
1.2 Problems with traditional authority and development in Africa.....	1
1.3 Research Aim and Questions	3
1.5 Approach to the Research	5
1.6 Arguments of the thesis.....	6
1.7 The thesis structure	7
Chapter 2.....	11
The Nature of Traditional Authority and Development: A Theoretical Framework	11
2.0 Introduction	11
2.1 Political authority and development in Africa	12
2.1.1 Pre-colonial forms of authority.....	14
2.1.2 Legacy of colonial administration on traditional authority	16
2.1.3 Implications of the colonial system of indirect rule for traditional authority	20
2.2 Resurgence of the role of traditional chiefs in Africa's development	21
2.3 Is Traditional authority a legitimate form of authority for Africa's development?	25
2.3.1 Role of traditional authority in public goods investment	27
2.3.2 Decentralisation, urbanisation, mining and public goods investment	29
2.4 The concept of co-production of public goods	30
2.5 Conclusion.....	36
Chapter 3.....	39
Traditional Chiefs and Land Politics in Ghana.....	39
3.0 Introduction	39
3.1 Traditional authority in Ghana.....	39

3.1.1 Traditional authority under colonial administration	41
3.2 Nature of customary land relations in Ghana.....	44
3.2.1 Customary land tenure	46
3.2.2 The notion of communal land ownership.....	47
3.3 The development of customary law: the role of traditional authority.....	49
3.4 Urbanisation and its implications for the traditional concepts of customary land tenure	50
3.5 Conclusion.....	53
Chapter 4.....	56
Research Design and Methods.....	56
4.0 Introduction	56
4.2 Research design: developing the case study and methodology.....	61
4.3 Selection of communities from the Birim North District	63
4.4 Data collection methods	66
4.4.1 Interviews and observations.....	66
4.4.2 Exploring the research question in the study communities	71
4.4.3 Survey of perceptions among local inhabitants.....	75
5 Conclusion.....	78
Chapter 5.....	79
Stool Land Management and Provision of Public Goods: Local Actors and Institutions of Authority in the Birim North District	79
5.0 Introduction	79
5.1 Traditional institutions: authority and legitimacy of traditional chiefs in the Birim North District.....	79
5.1.1 Traditional chiefs and the institution of chieftaincy	80
5.2 State Institutions of authority: local government, the administration of stool land and development.....	85
5.2.1 Birim North District Assembly.....	85
5.2.2 Is there a role for the Birim North District Assembly in Stool Land Management and Land Use Planning?	88
5.2.3 Assembly members.....	91
5.2.4 Unit Committees	92
5.2.4 Public land sector agencies in the Birim North District	94
5.2.5 Public and Vested Lands Management Division: Documentation of land transactions	95

5.2.6 Land Valuation Division: Land and asset valuation.....	98
5.2.7 Office of the Administrator of Stool Lands: Stool land management.....	98
5.3 Political Organizations: the Member of Parliament	101
5.4 Associational Groups.....	102
5.4.1 The Divine Youth Association of Ntronang	103
5.4.2 The Adausena Youth Association.....	105
5.4.3 The Great Women's Association at Adausena.....	107
5.5 Newmont Golden Ridge Limited: land access and mining investment	109
5.6 Conclusion.....	111
Chapter 6.....	115
Politics of Managing Stool Land and Revenue.....	115
6.0 Introduction	115
6.1 What Constitutes Stool Land Revenue?.....	116
6.1.1 Types of stool land revenue: direct sources	116
6.1.2 The Concept of 'Drink Money' Explained.....	117
6.1.3 Types of Stool Land Revenue: Indirect Sources	122
6.3 Local land management practices: structures and implications for local communities	125
6.4 Popular perceptions of traditional authority and land	144
6.5 Implications of how stool land is managed in study communities.....	149
6.6 Conclusion.....	152
Chapter 7.....	155
Land Access and Compensation Negotiations in the Birim North District.....	155
7.0 Introduction	155
7.1 Land acquisition and compensation: negotiating access to land for mining.....	155
7.1.1 Legal provisions regulating access to land for mining	157
7.2 Framework for compensation negotiations in the Birim North District.....	159
7.2.1 Developing the negotiations framework: the Working Groups	161
7.2.2 Building the capacity of local inhabitants to negotiate compensation	165
7.3 The Compensations Negotiations Committee.....	166
7.3.1 Structure and composition of the CNC	167
7.3.2 The negotiations agreements: who decides and assesses the compensation?	171
7.3.3 Negotiations at the Sub-committee level	175
7.3.4 Concluding agreements on the compensation negotiations.....	180
7.4 Compensation negotiations and the authority of chiefs for development	181

7.5 Conclusion.....	184
Chapter 8.....	186
Co-Production of Public Goods: Local Initiative for Development.....	186
8.0 Introduction	186
8.1 Co-Production as a collaborative local strategy for development	187
8.1.1 Co-production negotiations at the Social Responsibility Forum	189
8.2 The Social Responsibility Forum: the role of local actors and institutions	192
8.3 Framework for negotiating the provision of public goods	195
8.3.1 Nature of agreements and decisions process.....	196
8.3.2 Examining the negotiations process and outcomes	199
8.3.3 Challenges of the negotiations	204
8.4 Popular perceptions about the authority and responsibilities of chiefs	207
8.5 Implications of the SRF for the authority of chiefs	212
8.6 Conclusion.....	214
Chapter 9.....	217
Summary and Conclusion.....	217
9.0 Introduction	217
9.1 Summary of empirical findings	217
9.2 Wider Implications of the empirical conclusions.....	222
9.2.1 Traditional authority and development.....	222
9.2.2 Contemporary "traditional" chiefs and development	224
9.2.3 Mining investment and the development of local communities.....	225
9.2.4 Strengthening chiefs authority through customary land administration.....	226
9.3 Study significance and contribution to knowledge.....	228
9.4 Concluding remarks	229
References	230
Appendices.....	240
Appendix A: List of people interviewed.....	240
Appendix B: Interview Guides (semi-structured questionnaires).....	243
Appendix C: Survey Questionnaire	252

List of Tables

Table 1: List of officials of State institutions interviewed.....	74
Table 2: Register of adult voters in the case study communities as at 2010.....	76
Table 3: Distribution of returned valid questionnaires by communities	77
Table 4: Disbursement of stool land revenue by the OASL to case study communities from 2005 - 2010	124
Table 5: Responsibility to manage land and natural resources	145
Table 6: Who would you prefer to manage land and natural resources?	145
Table 7 who would you prefer to manage land and natural resources? results by communities	146
Table 8: Who has the authority to take away land from you?	147
Table 9: Is there a committee for the allocation of land (plots) in this community?	147
Table 10: How do people get to serve on the plot allocation committee?	148
Table 11: Number of CNC representatives from mining-affected communities in the Birim North District.....	169
Table 12: Proportional sharing of jobs in mining-affected communities in the BND ...	204
Table 13: Community members' expectations about the responsibilities of chiefs.....	208
Table 14: Most important Public Goods needed by communities	208
Table 15: Who provides the public good listed as most important for the community?	209
Table 16: Who is trusted in this community to provide public goods? (Rate the level of trust)	210
Table 17: Perception of who can better provide public goods to communities.....	211

List of Figures

Figure 1 Expected role of chiefs' in public goods investment	29
Figure 2 The concept of multi-institutional co-production	35
Figure 3: Map of administrative regions in Ghana showing the Eastern Region.....	58
Figure 4: Map showing the location of the case-study communities in the Birim North District	65

Abbreviations and Acronyms

APPP	Africa Power and Politics Programme
ARPS	Aborigines Rights Protection Society
BND	Birim North District
BNDA	Birim North District Assembly
CCC	Community Consultative Committee
CNC	Compensation Negotiations Committee
CDM	Community Development Manager
CDR	Committee for the Defence of the Revolution
CDSWD	Community Development and Social Welfare Department
CEO	Chief Executive Officer
CHRAJ	Commission on Human Rights and Administrative Justice
CLA	Customary Land Administration
CPP	Convention Peoples Party
CRRC	Crops Rate Review Committee
CSR	Corporate Social Responsibility
CWG	Crops Working Group
DA	District Assembly
DCD	District Co-ordinating Director
DCE	District Chief Executive
DMTDP	District Medium-Term Development Plan
DPO	District Planning Officer
ECA	Economic Commission for Africa
EIA	Environmental Impact Assessment
EPA	Environmental Protection Agency
ESR	Environment and Social Responsibility
FC	Forestry Commission

GCM	Ghana Chamber of Mines
GHA	Ghana Highway Authority
GPRS	Ghana Poverty Reduction Strategy
GRA	Ghana Revenue Authority
GSS	Ghana Statistical Service
IGF	Internally Generated Funds
ILGS	Institute of Local Government Studies
IPCWG	Immovable Property Compensations Working Group
KNUST	Kwame Nkrumah University of Science and Technology
LAP	Land Administration Project
LC	Lands Commission
LI	Legislative Instrument
LVD	Land Valuation Division
LWG	Land Working Group
MC	Minerals Commission
MDA	Ministries, Departments and Agencies
MoFA	Ministry of Food and Agriculture
MoU	Memorandum of Understanding
MP	Member of Parliament
NCCE	National Commission for Civic Education
NDC	National Democratic Party
NGO	Non-Governmental Organisation
NGRL	Newmont Golden Ridge Limited
NHC	National House of Chiefs
NLM	National Liberation Movement
NPP	New Patriotic Party
OASL	Office of the Administrator of Stool Lands
PAC	Plot Allocation Committee

PM	Presiding Member
PVLMD	Public and Vested Land Management Division
RAP	Resettlement Action Plan
SRF	Social Responsibility Forum
SSA	Sub-Sahara Africa
SWG	Speculative Activities Working Group
TCPD	Town and Country Planning Department
TDC	Town Development Committee
ToR	Terms of Reference
UC	Unit Committee

Chapter 1

Introduction

1.0 Overview of Thesis

This thesis is about traditional authority and institutions that can provide developmental outcomes at the local level. Traditional chiefs exercise political authority derived from custom and tradition. Historically, custom and tradition have shaped the development of African societies. Chiefs are therefore important political authorities in Africa as they form an integral part of the local cultures and norms of societies, although there are significant differences amongst countries with regards to the role and authority that chiefs have on land matters and development. In Ghana chieftaincy has been and is still extremely strong and respected institution. This thesis therefore analyses the authority exercised by traditional chiefs in southern Ghana, how they manage community land and questions whether chiefs can be effective and legitimate providers of development, through the provision of public goods.

This chapter provides the background to the thesis. I discuss the nature of traditional authority and development in Africa and link that with the problems associated with chiefly authority in Ghana where chieftaincy has always been a strong political authority compared to other African countries. The research aim and question that this study addresses are explained, followed by an explanation of the research approach. The final section of the chapter outlines the structure of the thesis.

1.2 Problems with traditional authority and development in Africa

Currently there is a resurgence of the role of traditional chiefs in the development of sub-Saharan African (SSA) countries. The literature points to various debates about the underlying problems that are hindering Africa's development. These have been attributed to problems of the lack of legitimacy of authority exercised by post-colonial governments in contemporary African countries (see chapter 2). The debate also identifies the importance of traditional authority, social capital and community cohesion as well as economic and political factors (Englebert, 2000; Buur and Kyed, 2005, 2007; Grischow, 2008; Booth, 2009; Ubink, 2008a). Within this discourse some authors have proposed that African countries need to adopt pre-colonial institutions, which are rooted

in local societies and cultures and can therefore provide developmental outcomes (Landel-Mills, 1992, Englebert, 2000; Booth, 2009; 2011).

Traditional institutions, for instance, may provide alternative strategies to local problem-solving for the development of SSA countries. This can occur under forms of legitimate local institutions of authority, such as chieftaincy, embedded in the norms of society. Traditional chiefs have long been part of the political and social elite in SSA and throughout history have been performing various functions in addition to their customary roles. Chiefs provided leadership and exercised authority over their people during the pre-colonial period. These characteristic features made chieftaincy attractive to the European administration, especially under the British system of indirect rule. However, this distorted the pre-colonial authority of traditional chieftaincy. Thus, this raises questions about the authenticity of chiefly authority as a form of legitimate institution of authority to provide an alternative approach to development in SSA as is currently being argued (Buur and Kyed, 2007, Ubink, 2008a).

I focus on traditional chiefs in this study because of the peculiar nature of the position of chiefs in southern Ghana, compared to other SSA countries. Pre-colonial chieftaincy in the Akan areas was a powerful militarised institution in which authority was organized in a hierarchical structure with the king at the apex as the sovereign of a group of people usually with common ethnic identity, language and custom¹. The sovereign king together with sub-ordinate chiefs and council of elders constituted the traditional authority providing leadership and governance under customary rules. The chief's political authority extended over a stool land area². Therefore chiefs controlled not only the people but also land of the whole community especially vacant uncultivated land.

Traditional chiefs in southern Ghana have since colonial period claimed stool land to be community property which they hold in trust for the people. This imposes a responsibility on chiefs to act in a fiduciary capacity³. Chiefs are therefore expected to allocate land for both indigenous and migrant community members. The performance of these functions involves making decisions about land uses and transfers. This attracts fees and charges, which are expected to be used in ways that benefits all community members. However, much of the literature on stool land management have

¹ See detail description of this in Chapter 3

² Stool is a symbol of authority of Akan-speaking people of Ghana. Stool land refers to the territory of the political community ruled by the chief (see chapter 3 for further discussion).

³ See chapter 2 and 3

pointed to the problematic nature of chiefly control over land especially in the urban and per-urban areas (Kasanga and Kotey, 2001; Kasanga, 2001, 2004, Alden-Willy and Hammond, 2001; Ubink, 2008; Boni, 2008; Tonah, 2008; Gough and Yankson, 2000). In addition, studies on mining communities in Ghana have made similar findings about chiefs and the authority they exercised over stool land and the revenue it produces, which have become sources of conflicts in those areas. Although community members tend to lose their land and assets they do not enjoy the benefits as expected, because mining companies tend to engage in negotiations for compensation payments with traditional authorities instead of individual owners (Akabzaa, 2000; Akabzaa and Darimani, 2001; Akabzaa *et al*, 2007; Yankson, 2010; Tsuma, 2010 and Ayelazunu, 2011). In spite of the findings from these studies current discourse across SSA suggest that traditional authority may provide solution to Africa's development problems. This study therefore examines the management of stool land under chiefly authority and the implications for development. The arguments in the literature suggesting that traditional authority may provide a solution to Africa's development problems are linked to the problem of the legitimacy and authority.

1.3 Research Aim and Questions

This study was undertaken with the aim of understanding the nature of authority and leadership provided by chiefs in southern Ghana and the implications for local development. This is with particular reference to how chiefs exercise authority over stool land the revenue it generates. Thus the central question that is analysed in this thesis is; *how and to what extent do traditional chiefs in practice manage collective resources on behalf of their community?* By '*manage collective resources*' I mean how traditional chiefs in practice exercise authority and control over land and natural resources which they hold in trust. I interpret '*on behalf of their community*' to mean the use of the community's resources (land, forest products, minerals and the revenue it produces) to provide collective benefits (public goods and services) such as health and educational facilities, land use planning schemes, provision of clean potable drinking-water and similar infrastructural facilities as well as development programmes that are accessible by all the members of their community. The thesis therefore examines whether traditional chieftaincy in Ghana, which is a highly respected institution compared to other African countries, can be effective and legitimate provider of public goods, in the way that it exercises authority over stool land.

The research was undertaken in an emerging mining district in the Eastern region of Ghana. Mining investment led to the acquisition of large parcels of stool land which

were negotiated directly with the community members. Land is a source of wealth, which can be appropriated by those having legal control over it, such as chiefs do. As a result of the different rights which are inherent in land there is often competition and struggles to control it in order to maximise the potential wealth. The competing parties may resort to local histories and custom or even social legitimacy to back their claim. The mining investment at the Birim North District (BND) and the consequential land acquisition created opportunities for increase in revenue from stool land, of which payments for royalties and rents are received by chiefs on behalf of their community⁴. It is under this circumstance that this study examines the land management practices under chiefs' authority and the dynamics of the politics of negotiations for compensation and public goods. The negotiations led to the development of multi-institutional collaborations for the co-production of public goods. The implications of this arrangement on the political authority of chiefs at the local level are therefore examined.

This study explores the central question using four interrelated sub-questions. The first question is *how stool land and natural resources are actually managed at the community level in Ghana*. It is imperative in a study of this kind which seeks to analyse how the authority exercised over collective resources can provide developmental outcomes to first establish the framework within which it is managed at the local level. Stool land is regulated by both customary practices and statutory law and it is important to examine how this operates in practice within communities. Thus, I examined how other institutions, apart from chieftaincy, state and non-state, were actually involved in the management of stool land at the local level. In exploring the question I looked also at the nature of relationship between traditional chiefs and all other actors and institutions, and the extent to which these other institutions may constrain or promote effective resource management by the chiefs. Examining these issues provided an understanding of how decisions are made with regards to the management of stool land and revenue utilisation.

The second question is *how in practice do chiefs manage stool land and its revenue?* This question focuses more specifically on the role of chiefs and the traditional system of managing stool land. Since the aim of the thesis is to find out whether chiefly authority over stool land can promote development it is important to explore closely how that authority is actually exercised in practice within the customary and statutory

⁴ The location of the BND and the case study communities will be discussed in Chapter 4

framework. This provides a basis for drawing conclusions on how traditional authority is exercised and its implications for development.

The third question that is explored is *what constitutes the basis of the authority that is exercised by chiefs in practice?* This is closely related to the second questions above and is examined to promote an understanding of the legitimacy of the claims that are made by chiefs in the way they exercise authority in their respective communities. Are there any historical or customary and traditional bases underpinning the arguments that chiefs make to support how they manage stool land? In this regard I also examined the perceptions about the responsibilities and expectations of local citizens from chiefs. This is important in examining whether traditional authority can promote effective leadership for development at the local level. This is because the legitimacy and effectiveness of chiefs depends very much on how their communities perceive them, and how morally acceptable they find their authority.

The fourth question examined two unusual systems of negotiations for land compensation and the provision of public goods. The specific question asked was *what are the outcomes and implications of the negotiations systems for the authority that chiefs exercise over stool land and their communities?* The way chiefs exercise authority over the use of community resources can help or hinder the provision of public goods (outcomes). I examined the negotiations for compensation for land and property affected by mining lease and the provision of public goods at the BND to promote an understanding of the dynamic interplay of political authority. The question therefore explored the extent to which traditional authority is adapting to changing local circumstances, as a result of mining investment and urbanisation. The negotiations provided arenas for the interaction between traditional system of political authority exercised by chiefs and other local level institutions (state and non-state) within mining communities in Ghana and its implications for development in similar settings in Africa. The question also helped to provide an understanding of how the changing local circumstances can have on the authority of chiefs.

1.5 Approach to the Research

Using the Birim North District (BND) as a case study I analysed data to provide empirical evidence for the conclusions drawn in this thesis. Two interrelated reasons explain the choice of the BND for this study. Firstly, since the study is about traditional authority and politics of development this is one of the areas in Ghana where chiefs exercise the legal authority (custom, common law and statute) to manage stool land as

a collective property. This therefore provided opportunity to explore how that affects development at the local level. Secondly, the discovery of gold through the explorative activities of a multi-national mining company provided another dimension to explore the implications of how chiefs manage the revenue from royalties and rents in addition to what is often derived from land transactions. This is examined to find out how that affects the way chiefs exercise authority at the local level. The above are therefore important factors in the BND case study.

The BND provides the opportunity to examine the unusual system for negotiating compensation and public goods in a mining community. This happened within two committees where chiefly authority is exercised within a multi-institutional public space for development purposes. The use of a multi-institutional collaboration strategy for the negotiations had implications for the authority and leadership provided by chiefs within the District. The two Committees were constituted by selected local inhabitants to represent the interest of all the people living in the mine affected communities and state institutions. The study examines how chiefs manage stool land outside of this multi-institutional collaborative forum and explores what happens at the negotiations arenas.

The study analyses data from a set of four case study communities in the District. These are *New Abirem*, *Adausena*, *Ntronang* and *Praso Kuma*. The first three communities are within the areas described as mine affected communities. This is because operations of Newmont have relatively direct impact on the lives of local inhabitants and the representatives of the two negotiations committees are drawn from these communities. The fourth although within the district is not directly affected by activities of the Company⁵. *Praso Kuma* was therefore not involved in the negotiations for compensations as no stool land is required for mining. However, *Praso Kuma* was included in the case study to examine and provide an understanding of the exercise of chiefly authority where there was relatively less wealth to be derived from stool land without the potential influence of mining activities.

1.6 Arguments of the thesis

This thesis questions the notion that it is custom and tradition that makes leadership provided by chiefs effective, and argues that what matters for development is how legitimate traditional authority is exercised in practice. Ghana is a country where chiefly authority is still extremely strong and respected. Chieftaincy commands

⁵ That is Newmont Golden Ridge Limited. It is the company investing in mining in the BND (This will be discussed in section 5.5 and chapters 7 and 8)

considerable authority in land allocation and management and in dispute resolution (Ubink, 2007, 2008; Odotei and Awedoba, 2005; ECA, 2007; Crook, *et al*, 2007; Crook, Asante and Brobbey, 2011; Crook, 2008). Chiefs' legal position as custodians of stool land means that they are expected to manage land only in their capacity as fiduciaries⁶. But the trusteeship principle under which chiefs are expected to manage land has become the subject of contestations. This is because some chiefs often act as though they were the absolute owners of stool land.

Since the colonial period there have always been conflicting claims between chiefs and their subjects over stool land especially in areas of rapid land transactions. The conflicting claims affect the political relationships between chiefs and their subjects and question the legitimacy of the authority of the chiefs. Studies undertaken in the urban and peri-urban areas as well as in mining districts in Ghana, where rapid commercialisation and exchange of land is occurring have shown how chiefly authority over land is being contested (Ubink, 2007, 2008; Kasanga, 2001; Akabzaa, 2000; Akabzaa *et al*, 2007; Tsuma, 2010; Andreasen *et al*, 2011). Despite these contentious and problematic issues about chiefs, the perception about the institution of chieftaincy is that it is important and relevant to society (Ubink, 2007). Although this may be the case this thesis cautions against elevating traditional authority as the most effective form of authority for local development. As the findings in this thesis will show some chiefs are able to adapt to changing circumstances better and use it in ways that facilitate private gains rather than can be realised by their communities. The search for authentic authority which is rooted in cultural values for development should rather be focussed on the use of local cultural repertoires and multi-institutional collaboration (as shown in this thesis) which have local problem-solving characteristics for development.

1.7 The thesis structure

This thesis is organised in nine chapters. Following this is chapter 2 which sets out the theoretical framework for the thesis. I discuss the nature of political authority from an historical perspective to provide an understanding of the influences and changes that have occurred from pre-colonial to the post-colonial period. I focus on the legitimacy of political authority and discuss the literature which argues that the disconnection between pre-colonial and post-colonial forms of authority explains Africa's state of development (Englebert, 2000). I also reviewed the literature on pre-colonial forms of authority across Africa and the effect that colonial administration had on these forms of authority, in particular traditional authority (Colson, 1969). This helped to examine the

⁶ The 1992 Constitution Article 36(8) and 267(1)

discourse on the resurgence of traditional authority linked to the arguments about traditional authority as the legitimate form of authority for development. The literature shows the divergent views on the legitimacy of political authority and points out that throughout the colonial period this was the object of contestation (Crook, 1987). This thesis questions how traditional authority, which has been subjected to colonial influence, can be an effective and legitimate form of authority for development. This is examined in this study. I also examined the concept of co-production in the final section of the chapter to find out how that can help promote development at the local level.

I have indicated that chieftaincy in Ghana, compared to other African countries, is extremely strong and respected. In chapter 3, I focus on chiefs and politics of land in Ghana. This is to promote an understanding of the historical development and position of the chiefs with regards to the development of customary law and the notion of communal ownership of stool land. The background of the nature of traditional authority and how it is derived is important for a study on traditional chiefs in Ghana. Although the focus is on the Akan areas of southern Ghana (because of its relevance for the case study) some comparison is drawn with non-Akan areas in the country. The discussion is on the political authority of chiefs with regards to control over stool land in addition to their customary ceremonial functions. I highlight the effect of colonial rule on the authority of chiefs and the implications for subsequent development of the institution of chieftaincy under post-colonial governments, in particular the Convention Peoples Party. I examine the problematic nature of chiefly authority over stool land and the claims that are being made. This discussion focuses on the implications of urbanisation on the extant notion of community ownership of stool land. The literature on how chiefs exercise authority over stool land questions the custodianship principle under which they are expected to manage land.

Chapter 4 describes how the study was designed and the methodology that was used in this research. I explain the research approach that was used to investigate and analyse traditional authority exercised in practice by chiefs over land and the resulting outcomes based on data collected from field work. I also explained the theoretical basis for the choice of the case study and the rationale of using a set of four communities in the BND. The chapter provides an overview of the BND and explains how the four communities were selected to constitute a case study for the research. This is followed by a description of the methods used in collecting data, the selection and categories of respondents interviewed. I provide an explanation of why and how quantitative data was collected through a popular survey and how I utilised this data. The chapter

provides an explanation for the choice of mixed method approach to data collection and observation for the case study.

This thesis has four empirical chapters. Starting with Chapter 5 I describe the different political actors and institutions with interests and authority in the Birim North District. For each category of actors and institutions, I discuss their legal responsibility and source of authority with regards to stool land and development in the District. I also examine the nature of interaction and areas of collaboration amongst these local actors and institutions. This is to help identify in the subsequent chapters the basis of authority exercised by the different actors and institutions in the negotiations for compensation and public goods. The chapter shows that there are a multiplicity of actors and institutions in the BND with varying levels of authority and interests in land, which perform different roles for the development of the respective communities. The specific details of the analysis on the authority exercised over stool land and the negotiations are examined in chapters 6, 7 and 8.

Chapter 6 analyses the politics of managing stool land and the revenue it produces. It explores the different types of stool land revenue, the framework for managing stool land and how revenue is utilised. Using evidence from field work I examine how stool land is managed in each of the four communities and draw on the implications of the stool land management practices for the authority of traditional chiefs and development of the communities. Interview data is combined with a popular survey to show how traditional chiefs are perceived in the communities based on the way authority is exercised over stool land. I also examine how benefits and revenue from stool land are mobilised and utilised and assess whether or not this is beneficial to the community members. The evidence presented on each community helps in explaining the differences in the popular perceptions about the way chiefs exercise authority over community stool land.

Chapter 7 is the first of two chapters that uses evidence from negotiations taking place in the District as a result of mining investment. The chapter highlights an unusual system of negotiating compensation for land within mining communities in Ghana. The significance of the negotiations forum is that it provides a public space where access to stool land is provided not by traditional authorities alone but with the direct involvement of beneficial users of the land and other representatives drawn from local actors and institutions. The chapter examines the role of traditional chiefs, as well as the other actors, and assesses the implications of the negotiations for the authority of chiefs over

stool land and over their communities. The evidence presented shows that this unusual system of negotiation can be used to prevent dispossession of land and benefits from the community members of stool land.

In chapter 8, I present evidence of what happens in the communities affected by the mining project with regards to provision of public goods. This chapter is also based on the negotiations amongst the local actors and institutions resulting from mining investment in the BND. I examined the multi-institutional arrangement under which the provision of public goods is negotiated. This is explored within the concept of co-production. The chapter also analyses popular perceptions about traditional authority in the provision of public goods. This is followed by examining the outcomes and politics of negotiating development and its effect on the authority of chiefs. The evidence shows that the multi-institutional negotiations provide an opportunity for development since neither traditional chiefs nor the local government authority are able to do this on their own. However, it does shift the expectations of community members from how chiefs use stool land revenue.

The final chapter draws together the main findings of the study and discusses these within the theoretical framework linked to the arguments made in the thesis. The chapter discusses the proposition that it is custom and tradition that makes chiefs effective leaders for development and argues that what works for development is how legitimate traditional authority is exercised in practice. The thesis therefore concludes that:

a) although the authority of chiefs in Ghana is still extremely strong and respected and therefore important for development to take place at the local level in Ghana, chiefs do not help political authority to be effective as expected. Caution should therefore be exercised in elevating traditional authority as the most effective form of locally rooted authority in Africa. It is important to explore the use of local cultural repertoires and multi-institutional collaborations, which can be used to solve local development problems.

b) The BND case study provides evidence for a more nuanced less negative view of how mining companies are working to contribute to development within mining communities.

Chapter 2

The Nature of Traditional Authority and Development: A Theoretical Framework

2.0 Introduction

This chapter sets out the theoretical framework for this thesis. The study is analysed within the context of the authority exercised by traditional chiefs and the politics of development. Politics and development are interwoven with significant impact on the nature of traditional authority in Africa.⁷ It has been argued that understanding the nature of politics, and political relations [institutions], is a prerequisite for development (Hyden, 2006 and Leftwich, 2000). Traditional institutions in SSA have the potential to contribute to development on the continent. For this reason it is important to have a holistic understanding of the repertoire of local cultural institutions that have over the years evolved within societies in Africa.

There is extensive literature about traditional chiefs in Africa because they constitute important political authorities. This chapter examines the nature of political authority exercised in Africa from the pre-colonial to colonial and post-colonial periods. Critical attention is focussed on how the authority exercised by traditional chiefs was transformed at the different political stages of development and how chiefs adapted to these changes in the post colonial period (Crook, 1986, Rathbone, 2000; Dunn and Robertson, 1973). Some recent studies have highlighted the resulting dilemmas of chiefly authority and seem to link these with policies of both the colonial and post independent African governments (Herbst, 2000; Alden-Willy and Hammond, 2001; Englebert, 2002; Oomen, 2002; Buur and Kyed, 2005; Ubink, 2008). Currently in the literature there is the proposition for a more involving role of traditional authorities in development in Africa. This literature shows the contribution that chiefs can make to the development of a modern society (ECA, 2007; Ubink, 2008a; Körling, 2011). I examine the discourse about the resurgence of traditional chiefs within the context of the proposition being made that institutions rooted in customs and norms provide a better opportunity for the development of African people⁸. Before concluding the

⁷ Leftwich, 1983: Chapter 1- Politics is defined as 'all the activities of conflict, cooperation and negotiation involved in the use of, production and distribution of resources, whether material or ideal, whether at local, national or international levels, or whether in the private or public domains'.

⁸ The Africa Power and Politics Programme (APPP) makes the proposition that in many African countries, at the local level, there are more legitimate and effective institutions which could make up for the failures of states to meet the provision of developmental outcomes (Crook and Booth, 2011:7)

chapter I examine the concept of co-production and its relevance to analysing how chiefs and local citizens might effectively collaborate with state and non-state institutions to invest in public goods in local communities. This chapter draws on the literature on the nature of political authority in Africa and the problem of legitimacy in contemporary African states and its implications for development.

2.1 Political authority and development in Africa

There is a body of work that argues that Africa's current state of [under]development is because post-colonial states inherited weak formal political institutions that lacked legitimacy and also the coercive capacity of the colonial regime. This has been further compounded by an economy that is predominantly dependent on the export of agricultural products and/or minerals (Jackson and Rosberg, 1982; van de Walle, 2001; Leonard and Straus, 2003; Sandbrook, 1985; 2005). Post-colonial political leaders were therefore faced with the difficult challenge of securing legitimacy and political authority to design policies for growth. This fragile state of affairs, it has been argued proved to have affected the development of political authority as well as the ability of state governments to pursue effective development programmes (Landell-Mills, 1992; Englebert, 2000).

The literature provides some explanatory factors on what happened in the post-colonial period leading to the current state of Africa's development. Landell-Mills (1992) has stated that African governments' have failed to deliver on the anticipated policies required for development mainly because they have adopted development paradigms, which are often not rooted in local cultural institutions. Post-independence governments lacked legitimacy of authority and pursued development based on models linked to countries of their colonial authorities. Without legitimacy of political authority the capacity of state governments' to design development policies and institutions for growth will be handicapped resulting in economic stagnation and development (Sandbrook, 1986; Englebert, 2000). The implication of this is the development of neo-patrimonial⁹ rule across Africa (Jackson and Rosberg, 1982; Sandbrook, 1985, 1986;

⁹ Neo-patrimonialism is derived from Max Weber's patrimonial authority (Weber, 1968). In patrimonial political systems individual's rule according to their interests and preferences rather than rules of the state. This is distinct from the legal-rational authority where the public and private interests are clearly governed by laws and bureaucratic institutions manned by public officials. In sum it 'incorporates patrimonial logic into bureaucratic institutions'. This political system has been argued to be the core feature of politics in the third world and especially in Africa (Clapham, 1985:2). There are some recent claims that it promotes development (Booth, 2012).

Landell-Mills, 1992; Bratton and van de Walle, 1997; van de Walle, 2001; Englebert, 2000; Leonard and Strauss, 2003; Bates, 2005). However, neo-patrimonialism seems to have had further implications for the problem of legitimacy of African political institutions and weakened state capacity to develop. This is because under this form of rule state resources are controlled by few elites and their close associates leading to further economic stagnation.

Legitimacy as defined by (Crook, 1987:553) is the 'moralization of political authority'; that is, as an acceptance of the 'right to rule' of the authority concerned, of which compliance is more or less voluntary (Weber, 1968 in Oomen, 2005:167; Lintz and Linder, 2004¹⁰). The significance of legitimacy of authority is to be found in Englebert's argument that African states do better at solving the problem of development in the post-colonial period when based on pre-colonial identity. Englebert (2000: 4-5) argues that:

The state is legitimate when its structures have evolved endogenously to its own society and there is some level of historical continuity to its institution. African states are faced with structures of governance created by colonial regimes which were abandoned or taken up after independence by an emerging political elite group. These institutional structures were not the endogenous creations of local history and therefore not rooted in local power relations. Hence, lack of legitimacy.

What this argument suggests is that where there is harmony between pre-colonial and post colonial political structures, political leaders have legitimacy and are therefore free to concentrate on developing and implementing policies that enhance development. They do not require establishing their political authority since their authority is already rooted in society. As a result they channel the states resources into the delivery of social goods and services through the implementation of efficient policies. This further enhances their legitimacy (Englebert, 2000:6). On the contrary, where there is lack of legitimacy of authority, as was the case with post-colonial governments, the new leaders resorted to neo-patrimonial relations as a way of securing their authority and power.¹¹

¹⁰ Legitimacy is based upon the extent to which citizens accept and follow the decisions made by political authorities. Citizens will accept authority when they see political authorities and their decisions as legitimate (Lutz and Linder, 2004)

¹¹ Englebert's analysis point out that neo-patrimonialism is not an African cultural feature but rather the equilibrium outcome of a set of historical conditions, which he characterised as state legitimacy (Englebert, 2000:6).

The above arguments seem to suggest the existence of established forms of political authority in pre-colonial African states which were legitimate and facilitated development.¹² If, as argued by Englebert the existence of pre-colonial form of authority facilitated the formulation and implementation of policies that solve collective action problems in the post-colonial period, then it raises issues about what happens in states that are not based on single traditional identity? This might be achieved through multi-institutional forms of co-production. Traditional authorities and other non-state, as well state institutions, based at the local level constitute respected institutions that have authority to find solutions to local developmental challenges. This study therefore examines whether or not chiefs are able to provide legitimate form of authority for development. In the next section I first examine the variety and complex forms of pre-colonial political authorities in Africa. This is then followed by discussing how colonial rule impacted on the forms of political authority and the implications for development.

2.1.1 Pre-colonial forms of authority

Before the arrival of Europeans in SSA there existed diverse forms of political authority, which had their roots in traditional and customary practices. Colson (1969) outlines the range of political authority and structures in pre-colonial African states by categorising them as those established in centralised states and kingdoms under powerful chiefs and those found within the non-states with no traditional chiefs.

Centralised forms of political authority

Within pre-colonial traditional societies there existed structured, and sometimes militarised, order of authority with powerful chiefs (or religious leaders) at the helm of affairs exercising political authority. These ranged from authority exercised under religious leaders, who claimed legitimacy based on religious orthodoxy and right of conquest. This form of authority was found among the Fulani kingdoms in Niger and Nigeria where political authority was exercised by Islamic leaders. In some jurisdictions political authority was exercised by monarchs (chiefs and kings). Monarch's had the authority to rule by virtue of being drawn from royal lineages of communities in accordance with custom and tradition. This form of authority was found in the Kingdoms of Dahomey and in Ashanti in West Africa. However to some extent how authority was exercised within these kingdoms and chieftains differed. For instance, in Dahomey the king exercised authority as an absolute monarch and could appoint and

¹² 'Authority will be called traditional if legitimacy is claimed for it and believed in by virtue of the sanctity of age-old rules and power' (Weber, 1968:226).

dismiss officials of the kingdom, whereas under the Yoruba political system the king could be likened to oligarchies of ancient Greek (Colson, 1969:40). Political authority exercised by kings of Asante provided another variety of rule by a monarch. The Asante kingdom was made up of a confederacy of independent towns under the leadership of the *Asantehene*¹³ (ruler of its capital town Kumasi). Each of the towns that made up the Ashanti Confederacy was ruled by a council. The councils were directly responsible and accountable to the local citizens who they ruled and represented. Within each town however, there was an association of Young men, who held no office in the town. They were ordinary citizens of the town and usually had a leader, *Nkwankwahene*¹⁴. The young men acted as a pressure group to influence decisions of town councils and could mobilize to demand disposition of local chiefs. The hierarchy of authority under the Ashanti Confederacy ensured some form of local autonomy and allowed each town's councils to appoint and dismiss its officials.

Non-centralised forms of political authority

In some pre-colonial stateless societies there were no traditional monarchs, as above. These societies had no chiefs and were governed through loosely linked segmentary political system of authority. For instance, in East Africa political authority was found in age-set associations. These were territorial or community based associations of initiated men about the same age. Among the agriculturalist *Kikuyu*'s and pastoralist *Masai*'s age-sets leaders were used for the adjudication of disputes between local districts, waging wars and represented their respective age-sets in negotiations with other age-sets in the district. On the other hand lineages often formed the nucleus of local communities¹⁵. Leaders of lineages took responsibility to provide guidance and protection to their members. The leaders' performed activities such as control over property. Groups of lineages formed segmentary lineages for purposes of defence. Early Europeans found this type of political organization in Southern Sudan, Northern Uganda, Northern Kenya and Central Nigeria. A varied form of segmentary system of political authority was also found among the *Dagabas* of northern Ghana and *Tonga* of Zambia. These societies often formed loose political structures with no recognised government and therefore had characteristic weak central authority. Generally,

¹³ *Ohene* means chief (*Twi* one of Akan languages in Ghana) thus *Asantehene* means chief [king] of Asante.

¹⁴ Means commoner but was used to refer to the ordinary young men in the towns without titles.

¹⁵ (Colson, 1969:51-52) defined as small corporate groups of people who traced their relations to another through descent from a common ancestor.

segmentary lineages had no permanent leaders and so political authority was transient at the segmentary level but more established within the smaller lineages.

The above discussion draws out a number of issues about the nature of pre-colonial political authorities before the scramble for Africa (see Colson, 1969). Firstly, that there existed a diverse variety of political authorities in SSA.

Secondly, the diversity of political authority contributed to the different approaches to colonial rule and levels of change when the Europeans first arrived on the African continent. Notwithstanding the diversity of political authorities in pre-colonial African states, Colson (1969: 37 and 48) argues that:

They [Africa states] shared a common concept of office and regards for centralisation of authority under a ruler who controlled outlying districts or provinces through a hierarchy of officials responsible to himself.

It is important to note here that while some political units such as chieftaincy remained relatively unchanged others were completely disintegrated or modified to suit colonial administrative arrangements. The colonial government had the authority to give recognition and maintain some existing chiefs. However, in some areas which before did not have chiefs the colonial authorities imposed newly appointed chiefs. Generally, chieftaincy, in most British colonies, survived from this diversity of pre-colonial political authority and became part of the governance structure of the colonial administration in SSA.

In the next section I discuss the development of the colonial system of indirect rule and how it affected traditional authority in SSA. This is examined to provide an understanding of the implications of colonial administration for chiefly authority.

2.1.2 Legacy of colonial administration on traditional authority

Chiefs' constitute the core of traditional institutions in most SSA countries. From a traditional and cultural perspective the authority that chiefs exercised is expected to be in accordance with custom and tradition, which is the fundamental source of chiefly authority. Leadership provided by chiefs' is one that is often legitimized by the people they rule and therefore makes chiefs' important political authorities in SSA. This might help to explain why chiefs became the fulcrum for the implementation of colonial policies in Africa.

The colonial systems of administration

European domination of SSA was implemented under various systems of colonial administration¹⁶. In the Francophone countries, the French instituted a system of direct rule of administration, while an indirect rule system was implemented in the Anglophone countries. Under the direct rule system chiefs mainly acted as agents of the French administration. This affected the autonomy of chiefs' with respect to decision making. On the other hand indirect rule¹⁷; defined as 'a system for a single government in which native chiefs had well-defined duties and acknowledged status equally with British officials', rested on the principle of incorporating African Institutions into colonial law and administration (Lugard, 1918 in Mann and Roberts, 1991: 20; Smith, 1970:16; Maclean, 2010: 106). Under the system of indirect rule traditional authorities became legally constituted as native authorities to facilitate local governance of the colonies by the British officials who had little or no knowledge of the socio-cultural structures of the continent which they had come to colonize. The goal of the British was to establish a system that was able to 'adapt, as far as possible, the indigenous African institutions' for administrative purpose. From the perspective of the colonial officials this was both economically and politically efficient. Economically, the system allowed fewer European officials who relied on indigenous political institutions to govern. Also for political expedience, the British drew on the legitimacy of chieftaincy to govern thereby reducing opposition to British rule (Maclean, 2010:106)

As a result of the above chiefs became an integral part of the colonial system of governance and indeed became front runners in the administration and development of their communities.

The colonial system of indirect rule

Mann and Roberts (1991) outline the main characteristics features and factors that enhanced the development of the colonial system of indirect rule, which was officially developed in northern Nigeria as follows:

- a) The British recognised the *Emirs* (Islamic traditional leaders) as native authorities and used them as intermediaries between the local peoples and the colonial state. The *Emirs* were empowered to maintain order, adjudicate conflicts, organise labour and tax collection;

¹⁶ Apart from the British and French there were the Portuguese, Belgians and German colonial regimes.

¹⁷ Or Native Administration, as it was referred to in some countries (e.g. Sierra Leone) was introduced in the mid-1920s in British Colonial Africa

- b) The establishment of Native courts which were presided over by Islamic judges. These courts applied customary and Islamic law together with English law as was embodied in rules drawn up by the courts or chiefs and approved by the Governor of the colony¹⁸. The courts had the authority to apply the death penalty and,
- c) *Emirs* were given the authority to impose and collect tributes from their subjects and to maintain Native Treasuries. Taxes were assessed by the English authorities, but were collected by the Native Authorities. Additionally, indirect rule maintained that customary law should be applied among locals, unless where it failed “the repugnancy test” or contravened local statutes (Mann and Roberts, 1991:21).

The above shows how the traditional authority of *the Emirs* was left intact while bolstering it with statutes. Generally, the Europeans sought to colonise the African countries and to rule with minimal resistance (Smith, 1970; Crowder and Ikime, 1970). As a result under the indirect rule system the British fostered collaboration with the chiefs in all their colonies rather than pursue direct rule as was the case in the French colonies (see above).

The literature about colonial rule in Africa suggests that before indirect rule was officially introduced in Northern Nigeria similar administrative and governance arrangements, which allowed indigenous traditional leaders to be involved in local administration of the colonies, were already in place in the Gold Coast (now Ghana) and Sierra Leone (Crowder and Ikime, 1970). For instance, in Sierra Leone the introduction of the Native Administration system of colonial rule was preceded by a system called Protectorate Administration under which traditional authorities had been given a limited role. This was established when the country became a British Protectorate in 1896. Traditional authorities were involved in the maintenance of law and order. Under this chiefs resolved disputes on marriage, divorce, rituals and property inheritance (Kilson, 1966:14-18). The system of native administration as was practiced in Sierra Leone was therefore similar to what was developed in Nigeria, although indirect rule is said to have been introduced in the country in 1937.

Also in Uganda the British found the Buganda system of traditional rule a convenient tool to establishing their hegemony in the country. The centralised hierarchical

¹⁸ However, it is worthy to note that what colonial officials treated as established customary law was itself the product of historical struggles unfolding during the colonial period.

administrative structure of the Buganda Kingdom (suitable for indirect rule) was adopted and used as a model over the other geographical areas of Uganda; to the Eastern, Northern and Western parts of the country. As in all territories where indirect rule was introduced, in Buganda too the chiefs were responsible for tax collection, maintenance of law and order, promotion of cotton production, conscription of forced labour for construction and maintenance of roads and for the colonial state (Jørgensen, 1981:186). The Buganda Kingdom had its own governmental structure headed by the *Kabaka* (King), who served as the link between the chiefs and the colonial officials, except for tax collection where the chiefs were directly accountable to the colonial state.

An important characteristic feature of the system of indirect rule was the passage of succession of laws by the colonial government. These sought to formalise the authority of chiefs to enable them to implement policies of the British authorities. For instance, in the Gold Coast (now Ghana) several legislations were passed to incorporate chieftaincy structures into the colonial system of administration (Maclean, 2010:106). This included the 1925 Ordinance to establish Provincial Councils in the three territories of the Gold coast; the 1927 Native Administration Ordinance which was passed to strengthen the authority of chiefs and Councils; the 1935 Native Authorities Ordinance established to unify the central and native administration and also allowed native authorities to be appointed by the British Governor. Also the 1939 Native Treasuries Ordinance was passed to regulate the management of revenue by chiefs. Prior to the 1939 Ordinance chiefs collected tributes and managed tax and land revenues. The 1944 Native Authority Ordinance required chiefs to impose direct form of taxation on their subjects. The impact of these laws on the authority of traditional chiefs was twofold: Firstly, it can be argued that this was an interference that weakened the traditional authority exercised by chiefs. This was because every action taken by chiefs had to conform to provisions of the relevant Ordinance. Secondly, the regulations provided chiefs opportunities to perform various roles at both the local and national levels. These had implications for development and the authority of chiefs¹⁹.

¹⁹ See Crowder and Ikime (1970), and Mann and Roberts (1991)

2.1.3 Implications of the colonial system of indirect rule for traditional authority

Firstly, traditional authorities were transformed by the colonial regime into a neo-traditional elite group²⁰. What is significant though is that throughout this period chiefs always maintained their claim to traditional authority. The literature has shown that indirect rule was premised on developing indigenous institutions towards increasing local self-government through a decentralized approach to administration. Indirect rule thus facilitated the maximization of the power and maintenance of traditional authority. The long term impact was nevertheless to create wealthy and powerful neo-traditional elite especially in Nigeria, Ghana, Uganda and Sierra Leone, different from the Francophone colonies. The French system allowed for the direct intervention in the governance of communities through local chiefs. The legacy of colonial administration therefore shows that the British and French 'had contrasting normative views about who they were governing and how best to go about it' (Crowder and Ikime, 1970: xix; Maclean, 2010:100).

Secondly, although the systems of colonial administration under the British and French differed in many respects both systems undermined the effectiveness of traditional control mechanism on potential abuse of chiefly authority. For instance, the powers of chiefs were sometimes used to the disadvantage of their subjects since their actions could no longer be questioned by extant traditional mechanisms, such as the power of Council of Elders (in southern Ghana). This was because state laws now regulated chiefly activities. Indigenous chiefs became more or less dependent on the colonial administration. This affected the pre-colonial independence of traditional authority exercised by chiefs. Thus, Brempong (2007) argues that although colonial authority did not interfere with the extant customary and religious functions of the chiefs in the Gold Coast period, significant political changes were made to their authority through Ordinances enacted between 1874 and 1941. These redefined the functions of native authorities (see section 2.1.2. Among others, chiefs were required to maintain a good treasury for the provision of public goods and services (Brempong, 2007: 3). Thus, chiefs were no longer in control of customary revenue such as taxes and levies. This had significant impact on the economic base of chiefs' authority.

Thirdly, the enactment of laws to strengthen the authority of chiefs under colonial rule in reality did undermine the legitimacy of their authority because they now derived authority from the colonial administrative system. There was therefore ambivalence

²⁰ They were not a purely traditional elite owing to their role and involvement in colonial administration which facilitated access to authority, power and wealth

about their role. They were essentially an appendage to the colonial administration and had to exercise their authority in ways that did not conflict with the policies of the British. They could therefore be gotten rid of by their masters if they failed to keep order or became too corrupt, although the British were very reluctant to do that. At the same time they were expected to act in the interest of their subjects, which could not be realised under the circumstances and subsequently led to opposition from their subjects. The policies of some post independent states in Africa, such as Ghana and Uganda, reflected strong opposition to chiefly authority (see section 2.2 and chapter 3).

The political circumstances of the immediate post-colonial period led to policies that were aimed at relegating the effectiveness of traditional authority. However, recent literature on traditional authority seems to highlight the significant role of chiefs in governance and development in Africa. The argument in the literature is that this is happening as a result of the failures of state institutions, leaving neo-traditional authorities to take over challenges for development in local communities (Buur and Kyed, 2007; ECA, 2007; Oomen, 2005; Ubink, 2008; Cammack *et al*, 2008). These claims are examined further in the next section.

2.2 Resurgence of the role of traditional chiefs in Africa's development

As a result of the implications that colonial rule had for the authority of chiefs (see section 2.1.3) the African elites who took over the helm of affairs in the newly independent states pursued deliberate policies to weaken (as in Botswana and Ghana) or abolish (as in Uganda and Tanzania) the institution. In Ghana this led to the abolishing of the native courts system which was adjudicated by chiefs thereby denying them any formal role in the settlement of disputes. Also, the Nkrumah led Convention People's Party (CPP) passed legislations that took away the legal responsibility of chiefs in the management of land and revenue collection.²¹ It is to be noted that the control over land resources constituted an important economic base for chiefs in *Asante* and *Akyem* (Rathbone, 2000; Firmin-Sellers, 1996). In Botswana the responsibility for health, land allocation and levying of taxes was passed on to newly established District Councils and Land Boards (Ubink, 2008a:10). In effect the prominence that chiefs had received under colonial administration was drastically eliminated across SSA states.

²¹ The State Lands Act, 1962 (Act 125) and The Administration of Lands Act, 1962 (Act 123)

However, current literature points to increasing attention and recognition for the restoration of traditional authority in these countries. This is because traditional authorities are regaining formal recognition and playing important roles in local governance, dispute settlement and resource management in SSA countries such as Ghana, Uganda and Niger (Buur and Kyed, 2005; Crook and Addo-Fenning, 2005; Körling, 2011; Ubink, 2008a; ECA²², 2007). Thus, the proposition that what works for Africa's development is rooted in the social and cultural norms and practices might find relevance in the current literature. Booth (2011:7) has suggested that:

Institutions that work best for development within the African context are ones that by design or otherwise have a local problem-solving character and build on relevant components of the available cultural repertoires, whether in the form of extant beliefs or values or in the form of widely recognised behavioural templates.

The above proposition has been made following from observations that over the last 40 years continued developmental assistance to African states have not been able to yield the expected developmental outputs to better the lives of the people since post colonial period. Thus, scholars of the Africa Power and Politics Programme (APPP) proposed that what might work better for Africa's development might be found in some pragmatic approaches rooted in the cultures and society of the people. From the perspective of the APPP these are institutions that 'work with the grain' of African societies and are rooted in extant traditions and cultures (Booth, 2009:3). Embedded within the traditions and cultures are a repertoire of local institutions that perhaps are adaptive to the way Africa people are able to utilize their own resources to produce developmental outputs for the wellbeing of community members.

In societies where chieftaincy exist chiefs have always performed customary functions, which includes exercising control over local resources and people, organizing and mobilising local people for community development and often acted as gate keepers of the community and intermediaries between the local inhabitants and the government. Politically, they are a strong force and also serve as the conduit for political lobbying for votes at the local level (Nugent, 2004, Buur and Kyed, 2005; Körling, 2011). The discussion above suggests reasons that partly accounted for the role of chiefs' in colonial administration, especially in the British colonies. However, the role played by chiefs in colonial administration turned them into political enemies of post independent African leaders. As a result these post colonial leaders worked to curtail chiefs' involvement in local administration and resource management.

²² Economic Commission for Africa

Notwithstanding all the attempts to eliminate the power of chiefly authority in SSA, chieftaincy survived and has subsisted till date in most of Africa; even in countries such as Uganda where it was completely abolished. Thus, the New Constitution of Uganda in 1995 has given recognition to the customary role that chiefs play in the management of land resource management (Herbst, 2000; Englebert, 2002). Generally, chiefs in Ghana, apart from their customary functions now play important roles in local governance, resource management and as agents of development (Dunn and Robertson, 1973; Addo-Fenning, 2008; Crook and Addo-Fenning, 2005).

One explanation for this recent trend is noted by Brempong (2007: 122) who asserts that in Ghana 'a ruler who assiduously succeeds in attracting support for development²³ is acclaimed as a progressive ruler'. This is in spite the fact that by law District Assemblies (including Area and Unit Committees) are responsible for planning and implementation of development at the local level. Oomen (2005) also argues that in South Africa traditional chiefs, apart from their traditional and ceremonial functions, perform functions that central government would have done or has failed to do. Chiefs have been found to offer support to elected local administrative officials in the provision of local infrastructure and development projects. As a result some chiefs were able to lobby and attract projects to their area. Chieftaincy is therefore viewed as a localised institution of the state. Oomen argues further that except for the developed urban areas where there is a vibrant influence of the local government, local inhabitants continue to rely on traditional leadership for their economic and socio-cultural needs (Oomen, 2005; Maclean, 2010). Furthermore, Ubink (2008a:5) contribution to the discourse on the resurgence of African traditional authorities' roles in governance and development suggests that this has been partly due to various interests by development partners, donor organizations and by African governments themselves.

The role of local institutions [including chieftaincy] in development has also been studied by scholars of APPP. From 2005 to 2012 the APPP focussed on researching forms of governance and institutions at the local level in Africa that 'work' for development. The emphasis of this research project was on finding institutions that are rooted in African cultures and have development characteristics. The institutions do not have to be formally created or designed by externally funded bodies. This implies that they should have evolved from locally recognised norms and practices. The APPP's proposition on this is noted by Crook and Booth (2011: 99) that:

²³ Reference to water, schools, electricity and modern places of convenience

Greater recognition is needed that 'what works' may be rooted in very localised and complex ways of doing things which co-exist within forms of governance which, out of necessity are not formalised and penetrated by local arrangements and pay-offs, deals and political clientelism.

These forms of 'locally rooted' institutions might be found within a range of local 'cultural repertoires' that facilitate development. The aim of the APPP was therefore to unravel, if any, local problem solving strategies for development by institutions which are not necessarily the creation of the state system but might be constituted by an integration of both state and non-state actors.

The authority exercised by chiefs during colonial rule was perceived negatively by the emerging political elites who had become powerful and taking over the realm of affairs in the period leading up to and immediately after independence. The politics of post colonial governments in the newly independent states of SSA such as Ghana and Uganda resulted in the introduction and superimposition of institutions on existing traditional structures. In Ghana in particular there seem to have been a deliberate political strategy of the CPP government to exert state control over traditional authority and land resources (discussed in sections 2.1.3 and 3.1.1). The states' control over land and invariable chieftaincy allowed it to exercise authority over access to land and investments in mining. Subsequently, post independence governments in Ghana since the CPP have either pursued policies that enhanced these controls or have rather sought to empower chiefs to exercise authority over land, as it was before independence. For instance, during reign of the National Patriotic Party (NPP) government (2000-2008) chiefs were gradually assuming more authority, especially over land, compared to what pertained under the CPP government. This is because at that time the CPP perceived that powerful chiefs who controlled land revenue provided finance for, and supported opposition parties. Since then chiefs' have become more or less caretaker managers of mineral resources for the state and expected to act as fiduciaries to stool land. But the political relationship between state authorities and chiefs' continue to evolve. One might therefore argue that in Ghana the authority that chiefs' exercise over land reflects the political history of post colonial governments.

It is as a result of the above that this study examined whether traditional authority can be an effective legitimate form of authority for development in Ghana, with implications for Africa? Given all that has been analysed about the problematic nature of chiefly authority since the colonial period do chiefs represent the form of authority that can bring development?

2.3 Is Traditional authority a legitimate form of authority for Africa's development?

In Africa, people tend to give preference to the authority of traditional chiefs over that of political leaders because of the apparent lack of trust in politicians and the state system. This may appear to be the case, although legitimacy of the authority often exercised by their traditional leaders, especially over collective resources such as stool land in Ghana, continues to be problematic. Arguments about authority in Africa have always been a product of the failure of legitimacy after independence. The literature on authority and legitimacy of African leaders provides divergent opinions about what has been explained by scholars who have studied governance and development in Africa (see section 2.1).

The problems of authority and legitimacy experienced by post-colonial states are often explained in terms of a 'colonial legacy'. Thus, Crook (1987) examined the validity of this proposition in the case of Ghana by analysing changes in the kinds of legitimacy claimed by the state from the colonial period through decolonization to independence. The conclusion drawn by Crook is that:

Whilst the most enduring legacy of colonialism was the attempt to found legitimacy in particularistic, indigenous systems of law, the decolonization process failed to transfer any one of the new, competing claims to legitimacy which emerged (Crook, 1987:552).

The above seems to underscore the point made that throughout the colonial period the legitimacy of authority was the object of contestation. Indirect rule supported chiefs as 'natural rulers' but this produced difficulties and weaknesses of the system. It legitimized chiefs' authority by upholding indigenous law and custom through the native courts system (Ibid: 555). This led to the transformation of what was considered by local African courts at the time as traditional custom relating to private property, property and crime into judicially recognized law. Thus Chanock's argument that what was upheld as customary law was the creation of the native courts crystallized in the historical context of the economic and social conflicts of colonial society. It could therefore not have been an authentic customary law (Chanock, 1998: 8-10, 22). This, Ranger (1983) argues was an 'invented tradition' which in practice reflected colonial circumstances. On the other hand this contradicts Crook's argument that the law of the African courts during colonial period was not all invented by the colonialists; African chiefs and litigants were the original sources.

Despite the above claims that traditional authority was partly invented some scholars have suggested that the authority and leadership provided by traditional institutions is the legitimate form of authority that Africa needs to develop (Landell-Mills, 1992; Ayittey, 1992 and Englebert, 2000). For instance, Englebert (2000) emphasises the importance of modern states being based on pre-colonial ethnic identity and argues that most Africa states suffer from weak capacity to develop because the post-colonial state governments faced the challenge of establishing hegemony over heterogeneous society.²⁴

Ayittey (1992) provides a polemical argument that traditional authority is a more legitimate form of authority and that the failure of postcolonial African leaders to integrate the 'democratic' principles of traditional African institutions was to be blamed for the state of the continents political development. Ayittey's argument is derived from a study of the political system of the Igbo people in eastern Nigeria. In this study it was found that chiefs consult on all issues and indeed decisions were only taken after series of consultations and consensus with Council of Elders and in some cases with the whole community. Based on this Ayittey argues that there were controls on the chief's powers and authority, which formed the basis of legitimacy for actions taken by chiefs. Traditional chiefs therefore govern according to the will of the people (Ayittey, 1992). According to Ayittey this is in tune with democratic principles, and so the traditional African chief is not an autocrat as portrayed by observers who appear not to understand the nature and source of power of traditional authority. The conclusion drawn from this is that traditional institutions were more democratic and egalitarian and have the potential relevant for Africa's development²⁵.

However, as discussed above, what actually existed in the more centralised Kingdoms of Asante and Dahomey and in the Emirates of Northern Nigeria was that there were powerful and highly authoritarian chiefs. It can therefore be argued out that what happened in some pre-colonial village states²⁶ cannot be taken as a generalisation for African states. In those village level segmentary states chiefs were less powerful and

²⁴ See also page 14 on Englebert's assertion that the problem with Africa is its lack of legitimacy of authority because it is based on pre-colonial political authority.

²⁵ But *Igbo* chiefs are very special (they were village level elders within a segmentary lineage society which had no overarching state authority) and cannot be generalized as typically of Africa.

²⁶ See Mengisteab (2005:185-197). The *Igbo* village assembly in eastern Nigeria compares with the *baito* system in Eritrea, the *kgotla* in Botswana and the *gada* of Ethiopia. These prevented the concentration of power in an institution and have a common characteristic feature of consensual nature of decision-making in areas of resource allocation and law-making.

had no overarching state authority. This could not therefore be the basis of the 'democratic' and legitimate nature of the authority of traditional chiefs. Despite claims that seek to promote traditional chiefs as effective and legitimate authority for development, post colonial African leaders failed to adopt the so called 'democratic' principles in traditional institutions. However, there are countries that have been able to successfully integrate traditional (indigenous) and modern state governance systems. These include Botswana (also Lesotho and Swaziland), where traditional Tswana chiefs play key roles in governance and remain respected and influential at the local level (Landell-Mills, 1992).

A review of the literature shows that post-colonial African political leaders did not pursue governance structures that had the potential of holding them accountable to the people. In SSA there was a preference in the 1960's for one-party autocratic political systems. This provided opportunities to control power and have access to state resources. For instance, Nkrumah of Ghana, Kaunda in Zambia, Nyerere of Tanzania and Houphouet-Boigny of Cote d'Ivoire consciously pursued political systems (one-party states) that effectively subdued the development of opposing parties and in the process declare themselves life presidents of their respective countries. Houphouet-Boigny is noted to have remarked that "there is no number two, three or four..... in Cote d'Ivoire there is only a number one: that is me and I don't share my decisions" (Ayittey, 1992:64). Perhaps what the post-colonial leaders of SSA found worthy of emulation about traditional authority was the use of symbolic titles that dignified chiefly authority in African chiefdoms²⁷. This may seem to show that chieftaincy is a more legitimate form of political authority in Africa. Perhaps Ayittey's argument resonates and finds its roots within the views of those who have argued that the nature of post colonial political structure lacked legitimacy for the leaders at the time. However, it is to be noted that legitimate authority does not have to be 'democratic'. It can be based on religious belief, or belief in the divine character of the king.

2.3.1 Role of traditional authority in public goods investment

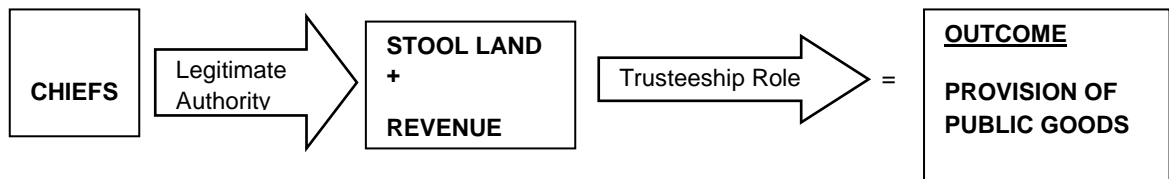
It has been argued above (see section 2.1) that Africa's developmental challenge has been partly because political authority is not rooted in pre-colonial forms of authority, which was based on traditional identities and mostly respected (Englebert, 2000). The problem today is about legitimacy of authority linked to state identity. Thus, post-colonial African countries (e.g. Botswana, Lesotho and Swaziland) that were able to integrate traditional authority with modern system of governance have done better at

²⁷ For instance, Ghana's first President used the traditional title *Osagyefo* (warrior)

development compared to countries that experienced a disconnection between pre-colonial and post-colonial forms of political authority (Landell-Mills, 1992). However, in SSA countries such as Ghana and Uganda, although traditional authority was powerfully exercised in pre-colonial and colonial periods it was subjected to strong political controls by their respective post-colonial governments. This, the literature shows, affected the state of development in these countries where traditional authority could not be effectively incorporated into the emerging political structures because of the potential divisions it could create.

This thesis would show that legitimacy of traditional authority alone may therefore not account for development in Africa. What matters for development is how political authority is actually exercised in practice. This is important especially in the context of southern Ghana where chiefly authority over community resource such as stool land is expected to be exercised in a way that benefits all the members of a political community. Custom and statute has provided chiefs with legitimate authority to control stool land and the revenue it creates and are bound by law to manage stool land in fulfilment of the fiduciary role they are expected to play. This is because although stool land is under the authority of chiefs, there are a wide range of interests and rights in land. These rights are held by a range of actors and institutions such as the family heads, community members who hold customary land rights in land and those that have acquired legal determinable interests for investment, as well as state regulators who constitute the Public land Sector Agencies. All these actors have interest in how land is managed and administered for development²⁸. However, chiefs' reinterpretation of extant customary law and claims to 'own' stool affects the level and quality of outputs to be realised from their management of collective resources (see Figure 1 below). This contradicts the fiduciary principles under which chiefs are bound by law (the Constitution) to manage stool land. Land therefore presents an interface for contestation between traditional and modern systems over authority to manage the wealth derived from land.

²⁸ See Chapter 3 for types of interests in stool land

Figure 1 Expected role of chiefs' in public goods investment

Source: Author, 2013

2.3.2 Decentralisation, urbanisation, mining and public goods investment

Notwithstanding the above argument modern concepts of local governance such as decentralisation have placed emphasis on state institutions to plan and implement development programmes for respective local communities. Decentralisation policies being pursued by modern states have therefore shifted responsibility for local development to local government authorities. In Ghana District Assemblies (DA) have the legal mandate to ensure development. Thus, the planning and implementation of development might appear now to be mainly the responsibility of the state rather than traditional authorities, although some local inhabitants in parts of southern Ghana where chiefs still control stool land, might still look up to their chiefs.

Also mining, urbanisation and the increasing demand for effective land management systems presents challenges for the ability of chiefs to provide development using revenue from land. Attempts made by post colonial governments to control customary lands under chiefs and the regulatory measures that were put in place and recent commercialisation of land, which provides an opportunity for wealth creation have led to contestations about chiefly authority over land. In urban and peri-urban areas chiefs' engage in land transactions as if there were land lords and treat stool land revenue as private income. Furthermore, studies conducted in some mining communities in Ghana strongly critiques the practice whereby mining companies negotiate compensation entitlements and resettlement packages with traditional chiefs when stool land is acquired for mining projects (Akabzaa, 2000; Akabzaa *et al*, 2007; Tsuma, 2010; Ayelazuno, 2011). Generally, the conclusion in the literature is that existing practices of compensation and royalty payments for collective resources through local chiefs seem to only benefit a minority group of people leading to property dispossession amongst the majority of community inhabitants (Akabzaa, 2000; Akabzaa *et al*, 2007; Yankson, 2010; Tsuma, 2010, Ayelazuno, 2011).

In recognition of the problems and contestations (as noted above) about chiefs control over stool land and the revenue it generates mining companies are facilitating the developing of new approaches that allow access to land for mining and minimising the

potential loss and dispossession of property to citizens in their operational areas. As a result various forms of local arrangements are being developed to facilitate investments in public goods. One such approach is co-production involving a variety of local actors and a mining company for investment in public goods.

This thesis therefore explored the concept of co-production and its relevance for the provision of public goods in the BND. The relationship between the actors and institutions identified in the mining affected communities in the BND and the provision of public goods for development is conceptualised as a *multi-institutional form of co-production*. I use the notion of co-production to help understand how this might lead to development in local communities. Thus, in the next section I discuss the concept of co-production and use it to examine how this might help to provide explanatory account for the observations and workings of the multi-institutional collaborative arrangements for development in the Birim North District in Ghana.

2.4 The concept of co-production of public goods

The state, through local government authorities as in Ghana, might share the responsibility to provide public goods for the development of local communities with other non-state institutions such as Non-Governmental Organisations, churches and corporate institutions. The literature on public goods provision in developing countries shows that this is occurring under various arrangements often as a result of the state's weakness in service delivery (Ostrom, 1996; Joshi and Moore, 2004; Masud, 2002; Olivier de Sardan, 2011). Joshi and Moore have described these local arrangements which have become prevalent in the developing countries as 'unorthodox' co-production arrangements for the provision of public goods.

Following from the conceptualisation of what may constitute public good by scholars of the APPP the term is used in this study to refer to all physical infrastructural facilities, public order and regulations (to guide the use of facilities) that contribute to the attainment of developmental public outcomes (Cammack and Booth, 2008). Public goods (including services) thus extends beyond the classical economist definition which limits it to those goods that tend to be non-excludable (that are available to all and no one can be denied access to a service paid for by others) and non-rival (when a specific good can be enjoyed by more than one person at the same time). Leonard (2000:8) has stated that 'public goods exist when the benefits of a service 'spill over' to other members of the community'. Often it is the state that tends to provide these public goods, as from an economic point of view there is no incentive to invest in a

good that cannot be excluded from being consumed free of charge (Olson, 1965). However, the literature on the provision of public goods shows that this can occur under various forms of co-production arrangements.

As pointed out in section 2.3 above globalisation, urbanisation and democratisation now means that the provision of public goods is no longer the responsibility of only the state. Public goods might be co-delivered as a result of the interaction amongst forms of institutions and actors under various local level arrangements such as co-production. Ostrom (1996: 1073) defined co-productions as “a process through which inputs used to produce a good or services are contributed by individuals who are not in the same organisation”. By employing this concept Ostrom shows that in Brazil public officials actively encourage citizens’ participation in the production and supply of low cost sewage systems to poor communities. The citizens cooperated with government officials and were involved in the planning, construction and maintenance of sewers (Ostrom, 1996:1078). Similarly, the literature also shows that this is being done through a diversity of ‘hybrid’ institutional arrangements. It is now more common to find citizens, non-governmental organisations and the state engaged in various forms of collaborations to provide public goods of immediate benefit to the local community (Lam, 1996, Masud, 2002, Joshi and Moore, 2004, Cammack, 2011; Olivier de Sardan, 2011 (a) and (b), Workman, 2011; Leinweber, 2012).

For instance, Masud’s case study, which focused on citizens working closely with state police in Karachi to improve policing, has been described as a hybrid arrangement for the provision of public services due to the breakdown of conventional governance arrangements (Masud, 2002: iii and 1). The citizens, comprising mainly voluntary non-political groups of influential business people were given formal authority by the Governor of the city to make contribution to the provision of security in the city of Karachi, which was becoming intolerable. The groups formed the Citizen Police Liaison Committee (CPLC) and used own funds to provide the local police with a computerised data base of crime in the city. This was to facilitate the police in detecting and combating serious crimes such as kidnappings for ransom that were occurring in the city. The CPLC worked in close collaboration with the local police to improve security and policing in the city (Masud, 2002; Joshi and Moore, 2004). The relationship between the CPLC and the police was one of partnership between state and non-state actors to provide a public service that the state, was not able to provide alone. Masud describes this as a ‘hybrid’ arrangement and used the term co-production to define the provision of public (services) goods through an institutionalised, long term relationship

between state agencies and organised group of citizens, where both make substantial resource contributions (Masud, 2002:28). Furthermore Joshi and Moore expanded Masud's definition of co-production and defined public services to include regulation. They also argue that:

In poor countries services are often delivered through unorthodox organisational arrangements which tend to be assumed as relics of 'traditional' arrangements, which are undesirable and ineffective and unworthy of serious attention (Joshi and Moore, 2004:45).

These arrangements were often recent and represented institutional adaptations to specific political or logistical circumstances. Co-production in using these unorthodox local repertoires appears to be relatively widespread in poor countries as a result of a number of factors including, weakened government capacity in public goods provision, rapid urbanisation and globalisation which all have affected development. Co-production therefore represents the available alternative to the provision of public services in developing countries. The question is what makes these arrangements workable and acceptable to local citizens. Above all there is the need to seek understanding of the workings of these arrangements in terms of what makes them more or less affective (Joshi and Moore, 2004:31).

Joshi and Moore (2004) articulate their argument with the analysis of two cases: the CPLC in Karachi (see above) and the Ghana Private Road Transport Union (GPRTU) in Accra, Ghana. The GPRTU case study was about a private association of owners and employees in the road and transport sector of Ghana. The GPRTU was the creation of an arrangement between the military government²⁹ that ruled Ghana in the 80s (1987) and the private association in the collection of taxes from its members. This brought about improvement in the collection of income taxes from the informal and fragmented private sector. A common feature of the two unorthodox arrangements above is that they have helped to fulfil a core state responsibility for its citizenry (Masud, 2002:38).

Furthermore, Joshi and Moore categorised institutional co-production into two. What they have labelled as (1) *governance drivers of co-production*, which takes place where government no longer provides certain services very effectively and as a result organised groups of citizens with something at stake to move in to help shore them up . The CPLC and GPRTU are examples; and (2) *the logistical drivers of co-production*; this refers to situations where some services cannot be effectively delivered to the

²⁹ That was the Provisional National Defence Council (PNDC)

ultimate recipients by state agencies for reasons that are more 'natural' because the environment is too complex or variable and the costs of interacting with very large numbers of poor household are too great (rural areas). To that extent institutional co-production may be an effective means of meeting some of these logistical challenges. This is of particular relevance to the tripartite negotiations arrangements under the Compensation Negotiations Committee (CNC) and Social Responsibility Forum (SRF) in the BND (this will be discussed in chapters 7 and 8). However, the BNDA case shows an acceptable variant of the Karachi and Accra case studies above.

Mining investment in the BND and the incidental requirement for access to large tracts of land had implications for investment in public goods. To address some of the emerging challenges a collaborative multi-institutional arrangement was developed to facilitate the provision of better public goods. Figure 2 shows the resulting interactive forum established for planning and implementation of public goods with better outcomes than might be provided by the individual institutions.

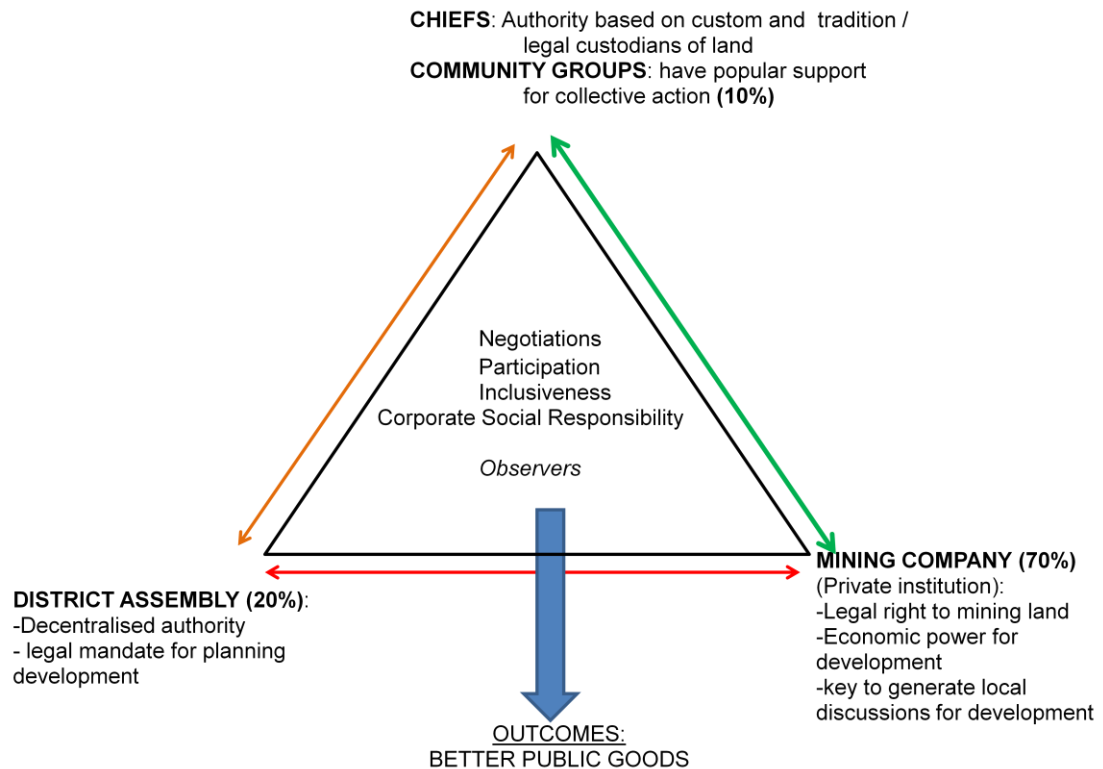
The key actors and institutions and the nature of relationship between them are represented with the triangle in Figure 2. Broadly the three key institutions that form the multi-institutional co-production arrangement are: (1) traditional authorities and community groups of mining-affected people, (2) the BNDA and (3) the mining company, Newmont. These entered into an agreement which is referred to locally as tripartite agreement (an agreement amongst the three main parties that constitute the forum). The arrangement creates an arena for multi-institutional interaction and collaboration resulting in co-production of public goods. It also represents an interface for interaction between traditional and modern systems for development. This is because chiefs' are by custom and statute expected to exercise legitimate authority, as fiduciaries, over stool land in which individual members of the community have varying interests. At the same time local government authorities, such as the BNDA, are empowered by law to plan development at the local level within modern concepts of decentralisation. However, mining investment by the multinational private company, Newmont, are key to initiating discussions about investment in public goods and thereby facilitate the process of collaboration between the two systems of authority (traditional and state) for development in mining affected communities in the District. As a result, under the tripartite arrangement the BNDA not only exercise its legal mandate over planning and implementation decisions but is also expected to contribute financial resources (up to 20% of total costs) for investment in public goods in respective mining affected communities.

The multi-institutional arrangement shown in Figure 2 and the important role of the mining company might be due to the Company's attempt at fulfilling a Corporate Social Responsibility (CSR) in their areas of operation³⁰. The fulfilment of this social obligation in the mining affected communities of BNDA contributed immensely to the establishment of a Social Responsibility Forum (SRF) where the company contributes up to 70% of total cost of all projects agreed for implementation towards the provision of public goods (this would be discussed further in chapter 8).

From the above it could be realised that mining investment in the BND created some level of interdependence amongst the three main categories of institutions; the chiefs and community groups, the mining company and DA. Each of these institution derive its authority from one of the following; custom and tradition, statute or the popular recognition of that authority. The level of participation and inclusiveness of both ordinary citizens of communities affected by mining, and bureaucrats and other professionals (acting collectively as observers) to engage in negotiations helps to generate acceptable solutions to collective action for the provision of better local public goods (see also chapter 8).

³⁰ CSR is a concept whereby companies do not only fulfil their legal expectations but allows them to go beyond compliance and voluntarily integrate social and environmental concerns in their business operations and in their interactions with their stakeholders (Yankson, 2010:358). It ensures that companies investing in a community respond to the social, economic and environmental expectations of society. *Social licence* to operate refers to the approval of local communities to enable companies to proceed with a project (<http://sociallicense.com/definition.html> [last accessed on 01/09/2011])

Figure 2 The concept of multi-institutional co-production



Source: Author, 2013

I draw on the literature about political authority and the analysis of the multi-institutional local arrangement for the provision of public goods and argue that the observations made at the BND represent a form of co-production for development. Although I will show in this study that under the multi-institutional arrangements in the BND there remain important issues about what will make the role of chiefs effective and accountability within these tripartite committee. This might require an effective regulatory role of the state.

Perhaps some lessons for the above might be drawn from Lam's (1996) case study of irrigation associations in Taiwan which examined the successful experience of irrigation governance and management in Taiwan as a means of understanding how joint efforts can be established and sustained through institutional arrangements (Lam, 1996:1039). Lam argues that high degree of complementarities between government officials and farmers is necessary for the effective provision and production of many public goods and services. This conclusion suggests that the state still has a very important role under co-production arrangements to ensure standard provision of public goods. The lessons from Lam's case study are of relevance not only to irrigation management but can be drawn on to understand institutional forms of co-production.

While different forms of co-production arrangements have been noted in the literature what is relevant for this study is the way traditional chiefs and local level institutions have collaborated with a mining company to produce different kinds of public goods according to specific needs of communities, such as schools and health care facilities, in the BND under specially agreed local tripartite arrangement. This is in spite of the expectations that both chiefs and local government authorities who receive revenue from stool are expected to provide public goods for the local communities (this will be discussed in chapter 3, 5, 6, 8).

To what extent is the concept of co-production as discussed in this chapter an explanatory factor in what is observed in the BND? Co-production makes use of organised local units exerting different levels of authority to facilitate development. It also involves the direct participation of citizens in the provision of public goods. I will show that the relationship that allows for the co-production of public goods in the BND is one that is dependent on continuous negotiations and Memorandum of Understanding (MoU) without contractual obligations. It is one that is based on mutual need and dependence (Workman, 2011) and therefore might not fit within known repertoires of models for co-production of public goods. The existence of an arrangement for co-production at the BND provides opportunities to bring development to local communities.

2.5 Conclusion

The literature discussed in this chapter is about the nature of political authority and the problems with legitimacy of authority in contemporary Africa. I also examined the resurgence of current discourse about the role that traditional authority, as a form of locally rooted institution, can play for the development of SSA countries. The findings of this study question the notion that chiefly authority is a legitimate form of authority for development. I examined the concept of co-production to promote an understanding of how the different levels of political authority might collaborate with regards to management of collective resources for investment in public goods and development.

The discussion pointed out the arguments that link Africa's development problems to the lack of legitimacy of authority of post-colonial governments. This has been explained as the result of the disconnection between pre-colonial political authorities and contemporary forms of authority in SSA countries that are not performing well in terms of development. However, traditional authority was only one of form of a wide variety of political authority that existed in pre-colonial histories and survived both

colonial and post-colonial impacts. The literature fails to establish what constitutes the pre-colonial form of political authority that might work better for the development of African countries. The varieties of pre-colonial authorities were impacted differently during colonial rule. Thus, chiefly authority was transformed under the different systems of European rule in Africa.

Chiefly authority was also regulated and this had long term repercussions on the authority they exercised. This affected the perception of ordinary citizens and in particular post-colonial government's attitude towards traditional chieftaincy. In spite of this various scholars have argued that traditional forms of authority, of which chieftaincy is one of them, are more suited for Africa's development. Some have even argued that it is the legitimate authority that can lead to development in Africa. There is the proposition in the literature that seek to elevate traditional forms of authority as the most effective form of authority for governance and development in Africa. This assumption seems in part to be based on the notion that institutions which are rooted in local customs and traditions and therefore 'African' by origin might work for the development of African people. However, these are developed on fluid and negotiated social relations and therefore are subject to change (Berry, 1993). Chieftaincy is a dynamic institution capable of adapting to changing circumstances, which helps in explaining the problematic nature of chiefly authority over the management of stool land. This is because chiefs seem to exercise their authority in response to factors such as urbanisation and commercialisation of land resources with implications for development. As a result expectations of citizens from chiefs' management of stool land resources are not being fulfilled.

The chapter also discussed how as a result of the failings of chiefs' authority over stool land and the lack of development in mining affected communities, innovative strategies are being developed to facilitate investment in public goods. The concept of co-production was therefore examined to provide insights into how development through investment in public goods might be achieved where there was a multiplicity of actors and institutions at the local level with varied interests in land. This might be in the form of collaboration that takes into account the range of local actors and institutions. Based on the APPP's proposition of identifying and making use of local 'cultural repertoires' that have a problem-solving character within communities, the concept helped to analyse the multi-institutional collaboration for development in the BND as form of co-production that results in the provision of public goods.

Thus, the literature on political authority and legitimacy of authority in Africa and the notion of co-production as contextualised in this chapter is used in this study to promote an understanding of how development might occur in Africa. Linked to these the next chapter examines chiefly authority and the politics of land in Ghana from an historical perspective.

Chapter 3

Traditional Chiefs and Land Politics in Ghana

'Chieftaincy was and is part of Ghana's long history and part of what makes Ghana distinctive and remarkable' (Rathbone, 2000: ix).

3.0 Introduction

One of the pre-colonial political institutions that survived British colonial rule in Africa is chieftaincy. Under colonial rule in Ghana chiefs constituted the native authorities and derived their authority from both custom and statutory law. However, chieftaincy in the form designated by the colonial officials as native authorities was peculiar to the Akans of southern Ghana. The historical role that chiefs performed during colonial rule had implications for pre-colonial land tenure relations in Ghana. It is therefore important to look at the nature of pre-colonial and colonial forms of traditional authority in Ghana. This is to help understand how that helped in shaping the development of land tenure, in particular customary law on land as applicable in the law courts of the country.

This chapter discusses the nature of traditional authority in Ghana from the pre-colonial to colonial period and the changes that occurred with regards to chiefly authority over land. This leads to a discussion on the customary land tenure system in Ghana with particular reference to the development of customary law and the types of interest that this has established. The last section focuses on the changing trends in land tenure as a result of the way chiefs have exercised their authority over land in Ghana. This helps to understand urbanisation and its implications for the extant customary land relation in Ghana.

3.1 Traditional authority in Ghana

In Ghana traditional authority is a form of political institution that is often derived from customs and tradition of particular societies. Chiefs are the main elements of traditional authorities under the political institution of chieftaincy in Ghana. Until colonial domination the form of authority exercised by chiefs was outside the domain of state laws. Traditional authorities are now regulated by state laws and governments. Thus, the 1992 Constitution³¹ of Ghana and the Chieftaincy Act, 2008 (Act 759) in addition to providing legal basis for traditional authority also defines a chief as:

³¹Articles 270 (1) and 277 of 1992 Constitution; sections 57(1) and 58 of Act 759.

A person, who, hailing from the appropriate family and lineage, has been validly nominated, elected or selected and enstooled, enskinned or installed as a chief or queen mother in accordance with the relevant customary law and usage.

In the pre-colonial period chieftaincy as it exists today in Ghana was known mainly in the Akan states (*aman*) of the southern part of the country. How chieftaincy exists in most parts of northern Ghana today was actually the creation of the colonial administration based on the model they discovered amongst the Akan States. Among the Akans chiefly authority is a hereditary right that is exercised by a particular family through matrilineage within a traditional community, and is usually represented as the royal family. No member of the royal family has an automatic right to ascend to the throne when it becomes vacant. A chief is selected from potential contestants within the royal family (Rattray, 1929: 81; Busia, 1951; Addo-Fenning, 2008). The selection of a potential chief is done through consultations by the 'kingmakers' led by the queen mother. Once a chief was selected he had to be presented to the subjects for approval and to legitimize his authority. The process of selecting and installing a chief through this elaborate consultative system of elders and family members followed by popular approval from the subjects ensures that the authority was derived from the people. It also makes it difficult for chiefs to be removed randomly as it has to go through a similar elaborate process.

Under Akan customary principles chiefs are expected to exercise their authority and make decisions in regular consultation with Elders and Council (Rattray, 1929; Busia, 1951; Addo-Fenning, 2008). Although Addo-Fenning argues out that the system of selecting chiefs which denied the *direct* involvement of ordinary citizens, and the aggregation of all powers in the hands of the chief without due regard to concepts of separation of powers and the lack of transparency and accountability of the institution defied any suggestion of chieftaincy being a democratic institution for governance (Addo-Fenning, 2008). This argument is of particular importance given that the traditional mechanism that had the potential to check abuse of authority by a chief was provided by the council of elders and the *asafo*³². The former positions often tend to be filled with elders who are sympathetic to the surviving chief and therefore render them ineffective. It is the threat of destoolment which remains a more effective check on potential abuses of chiefs.

On the other hand in some parts of northern Ghana, before the arrival of the Europeans, there were no village chiefs and land was under the control of the earth

³² The Commoners comprising the young men of the community

priests³³. At the time most people in this part of the country lived in settlements under the headship of earth priests. The earth priest's position entitled him to hold land both as a custodian and spiritual leader of the political community. As a result the earth priest fulfils a religious function and performs sacrifices to the gods at the start of every cultivation season and in the event that a member of the community commits a sacrilege against the earth [land] (Kasanga, 1996; Kasanga and Kotey, 2001). The allocation of land to both indigenes and migrants was done by the earth priest. However this changed under colonial rule when the position of chiefs was 'invented' and introduced in most parts of the northern territories. Clan heads were made chiefs and representatives of their communities. These 'invented' chiefs were entrusted with delegated powers by the colonial administration. This diminished the authority of the earth priest. Currently in some parts of the three northern regions of Ghana chiefs are found to be exercising political authority, while the earth priests perform spiritual and religious functions for their communities (Kasanga and Kotey, 2001; Lund, 2008).

3.1.1 Traditional authority under colonial administration

Colonial officials designated chiefs as native authorities. As noted (in chapter 2) chiefs were part of the governance structure of colonial administration. The relationship established between indigenous chiefs and the colonial officials provided legitimacy for British rule. The chiefs became clients of the British officials, and used their positions not only to facilitate the implementation of colonial policies but also to seek personal wealth. Although, chiefs enjoyed much authority and power during the colonial period, their new found status and authority did not last for long because of local government reforms and political party activities. Although there are variations in the literature about when the reforms for decolonization started, what is worthy to note is that significant progress was made before the 1950's. By the mid-1940's reforms were under way to turn the indirect rule system into a local government that was more representative of the colonial society (Crook 1986:78-79). Calls for the reforms in local governance were made due to a number of reasons:

Firstly, chiefs were accused of abusing their powers and of being corrupt in their practices. Chiefs were heavily opposed especially by the westernized educated elites who lived in the Colony. Indeed not only did they challenge the position of the chiefs

³³ Usually this is referred to in the literature as *Tindana* or *Tindemba*. Traditional earth priests in Northern Ghana are usually the descendants of first settlers on land in a community. They perform rituals and sacrifices on land and are recognized in most traditional areas as the owners of land. The different tribes in the north refer to them differently according to their tribal language.

but colonialism as a whole and all those who worked for it (Rathbone, 2000:14). Chiefs were accused for deliberately prolonging the settlement of disputes and the charging of high court fees at the Native Courts, which they controlled. The fees (and fines) which were charged for sessions in the Native Courts were not accounted for but shared by the chiefs. As a result chiefs lost favour even with the colonial regime, which was the force behind them and by 1958 the Native Courts, one of the key areas of chiefly power, were abolished.

Secondly, the Native Courts were said to be a weak system and therefore needed reforms. This was because it lacked professional lawyers. Lawyers were deliberately excluded from pleading in the Native Courts by chiefs who preferred to rely only on their authority in the administration of justice (Rathbone, 2000:49). This led to calls for the abolition of the Native Courts in 1951. This seemed to have started a process of ending chiefly control over local justice.

Thirdly, after the triumph of the Convention Peoples Party (CPP) in the 1951 Gold Coast elections, the party grew stronger and rallied support from the masses. The failure of chiefs to support the Nkrumah-led CPP government led to chiefs being marginalised after the elections in 1951. There was open campaign to subdue and control chieftaincy. Thus, by 1952 chieftaincy had been relegated to the background in the reformed local councils. However, chiefs who were loyal to the CPP were duly rewarded by being upgraded or elevated to paramount status without recourse to the appropriate customary procedures (Dunn and Robertson, 1973; Rathbone, 2000). Such state sanctioned chiefs derived the legitimacy of authority and protection from the government rather than from tradition and custom. On the other hand chiefs who had openly refused to campaign for support for the CPP were destooled. For instance, the destoolments of the *Offinsohene* in Ashanti and the *Okyenhene* of Akyem Abuakwa at the time were endorsed by the CPP (Rathbone, 2000:127)³⁴. Similar, depositions and elevations of chiefs took place in the *Ahafo* area (Dunn and Robertson, 1973). As noted above, the CPP embarked on a deliberate policy to curtail the powers of its opposition by patronising chiefs who supported it. The CPP government therefore became noted for its vindictiveness towards chiefs who opposed it. Subsequent events following this period had further implications for the authority of chiefs and the development of chieftaincy in Ghana.

³⁴ *Ohene* is a chief and thus *Offinsohene* refers to the chief offinso and *Okyenhene* is the chief of Akyem Abuakwa.

The CPP's anti-chief policies in the country, following the widespread imposition of limitations on chiefs' judicial and executive competence, control over economic resources and control of their enstoolment and destoolment, led to the regulation of the functions of chiefs. This was mainly for administrative convenience. Although, chiefs' power became weakened and reduced, the institution of chieftaincy was not abolished. In fact, paradoxically legislations were passed to guarantee the survival of chieftaincy in Ghana. For instance, Ghana's First Constitution in 1957 guaranteed and preserved chieftaincy. The Chieftaincy Act of 1961 regulated activities of traditional chiefs by placing them the Minister of Local Government (Dunn and Robertson, 1973). This arrangement was carried over into the 1969 Constitution which also safeguarded the institution of chieftaincy together with its traditional councils as established by customary law and usage (Firmin-Sellers, 1996; Rathbone, 2000). Currently, the 1992 Constitution also guarantees status of chiefs and chieftaincy as secured and guaranteed³⁵. This shows how since 1957 chieftaincy as a political institution has been regulated by Acts of parliament in Ghana, ensuring that it survived as a political institution.

The CPP's pursuit of chiefs ensured that by the time the Native Courts were completely abolished in 1958, chiefs had also lost the power to collect stool land revenue, among others (Crook, 2008:131). The CPP controlled and regulated stool land and revenue through state agencies at the national level. This was because the CPP government believed that some Akan chiefs had used stool revenues to support the National Liberation Movement (NLM), a party that was Nkrumah's arch enemy during the elections that the CPP won. The President therefore vested all stool lands under the Ashanti and Akyem Abuakwa stools with two legislative enactments; The Ashanti Stool Land Act 1958 and the Akim Abuakwa (Stool Revenue) Act No.78 of 1958. These laws effectively transferred the legal interest in the land to the government leaving the beneficiary interest in the community. Similar legislations such as the Stool Lands Control Act 1960 (Act 79) and the Administration of Lands Act, 1962 (Act 123) were passed with the aim of further curtailing chiefs control over land. In practice, however, the government had become the absolute landlord and controlled all the management powers including the allocation, collection and distribution of revenue.

Furthermore, although chiefs' power and authority were greatly subdued, as explained above, they were integrated and given roles in local government under the Local

³⁵ Article 153

Government Ordinance 1951. However, they were still denied the control over economic resources. The government's policy was to ensure that local government was democratised so as to ensure fair representation. On the other hand it aimed to neutralise the powers and authority that chiefs' had during colonial administration. . However, chieftaincy remained respected as part of the African tradition and culture and had values which could be tapped for local development. For instance, in 1949 the Coussey Commission made the recommendation for the integration of chiefs into local government so that chiefs could avail their local expertise for national benefit. The Commission stated among others that "No African of the Gold Coast is without some admiration for the best aspects of chieftaincy"³⁶.

The practice (or perception) of governments being instigators of the enstoolment or destoolment of chiefs has always been there since the post-independence period in Ghana. There is the perception in Ghana that ruling governments tend to develop patronage relations with chiefs and this belief is held in traditional areas where there are recurrent chieftaincy conflicts. The *Bawku* and *Dagbon* chieftaincy conflicts in northern Ghana are case examples. This is because local conflicts about the rightful occupant of the throne in these areas often coincided with a change of government. Different claimants to the throne have aligned themselves with the two main political parties in Ghana; the New Patriotic Party (NPP) and the National Democratic Congress (NDC). Thus, a change in government after an election has been used as opportunity to seek government support to destooled the occupant, who is usually perceived as having been 'unlawfully' installed as chief with support from the previous political party.

3.2 Nature of customary land relations in Ghana

Under pre-colonial societies in Ghana customarily institutional arrangements and authorities determined land relations at the local level. At the community level in the Akan states of southern Ghana village chiefs controlled and allocated land to indigenes of a stool in accordance with customary practices.³⁷

³⁶ A Commission set up to investigate the 1948 riots in the Gold Coast

³⁷ A stool is the symbol of authority among Akans of Ghana. It represents the embodiment of a political community in which allegiance or political jurisdiction implies also recognition of rights over land. A stool is also a symbol of unity and its responsibilities devolve upon its living representatives, the chief and his councillors (Busia, 1951:44; Crook *et al*, 2007:28).). Land owned by such a state (community) is referred to as stool land (National Land Policy, Ministry of Lands, 1999 in Kasanga and Kotey, 2001:13). Note that a skin is synonymous with stool in the context of traditional authority. It is the seat of authority of traditional chiefs from the 3 northern regions of Ghana.

According to Busia (1951) chiefs in Ashanti are custodians of stool lands. It is a belief among Ashantis that land belongs to the ancestors who have passed land to the living for their use. Thus, Ashantis will say 'land belongs to stool' or 'land belongs to the chief'. These expressions were meant to be the same that land belongs to the ancestors. The stool symbolised the unity of the ancestors and their descendants (Busia, 1951:44). The chief who was the occupant of the stool of the ancestors was the custodian of the land. The custodianship of the chief entails some rights and obligations. The chief performs customary sacrifices on the land, leads the community in defence of their land and held it for the wellbeing of all stool members at all times (Rattray, 1929; Busia, 1951). In the Akyem area of Ghana chief was also entitled to a share of treasure found within his jurisdiction and the provision of labour to work on his land (Field, 1948).

The system of customary tenure was such that any piece of land to which no lineages had claim to came directly under the chief in a fiduciary capacity. By custom a chief cannot sell land alone, without the consent of the elders in council. Each member's access to stool or ancestry land was through the respective head of family. By custom no individual could also alienate any part of lineage land alone, to deprive others of their source of livelihood (Field, 1948; Busia, 1951:56). All community members therefore had perpetual use rights³⁸ in land, from their ancestors, and which they were to hold and hand it on to posterity (Ollenu, 1962).

Contrary to Busia's claim that by custom Ashanti chiefs could not alienate stool land through sale, in other Akan jurisdictions chiefs were engaged in the outright sale of land to migrants, especially in the cocoa and oil palm producing areas of the Eastern and Western regions of the country (Hill, 1963; Amanor and Diderutuah, 2001). According to Hill (1963) the notion of land sales to migrant farmers had been in practice by chiefs in the Akyem Abuakwa area for centuries (dating back to 1890s). The chiefs will usually consult with their elders and sold unoccupied lands to pay stool debts, although individual stool members were prohibited from selling uncultivated forest land (Busia, 1951; Hill, 1963:139). However, Hill's study of the Akyem Abuakwa area revealed that access to land during the cocoa boom in the 1920's was facilitated through outright purchase of land under the traditional concept of land ownership and rights at the time. The sale of land was often marked by the performance of traditional

³⁸ Customary freehold or usufructuary right.

ceremony³⁹. According to Hill this was contrary to the widespread misconception at the time that because chiefs were trustees of the land. There were therefore necessarily prevented by custom from selling the land outright to strangers (Hill, 1963:12). As Hill argues these sales were usually outright sales and that there was no doubt that this was intended by the chiefs. However, by the 1940s the 'powerful Ashanti chiefs were able to state the claim for land that it could not be sold at all, but only leased on terms set by themselves on behalf of their communities' (Crook *et al*, 2007:26). Their argument was based on a claim that land was an intergenerational property during the opposition to the Lands Bills of 1897 (This will be discussed in section 3.2.2).

3.2.1 Customary land tenure

In Ghana, an estimated 80% of the total land⁴⁰ is categorized as private land,⁴¹ owned by stools (and skins), families and private individuals. Most of these category of lands are vested in stools (in mostly the Akan speaking areas), in skins in parts of the three northern regions and in families within Ga and Ewe communities. Among the Akans the stool occupant is vested with the highest interest in land (allodial title⁴²) for and on behalf of that community. Thus, land owned by the community is said to be stool land, which is communally owned under current laws in Ghana⁴³. All the members of the stool derive a customary freehold interest in land from this title⁴⁴. The right of indigenes

³⁹ Allot (1960:252) noted in his *Essays in African Law* that "conveyances formed no part of sale by native law and custom. Such sales depended on their validity and on the proper performance of the *guaha* ceremony". Among Akans the *guaha* refers to a customary ceremony to signify complete sale of land.

⁴⁰ A greater proportion of customary lands are in the rural areas mainly used for agricultural activities. This encompasses all the different categories of rights and interests held outside of state control.

⁴¹ The remaining 20% constitute Public lands i.e. lands that have been acquired through enacted legislation for public use (Ministry of Lands and Forestry, 1999:2). A greater proportion of these lands are in the rural areas and mainly used for agricultural activities.

⁴² The highest or paramount interest in land usually controlled by chiefs in stool land areas of southern Ghana or *Tendamba* in the skin land areas in northern parts of the country. It is essentially communal and established through discovery or first settlement or conquest (Woodman, 1996 in Lund, 2008). The allodial title describes an absolute power of allocation but not necessarily a title of personal use (Hammer, 1998:318).

⁴³ Article 36(8) and 267 of 1992 Constitution of Ghana and section 18 of the OASL Act 1994 (Act 481) interprets stool land as communal land to be held on behalf of community members.

⁴⁴ the rights to land subject only to such restrictions or obligations as may be imposed upon a subject of a stool/skin or a member of a family who has taken possession of land of which the stool or family is the allodial owner either without consideration or upon payment of a nominal consideration in the exercise of a right under customary law to the free and perpetual use of that land. Other interests that can be created in land in Ghana include : (1) alienation rights land acquired outright by a non-member of the land owning community usually for agricultural purposes) and (2) shared tenancies and community common property rights to secondary forest produce, rights to water, rights to common grazing grounds.

in land is a usufructuary right, which is a use right that is perpetual and inheritable under customary law. The customary freehold is an inherent right so long as one owes allegiance and performs the customary incidence of being a member of the community. This customary rite may be the payment of annual tributes to the stool, active participation in communal labour and the observation of customs and taboos of the people. The usufructuary interest is extinguished only through abandonment, or with consent and concurrence of the interest holder (Ollenu, 1962; Woodman, 1996). For the non-member of the land owning stool (usually referred to as stranger or migrant), the allocation of land requires the offer of '*drink money*'.⁴⁵ This difference in land tenure arrangements defines 'the boundaries between locals and strangers' (Lund, 2008:10).

Generally, in Ghana land is conceptualised as belonging to generations of the past, the present and future (Ollenu, 1962). This notion of land presents challenging issues in the governance of stool land by chiefs (see section 3.2.2 and 3.4).

3.2.2 The notion of communal land ownership

The origin of the development of this notion of communal land ownership may be traced back to the attempted passage of the 1897 Lands Bill by the colonial government. The Bill was proposed to vest all vacant land in the Crown. It had the objective of controlling the rampant alienation of vacant land by local chiefs to migrants, who required land to grow cocoa during the cocoa boom, for mining and timber concessions in the colony (Hill, 1963; Firmin-Sellers, 1996; Rathbone, 2000). The Bill was proposed by the colonial government to enable it take control over the administration and allocation of rights over all unused land [wasteland] and therefore the absolute ownership of the land to be vested in the Crown (that is the British monarchy).

However, the Bill was strongly and successfully opposed by both chiefs and the educated elites who had then formed the Aborigines Rights Protection Society (ARPS). The ARPS argued that there was no such thing as un-owned or "waste" land in the Colony. They argued further that any unused land was "community land" vested in the stool which held it in trust for the benefit of all members of the community (Firmin-Sellers, 1996; Rathbone, 2000). According to Ollenu (1962) the chiefs and the educated elites argued that land was an inter-generational property and therefore belonged to all generations; the past, the present and the yet unborn. The Bill, if

⁴⁵ Customary sum of money paid to chiefs for the allocation of land. This will be discussed further in chapter 6

passed had the effect of extinguishing this customary land relationship. The notion of communal ownership of land, it was argued was part of the customary laws of society.

The implications for the existence of communal land ownership meant that under customary law individuals had no absolute titles (ownership) to land in their community. This customary principle was established by the powerful Akan chiefs in the colony. However, they failed to clarify which stool the absolute title was vested, i.e. whether that of the community in which hitherto village level chiefs directly controlled the land or that of the paramount chief of the people⁴⁶. An example of this ambiguity led to a long lasting dispute between the *Asamankese* stool (a subordinate) and the Akyem Abuakwa stool (paramount) from 1902 to 1934. This was because the *Okyenhene* of Akyem Abuakwa passed a law after the 1897 failed Lands Bill that all alienations of land within his stool area will have to be made with his consent (Rathbone, 1996; 2000).

The notion of communal land was upheld by the British throughout the period of colonial rule. It was understood not to be an interest for the private individuals who occupied the stool but that land was vested in the stool as an institution. Thus chiefs became responsible for the allocation and use of vacant land within their jurisdiction. Land was therefore supposed to be managed for the benefit of all the citizens. However, the chief's position was that of a fiduciary (a trustee), and all the members of the community including the chief were supposed to have equal access to community land⁴⁷. However, Larbi (1994) makes the point that although the term 'communal' or 'group' [land] is often used in Ghana, the land is hardly used on a communal basis by the group as a whole (Larbi, 1994:61). What this means is that chiefs tend to enjoy better rights and access to stool land than all the members of the community. Thus, in practice there is no such thing as communal stool land, although this seems to be a fundamental principle of customary land relations and the interpretation given to stool land in the country⁴⁸.

The colonial governments' insistence on the application of the notion of communal ownership of land prevented chiefs from turning themselves into absolute landlords

⁴⁶ See the arguments made by Hill (1963) above in the *Akwapim* areas.

⁴⁷ This is the principle enunciated in *Amodu Tijani v Secretary*, Southern Nigeria (1921), 2AC 399).

⁴⁸ Section 18 of the OASL 1994 Act 481 interprets stool land as communal land to be held on behalf of community members.

and from engaging in acts that would have amounted to rent-seeking over stool lands under their jurisdiction. This would have been a complete contradiction to their earlier claims of land being community property, as discussed above. As Crook argues, it was therefore the British policy in the Gold Coast to protect the peasantry from the 'evils of landlordism and indebtedness' (Crook, 1986:91). This was important since in a highly agrarian society such as existed in the Gold Coast at the time if land was controlled by a few as private property it was going to increase the commercialisation and scarcity of the resource through the rapid sale of all unused land. It is also to be noted that this put a check on the exploitation of stool land revenues by the chiefs.

3.3 The development of customary law: the role of traditional authority

The notion of communal ownership of stool land, as articulated above was fundamental to the development of customary law in Ghana. It facilitated the integration of these customary tenure relations into state laws on property based on what was then perceived as local custom by the British colonial authorities (Crook, 1986; Woodman, 1996). Thus, it has been argued that customary laws were not perpetuations of pre-colonial norms but evolved as a new system of law and adjudication based on colonial administrators' interpretations of African tradition (Hobsbawm and Ranger, 1983; Chanock, 1985, 1998).

As a result of the above the core of the customary law that is now applied in Ghana's states courts was developed through the instruments of colonial policies which facilitated the operations of the native courts. The official recognition of chiefs as fiduciaries of communal land, of which they were vested with the highest interests for and on behalf of their community allowed chiefs to apply this customary notion in the native courts. As Berry argues British colonial officials did not impose English laws and institutions or their own version of traditional African ones onto indigenous societies (Berry, 1992:328). Rather they sought information on traditional social systems and identities to facilitate the application of customary rules in the governance of the people. On the other hand Africans were engaged in renegotiating rules and social identities to cope with or take advantage of the colonial rule and commercialisation of land. Access to land was therefore negotiated and the outcome in any particular transaction depended on the history of relations between the parties involved and the way they were interpreted at the time (Berry, 1992:337-338). This enabled chiefs to apply, interpret and in the process invented customary tenure as they deemed suitable in the native courts.

Thus, customary law, as was practiced and interpreted became incorporated into the common law of the state courts. These have been described as the 'Anglo-Ghanaian common law' or the 'lawyer's customary law' by Crook (1986) and Woodman (1996) respectively. It has been argued that the development of customary law in this manner seemed to have 'consolidated the transformation of part of the process of legalisation of African Institutions' fashioned during the colonial period rather than a continuity of tradition or custom (Chanock, 1998). According to Chanock customary law as was applied in the native courts was based on historical accounts and narratives by traditional leaders who had found favour in the colonial administration. Customary law in Ghana was therefore developed based on the interpretation of histories and traditions, which were largely reinvented in the process⁴⁹. These established customary laws and usages continue to be subject of (re)interpretations and (re)inventions by the chiefs who by their actions are attempting in some cases to even change the extant customary claims they had applied in the Native Courts during colonial administration (Firmin-Sellers, 1996; Berry, 2001; Ubink, 2008; Lund, 2008). Thus, as argued by Berry (1992) in Africa as in Ghana, customary land tenure remains contestable, fluid and negotiable. The protection of it depends largely on social relations, against claims rather than on legal instruments.

3.4 Urbanisation and its implications for the traditional concepts of customary land tenure

Since the post-colonial period population growth and its incidental increases in demand for residential, commercial and industrial facilities have led to a land valorisation process⁵⁰, especially at the urban and rural interface where change is rapidly taking place. This is an area where opportunities for economic investment activities tend to out bid the value of land for subsistence agriculture. Within this area there is increasing scope of (re)interpretations of customary land practices in ways that tend to influence access to and control over land in order to reap direct [personal] benefits from the returns on land resources. This practice has turned some chiefs into rent-seeking landlords. In many areas, chiefs now deal with land as if it were their personal property. This is happening because there appears to be systemic failures and weaknesses of both the traditional and state institutions to guard against chiefs from engaging in this form of rent-seeking. Chiefs are taking advantage of the commoditisation of land to rake in wealth, but this poses challenges to their land use and management capabilities

⁴⁹ Article 11 of The 1992 Constitution of Ghana

⁵⁰ The commodification and commercialisation of property rights in land (Larbi *et al*, 2003:355)

as well as challenges the presumptions that chiefs represent developmental agents (Grischow, 2008; Ubink, 2008a). There are a number of issues and implications emerging from this.

The changing values in land have intensified attempts to redefine land tenure relationships in Ghana where land is controlled by chiefs as communal property with severe implications for members of stool land areas (Kasanga and Kotey, 2001; Boni, 2008 and Ubink, 2008). This has the potential to weaken or completely extinguish the customary freehold interest that has long been held by subject members of stool land in the country (Berry, 1993, 2001 and 2009; Alden-Wily and Hammond, 2001; Lund, 2008; Ubink, 2007 and 2008). Even in those areas where there is less commercialisation of land, struggles and contestations over the control of land is increasing. For instance, in the northern Ghana earth priest and chiefs continue to contest over the legitimate right to control and manage land (Kasanga, 2001; Tonah, 2002; 2008 and Lund 2008). Kotey, 1995 (in Kasanga and Kotey, 2001:14) has stated that:

The *Tendamba* have lost their ultimate authority in land in much of the northern region. In the Upper East and Upper West regions some chiefs now assert land holding rights and management functions. These assertions of power over land by chiefs, however, are relatively modern developments and have no basis in indigenous systems and practices.

In fact in some parts of the three northern regions the legal position of the earth priest, who historically were regarded as the legitimate 'owners' of land, is weakened by the administrative practices of state public land sectors agencies⁵¹ who now only recognize chiefs to certify land transactions for documentations (Tonah,2008).The question of who controls the community's skin land remains a contested issue in some areas such as Bolgatanga, Navrongo and Wa in the Upper East and West regions of Ghana respectively (Lund,2008; Crook *et al*, 2007). While land values are relatively low compared to southern Ghana, the struggles for control over land might be more for political expediency than for the potential economic gains in the resource. The continuous contestations over land are also linked to chieftaincy disputes⁵².

With increasing urbanisation (and mining) the historical notion about communal ownership of land is fading. Chiefs are now claiming that once rural land becomes

⁵¹ The Lands Commission is empowered by the Constitution to grant concurrence to customary land transactions made by customary owners

⁵² The *Konkomba-Nanumba* war, *Dagbon* chieftaincy and Bawku chieftaincy disputes in the north of Ghana have been raging on for over two decades.

engulfed in urbanised activities it reverts to the chief to administer and to allocate it for other uses (Ubink, 2008). Even though it is not legally within the authority of chiefs' to decide when land use changes occurs in stool land areas⁵³, it is their claim for absolute ownership rather than as custodians, of land which raises serious queries. To this end Ubink (2008) is puzzled why community members who are entitled to the beneficiary interest in communal land fail to challenge or demand accountability from the chiefs. As fiduciaries it is to be expected that chiefs will act in the utmost interest of the beneficiary community when dealing with stool land. However, this has often not been the case and yet chiefs remain unquestioned. On occasions it is the wealthy indigenes (living locally or in the urban centres) or the youth that have challenged some traditional authorities in state courts about the claims they make for land and the revenue that it produces.

Chiefs have also made the claim that stool land belongs to the royal family of which the chief is a member (Ubink, 2008). This claim, which some chiefs often make seem to imply that stool land is private property for which the occupier of the stool has the 'right' to allocate or convert its use without consulting the community. This effectively reduces the interests of the customary freeholder to that of a tenant at the will of the chief. If this were so then it would be contrary to the established principles of customary law, which established customary freehold as a perpetual interest (see section 3.2.1).

As noted in section 2.3.2 Akabzaa and Tsuma's studies in three different mining districts in Ghana (Wassa West, Obuasi and Adansi) showed the presence of high level of disillusionment and great concerns about the negotiations for compensation and resettlement between mining companies and traditional authorities. This is because of ongoing property dispossession amongst the majority of community inhabitants (Akabzaa, 2000; Akabzaa *et al*, 2007; Yankson, 2010; Tsuma, 2010, Ayelazuno, 2011). The study examined the impact of mining activities on the lives of the inhabitants and pointed out that anticipated benefits to be derived from chiefs' management of stool land remain unfulfilled while stool land is taken over by mining companies creating widespread property dispossession. Thus in these mining districts chiefs are generally perceived as agents of the mining companies (Akabzaa, 2000:94-95; 2007; Tsuma, 2010).

Within the above context questions have been raised about the import of the custodianship role of chiefs with regards to stool land in Ghana. This is because it is by

⁵³ That is a legal mandate of the TCPD of the local government authority

virtue of that legal responsibility that they have been allocating land to both indigenes and non-indigenes, protecting it from other stools and negotiating for its release for other uses such as mining and other public uses when required by the state. It is through the performance of these customary and statutory duties that some chiefs now seem to rely on to claim absolute ownership for land. The rhetorical 'tradition' that chiefs have often relied on to claim legitimate authority over land as they do is now tainted by their parochial interests (Chanock, 1991; 1998; Hobsbawn and Ranger, 1983). However, these claims are ferociously contested by some customary freeholders in both the urban and rural forest zones (Ubink, 2008; Amanor, 2008; Boni, 2008; Gough and Yankson, 2000).

3.5 Conclusion

This chapter discussed chiefs and politics of land in Ghana from an historical perspective. I examined the nature of traditional authority, with particular reference to pre-colonial chieftaincy authority over stool land in Akan societies and how distinctive that was from what pertained in other areas of the country, such as the northern regions. The chapter also points out the implications of the political recognition of chiefs' authority over land and how that shaped the customary land tenure (the notion of communal land) and the development of customary law, which is now applied in the courts of Ghana. In addition the chapter discussed the problematic nature of chiefly authority over stool land in Ghana and the implications of urbanisation and the increasing commoditisation of land which is creating wealth for those who control and can provide access to land.

Pre-colonial system of political authority varied across the country. Among the Akans of southern Ghana there existed a powerful and highly militarised traditional chieftaincy system. This was organised in a hierarchical order with extant rules on succession, exercise of authority and control over land. On the other hand in most of the northern section of the country communities existed without this form of traditional authority. Chieftaincy was the invention of colonial rule. Prior to colonialism land was controlled in most of these areas by earth priests. This chapter has pointed out how chieftaincy under the Akan system facilitated the colonial policy of indirect rule as a result of which the model was 'invented' in those areas that had no chiefs.

Under colonial rule chiefs became part of the colonial administration and their authority was bolstered with legislation. Colonial policies were indirectly implemented by traditional chiefs and this made them unpopular as they were perceived as

appendages to the colonial government. The significant impact of indirect rule over traditional authority is the development of customary law and land tenure system. British colonial officials' belief in the knowledge and authority that traditional chiefs had over local custom facilitated the reinterpretation and invention of customs, which were often made to suit the circumstances of chiefs rather than that which was actually based on extant traditional practices (Chanock, 1991; Ranger, 1993). The notion of communal land was subsequently developed and has since been incorporated into the customary laws of Ghana. The idea that land was a community property with the absolute title vested in the chief on behalf of the political community was therefore created at the time of colonial rule. This chapter showed that since colonial rule stool land in Ghana has been interpreted as communal land, which chiefs are expected to manage on behalf of their respective political community. This allowed chiefs to exercise authority over land transactions and to control the revenue it produces.

Colonial administration did provide additional source of power for chiefs but this created problems for them in the run up to independence. Chiefs' authority under colonial administration was strongly opposed prior to independence in 1957. The dislike for chiefs' authority in the native courts and in land matters continued when the CPP government took over the helm of affairs in the country. Under the CPP leadership various legislations were passed that took away the authority of chiefs in local justice and control over land and revenue as part of the process that was aimed at curtailing the political significance and authority of chiefs. By 1961 the institution of Chieftaincy was controlled and regulated by the state. Subsequent Constitutions in 1969, 1979 and the current 1992 guarantee the institution of chieftaincy in Ghana, with a requirement that the customary enstoolment of chiefs should be gazetted for state recognition. This effectively ensures state control over the traditional institution of chieftaincy. Furthermore, revenue that accrues on stool land is collected and administered through the state agency; the OASL. Despite these measures chiefs still engage in land transactions and collect rents that the state is not able to hold them to account for (this will be discussed in chapter 6).

This chapter also discussed how the dynamics of increasing demand for land resulting from urbanisation and commercial investment is affecting extant customary tenure in Ghana. The customary freehold interest, for instance, is an important interest in stool land that is perpetual, inheritable and cannot be extinguished by the allodial title vested in chiefs. However, a review of the literature shows the problematic nature of chiefly authority over stool land, and how this in some cases threatens the customary freehold.

This forms the basis of land conflicts and contestations across Ghana. In the following chapters I focus on how this study was conducted and analyse the empirical data from which findings and conclusions are made.

Chapter 4

Research Design and Methods

4.0 Introduction

Over the previous three chapters I have developed the research aims, questions and the theoretical framework for this study. In this chapter I describe how the study was designed and the methodology that was used to investigate and analyse how traditional authority is exercised in practice by chiefs over land and the resulting outcomes based on data collected from field work.

This research is on a case study of four selected communities within the BND. These are used to explore local strategies that have been adopted for development following land acquisition by a multinational mining company investing in mining in the District. This has implications for the authority of chiefs and other local institutions of authority over land management and development in the BND. Apart from traditional chiefs, who are the main focus of the study, a multiplicity of actors and institutions at the local level were identified who constituted key sources of data which were collected for analyses. Different methods were used to gather relevant data for the thesis (details to follow).

This thesis analyses empirical data that was gathered from field work in Ghana in two phases between December 2009 and December 2010. This included a one month preliminary fieldwork (from December 2009 to January 2010) and then 10 months fieldwork (April to December 2010) during which time I lived in *New Abirem* one of the case study communities in the BND. During the 10 months period I attended local negotiations meetings between members of the local community (including traditional chiefs), state institutions and mining company where I interacted and observed the dynamics of the actors and institutions at play. Additional qualitative data was collected mainly through interviews and discussions and quantitative data from a survey of popular perception of local inhabitants. The research plan and specific data collection methods that were used is explained in this chapter. The design and methods employed were aimed at ensuring that a wealth of quality data was generated for analyses and understanding of what takes place at the local level.

The chapter is structured as follows: an overview of the case study district and its location within Ghana is followed by description of the research design. The case study approach to the research is explained. This leads on to the selection of the set of communities within the BND for the study by highlighting on the principles used in

selecting the four communities. Following that is a description of the methodology and explanation to why specific methods were used for the study. The final section of the chapter is the conclusion.

4.1 The research location and communities

Ghana is divided into 10 administrative regions⁵⁴ (see Figure 3), which are subdivided into a total of 170 districts⁵⁵. Birim North District (BND) is located in the Eastern Region⁵⁶ and represents one of twenty-one districts in the region. Until 1987 Birim North was formerly part of the Birim District before it was carved out as a separate district as part of the Government of Ghana's programme of promoting decentralisation and development in the country. Population for the district is estimated at 78,907 living in about 89 communities.⁵⁷ There are not many towns within the district that have a population exceeding 5000 people. The administrative capital town of the BND is *New Abirem*, which is located approximately 180km North-West of Ghana's capital city Accra.

Administrative Authority

Ghana's current local government system has a three-tier structure at the district level, which is made up of the District Assembly, the Urban/Town/Area Councils and the Unit Committees. For effective local administration, the BND is sub-divided into 4 Town and Area Councils and 29 Unit Committees⁵⁸. The Birim North District Assembly (BNDA) is the highest administrative and political authority in the district with the mandate to initiate and coordinate all development efforts aimed at sustainable development at the local level. The BNDA is the local government authority with responsibility of planning and funding development in the district (section 46 of the Local Government Act, 1993 (Act 462). In this respect the BNDA prepares Development Plans for the District with the approval of the National Development Planning Commission. The BNDA in the

⁵⁴ The regions are Greater Accra, Central, Volta, Eastern, Western, Ashanti, Northern, Upper East, Upper West and Brong-Ahafo.

⁵⁵ <http://www.ghana.gov.gh/index.php/about-ghana/ghana-at-a-glance> [accessed on 1/10/2012]

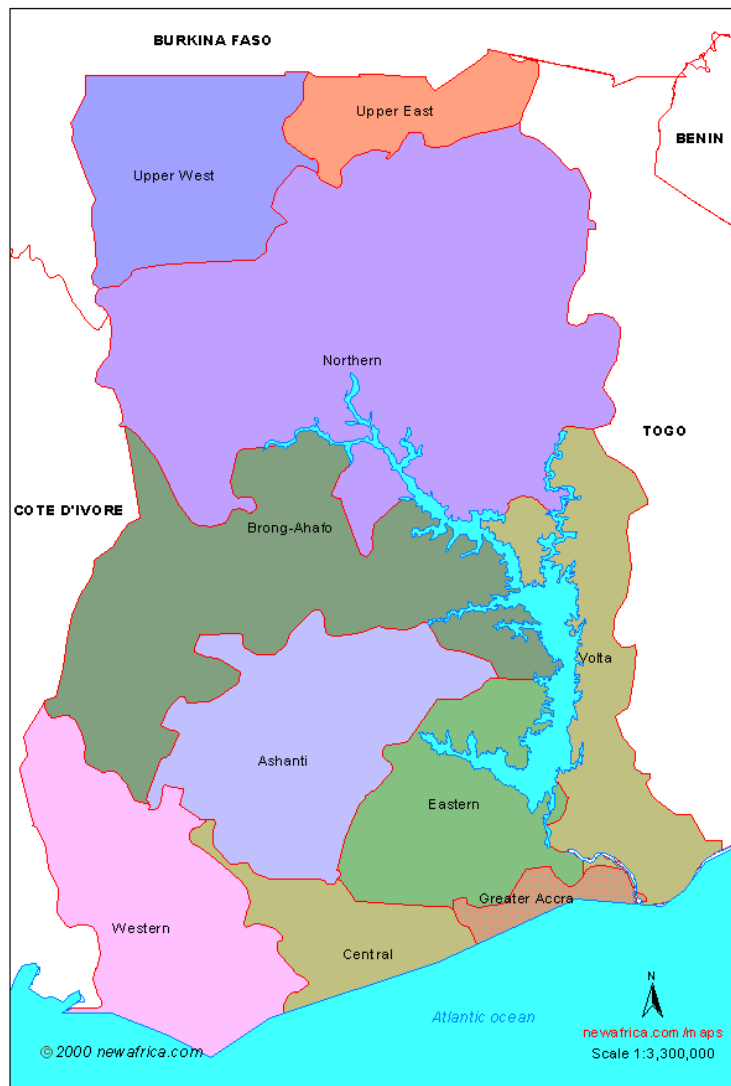
⁵⁶ This is the sixth largest region in Ghana with estimated land area of 19,323 square km and a total population of 2,633,154, which represents 10.7% of the total population of the country estimated at 24.6million (Ghana Statistical Service (GSS), 2012). About 70% of the population are engaged in agricultural activities for their livelihoods and therefore depend on land and natural resources. The main ethnic groups found in the region comprise Akan (52%), the *Ga-Dangme* (19%), the *Ewes* (16%), and the *Guans* (13%) (Resettlement Action Plan, 2010: 49-50).

⁵⁷ Ghana Statistical Service (2012)

⁵⁸ BNDA (2012:8)

performance of its mandate ensures that communities participate in the formulation of the district's development plans (this will be discussed in Chapter 5.2.1).

Figure 3: Map of administrative regions in Ghana showing the Eastern Region
GHANA ADMINISTRATIVE MAP



Source: <http://www.ghanaweb.com/GhanaHomePage/geography/maps.php>⁵⁹

Under Ghana's decentralisation system the town/area/zonal councils are established and named based on the size and nature of settlement. Over 1300 town/area/zonal councils have been established since 1988 when Ghana first implemented the current decentralised system of local government (Crawford, 2004:12). These councils are not elective bodies but are instead composed of five representatives of the District

⁵⁹ Last accessed on 21/01/2012

Assembly, ten representatives of unit committees in the area and five persons appointed by the government. Essentially, the town/area/zonal councils are implementing agencies of the District Assemblies.⁶⁰ Urban councils represent urban settlements of over 15,000 people, and zonal and town councils represent mostly rural settlements with populations between 5,000 to 15,000 people.

The third tier of the decentralisation system is the Unit Committee (UC). It forms the base of the District Assembly system. The UC is therefore situated below the sub-metropolitan district councils, urban or zonal councils, town or area councils in the local government structure, and represent the community. Members of the committee are elected to serve a term of 4 years but may be re-elected for another term. They perform voluntary community service to the people they represent⁶¹. Originally for each unit area⁶² there were supposed to be no more than 15 UC members comprising 10 elected residents and up to 5 residents who are nominated for approval by the District Chief Executive (DCE) on behalf of the President of the Republic (Act 462; ILGS, 2008:8). However, since 2010 this has now been scaled down to 5 elected members under a new Legislative Instrument (LI1967). The number of UC in the country which were over 16,000 were also 'reduced to 5,000 to be at par with the number of electoral areas in the country for district level elections'⁶³. The first election for the Unit Committees in Ghana was held in 1988 under the Local Government Law 1988 (PNDCL 207). The UCs have been designed to enhance and extend scope for citizens' participation in the democratic process, thus its members take part in decision making and recommendations, among others, on local issues that have direct impact on the development of the people (Crook and Manor, 1998). Unit Committees (UC) perform administrative functions such as the registration of births and deaths, public education campaigns, revenue raising and the organisation of communal labour for local projects. District Assemblies may delegate any of their functions, excluding the power to legislate, levy rates or borrow money, to sub-metropolitan district councils, town, area, zonal or urban councils or UCs (Crawford, 2004:13).

⁶⁰ *ibid*: 13.

⁶¹ They are not on a regular salary for the work they do.

⁶² This is represented by cells of about 500 people. A Unit is normally a settlement or a group of settlements with a population of between 500 – 1,000 people in the rural areas and a population of 1,500 for the urban areas. In practice these constitute whole villages or sections of large villages and towns

⁶³ <http://graphic.com.gh/dailygraphic/page.php?news=9248> [last accessed on 06/03/2012]

Traditional Authority

The main ethnic group in the BND is Akan⁶⁴ comprising mainly of *Akyems* who are predominantly from the Eastern region. There are three main divisions of the *Akyems*; these are the *Kotoku*, *Abuakwa* and *Bosome*. Thus, there are three traditional areas in the district one of which is *Akyem Kotoku*. The people of BND are mainly *Akyem Kotoku* constituting about 85% of the *Akyem* population. Four main stool lands (*New Abirem*, *Adausena*, *Ntronang* and *Afosu*) have been affected by the mining operations. The highest traditional authority is in chieftaincy which is organized in a hierarchical order with the paramount chief at the top. That authority is located at the headquarters of the *Akyem Kotoku* people at a town called *Oda*. As is typical of the Akan militarised chieftaincy structure there are five heads of divisions under the paramount chief to which all the subordinate chiefs and people in the *Akyem Kotoku* division belong⁶⁵. The *Akyem Kotoku* state (*Oman*) constitutes one traditional area headed by the Paramount chief (*Omanhene*) who is the head of the Traditional Council of the area. Below the Paramount Chief there are a number of divisional and sub-divisional chiefs (*Ahene*) who head and represent traditional towns and villages. For instance, the chief of *New Abirem* (capital of the District) is a divisional chief of the *Akyem Kotoku* traditional area, who also has sub-chiefs at the village and community levels. Within the District, the paramount chief of the traditional area exerts control over the divisional and sub-chiefs of the area and even over lands in the area in accordance with the customary practices of the people. In some parts of the district⁶⁶ migrants have acquired the allodial interest through alienation and are now land owners in those areas. All these traditional authorities play important roles as custodians over land and natural resource management.

⁶⁴ The Akans make up about 75% of the entire population of the BND. The other main ethnic groups that make up the remaining 25% are *Gas*, *Krobos*, *Guans* and people from Northern Ghana.

⁶⁵ The Five Divisions are *Nifa*, *Benkum*, *Gyase*, *Kronti* and *Adonten*. Each of this is headed by a chief. When the *Oman* (native state) was set up as a confederation of groups of people (under a stool) it was entirely for military convenience. The army was made up of 5 winged Commanders who controlled groups of towns or stools under their wing. These were the *Nifahene* (Chief of the Right wing of the army); the *Benkumhene* (chief of the left wing); The *Adontenhene* (head of the advance guard, the Commander in Chief); The *Gyasehene* (Commander of the body guard. He acts as the regent in the absence of the *Omanhene*); the *Krontihene* (Commander of the main body and political head if the towns in that section) (Danquah, 1928: 26-33; Field, 1948: 1, 13-14). The *Akyems* had three military unions each headed by an *Omanhene* (the supreme or paramount head).

⁶⁶ In towns such as Larbi Krom and Mamanso

4.2 Research design: developing the case study and methodology

This study examined the research question by using data that was collected from multiple sources by applying a combination of qualitative and quantitative approaches (Creswell, 2008; Bryman, 2009; Yin, 2003; Gerring, 2007). The case study approach was adopted to facilitate the use of a mixed approach to the collection of primary data. A wealth of data was collected during an extensive period of fieldwork which focussed on generating qualitative and quantitative data by conducting field interviews, participatory observation and a popular survey on the perception of people about traditional authority and provision of public goods.

Case studies can be designed as a study of single or multiple cases (Yin, 2003). Thus, at an early stage of research, before data collection the decision has to be made whether a 'single case or multiple cases are to be used to address the research question' (ibid, 2003:39). Furthermore, Yin (2003) outlines five rationales for which single case studies are appropriate; where the single case represents the critical case in testing a well-formulated theory, or where the case is an extreme or unique case, or the case is representative or typical so that lessons from this can provide information about experiences, or a case is revelatory and provides an opportunity to observe phenomena previously inaccessible to scientific investigation or it is a longitudinal case so that the same single case is studied at two or more different points in time. This thesis is based on data collected from a *single* case study. The *single* case of the role of traditional authorities in ongoing negotiations for compensation at the Birim North District provides a unique case for exploring local problem solving strategies for the [co] provision of public goods and more generally development within mining communities in Ghana. What is happening as elucidated in this thesis is an unusual practice that requires exploration using empirical data analysed to facilitate understanding and knowledge of the observed outcomes.

To achieve this required an in-depth study of what was happening within the case study area. Thomas (2010) has argued that a case study method is a kind of research that concentrates on looking at one thing in detail, without seeking to generalise from it. It is about the particular "thing" as a whole rather than the general (Thomas, 2011:3; Yin, 2003). Yin (1994; 2003:5-8) also points out that a case study is preferred when 'how' and 'why' questions are asked. This is because they seek explanatory reasons for the kinds of outputs that result from the exercise of authority over stool land by chiefs in the BND. This research therefore explores how combinations of actors and institutions that have overlapping rights and interests in, and exercise varying degrees

of authority over stool land can affect developmental outcomes of local communities. This lends itself to the case study approach (Gerring, 2007:48). Adopting the case study approach allowed an investigation through in-depth study of particular local situations, 'drilling deep' to collect good data and to provide a 3-dimensional view of the research issues for a comprehensive understanding (Yin, 2003; Thomas, 2011:4-9). Again, Thomas (2011) argues that this provides a way of 'getting close to reality' about phenomena. It encourages critical thinking through experiences and intelligence of drawing inferences from data from the research objects (ibid: 6).

Using the case study research approach helped to generate different kinds of information from the various actors and institutions I engaged with during my field work. At the initial stages of my study the case study approach helped me to define clearly the boundaries of my research (Thomas, 2011, Yin, 1994). It guided my choice of the research objects and the communities within the District ensuring that I was able to explore and unravel the meanings of the phenomena I was questioning. Thus it was more important for me to select a location and respondents that can provide data to help understand the 'how' and 'why' local institutions of authority operate they way that they do and to provide explanatory account for the observed outcomes.

At the beginning of this study I realised that there was limited documentation on the specific nature of my research focus to provide understanding on how the use of local cultural repertoires can lead to the production of public developmental outcomes. The use of a case study was therefore useful to make up for the limited documentation by facilitating the generation of data sources, and more importantly to allow for the use of methods that provide opportunities to observe and explore in all dimensions the political interaction between actors and institutions at the local level. The conclusion was made that the case study was more suited for this study because it allows for the use of two important sources of evidence where there is limited source of existing data that can be relied on for the research; the use of direct observation of events being studied and interviews of the persons involved in the events within a locality (Yin, 2003:8).

To ensure rigour, validity and diversity in the findings and conclusions a popular survey using structured questionnaires as well as extensive review of existing literature provide multiple sources of empirical data for triangulation. These helped to address challenges often associated with validity and reliability of research findings and conclusions.

4.3 Selection of communities from the Birim North District

Generally, the BND extends over a large expanse of land fertile for agricultural production, forest products including timber resources and the discovery of large deposits of mineral reserves (in particular gold).⁶⁷ The availability of these resources comes with potential economic benefits to communities that are located in close proximity to the resources. The BND attracts investments in timber and mining in the area. This is also having significant implications for the conversion and commercialization of land from agricultural to non-agricultural uses. The choice of the BND and in particular the four stool land areas, as a set of case studies, were as a result of a number of factors; location within the same local government authority, the influence of local investments in resource exploitation and land uses as well as having similarity in customary land tenure arrangements.

Four communities (*New Abirem*, *Adausena*, *Ntronang* and *Praso Kuma*) which were selected to constitute a set of case studies for this thesis are within the same geographical location of the BND (see Figure 4). They are under the administrative jurisdiction of the BNDA, which has the responsibility of planning development in all these communities. The communities lie within two (out of four) area councils in the district; *New Abirem* falls within the *Abirem* and *Afosu* Area Council while *Adausena*, *Ntronang* and *Praso Kuma* are in the *Praman* Area Council.

New Abirem and *Ntronang* are relatively two big towns in the district that are experiencing a high influx of activities peculiar to urban and peri-urban areas in Ghana due to ongoing mining investments in the district. Thus the commercialization and conversion of land from agricultural to non-agricultural uses is on the ascendency in these towns. Although *Adausena* is a relatively small community, compared to *New Abirem* and *Ntronang*, its inhabitants are the most affected by the ongoing mining activities. This is because the core of mining activity is located on land that belongs to the *Adausena* stool (located between *New Abirem* and *Ntronang* (see Figure 4). *Adausena* together with *Ntronang* are the two communities that have large tracts of arable and forested land affected by the large scale mining investment in the District. This has affected a complete suburb of the *Adausena* stool resulting in the resettlement

⁶⁷ Estimated to be about 1,250 sq.km (http://www.ghanadistricts.com/districts/?r=4&_=68&rlv=location [last accessed on 18/09/2010])

of its inhabitants⁶⁸. These areas have therefore been affected directly or indirectly by timber and mining activities and were therefore selected to provide opportunity to gain insights into how chiefs manage stool land under their authority. The availability of stool land and natural resources such as timber and minerals provide great source of revenue to the people. In addition oil palm is the major crop in the mining area estimated at over 40% of total crop cover. Cocoa accounts for almost 29%, and together these are the predominant crops in the area (RAP 2010:16).

The fourth town *Praso Kuma* is a relatively small rural community lying outside of the areas that are directly affected by the mining investment and the land acquisition process in the Birim North District. It was selected to study how decisions with regards to the provision of public goods are made given that revenue generated from stool land in such rural settings in Ghana, as a result of the level of land transaction, is often low.

Praso Kuma has a voter population of about 600 people⁶⁹. Preliminary fieldwork had revealed that the chief and local inhabitants are able to mobilise collectively for the provision of public goods, although revenue generated from stool land was low. According to the District OASL officer there are no official records of stool land revenue for the area because it has a low potential to generated revenue from land transaction and natural resources⁷⁰. This therefore provided an opportunity to explore how the stool land is managed under the chief and how public goods are provided given that the people living in this community did not take part in the negotiations for compensation and public goods provision.

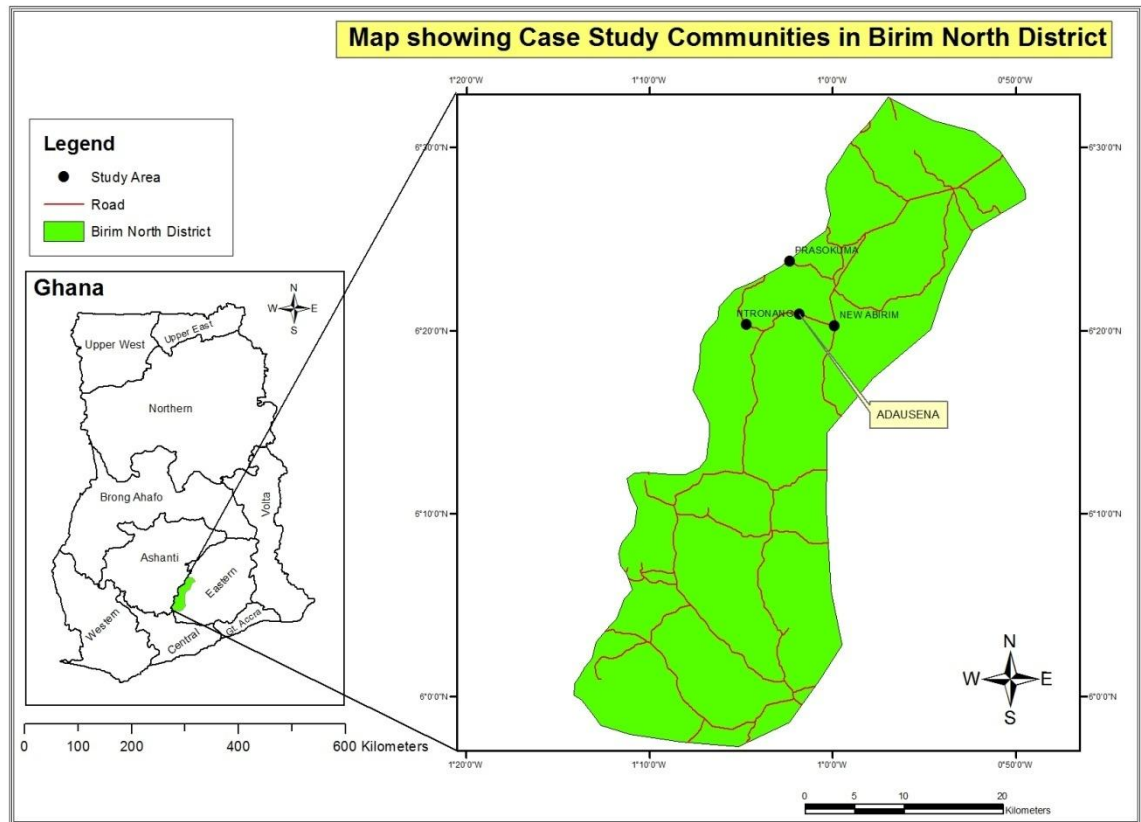
Another consideration for the choice of the set of four communities for a case study was because lands in all these communities are predominantly under the authority of chiefs as stool land. Stool lands are expected to be managed in accordance with Akan customary land tenure principles, as trust property (discussed in chapter 3). The selected communities were therefore chosen to provide contrasting modes of management by chiefs.

⁶⁸ *Yayaaso* is the community at the epicentre of the mining area. Inhabitants of the community had to be moved to a different location within the stool land to make way for mining operations.

⁶⁹ From the electoral roll of 2008 and matches the list compiled by the local Chairman of the Unit Committee

⁷⁰ Interview with District OASL officer on 11/08/2010

Figure 4: Map showing the location of the case-study communities in the Birim North District



Source: Courtesy Yeboah-Siaw's GIS data base⁷¹

The selection of these communities within the same district was deliberate for case study analysis and to ensure a balance between actors and institutions in different localities under different traditional leadership but within a common administrative boundary (Yin, 2008). This was to facilitate the examination of data on how stool land is managed and the implications for development in these areas. For instance, the choice of *New Abirem* was influenced by positive perceptions from local inhabitants that the chief had established a land management committee to facilitate prudent management of stool land the revenue it generated. On the other hand at *Ntronang* a contrary view of what was happening at *New Abirem* seemed to be the case⁷². Here the chief was said to be directly in control of stool land transactions and management of all revenues. This seemed to suggest that local inhabitants had limited involvement and knowledge about land transactions and what the revenue that is generated is used for. Thus, at the outset these two communities suggested contrasting perspectives on how

⁷¹ Joseph Yeboah Siaw (GIS data on Ghana between 2005 and 2008).

⁷² Findings made during preliminary field visit to the BND (Field notes January, 2010)

traditional authority over land is exercised. There was therefore the need for further investigation into the local situation to understand how and why traditional authority was exercised differently within these two contiguous stool land communities and the implications for the development of these areas.

In essence *New Abirem*, *Adausena* and *Ntronang*, were chosen because of the direct impact of mining activities on the communities stool and property resulting in land acquisitions and the emerging issues of negotiations and co-production of public goods. On the other hand *Praso Kuma* allows for comparison of the extent to which the observed outcomes about the provision of public goods are influenced by mining investment and the resultant negotiations in those communities. The four communities were therefore chosen because of their differences and the opportunity they provide to compare different influences on local outcomes.

To explore traditional authority in the case study communities in an attempt to understand how it operates within the context explained above required the use of a multi-methods approach to data collection and analysis. In the next section I provide explanations for the methods used to provide empirical evidence.

4.4 Data collection methods

This section explains the research strategies adopted for data collection, analyses and interpretation of the findings. As noted above I relied on the combined use of data from qualitative and quantitative sources for the thesis. Qualitative data were mainly generated from interviews using semi-structured interviews and participant observation methods. This involved extensive writing of notes and documentation of responses about the opinions and perception of the selected respondent in the selected communities and institutions. Embedding myself as a participant in the communities enabled me to observe and gain first-hand information and understanding which was helpful in explaining the nature of local cultures, the relationship between the various actors and institutions and in particular the arenas for negotiations for compensation and provision of public goods which forms a central part of this study.

4.4.1 Interviews and observations

To undertake expert interviews and engage in participant observation in a study of this kind entails constant interaction with the research objects over a predetermined period of time. To facilitate this I mapped out a broad categorisation of the actors and institutions within the study communities. The prior knowledge of ongoing negotiations in the communities affected by mining helped me to categorise the actors into:

- (1) Inhabitants of the communities (including traditional authorities),
- (2) The state institutions at the district level (this comprised the public land sectors agencies and the local government authority together with all the decentralised state institutions at the Birim North District) and
- (3) The Newmont Golden Ridge Limited, the mining company acquiring land for its mining operations⁷³.

The essence of combining interviews with active participant observation is derived from the need to explore the nature of authority exercised by traditional chiefs over communally owned land resources and to examine the implications for the provision of public goods. This is an explorative research which required depth of local knowledge and how this may have been varied over time. Interviews conducted with the three categories of actors above provided opportunities to learn about the roles of these key actors within the local community and in particular within the negotiations arenas (these will be discussed in detail in chapters 7 and 8).

Interviews

All the interviews were done using semi-structured questionnaires for each category of actors (Appendices A and B). This provided opportunity to have guided conversations rather than structured questionnaires (Yin, 2003:89). It was also to enable me to ask questions in an unbiased manner with some flexibility during interviewing and encouraged follow up questions for further probing. Chiefs, older community members and key informants⁷⁴ who were interviewed provided historical accounts of the traditional authority and land tenure relations in the communities. Interviews with youth leaders, opinion leaders of the communities and traditional authorities provided narratives on what constitute legitimate authority and how local people perceived the authority that is exercised by chiefs. The conversational interviews were followed up with subsequent more focussed interviews with selected respondents using predetermined questions. This was done to clarify or corroborate information gleaned from the interviews with some of the respondents. Apart from the individual interviews, group discussions (4-6 people) were held with the local association of the youth and women in some of the communities (*Adausena* and *Ntronang*) and these were particularly useful. Groups were formed by drawing on members of these associations

⁷³ See chapter 5 for details about these actors and institutions (including mandates) in the District.

⁷⁴ People were either indigenes or have lived in the community for long as well as experts in the relevant fields of chieftaincy, land and natural resources.

who also represented their communities in at least one of the two negotiations committees (these will be discussed in chapters 7 and 8). The leaders of the group helped in indentifying the members of the association who were also on the negotiations. These category of people brought insights into what happens both within the communities and at the negotiations. This process led to better insights into the interviews that were conducted with the various actors.

Interviews were conducted with state officials at the district. These comprised the Birim North District Assembly including the Town and Country Department, agencies of the Lands Commission and the Office of the Administrator of Stool Lands (Appendix A-2). This was to establish and understand the legal framework within which they operate at the district level and most importantly gain insights into the evolving roles they have assumed within the mining district. It was of relevant importance to get a clear understanding of the roles of these state institutions, how they are performing and their level of authority within the negotiations for compensation and public goods provision. Each of these state institutions have legal mandates but preliminary investigation had revealed that apart from being in the district to fulfil that legal responsibility they were also engaged in the negotiations process, which was an unusual development within mining districts in Ghana. Thus, I focussed on those state institutions which were involved in the negotiations process rather than all the existing district level state institutions.

Interviews with officials of Newmont working at the Birim North District were conducted to understand the rights and responsibilities of the company over the land and resources in the District. This engagement provided valuable insights into the historical development of the negotiations process adopted in the community and what the Company perceived as its social obligation to the mining affect communities. Although, as I will elaborate in the Chapters 7 and 8, the provision of public goods by mining companies to communities in which they operate in the way it is negotiated at the BND is an unusual finding in Ghana.

Participant Observation

The decision to engage in participant observation was due to awareness about the sensitivity surrounding mining and land acquisitions in areas where mining investments have taken place in Ghana (Akabzaa, 2000; Akabzaa and Darimani, 2001; Akabzaa *et al*, 2007; Yankson, 2010; Tsuma, 2010; Ayelazuno, 2011). Within mining enclaves in Ghana various parties with different levels of interests are often engaged in some form

of 'negotiations' and disputes about land required for mining. These often include members of local communities and their traditional chiefs, mining companies, non-governmental organization and officials of state institutions such as the Minerals Commission, Environmental Protection Agency and the Ghana Police Service (Akabzaa, 2000; Akabzaa *et al*, 2007). As a result of persistent levels of agitations recorded in such areas, relying only on data from the use of structured (and semi-structured) questionnaires and surveys which employ direct face to face engagement has the potential for data distortion. This is because local inhabitants may feel insecure to provide information for fear of being indentified. Likewise officials of both state institutions and mining company may not be willing to divulge some information, which could potentially be made public.

Furthermore, insight about negotiations strategies being developed by the parties involved might not be revealed through other forms of interviews. It was therefore necessary for me to engage in participant observation in the communities. To do this I had to seek approval to enable me attend and observe meetings where the actual negotiations were conducted. This required some skill in observation as well as trust and cooperation from the community inhabitants and all the parties to the negotiations. I therefore had some training in ethnography before setting off for fieldwork⁷⁵. To gain sufficient trust and cooperation of the local inhabitants, I relied on my previous relationship with a private consulting firm that provided advice on land access to Newmont. The firm introduced me to the negotiations committees and sought formal permission for me to attend and observe negotiations proceedings.⁷⁶ Both Newmont and the local community representatives did not object to this request. This immensely facilitated my research because I was able to attend both plenary sessions and sub-committee negotiations meetings to observe and take notes on the dynamic of the process (see chapter 7 for details). Through a similar process I was able to establish contact with all the traditional authorities in all four communities. While I lived and spent most of the time at *New Abirem* I was able to move in and out of the other communities freely to conduct my research without difficulties.

The opportunity to live in the communities for most of the 10 month field work period to interact with local inhabitants and observe negotiations proceedings gave me additional

⁷⁵ The special training was to help me to be able to actively engage in participant observation and embed myself in the right positions and places within the community to watch how the various actors interact within and outside of negotiations meetings. This training was facilitated by The Africa Power and Politics Programme (APPP) in 2010 at the premises of the Overseas Development institute.

⁷⁶ Landpro Consulting Limited

insights about the feelings and thoughts of the local people, their culture, and decision making processes. In fact this approach enabled me have an understanding of the lived realities of everyday lives of the local inhabitants: social and cultural life of the people; the way people relate and conceive meanings of things happening around them. It enhanced my understanding of people's actions, power and political relations and how these impact on others with regards to land and natural resources in the area. Through this approach I was also able to construct what constitutes a good outcome/service and how these are accessible by members of the community. Being able to speak and understand the local language (*Twi*) spoken by the inhabitants was helpful. This was important in helping to understand the notion of development from the perspective of the local inhabitants. To the local people development (*mpuntu*) and public goods meant more or less the same. A public good refers to a local public facility which no one controls privately. Examples given include roads and bore-holes to supply potable water, hospitals and schools.

Furthermore, engaging in participant observation provided the opportunity to understand what people say and behave within meetings during negotiations, where their personal interests are not represented because all the parties are representatives of a group or institution, and how they express themselves outside within the communities. Observation of proceedings at meetings in particular enabled me to observe the intricacies of the negotiations and most importantly about the power dynamics within the negotiations arena: who could speak and what they said at these meetings provided important dimension to the data collected outside of the meetings. Knowledge of all these combined effectively and facilitated the analyses and interpretation of the data from interviews and observation. Key to the observations was keeping a record of events in a field note book and personal diary, which was useful for noting initial reflections about interview responses and observations to support the documentations that were being made. In chapters 7 and 8 I provide detail discussions on the observations made at the different levels of negotiations between the parties.

It is important to note that my presence in the community and in particular at negotiations meetings did not in any way affect how the local inhabitants would normally behave. Outside of the negotiations committee perhaps I was not even noticed. This is because as a result of the mining activities there had been an influx of people into *New Abirem*, where I was based most of the time. New arrivals in the town were either perceived as workers of the mining company or had come to do some business connected with the new investment in mining. Within the negotiations

committees I was introduced as a research student interesting in observing the negotiating process, which the local inhabitants knew themselves as unusual within mining communities in Ghana. They were also aware that my research could not influence the outcome of the negotiations for compensation and development goods. In fact because of the mining activities the BND and its inhabitants have encountered both professional and student researchers at some point in time. Thus, a local chief made the following comment when I went to explain my research and to seek his permission to stay in his town:

I know what you want to do.....you want to write a book about us and we will help you by giving you all the information you want to help you do that so that what is happening here will be known.....some students have come from abroad and other local universities before you to do similar things.⁷⁷

Statements of this kind and the belief that my presence during meetings and in the communities will have no influence on the negotiations gave me confidence that what I observed was a reflection of the reality in the everyday lives of the people in the district.

4.4.2 Exploring the research question in the study communities

This section provides an explanation of how the specific methods were used to explore and analyse the research questions. The discussion also explains how interviewees were selected from the identified actors and institutions.

Having made the choice to use semi-structured interviews and engage in local participant observation in the communities the next step was to identify the specific respondents. Following from the preliminary visit to the case study district and interview with public land sector agencies in the BND and at the regional level I had already identified traditional chiefs and these agencies as categories to pursue for further interviewing sessions. Thus, the chiefs and their Councils of Elders and the state institutions became the primary focus to start with.

Engaging with traditional authorities and members of the local communities

Contact with the traditional authorities was established during the preliminary visit to the district and I informed them about a follow up interview when I returned for the extensive stay for field work. The key interest in the interviews with the traditional authorities was to understand the political structure of the traditional authority at the local level and how it is exercised in practice over stool land. The aim was to

⁷⁷ Interview with NACH on 10/07/2010

investigate about the historical position of the chief over these resources and how that has been affected by the mining acquisition. A semi-structured interview guide was prepared to facilitate the discussion in an informal setting. My understanding of the traditional structure and decision making process as well as the existence and role of other local institutions in the communities was key to unearthing how chiefly authority was being exercised.

By interacting with and interviewing traditional authorities I gained insights into the local power structures in all four communities. There were groups and structures that were established under the traditional chief to facilitate decision making and the management of land.

By asking the traditional authorities about how stool is managed and decisions about development are made led to the revelations about the existence of Plot Allocation Committees (PAC) in all the four communities. This provided further opportunity to investigate and to verify the responses from other sources about land and development. Interviewing the chiefs and their elders helped in identifying other relevant local actors and institution involved in stool land management (see Appendix B1-1 for interview guide).

Two important opportunities helped in identifying potential respondents for interviews and group discussions. Firstly, by living amongst the community people it did not take long to know who the opinion leaders in the community were, and which groups and associations existed in the communities. An important observation that was made during the initial stage of my field work was that the negotiations committees were constituted by people who were respected in the communities (and therefore listened to by the local inhabitants) or belong to an established group such as the youth or women or farmers association⁷⁸. Knowledge of this helped to identify potential interviewees. As I will explain later in chapter 7 because of Newmont's mining investment in the District a number of local groups that have emerged (or revived) and are actively involved in development issues. These were mainly the youth and women's associations in the mining affected communities. The responses from the leaders and selected members of these groups provided insights into decision making for planning development within the communities (see Appendices B1-2 and B1-3).

⁷⁸ Although as I will explain in chapter 7 membership into any of the negotiations committee is by election, being a member of a group or respected person in the community can easily get one elected.

Secondly, attending the negotiations meetings as a passive observer provided another opportunity to establish how the representatives were selected, whose interest was expressed at the meetings and the authority of all the members. Permission to attend and observe meetings at the plenary session of the negotiations facilitated further access to meetings at the sub-committee level where the actual negotiations took place (this is further explained in Chapter 7 and 8). This provided an additional opportunity to observe the dynamics of local power in action and also to identify key members of the committee for interviews.

Interview with District level State institutions

Officials of district level state institutions involved in the negotiations served as the source of another level of qualitative data. As a follow up to initial interviews with officials at the regional level of the OASL and the Lands Commission, which I had during the preliminary field visits, arrangements were made to interview officials at the district level. Table 1 shows the list of officials of state institutions that were interviewed (see Appendix A-2).

Interview with the respective officials was to find out the interests of these public institutions and to investigate their legal position within the context of the local negotiations for compensation and provision of public goods at the BND. It was also to promote knowledge and understanding of their authority in decisions that are taken within the negotiations arenas. For example, the BNDA is by law the legal authority to initiate and plan development within the district. It was therefore of interest to find out what role it played in the negotiations between the local communities affected by mining and Newmont.

Table 1: List of officials of State institutions interviewed

	Official's rank	Institution/Department
1	District Planning Officer	Birim North District, <i>New Abirem</i>
2	Head of Town and Country Planning	TCPD, <i>New Abirem</i>
3	Senior Stool Lands officer	OASL, Accra
4	Regional Stool Lands Officer	OASL, Koforidua
5	District Stool Lands Officer	OASL, <i>New Abirem</i>
6	Chief Executive Officer	Lands Commission, Accra
7	Senior Lands Officer	PVLMD (LC), Koforidua
8	Lands Valuation Officer (BND)	Lands Valuation Division (LC), Koforidua
9	Assemblyman ⁷⁹	<i>Ntronang (Ahenebrono)</i>
10	Assemblyman	<i>New Abirem</i>
11	Assemblywoman	<i>Adausena</i>

Source: Author's fieldwork (2010)

Apart from interviewing the officials above I identified and selected researchers and experts to explore information on specific issues of land and chieftaincy in Ghana. Interviews with the following people were helpful in this regard (see Appendix A3).

- a. The President of the Ghana National House of Chiefs in Accra
- b. Three (3) lecturers who are experts on land and compensation issues: two from the Kwame Nkrumah University of science and Technology, Kumasi and one from the University of Ghana, Accra.
- c. One (1) freelance researcher on customary land tenure in Ghana.

Interviewing Newmont Officials

Mining investment in the BND led to the unusual establishment of committees to negotiate compensation payments for property and investment in public goods in mining affected communities. As far as development was concerned Newmont was an important collaborating institution in the BND. It was therefore important to find out the framework within which the Company operated and its role in the ongoing negotiations for compensation and provision of public goods. The Community Development Department was important in this regard since it was responsible for the Company's

⁷⁹ Elected representative of the community at the Local Government Authority (BND)

relationship with the mine affected communities in the District. Apart from interviewing the head of this unit the Company's community relations officers located at information centres in *New Abirem*, *Ntronang* and *Adausena* served as conduits for community entry. These facilitated the location of interviewees and observations as well the survey that was undertaken (see appendix A-4 for list Newmont officials interviewed).

The above process for collecting qualitative data generated an extensive wealth of information for the thesis. The various approaches and sources helped to clarify often contrasting responses gathered from the different sources.

4.4.3 Survey of perceptions among local inhabitants

A popular survey of local inhabitants was undertaken with a view of gaining insight into individual opinions and perceptions on specific themes of the research. This was done using structured questionnaire interviews. Data collected and analysed from the popular survey were necessary in the study to provide a picture of the general perceptions about chiefly authority, to what extent chiefs' exercise of authority was legitimate and the level of trust that local inhabitants have in their chiefs and other local actors and institutions that facilitate the provision of public goods in the communities.

A structured questionnaire (see appendix C) was designed for the survey after the sixth month of field work during which time I had engaged in participant observation and conducted interviews with different categories of people as explained above. The survey was delayed until this period so that detailed knowledge about the configuration and profile of political authorities within the communities was established before undertaking a survey of perceptions. Broadly the following were identified as the main differences among the inhabitants living in the communities; indigenes, migrants, farmers and non-farmers, and the youth. This was helpful and facilitated a careful selection of respondents to ensure that the sample size reflected fairly a cross section of local inhabitants.

As a result of the lack of reliable population data at the time of undertaking this study I had to rely partly on the electoral roll for registered voters⁸⁰ for *New Abirem*, *Adausena* and *Ntronang* and a list of adults compiled independently by the Unit Committee

⁸⁰ This was provided by the District Electoral Commission Officer at the time of field work in 2010.

Chairman for *Praso Kuma* as the sample frame from which respondents were selected⁸¹.

Table 2: Register of adult voters in the case study communities as at 2010

Community	Voter Population
<i>New Abirem</i>	3,251
<i>Adausena</i>	1,225
<i>Ntronang</i>	1,803
<i>Praso Kuma</i>	600
Total	6,879

Source: Birim North District Electoral Commission (2010)

Over the years there had been the influx of migrants into the BND to engage in agriculture due to the availability of arable land for the cultivation of cash crops such as cocoa, oil palm and kola. Mining has also attracted an increased number of people, especially the youth. The local population in communities such as *New Abirem*, Afosu and *Ntronang* also comprise a broad categorisation of the inhabitants as farmers and migrants. Knowledge of these differences among the local inhabitants was made through observation and initial interaction with inhabitants and talking to officials of Newmont.

However, without an up to date census data to show this I adopted the purposive approach of identifying and selecting where possible a balanced number of respondents to reflect the population in all the communities. Using the number of registered adult voters as a guide each community was assigned a maximum quota of potential interviewees. With three locally recruited research assistants the respondents were to be selected purposively by alternating between male and female adults in the selected houses who were available and willing to be interviewed.⁸² I realised that in each community there was a main road that divides it into approximately two equal halves. The interviewer at one side of the community selects randomly a house close to the end of the road. In this house a male or female adult is selected and the respondents status as to whether native or migrant is noted. The next house from

⁸¹ Results of the national population census which had taken place earlier in the year 2010 had not been officially released.

⁸² I employed three data collection assistants to administer the questionnaires over the duration of two weeks. Two communities were covered in each week. The reason was to ensure that respondents did not pass on their responses to other potential respondents in the other communities. This was because I found out that information flow was fast amongst local inhabitants due to the sensitive nature of the negotiations and the regularity of meetings by the representatives from the communities. In each alternative house visited an adult present was interviewed

which a respondent is selected is determined by the interviewer by counting two houses from the present. In the selected house, assuming a native male was interviewed, in the next house the interviewer purposively aims for either a non-native male or female whose status once determined was varied again for the subsequent house. This was repeated until the quota was achieved for each community. This provided the basis for the selection of respondents without any bias between adult male and female. This constituted a non-probability approach to selecting the respondents although care was taken to ensure a fair and balanced representation of local inhabitants without necessarily dependent on a sampling frame and accuracy of selection [as it is a non-probability approach].

A total of 301 structured questionnaires were administered in all the four communities of the district. Table 3 below shows the distribution of valid responses received from the four communities. The distribution reflects the size of the population and land area of the community. Analysis of the survey data showed that the proportion of male to female respondents was 54% to 46% respectively. This was as a result of the purposive sampling approach of alternating between male adults and females as respondents were being selected from one household to the other.

In addition to the above different sources of data a review of existing literature provided an extensive wealth of secondary information. Information gathered from this source has been combined with the primary data and forms the basis for the analyses and interpretations of findings. Reviewing the literature provided historical accounts of chiefs' role in national and local politics of development since colonial rule in Africa and in Ghana in particular.

Table 3: Distribution of returned valid questionnaires by communities

Community	Frequency	Valid Percent (%)
<i>New Abirem</i>	102	34
<i>Ntronang</i>	98	33
<i>Praso Kuma</i>	59	19
<i>Adausena</i>	42	14
Total	301	100.0

Source: survey data (2010)

This was important for the study because to understand the present required knowledge of the past. It was also important to have a full grasp of understanding and knowledge about the nature and historical development of customary land tenure relevant to the case study communities. Government documentation and statute laws that regulate land use and natural resource management were assembled and

examined in relation to the central theme of the study. This information was useful to the data collection process and facilitated an understanding of the legal framework within which the actors and institutions function in the case study district.

The combined use of all methods above provided multiple sources of empirical data for the triangulation required to address the challenges of validity and reliability of findings and conclusions.

5 Conclusion

This research was undertaken as a case study and the approach used for the collection of data which have been analysed and discussed in this chapter. A set of four communities in the BND constituted a single case study for the research. I have explained why this approach was more suited to the research. Within the case study data were collected by using a combination of qualitative and quantitative methods.

Data from interviews and observations were combined with survey data from popular perceptions and provided insight into the research questions. Analyses of these data were combined with information reviewed from existing literature based on which findings and conclusions were made. In the following four chapters I will discuss and analyse the data that was created with this research design and methods.

Chapter 5

Stool Land Management and Provision of Public Goods: Local Actors and Institutions of Authority in the Birim North District

5.0 Introduction

This chapter is about the different types of actors and institutions with authority and interests over land and natural resources that are in the four selected case communities in the Birim North District (BND). In the BND there are a multiplicity of institutions and actors who interact at various levels and in different capacities of development. Some of these institutions have evolved from the customs and traditions of the people, such as the institution of chieftaincy and the Council of Elders. Others are the creation of the state and operate within a bureaucratic legal framework. A third category are those individuals or groups of people who come together to pursue a common goal in the communities in which they live. Examples of these are the youth and women's' associations. These may be described as associational organizations and are often recognized and respected by the local inhabitants.

The discussions in this chapter are about established customary practices and laws on land and the interrelations amongst the identified actors and institutions, and how they are changing leading to contestations and contrasting claims to authority over stool land in the district. In essence the focus here is on the customary and legal positions of these institutions, what happens in practice and the realities observed.

The chapter is subdivided in to the following sections: an introductory section which outlines what the chapter's focus is about. This is followed up by analysis of each of the category of actors and institutions. The final section is a conclusion which draws out and put together the main strands of the findings and arguments of the chapter.

5.1 Traditional institutions: authority and legitimacy of traditional chiefs in the Birim North District

Traditional institutions have been described as 'the forms of social and political authority which have their historical origin in the pre-colonial states and societies, and which were incorporated by British colonial rule' into the Gold Coast, now Ghana (Crook and Addo-Fenning, 2005). These comprise the governance structures, systems and processes that communities have evolved historically. Traditional institutions are therefore of indigenous origin, which have gone through changes during and after colonial rule (Crook, 2005). It is within this context that this thesis refers to chieftaincy

and its council of elders recognized within a particular local society as traditional institutions. This section discusses these traditional institutions of authority with regards to the basis of their authority, and how that it is exercised in practice.

5.1.1 Traditional chiefs and the institution of chieftaincy

In Ghana, chieftaincy is an important political institution that is guaranteed by law⁸³ (discussed in chapter 3). Customary practices may differ widely amongst Ghanaian societies, but they all do recognize the leadership status of chiefs and acknowledge that chiefs may only be selected from particular families or group of people⁸⁴. Among Akan speaking people the selection of chiefs is based on lineage system⁸⁵ (Rattray, 1929; Busia, 1951:1). Under this the matrilineal system of inheritance is of political significance because men are by custom identified with their maternal kinsmen. This determines a man's right to inherit and become a chief or hold some other significant political position within a family (Busia, 1951). The determination of matrilineal linkages and traditional process of selecting chiefs are often found in historical accounts that may be linked to the time of first settlement and political organization of the society (Rattray, 1929; Field, 1948; Busia, 1951). However a chief is selected, the approval of the ordinary stool members appears to be important in the legitimization of the authority conferred. Generally, if there are any objections it would be made known at an earlier stage to the traditional authorities. Sometimes these objections are raised by other potential candidates who were not selected. Even though this may be considered an intra-royal matter it does involve the community people who may be in support of other potential royal(s). A rejection of the nominated chief by the community often results in conflicts and protracted litigations. This has become very widespread in Ghana in recent years⁸⁶.

⁸³ Chieftaincy as a form of traditional rule by chiefs is guaranteed under the Article 270 of the 1992 Constitution of Ghana. A derivative of this is an enacted law, the Chieftaincy Act, 2008 (Act 759) which regulates activities of traditional chiefs in the country. Article 36(8) and 267(1), among others establish the position of chiefs as managers of stool land.

⁸⁴ See section 3.1 for who a chief is as defined by Sections 57(1) and 58 of Chieftaincy Act, 2008 (Act 759). The following are categorised as chiefs in Ghana; the *Asantehene* and Paramount chiefs, Divisional and sub-divisional chiefs and *Adikrofo* (literally meaning owners [heads] of villages).

⁸⁵ These are the patrilineal and matrilineal systems. Akan speaking people of Ghana practice the matrilineal family system. Thus, men are eligible to inherit through their mother's family lineage. They do not inherit their father's property but rather through their maternal uncles (i.e. male siblings of their mother). In chieftaincy matters, the queen mothers are by tradition those who nominate a candidate from within the royal family for the position of chief. She may nominate her own male children, if they are of sound and moral values.

⁸⁶ In Accra the *Ga Mantse* (chief of the Ga People) chieftaincy dispute can be cited as an example (see also page 44)

The way chiefs are elected into office in the case study district is similar to what pertains in other Akan-speaking societies in Ghana. The analysis in the next section focuses on the nature of the institution of chieftaincy in the selected communities of *New Abirem*, *Adausena*, *Ntronang* and *Praso Kuma*. This is examined to provide an understanding of the source and nature of political authority that is exercised by the chiefs and their specific role over stool land resources and development.⁸⁷

Legitimacy of authority exercised by chiefs in case study communities

All the chiefs in the study communities were installed in accordance with Akan customary practices through which they have acquired legitimate authority to rule. A legitimate chief does not only acquire authority to govern but is also expected to fulfil some obligations in the community. In accordance with Akan customary practices chiefs are selected from a particular group, i.e. the royal family, within the local society. These families often trace their lineage to first settlers who either discovered or conquered the lands on which they settled. Information gleaned from separate interviews provided an account of how chiefs are selected in these communities.⁸⁸ Chiefs are installed for life and so a new chief is only selected when the stool becomes vacant as a result of death, incapacity or destoolment.⁸⁹

When a stool become vacant as a result of one of the above causes, the *Krontihene* of the respective community initiates the process for the selection of a new chief. This is done by first informing the elders and queen mother and then rest of the royal family. The queen mother, the head of family and elders hold consultations and prepare for the selection of the new chief. During these consultations the queen mother by custom is asked to make a nomination of a potential candidate from amongst the eligible male royals and present the name to the elders. There is often intense lobbying amongst the eligible male candidates in order to secure the nomination of the queen mother to the elders. On an appointed day the queen mother presents the name of her preferred candidate with drinks to the elders. If her nominee is accepted the drink is taken and shared by all the elders as sign of their approval and commitment to support the queen

⁸⁷ Interview with the chief of *New Abirem* on 10/07/2010 and *Krontihene* of *New Abirem* on 03/09/2010, *Gyasehene* of *Adausena* on 11/07/2010 and a former Chief and *Opanin* Duah of *Ntronang* on 25/08/2010, Chief of *Praso Kuma* on 29/09/2010, Group discussion with the *Krontihene* and elders of *Praso Kuma* on 29/09/2010. These accounts are also given by Field (1948:1-2), in an anthropological study of the area.

⁸⁸ Interview with chief of *New Abirem* on 10/07/2010, *Krontihene* of *New Abirem* on 03/09/2010, *Gyasehene* of *Adausena* on 11/07/2010, the elders of *Ntronang* on 25/08/2010, Queen Mother of *Ntronang* on 02/10/2010 and *Adontenhene* of *Afosu* on 02/07/2010.

⁸⁹ Removal from the stool

mother's nominee. Next the head of family, who is an elder of the traditional council announces to the rest of the family and elders (traditional authorities) that a new chief has been selected. A delegation led by the *Gyasehene* is then sent with drinks to inform the *Krontihene* about the nominated person. Subsequently, the *Omanhene* is informed of the newly selected chief who would occupy the vacant stool. The person who is chosen to become chief must not only be acceptable to the council of elders, but also the ordinary citizens often represented by the *asafo*⁹⁰ group and *nkwankwaa* (the commoners). Approval by the community's citizens ultimately legitimizes the authority to rule by the chiefs and lead the people and to exercise authority over their collective stool land resources in accordance with customary principles⁹¹. Apart from being a member of the royal family in the community there are other qualities that are considered in the selection and approval of a new chief. For instance, the person who qualified to become a chief should have acceptable moral values and not hold any bad record such as an ex-convict, theft, and rape.

The duties and responsibilities that are expected of a chief range from the performance of traditional and customary functions of attendance at festivals, durbars, leading the people in times of war and external aggression, organizing communal labour to being initiators and lobbyists of developmental projects for their respective communities (Odotei and Awedoba, 2006)⁹². This latter responsibility which has long been established now seems to be considered a premium criterion in the selection of modern day (Dunn and Robertson, 1973; Odotei and Awedoba, 2006:527). In an interview with the chief of *Praso Kuma* he elaborated on the responsibilities and expectations of chiefs as follows:

A chief is expected to perform so many roles, which may be traditional and cultural but in a modern society the people he rules over expect a lot from him. The traditional functions of a chief includes sitting in state during festivals, serves as the mouth piece of the people at traditional council meetings, ensures that peace and stability prevails in the town as well as settlement of disputes amongst the citizenry. A good chief is expected to see to the welfare

⁹⁰ These are traditional warrior groups in Akan culture. Traditionally the *asafo* companies' role is defence of the *Oman*

⁹¹ Rattray, 1929: and Busia, 1951:11 have stated that 'this is a privilege of the commoners who have to serve him'. This is because the Ashanti's (Akan generally) hold the belief that 'a royal does not install a chief', it is the people who have that power even though in accordance with customary principles the process often starts with the nomination of eligible candidate by the queen mother (*ohemaa*).

⁹² Development is defined to include physical infrastructural, human and natural resources. Interview with Chief of *New Abirem* on 10/07/2010; Krontihene of *New Abirem* on 03/09/2010 and in group discussion with OPNA of *New Abirem* on 02/09/2010. This observation was also made by Dunn and Robertson (1973) in their study in *Ahafo*. Examples of chiefs performing this contemporary role in Ghana are the Kings of Ashanti and Akyem Abuakwa on education and environmental protection respectively.

of his people by ensuring development in the town. He must therefore have the capacity to lobby and attract government and non-state agencies for projects.⁹³

In addition to the above, in the BND as in most parts of southern Ghana, chiefs' control stool land thereby giving them significant influence and power over decision making with regards to its use and the potential to benefit from the wealth it creates (see details in Chapter 6).

Traditional control mechanisms on chiefly authority: the Council of Elders

The traditional process of nomination and approval of chiefs by the people serves as the source of legitimacy of the authority of the chief. But the authority is expected to be exercised within customarily defined and accepted principles and norms of the society⁹⁴. The chief is a member of a family of which he is often not necessarily the head. Every royal family has an *abusuapanyin*⁹⁵ and every stool has a traditional council of elders that is constituted by lineage heads, usually respected elderly men of the society and sub-chiefs of the stool, including the *Gyasehene* and queen mother⁹⁶. Although the chief is the highest authority of the land, he is obliged to consult the Council of Elders on issues affecting the community (Rattray, 1929; Busia, 1951). Furthermore, Busia (1951) has stated that 'the chief was bound by his oath to consult the elders on all matters and to obey their advice'. Rattray (1929: 82) also asserts that a chief's "failure to accept guidance and advice [from his Council of elders] was legitimate cause for destoolment". It was therefore the responsibility of the Council to offer advice, guidance and to regulate the conduct of the chief during his tenure. To that extent, under Akan customary law the Council of Elders has the authority to call a chief to order if any allegation of misconduct against a chief is brought to its attention (Busia 1951:14).

Notwithstanding the above, various comments made by a number of scholars who have studied how chiefs exercise over stool land, seem to suggest that in practice the Council of Elders has been ineffective in the way they serve to provide a customary check on the potential arbitrariness of chiefly authority. For instance, Kasanga (2001:31) who argues that customary institutions are more suitable for the

⁹³ Interview with Chief of *Praso Kuma* on 29/09/2010

⁹⁴ Interview with Chief of *New Abirem* on 10/07/2010; interview with *Krontihene* of *New Abirem* on 03/09/2010.; interview with opinion leaders at *New Abirem* on 02/09/2010 ; Interview with queen mother of *Ntronang* on 02/10/2010.

⁹⁵ Head of family

⁹⁶ Interviews with *Gyasehene* of *Adausena* on 11/07/2010, queen mother of *Ntronang* on 02/10/2010 and the Chief of *Praso Kuma* on 28/09/2010. ⁹⁶ It has been suggested that some chiefs co-opt elders who constitute the council and for that matter they tend to be ineffective (Ubink, 2008:161).

management of stool land than the state institutions also recognizes the weaknesses in these institutions and therefore proposes that effective control mechanisms are put in place to avert potential arbitrariness and abuses by those in authority. Similarly, Ubink's study of per-urban Kumasi provide another evidence of the existence of the ineffective uses of traditional control measures⁹⁷ on the powers and authority exercised by chiefs over stool land transactions (Ubink,2008:161).

There is an alternative claim that a more potent form of traditional control on chiefly authority is provided through the customary oath taken by chiefs when they are being installed. This was alluded to by some of the respondents interviewed; 'A chief swears an oath to serve his people and commit to uphold the virtues of the customs and traditions of the people'.⁹⁸ It was explained that any failure to abide by the oath could be a cause for the destoolment of a chief. This measure is one of the effective traditional measures that are used to prevent potential abuses of authority⁹⁹.

The above points out that there are forms of customary controls over the authority of chiefs. However they have not been effective in preventing the potential abuse of authority by chiefs. This is a reality that has been acknowledged by the National House of Chiefs (NHC), which has initiated steps to formally address this through state legislative enactments. As a result the NHC has developed a proposal for a code of ethics and a law to regulate the conduct of chiefs¹⁰⁰.According to the President of the NHC:

A New Legislative Instrument on codes of conduct and rules of ethic for chiefs has been drafted by the NHC for consideration and adoption to regulate activities of chiefs. This would go a long way to facilitate chiefs' command for the respect and authority that they deserve. It would also serve as a check on those chiefs who are likely to abuse their authority.

The above gives the indication that although traditional chiefs are the recognized legitimate traditional leaders; questions have been asked about how some do exercise their authority in practice, especially over stool land.

⁹⁷ These are the Council of Elders and the threat of destoolment (removal) of chiefs

⁹⁸ Meetings with the elders of the Chief of *Ntronang* on 25/08/2010, and the Queen Mother of *Ntronang* on 02/10/2010

⁹⁹ Interview with the chief of *New Abirem* on 10/07/2010 and the President of the National House of Chiefs on 13/12/2010

¹⁰⁰ Interview with the President of the House of Chiefs, Prof. Nabila on 13/12/2010. It was however not possible to cite a copy of the proposed document at the time of the interview

5.2 State Institutions of authority: local government, the administration of stool land and development

Apart from the local government authority (District Assembly), there are other state institutions with offices in *New Abirem*, the district capital. Two of the divisions of the reconstituted Lands Commission, i.e. the Public and Vested Land Management Division and the Land Valuation Division do not have resident district offices at *New Abirem*. The schedule officers perform their statutory functions from the regional capital (Koforidua), which is about 130km away. The Office of the Administrator of Stool Lands (OASL) is the only land sector agency with a decentralized district office. Other institutions at the district are the Ministry of Agriculture, Commission on Human Rights and Administrative Justices (CHRAJ), Department for Community Development and the National Commission for Civic Education (NCCE).

The Birim North District Assembly is the coordinating unit and forum for the integration of all public institutions in the district, although these state institutions maintain close ties with their individual offices at the regional and national levels. This section focuses on the BNDA, its sub-units and three land sector agencies at the district level. Analyses of the other state institutions mentioned above and their role which is of relevance to this study in the ongoing negotiations for land access in the BND will be discussed in chapters 7 and 8.

5.2.1 Birim North District Assembly

The Birim North District Assembly (BNDA) is the decentralised local government authority in the area and is under the Ministry of Local Government. It is the highest political, administrative, planning and rating authority in the area (ILGS, 2008:5)¹⁰¹. Under the 1992 Constitution and the Local Government Act, 1993 (Act 462), every District Assembly (DA)¹⁰² is the statutory planning authority of their area. The mandate of the DA includes physical and economic planning. District Assemblies therefore perform functions such as; the formulation and preparation of the district development plans and budget; mobilization and allocation of resources for the provision of public goods and services, promotion and support of productive activities and social

¹⁰¹ Institute of Local Government Studies, 2008

¹⁰² Often used in a generic term to include Metropolitan and Municipal Assemblies. Under the Local Government Act, 1993 (Act 462) the difference in these are in terms of population size (a local government unit with >250,000 people is designated Metropolitan authority, >95,000 and one town Assembly is a Municipal authority while a District Assembly has population between 75,000 and 95,000 people (ILGS, 2008:4).

development, which are aimed at removing obstacles to initiative and development in the district (Act 462, section 10 and ILGS, 2008:5).

Thus, the BNDA has an overarching authority to ensure that they initiate and pursue projects that have the potential of impacting positively on the *total development*¹⁰³ of the people living in the district. According to the District Planning Officer (DPO) of the BNDA there has been an effective collaboration amongst the three functional bodies of the Assembly, i.e. the District Chief Executive (DCE), the General Assembly and the supporting bureaucrats who perform general administrative functions.

The head of the BNDA is a District Chief Executive officer (DCE) appointed by the President of the Republic of Ghana with the approval of two thirds of the members of the local Assembly. The position of the DCE, who is appointed by the President, is political. The DCE is therefore the political and administrative head of the BNDA and ensures that development is pursued within the general framework of government objectives and more generally that of the ruling political party. The General Assembly of the District is constituted by both elected and non-elected members with an elected Presiding Member (PM)¹⁰⁴. Another characteristic feature of the membership of the Assembly is that it is made up of both bureaucrats and non-bureaucratic officials. The bureaucrats include; the District Coordinating Director (DCD), District Officers for Planning, Budget, Finance, Environment, Health, Education, and Community Development. These officials are responsible for administration of the district to ensure its total development. The non-bureaucratic members of the Assembly comprise 70% elected representatives¹⁰⁵ of the local people and 30% government appointees, who are appointed by the President in consultation with the traditional authorities and interest groups in the District¹⁰⁶. These representatives are responsible for the formulation of bye-laws for the BND. The 30% government appointees are made up of professionals (sometimes indigenes living outside of the District) in various fields of expertise, who are therefore expected to bring their knowledge to bear on the activities of the District Assembly.

¹⁰³ The District Planning Officer of BNDA defined this to include the provision of social infrastructure such as education, health and sanitation; productive infrastructure such as good roads, electricity, and potable water to help growth of economic activities and to attract potential investors into the district. Interview with DPO on 17/06/2010

¹⁰⁴ At the time this fieldwork was conducted the PM of the Birim North District was a member of the opposition New Patriotic Party (NPP) elected during the tenure of the NPP in 2008

¹⁰⁵ Elected to serve a 4 year term, but may be re-elected.

¹⁰⁶ The 1992 Constitution Article 242(d). This is the only provision where chiefs appear to have a formal role in local authority. Chiefs have however argued that this is an indirect role and therefore seek a more direct role as they had prior to independence.

The position of the Assembly Member is supposed to be non-partisan, but in reality this has been observed not to be the case. People get elected through their political affiliations, especially with the government in power, whereas those directly appointed by the President may have an inclination to the ideas of the government.

Furthermore, because elections for Assembly Members is often held two years into the term of office of the ruling party, most of the members who get elected into the Assembly often belonged to the government's party. This, it was pointed out tends to affect the work of the Assembly¹⁰⁷. The explanation was that some members lost their place at the Assembly because they belonged to opposition parties and, secondly decisions tend to be made in favour of party agendas¹⁰⁸. However, my general observation from other jurisdictions in Ghana was that because of the party politics associated with District Assembly elections, political parties give financial support to their candidates and those who belong to the ruling party benefit more. Thus when the party loses an election and goes into opposition that support was either curtailed or reduced which then affects their candidate's chances of getting re-elected. Given the nature of the functions that Assembly Members perform in their electoral areas they are not expected in practice to be partisan, but in a multi-party system, as practiced in Ghana, it is challenging for these members to remain as the law provides, non-partisan representatives.

*Sources of funding development projects in the Birim North District*¹⁰⁹

Until the introduction of the District Common Fund¹¹⁰ in 1992 the BNDA's main source of funding for various projects, apart from the share of stool revenue (see section 5.2.2), was through a number of sources such as:

1. Internally Generated Funds (IGF) - mobilization of local revenue through e.g. tolls (market and lorry park), property rates for development

¹⁰⁷ Interviews with Assemblymen for *Ntronang* on 02/10/2010; *New Abirem* on 02/09/2010 and Assemblywoman for *Adausena* on 10/09/2010

¹⁰⁸ Interview with the Assemblyman of *New Abirem* on 02/09/2010, Assemblywoman of *Adausena* on 10/09/2010. and Assemblyman of *Ntronang (Ahenebrono)* on 02/10/2010

¹⁰⁹ Details provided here are drawn from the interview with the District Planning Officer (DPO) of the BNDA at his office on 17/06/2010 where the examples stated here were read out to me from a document he had before him.

¹¹⁰ The fund is a Development Fund which enables the use of the nation's wealth throughout Ghana to the benefit of all citizens. It is a minimum of 5% of the national revenue set aside to be shared among all District Assemblies in Ghana with a formula approved by Parliament. It is created under Article 252 of the 1992 Constitution of Ghana (<http://www.commonfund.gov.gh/>) [Accessed on 20/06/2011].

2. Central government subventions e.g. for the payment of salaries staff
3. Development Partners/donors - for specific projects which comes in the form of financial (grants) and technical support from international organizations, foreign embassies and NGOs¹¹¹,
4. Support from the Constituency's MP. This is the MPs Common Fund¹¹².
5. The beneficiary communities provide labour (skilled and unskilled) to support construction projects.

The BNDA periodically plans and implements its programmes under its District Medium Term Development Plan (DMTDP), which was drawn in line with the Ghana Poverty Reduction Strategy (GPRS I and II)¹¹³. The plan seeks to mobilize local resources to reduce poverty and to ensure effective and efficient exploitation of the numerous potentials of the district.¹¹⁴ Using the DMTDP as a guide the district embarked on community needs assessment in 2007 to determine critical areas of intervention. Three key important needs of the local communities that were identified, especially in areas affected by mining operations, were inadequate educational facilities (class rooms and teachers quarters), improvement in health facilities (clinics and staff quarters) and agriculture development¹¹⁵.

5.2.2 Is there a role for the Birim North District Assembly in Stool Land Management and Land Use Planning?

Generally, DAs in Ghana are not involved in the direct administration of land, such as allocation and registration of stool lands, but they are responsible for planning land

¹¹¹ The following are examples of projects that have been funded by external bodies: (1) potable water by Water Aid (2) water, sanitation and education by World Vision, (3) improvement in educational facilities, health, trade and support to local businesses by European Union's Micro-Finance Projects Programmer and (4) since 2002 Newmont's support in the delivery of development projects in the mining-affected communities (this will be discussed in chapter 7 and 8). The International Development Authority (IDA) through its Village Infrastructural Project in the district is engaged in a number of community development projects.

¹¹² This has been renamed Constituency Development Fund. This is a fund that sets aside some part of the District's share of the Common Fund for use by the MP(s) for local development initiatives. But there have been criticism about this fund as undermining the decentralization concept because it allows MPs to have access to funds which in most cases are used for party political gains rather than for local development in a non-partisan manner.

¹¹³ As at 2010 when this fieldwork was conducted the BNDA had in place a 2006-2009 District Medium Term Development Plan which had been reviewed based on an original one drawn up earlier for the period 2002-2005.

¹¹⁴ District Medium Term Development Plan 2006-2009 (BNDA, 2006:1)

¹¹⁵ Interview with DPO on 17/06/2010 and 24/08/2010.

uses and the collection of property rates¹¹⁶. Officially the Town and Country Department (TCPD) of DAs are the legal institution mandated by law to plan land uses and to ensure that all developments on stool land conforms to the approved planning schemes. Thus before concurrence is given for the allocation of stool land by the Lands Commission the TCPD has to certify that the proposed use of the land which is the subject of allocation is compatible with the plan for the area where the land is situated.

The zoning of stool land into building parcels by the TCPD requires collaboration with the land owners (including traditional chiefs). Ideally, where stool land is to be converted from agriculture to building plots the chiefs are expected to notify officials of the TCPD to zone up and parcel out plots for allocation to prospective developers. It is the TCPD which has the mandate to do that and actually prepare planning schemes. However, what has been observed is independent decision making by some chiefs over the conversion of farmlands to non farming uses. These chiefs are allocating and selling land for the development of buildings. This has often led to a situation where development tends to precede the preparation of layouts by the TCPD. This situation has resulted in unauthorised developments¹¹⁷. Thus, development is commenced without official approval from the TCPD, in so far as the land is sold by the chief and there is no dispute over it. A significant consequence of this is that people no longer seek to obtain an official site plan from the TCPD; they may only do this if they intend to undertake the registration of their land¹¹⁸. This situation is not only peculiar to the BND; it appears to be widespread all over Ghana, including the more urbanized areas such as Accra, Kumasi and Tema. The failure to have land properly registered not only affects development patterns of towns but also has implications for the potential revenue that may be generated through the payment of ground rent.

Furthermore, the DA is also handicapped in planning for other land uses. For instance, with regards to granting of mining leases, the role of the BNDA has been described as a 'rubber stamp'¹¹⁹. This is because the BNDA performs a limited role in the application and permits approval process for mineral prospecting or exploration. The DPO explained that when the Minerals Commission (MC) receives an application for a licence by small scale (*galamsey*) or large scale mining entities, the BNDA is requested

¹¹⁶ The Land Valuation Division prepares and advises the District Assembly on property rates categories

¹¹⁷ Because they lack planning and development permits.

¹¹⁸ This is rarely done unless the developer intends to use the property for mortgage or use the documentation in a court of law in Ghana.

¹¹⁹ That was the view of the DPO in an interview on 17/06/2010.

to conduct a search to find out whether the area being requested has been zoned for another use and the present use(s).¹²⁰ The BNDA would conduct searches through its plans, following which an advertisement is made about the proposed use. But this does not appear to have a strong bearing on the decision of the MC. It was explained that in reality the findings of the BNDA do not really matter so much for the granting of the licence¹²¹. Firstly, in most cases such permits would have already been given by the chief of the stool which has proprietary ownership of the area to the prospective investor. Secondly, the MC and the Environmental Protection Agency (EPA) take major decisions of granting permits for mining activities and timber concessions from their national offices in Accra without due consideration for the outcome of the search conducted by the BNDA.

Notwithstanding the fact that the BNDA's, to some extent, is limited in its actual land management role in Ghana DAs receive 55% of the share of revenue that accrues from land and natural resources located within their geographical boundaries. This is a Constitutional provision¹²². The rationale for this is that DAs have the statutory institutions for ensuring overall development at the local level. However, because their share of 55% is greater than what chiefs receive (45%) this legal provision has strongly been criticised by traditional authorities in Ghana¹²³. They have criticised the share of 45% as inadequate for traditional authorities. Traditional authorities have also challenged the rationale behind tasking the OASL to perform an administrative function, which as the chiefs claim, they are capable of doing and in fact did so in the pre-colonial and colonial period¹²⁴. Although, as discussed in chapter 3, chiefs' authority to control land during the colonial period was curtailed under various legislations such as the Ashanti Stool Land Act 1958, the Akim Abuakwa (Stool Revenue) Act No.78 of 1958, the Stool Lands Control Act 1960 (Act 79) and the Administration of Lands Act, 1962 (Act 123).

In addition to the above, District Assemblies (DAs) themselves face the challenge of how the share of 55% stool land revenue is utilised as there are no explicit policy

¹²⁰ The term is used in Ghana to describe small scale mining of mineral, such as gold and diamonds. It is mostly by unlicensed individuals and groups of young people.

¹²¹ Interview with DPO on 17/06/2010

¹²² The 1992 Constitution of Ghana Article 267 (6)

¹²³ Twenty-five (25%) to the stool land area (local chief) and 20% to the traditional council (paramount chief).

¹²⁴ Chiefs often cite the *Asantehene's* land secretariat and the Akyem Abuakwa stool lands secretariats which were established by the respective stools to collect stool revenue during the colonial period as examples of the capacity that the traditional chiefs have in stool land mobilization.

guidelines on this. It is however expected that DAs would channel their share of stool land revenue into development projects. The situation with how stool land revenue is utilised in the absence of any clear guidelines was explored. The practice in the district was not different from what pertains in other areas of the country. The revenue was considered as part of income to the district and was used largely for recurrent expenditures. This had been the practice over a long time but the DPO pointed out that the regional office of the OASL has come up with some requirements to regulate how DAs in the Eastern region can access their share of the revenue. What he explained, and this was confirmed by the regional officer of the OASL, was that the OASL required the DAs to prepare a proposal in conjunction with the traditional authorities for the development of specific projects for which the revenue will be used. This proposal was then submitted with justification to the OASL. The idea was that this would be used by the OASL to monitor how revenue was utilised. But there appears to be no legal justification for compliance to this measure and it was not surprising therefore to find out that the BNDA had not been able to meet this requirement¹²⁵.

Apart from the above other sub-units within the Assembly perform important roles connected to stool land management. These include the elected Assembly and UC members in the respective communities.

5.2.3 Assembly members

The representatives to the Assembly are important political actors. Assembly Members (AM) serve as the link between communities and the District Assembly and take part in educating the electorate on government policies, communal and development activities (Act 462; ILGS, 2008:19-20). Thus, AMs' functions in the case study communities included:

- (1) To represent their electoral area at District Assembly meetings,
- (2) Undertake to identify and collate community members' views about their needs and aspirations to the District Assembly. In the same way they convey government policies and directions back to the people,

¹²⁵ Although the DPO indicated that they had prepared a plan which was with the Budget office, I was not able to get a documented evidence of this.

(3) They work closely with the UC, chiefs and traditional council of elders on issues that would lead to development of the people¹²⁶.

Assembly Members therefore collaborate with chiefs and communities for the planning of development programmes. For instance, it was explained that before meetings AMs often met with the Unit Committee (UC) and the chief to discuss and find out what concerns are of priority to take up for consideration at the meetings and they provide feedback¹²⁷.

Traditional chiefs do not involve AMs directly in the management of stool land. Notwithstanding this, AMs in the case study communities indicated that since ultimately they serve as conduits for development, for which stool land resources is expected to provide a source of revenue for funding projects they do participate in deliberations on land use, especially revenue, for development projects.

5.2.4 Unit Committees

Apart from Assembly Members Unit Committees (UC) are also important local institutions, which by law are administrative units of DA in Ghana (as discussed in chapter 4).

The current UCs evolved as part of the local government structure during the military rule of ex-President Rawlings under the Provisional National Defence Council (PNDC) between 1981 and 1992. The current UC has its roots in the main revolutionary organs of the PNDC at the grassroots level then known as the Committee for the Defence of the Revolution (CDR), which attracted large numbers of the youth and unemployed (Ayee, 1994:136; Crook and Manor, 1998:233). The idea of local committees however is not new in Ghana's historical development. Village and Town Development Committees (TDC) were established during the 1960s and 70s. These like the present UCs, were established as a formal part of the local government system, but were constituted by unelected nominees (loyalist) of traditional chiefs comprising elders, opinion and respected local leaders and the youth (Crook and Manor, 1998:233). The local chiefs therefore acted as heads of these committees (Robertson, 1971 in Richards and Kuper, 1971:136). Scholars such as Dunn and Robertson (1973) who have extensively studied the development of village and TDCs in the Ahafo region have argued 'that they had a good record and performed creditably perhaps because

¹²⁶ Interview with Assembly woman for *Adausena* on 10/09/2010 and Assembly men for *New Abirem* and *Ntronang (Ahenebrono)* on 02/09/2020 and 02/10/2010 respectively

¹²⁷ Interview with Assembly woman for *Adausena* on 10/09/2010 and Assembly men for *New Abirem* and *Ntronang (Ahenebrono)* on 02/09/2020 and 02/10/2010 respectively

the electoral principle was allowed to work with the grain of different local societies' (Dunn and Robertson, 1973:12). However, the establishment of the UCs after 1991 effectively replaced the village and TDCs (Dunn and Robertson, 1971; Crook and Manor, 1998).

The UCs because of their original link to the revolution [PNDC] was made up of loyalties of the regime. They were therefore responsible to the District Assemblies for all government matters and to the CDR zonal Secretary for all other matters. The UCs therefore did not only represent popular participation of the people in local governance and development but also that of the revolution (Crook and Manor, 1998: 209).

Since the first UC elections, which were held in 1988, there have been efforts to hold elections, for example in 2002, but not many people put themselves forward as candidates¹²⁸. As a result the UCs lack the full complement of elected members. Out of about 16, 000 proposed UCs it is estimated that only about 8,000 are fully operational (Crawford, 2004). Perhaps the lack of interest was because they are not remunerated. They are supposed to provide voluntary services to communities. Crawford (2010) and Awortwi (2010a) have suggested that competitive election of local government is important for decentralised development. In Uganda where local government members are on full-time salaries there is competition and better performance for development (Awortwi, 2010 [a] and [b]).

The history and composition of UCs made them generally hostile to chiefs (as discussed above). It was therefore of interest to find that in the BND UCs now seemed to cooperate with chiefs. Apart from their statutory functions UCs in the BND are performing other non-statutory roles. Analysis of interview data revealed that members of the UC constitute a core of the Plot [Land] Allocation Committees that facilitate allocation of stool land.¹²⁹ The PACs were constituted by traditional chiefs, selected members of the traditional council of elders and members of the UC.

Traditionally chiefs and their elders have always allocated land for prospective farmers and developers (this will be discussed in chapter 6). The chief would usually have his trusted elders to work with him in the allocation of land and they were accountable to him for all transactions. However, it was found that in all the 4 case study communities land allocations were made by a new form of allocation committee that combined the

¹²⁸ Earlier delays, until the 1990s, of the UC elections were caused by the debates about the incorporation of the populist institution into the system (Ayee,1992)

¹²⁹ The UCs were dominated by the youth (estimated to be between the ages of 20-45 years). Perhaps this was so because of the history of the origin of UC (as discusses above)

traditional elders and the “democratically” elected UC members. The following were some of the responses that gave an indication of the general view of the role of UC members in land management.

In this community the UC has a sub-committee called PAC. They allocate land on behalf of the chief and also account to him all transactions;

Land is allocated by the chief and the land [plot] allocation committee, if it is a building plot. These people are committee [UC] members¹³⁰.

As noted above, the UC is not legally empowered to play a role in the management of land, however as can be gleaned from the statements above chiefs utilise members of the UCs to assist in land management. However, the observations made were that chiefs selected those who were more likely to serve their interests on the PAC. The absence of competitive elections and the lack of remuneration as suggested by Awortwi (2010a) and Crawford (2010) above affected the performance of UCs. UC members have become vulnerable to manipulation by chiefs who now are able to co-opt them into the PACs. It did not seem that there were effective measures in place on how the community members could hold the PACs accountable, given the fact that the members were in practice agents of the chief. However, the communities had the right to demand accountability from the chief whose ultimate responsibility it was to manage their collective resources. For instance, at *Ntronang*, the people failed to recognise the existence of any form of PAC formed by the chief without consulting the community (this will be discussed under Case 4 in section 6.3).

5.2.4 Public land sector agencies in the Birim North District

Public land sector agencies in Ghana have recently been integrated into an omnibus organization known as the Lands Commission (LC). This was done under Phase 1 of Governments Land Administration Project (LAP). The law that brought into effect this reconstituted organization is the Lands Commission Act 2008, (Act 767). Section 19 of Act 767 lists the following public land sector agencies as Divisions of the LC: Survey and Mapping; Land Registration; Land Valuation (LVD) and Public and Vested Lands Management (PVLMD). These institutions are tasked to perform the collective functions that are set out in section 5 of the Act to achieve the objective of securing

¹³⁰ Interview with the Assemblyman of *New Abirem* on 02/09/2010; Interview with Chief Farmer of *Adausena* on 09/07/2010;; interview with *Krontihene* of *New Abirem*, on 03/09/2010; interview with chief of *Abirem* on 10/07/2010; Group meeting with elders of *Praso Kuma* on 29/09/2010; Interview with the elders of *Ntronang* on 25/08/2010; interview with the Chairman of the PAC at *Praso Kuma* On23/09/2010

effective and efficient land administration in the country. In particular it states that the Commission shall:

5(b) advise the government, local authorities and traditional authorities on the policy framework for the development of particular areas of the country to ensure the development of individual pieces of land is coordinated with the relevant development of the area concerned and

5(c) formulate and submit to government recommendations on national policy with respect to land use suitability or capability¹³¹.

It is important to note that when the LC was first set up in 1969 its main purpose was to be responsible for land and natural resources (forestry and minerals) in the country. Over time this mandate changed as the Minerals Commission (MC) was established to deal with minerals and the Forestry Commission (FC) to deal with forest timber. Prior to the enactment of Act 767 these institutions had existed as independent public institutions¹³².

In addition to the performance of their statutory functions, the PVLMD and LVD are also engaged in other local activities with direct bearing on the general development of the BND. The PVLMD and LVD are the only two divisions of the LC involved in the negotiations for compensation in the BND, providing technical guidance to the negotiations (their specific role in this will be discussed in chapter 7 and 8). In the next section I examine the role of the PVLMD and LVD in stool land and natural resources management in the case study communities.

5.2.5 Public and Vested Lands Management Division: Documentation of land transactions

Section 23 of Act 767 spells out the functions of the PVLMD as follows:

- a) Facilitating the acquisition of land for Government
- b) Managing state acquired and vested lands in conformity with approved land use plan, and
- c) Other functions determined by the Commission.

Thus, by law the PVLMD is mandated to perform administrative functions over lands and natural resources. These include granting concurrence and consent over stool land

¹³¹ This function appears to be clearly differentiated from the functions of the TCPD, which is not a division under the Lands Commission, but with the responsibility for land use planning. A Senior Lands Officer on the LAP argues that it is the PVLMD as a manager of public lands that initiates planning before the TCPD prepares a scheme for it.

¹³² These were the Survey Department, Land Title Registry, Land Valuation Board and Lands Commission respectively.

transactions and the registration of leases and concessions to timber and mining grants respectively.¹³³

Lands in the BND largely belong to stools. There are however, public lands which have been used to provide facilities for education, health, local government offices and housing for public officers of the state¹³⁴. The management of stool lands involves the allocation and utilisation of rent and fees (e.g. *drink money*) is undertaken at the local level by the respective stool land owners¹³⁵. The state's public land sector agencies are not involved in the management aspect of stool land transactions, but are there to regulate and ensure that the transactions that are agreed and made between parties conform to the laws of the state. For instance, it is the PVLMD that grants concurrence and consent to stool land transactions before registering the interest that are created under the transaction. The PVLMD therefore registers and keeps records of all leases, contracts and agreements created by the parties to a stool land transaction. Even though the PVLMD would not usually be party to the transactions it is the recognized institution that administers the transactions in accordance with statute law. The PVLMD does not have the power to compel registration, but for such a transaction to have a legal effective in court or be used as collateral for mortgage purposes, it had to have been registered.

The process of registration involves checking the documentation to ensure that the allocation was made by the legally recognized stool land owner and that the intended use was permitted by the TCPD.¹³⁶ The PVLMD only recognizes gazetted stool land owners and whose endorsements of land allocations are accepted as legitimate¹³⁷. This is an administrative procedure that is implemented in Ghana, particularly where land is under the authority of stools and skins (including *Tendemba*).

The lease documents incorporating the terms of the land transactions made between the chiefs and prospective users are often prepared by officials of the PVLMD for a fee. My enquiries revealed that this was not an official function of the PVLMD, but to facilitate the processing and registration of land transactions informal agreements have

¹³³ Interview with Senior Lands Officer on 19/07/2010.

¹³⁴ For public lands the PVLMD performs both management and administrative functions in the district. That is planning, allocation and registration.

¹³⁵ The LC deal with the administration of stool lands (Interviews with CEO of the Lands Commission and Senior Lands Officer of PVLMD on 16/07/2010 and 14/01/2010 respectively).

¹³⁶ (1) The 1992 Constitution Article 258(1) (b) ; (2) Land Registration Procedures at Lands Commission (Eastern Region) in brochure prepared by the PVLMD as an operational guide.(3) interview with Senior lands Officer on 19/07/2010

¹³⁷ Interview with Senior Lands Officer on 19/07/2010

been made with local chiefs. This provides income for the PVLMD and because of that it seem to quicken the registration process. For instance, this kind of arrangement had been established between the chief of *New Abirem* and the PVLMD officials at its regional offices. The chief had been able develop 'closer' working relations with senior lands officers who are privately consulted for advice on land management issues¹³⁸. Apart from that it also facilitates speedy delivery and processing of lands allocated by the chief, as the following interview extracts explain the reasons behind this:¹³⁹

(1) because the lease would have been prepared by an officer at the PVLMD all the necessary formal requirements would be addressed before it was passed for processing which therefore quickens the time for approval,

(2) It facilitates quick responses to administrative queries with the registration process and

(3) Ensures collaboration in with the local authorities in land use planning.

However, this informal function and arrangement was recognized and accepted by the local inhabitants, which was evidenced by the regular use of the service by the people. Although lease documents could also be prepared by solicitors in the form of indentures before being sent to the PVLMD for registration, it seems those who employ the services of the officials at the PVLMD get the registration completed quicker.

The collaboration between chiefs and the officials of the PVLMD was one that seemed to be working well although this had the potential implication of bolstering the power of chiefs over stool land transactions. This is because no transaction of stool land can be registered by the PVLMD unless the documents presented are endorsed by the respective chief of a stool land area. It is however important to note that this form of relationship, as described above, had minimized disputes over who had the legitimate authority to allocate stool lands. It avoided the situation where private individuals present documents that purported to make land allocation from areas that are known stool land areas with the intention of registering it as privately owned family lands¹⁴⁰. Issues of such nature tend to delay land registration because an investigation would have to be conducted by the PVLMD.

¹³⁸ Interview with Senior Lands Officer on 14/01/2010 and 19/07/2010 and NACH on 10/07/2010

¹³⁹ Ibid

¹⁴⁰ Interview with Senior Lands Officer of PVLMD on 19/07/2010, NACH 10/07/2010 and AGh on 11/07/2010.

5.2.6 Land Valuation Division: Land and asset valuation

Land Valuation Division (LVD) which is one of the public land sectors agencies integrated under Act 767 in 2008 performs the following functions:¹⁴¹

- Determine and assess all matters of compensation for land compulsorily acquired by Government, or Public Corporation.
- Assessment of stamp duty
- Preparation of valuation list for property rating purposes for District Assemblies,
- Advise the Office of the Administrator of Stool Lands and the Forestry Commission on royalty payments
- Monitor private valuation activities with a view to protecting national interest.
- Valuation of interests in land for the administration of estate duty
- Advise on mining issues as they relate to compensation.
- Other functions determined by the LC

The LVD has 6 district offices (out of 26) in the Eastern Region. These offices have oversight responsibilities in other districts where none exists. Thus, officials at the regional capital, Koforidua and Birim Central District Offices in Oda have oversight responsibility over the agencies activities at Birim North District.¹⁴²

The core function of the LVD in the BND is to advise the local authority on property rate taxation through the preparation and maintenance of a valuation list for all fixed property. However, because of the negotiations for mining the LVD was on the negotiations committee providing advice on the methods and approach to compensation assessment to ensure that those whose land resources were affected by the mining lease would get a fair and adequate compensation in accordance with law.

5.2.7 Office of the Administrator of Stool Lands: Stool land management

A third public land sector agency with presence in BND is the Office of the Administrator of Stool lands (OASL). The OASL has the constitutional mandate to collect, account and to disburse revenue, rents and royalties that accrue on stool lands into designated stool accounts which it is required by law to establish for each stool

¹⁴¹ Section 22 of Lands Commission Act, 2008 (Act 767). The LVD was originally established in 1986 under PNDC Law 42, (of 1982) as the Land Valuation Board (LVB).

¹⁴² Interview with Valuation Officer 15/07/2011

area¹⁴³. Apart from forest reserves, which are managed by the Forestry Commission, the OASL collects and keeps 10% of the land revenue as administrative charges before disbursing the remaining in accordance with the statutorily determined proportion of 55% to the District Assembly, 25% to the stool which owns the land and 20% to the traditional council of the area. It is also to consult with stools and traditional authorities on the administration and development of stool lands¹⁴⁴.

At the BND, the OASL performs the following functions: collection of revenue (comprising ground rents, farm rents, royalties), opening of accounts for the different stools into which stool revenue is paid, providing periodic accounts of revenue collected to the stool land owners, educating and sensitizing the chiefs and traditional authorities in the area on how to sustainably manage their lands¹⁴⁵. Other activities included facilitating the communities, through the chiefs to establish structures and procedures for the allocation of land (Plot Allocation Committees and recording of land transactions)¹⁴⁶. In the absence of comprehensive data on land transactions made by land owners, the OASL depended on the chiefs (and land owners) to be able to identify all those who by law were expected to pay farm and ground rents for the use of land. Some chiefs who were supportive of the OASL provided some documentations of their land transaction and this had led to increased rent collection, especially with regards to farm rents¹⁴⁷.

Farm rents constituted the largest share of the rents collected by the District OASL. Thus, where chiefs had provided records of farm land allocations they have made to settler/migrants for farming the OASL had been able to follow up and collected annual rents from them. In some cases the settler (tenant) farmers themselves had come forward to make payments. According to the OASL the continuous payment of farm rent by a tenant farmer ensured the security of their interest and right to farm on the land¹⁴⁸. This was because in times of dispute between farmers about the ownership of land the records in the office could be used as evidence. On average the amount of rent was Gh¢5.00/acre (as at August 2010). Another category of people who voluntarily pay up their rents were women who were married to indigenous men from the local communities. Some of them were given land by their husbands to farm and to secure

¹⁴³ The 1992 Constitution of Ghana Article 267(2) (a-c)

¹⁴⁴ *ibid*

¹⁴⁵ Interview with the District Officer OASL at *New Abirem* on 17/06/2010

¹⁴⁶ Although no chief in the case study communities could confirm this.

¹⁴⁷ Interview with District officer OASL on 11/08/2010

¹⁴⁸ *ibid*

their interest such women prepared site plans and registered it with the OASL for farm rent assessment and payment. This practice provides security against future forfeiture, if the husband were to pass away intestate.

Challenges facing the OASL in the Birim North District

Records are kept manually in registers at the District OASL office in *New Abirem*. The office depends on out of date data that was compiled in the 1960's¹⁴⁹ and because of the lack of a system for updating it was difficult to keep track of recent transactions. Therefore they had to rely on chiefs because all stool land owners (i.e. chiefs) are supposed to know their boundaries; who their adjoining neighbours are and who they have allocated land¹⁵⁰. The lack of an up to date register of land allocation in the district therefore affected the amount of rent collected and hence the share to the traditional authority (see Table 4).

Another main challenge facing the OASL was dealing with the notion of called *drink money* (see section 6.1.2). This form of concealment of rent from the OASL by chiefs was widespread in Ghana because of the huge amounts demanded and collected by chiefs (and land owners). Emphasis was no longer placed on the payment of annual ground rents. Thus, chiefs would execute leases without inserting a rent clause in it or if they did it was understated and therefore attracted low ground rents. This was because they were more concerned with the present value of the lump sum (i.e. drink money) than small amounts of yearly payments of ground rent¹⁵¹.

In addition to the above other logistic challenges that hindered the operations of the OASL in the BND included; .the lack of adequate transport for personnel to monitor land transactions and for collection of rents and, the lack of legislation to facilitate the prosecution rent defaulters. Some chiefs who were supportive of the work of the OASL took actions to collect back the lands from rent defaulters¹⁵². It seems that for now the OASL is powerless and without a legal basis for demanding accountability on how beneficiary institutions can utilise the revenues that they receive.

Although some chiefs have always criticised why the rents and royalties from stool land, are collected by the OASL, which charges administrative fees for it, they have not been able to challenge this constitutional provision. Thus, for now the relationship

¹⁴⁹ Interview with the District Officer on 11/08/2010

¹⁵⁰ (2001) suggest this may be an authentic source of stool land boundary determination

¹⁵¹ Phone conversation and email with Senior OASL officers (summary) on 27/07/2011

¹⁵² No evidence of this was provided by the District officer during the interview on.11/08/2010.

between OASL and chiefs, with regards to stool land revenue management, remains crucial. This is because until that is reviewed in the 1992 Constitution, chiefs and all those who act in a fiduciary capacity as managers of land might be held to account for all revenues that they receive from land by the OASL.

5.3 Political Organizations: the Member of Parliament

Birim North District has two constituencies and therefore has two Members of Parliament (MP); *Abirem* and *Ofoase-Ayirebi* constituencies. Both MPs belong to the New Patriotic Party (NPP), which is the main opposition party in Ghana (as at 2010). The people in these communities have a long historical association with the political tradition of the Danquah-Busia United Party of the 1960s. Thus, MPs of this political affiliation tend to always win elections in this area. The Abirem Constituency MP served as the Minister of Lands and Natural Resources when the NPP was in government (up to 2008). The case study area falls within the jurisdiction of this MP.

Although MPs are legislators for the country, in Ghana they are perceived as people who initiate development projects in their respective constituencies (Lindberg, 2009). Thus all MPs are expected by the people who voted for them to be able to meet their developmental needs or else face potential rejection in subsequent elections (Hyden, 2010; Lindberg, 2010). This perception appears to have been the result of MPs own activities when they make promises to the electorate during election campaigns leading to parliamentary elections. Thus it is often not surprising that when they fail to fulfil these promises people tend to vote them out. The perception was also reinforced when during the previous NPP regime the MPs were allowed to access part of the District Assembly Common Fund as MPs share of the fund to use to support projects of interest to them¹⁵³.

MPs have become directly involved in the provision of public goods. Sometimes this is done for political expediency, to show that their party care about the people. MPs are therefore aware of all development projects and activities that take place in the constituency. For instance, The Birim North constituency MP is an observer¹⁵⁴ at the ongoing negotiations for land taking place in the mining affected communities.

¹⁵³ This was called MPs Common Fund but now under the NDC regime has been renamed Constituency Development Fund to be accessed by the MP for development projects.

¹⁵⁴ The MP does not usually attend these meetings in person but has a local representative to observe proceeds and provide feedback.

5.4 Associational Groups

A fourth group of actors at the local level is constituted by loosely formed associational groups of local inhabitants. Notable ones are the youth and women groups. These groups have recent origins in the communities. They have only been established since the arrival of Newmont in 2005¹⁵⁵. It appears that prior to the arrival of Newmont these groups were either non-existent or they were dormant¹⁵⁶. The youth associations are characteristically non-partisan and embrace membership from all local residents (not necessarily ethnic). They are however different from youth associations found in some other parts of Ghana in the sense that they are completely autonomous of each other in the district and do not have external branches in the urban towns (Lentz, 1995). Membership is made up of both educated and the non-educated people living in the communities. They all seem to have the goal of promoting development through representation in decision making and self help¹⁵⁷. According to Lentz youth groups tend to act as 'agents of mobilisation and catalysts of development' (Lentz, 1995:396).

As indicated above, mining investment in the district has had significant impact on the formation of youth and women's groups. Youth and women's groups were encouraged to emerge by the Newmont's search for community representatives to negotiate with over the impact of its mining operations. The presence of Newmont seems to have now politicised the inhabitants through the creation of these associations. The leadership of these groups are now actively involved in decision making and have been selected as members of committees, particularly for the negotiations. The negotiations and the desire to be able to lobby for employment or receive some form of social or economic support from Newmont seem to have been the impetus underlying the formation of these groups¹⁵⁸. With regards to arrangements for the negotiations in the District, Newmont proposed to have engagement with groups of local institutions such as traditional authorities (the chief and Council of Elders), the Assembly Members, and farmers associations. Thus, the youth living in the communities affected by mining formed associations in each of the communities so that they become eligible to participate in decision-making as a recognised body of local inhabitants. Thus, one of the key benefits of the mining investment in the District is that the youth associations

¹⁵⁵ Interviews with AWL on 10/09/2010 ,AYL on 09/09/2010 and NYL on 31/08/2010

¹⁵⁶ I have not been able to verify the existence of any form of youth or women's association in these communities prior to the recent ones

¹⁵⁷ Interview with AYL on 09/09/2010;NYL on 31/08/2010;NYG on 1/09/2010 and AfYL 01/07/2010

¹⁵⁸ Interview with AWL 10/09/2010. The leader traced the background of the formation of the association to a past General Manager of Newmont who encouraged the women to come together to facilitate their mobilisation for support to livelihood programmes.

have become a powerful political group and operate as the mouth piece of the ordinary citizens to ensure that they are able to hold effective negotiations for compensation, development projects and secure employment quotas from Newmont.

5.4.1 The Divine Youth Association of Ntronang

The Divine Youth Association of *Ntronang*¹⁵⁹ was established in November, 2008. It is an association formed by both male and females between the ages of 18-45 (defined as the youth). Any person within the set age cohort who is permanently resident in the community is eligible in so far as such a prospective member shows interest and willing to support the objectives of the association. The group have the following objectives: to assist in activities that lead to the development of the community by providing mainly communal labour; and to serve as community advocacy group and pressure group (watch dog) that seeks transparency and accountability in resource management

The Association has an *Mmbrantehene*¹⁶⁰ (Youth Chief), who is an elderly member of the community. The chief of the town is not a member of the association but is well informed of their activities through the *Mmbrantehene* and the leadership of the group. To facilitate the administration of the Association, each member pays a monthly levy of 50Ghp and a welfare levy of 50Ghp for supporting the recurrent expenditure of the association. This is however not sufficient to undertake any major activities, e.g. outreach programmes. A special contribution is collected whenever there is the need to engage in any such activity. Furthermore, the association relies on other sources of funding by making appeals to the District Assembly, the Member of Parliament or corporate bodies such as Newmont for financial support. The main resource contribution that the Association offers directly to the community is communal labour. The youth group has always participated effectively in communal labour. They mobilize people for communal labour on the days set aside which is usually Thursdays or whenever a special call is made for communal labour. Communal labour is required for cleaning of the community and support of construction projects (e.g. when a new footbridge that leads to the basic schools was under construction). The youth group has also supported the mobilization and collection of levies from the community members to support community projects, provided by the District Assembly, NGOs and Newmont.

¹⁵⁹ The President of this group is also a community representative at the Compensations Negotiations Committee (CNC), and serves on the Crops subcommittee.

¹⁶⁰ Rattray (1929) in Busia (1951:10) refers to this as the '*Nkwankwaahene*', that is. leader of the 'commoners' or those without elder status (or young men)

The role of the youth association in development

Although it appears the youth association is accepted and acknowledged by the people of *Ntronang*, they are not involved with the allocation of stool land and in decisions with regards to how revenues received are utilised¹⁶¹. But they want to be involved or alternatively ensure that satisfactory accountability measures are put in place for the disclosure of the receipt and utilization of revenues from the collective resources. When asked whether the members of the association were not part of the Unit Committee (UC) or Plot Allocation Committee in the community, the youth leadership indicated they were not. This is because the UC was perceived as corrupt because in the past some of its members had been involved in malpractices with the chief¹⁶². This had given it a bad image and made it unpopular for which reason local inhabitants tend to shy away from joining it. Even though it is supposed to be an elected body the present UC is thought to be represented by people who have been selected by the chief and so work for him¹⁶³. This was an issue that the youth association had problems with the chief. The youth group contend that the chief does not account for revenues that accrue on collective resources in the manner expected of him as a custodian. They cite examples of monies they know have been paid by Newmont to the chief which have not been disclosed to the community. Although the amount involved was not disclosed to me they claimed to have been aware of it¹⁶⁴. I realised that they had knowledge of this because some of the youth members, e.g. the leader is a member of the CNC, where they interact with other representatives from other communities and information is shared. Some of those communities had their chiefs declare to their people that they had received some payment from Newmont.

A further concern of the people was the apparent lack of transparency and accountability with regards to stool land allocation and resources used by the chief. Because of this individuals who hold customary freeholds on land also insist on selling land without the consent of the chief. There are therefore widespread unplanned developments in the town. This has affected the land use in the area. Transactions are done without the involvement of the TCPD, which would have prepared a planning scheme had the process been formalised through the chief as expected. The

¹⁶¹ Interview with the Leader of the Association on 31/08/2010.

¹⁶² This was confirmed in an interview with the Assemblyman on 02/10/2010

¹⁶³ But because it is not remunerated it has become more or less a voluntary service. People lack interest in it and so the chief is able to appoint his nominees who become members of the PAC work in ways that are favourable to him.

¹⁶⁴ This was confirmed in separate interviews with the elders, queen mother, Assemblyman and key informants.

consequence of all this is that it has become difficult and challenging for the people to be actively involved in decision making for development of the community. People are no longer enthusiastic about attending local durbars where in the past collective decisions were taken¹⁶⁵.

5.4.2 The Adausena Youth Association

The *Adausena* Youth Association was formed in 2007 when the youth in the community came together to deliberate on what they could do to help in the development of their town. This eventually led to the formation of the association and setting of objectives. Their objectives are; (a) to contribute in all ways that they can to promote development of the community; to promote educational development in the area; (b) to ensure that the traditional authorities, as well as all organizations with interests in the community, recognize the youth as partners in development and (c) to ensure that the youth are consulted and given a role in all development projects that take place in the area.

The association is open to all people within the ages of 18 to 45 years who are residents of *Adausena*. It is a voluntary association of people who ascribe to the aims and objectives of the group. Registration and acceptance of the condition to pay the monthly levy of GH¢1.00 are the other requirements to become a member. The wife of the chief and an elder of the community¹⁶⁶ serve as patrons to this association. They provide advice and financial support to the association in most of the activities they undertake.

The role of the youth in development

As part of the group's efforts at contributing to the development of the area they have undertaken the following list of activities since 2007.

(a) Motivation and promotion of educational development among school going children in the community. They presented books and writing materials to students who successfully passed the Junior High School (JHS) examinations in 2008/09. The rationale was to motivate others to do better in the years ahead;

(b) In furtherance to the objective of promoting education they often organised quiz contests for the Junior High School (JHS) students and prizes are presented to deserving winners;

¹⁶⁵ Interview with queen mother of *Ntronang* on 02/10/2010

¹⁶⁶ Named as *Opanin* K M G

(c) have instituted skills training programmes to selected youths to equip them for potential jobs in their area of interest. This is supported by their patron (wife of the chief);

(d) have collaborated with Olives (an NGO) working in the area organised a capacity building programme in Information and Communications Technology (ICT) for interested youth. This was basically in Microsoft Office software and computer use. This was to equip them with skills that they may need for potential jobs with the mining Company;

(d) have provided the main source of communal labour for development projects and

(e) has a nursery farm which produces seedlings, which are sold to local farmers. Proceeds from this constituted one of the main sources of income for the group's activities.

In addition to the above the youth association, in particular its leadership plays a key role in community development planning. According to the President of the group, planning of development projects in this community may first be initiated by the chief and his elders. This is then discussed with the Assembly woman and UC¹⁶⁷. A community durbar is called during which everyone can make a contribution to the issues put across. The President describes the process as participatory because all those who attend are given the opportunity to speak freely to the issues, positively or negatively. At the end of it a consensus is reached on how to proceed¹⁶⁸. The youth is often given specific responsibilities, often to lead in the provision of communal labour. In particular the youth were active in the planning and provision of potable water. The leadership of the association took part in the discussion with the chief and his council and the Unit Committee.

The Youth Association also acts as a collective action group that works to ensure that the community's stool land resources are exploited in a manner that is transparent and beneficial to the community. The youth often channel their grievances to the traditional authorities to demand accountability of the resources. The leader of the association elaborated on this as follows:

¹⁶⁷ Some of the youth members are on the Unit Committee, but they are elected to be there which is different from being voluntary members of the Youth Association.

¹⁶⁸ This claim was collaborated by interviews with NYL on 31/08/2010 and AUC on 10/09/2010

As a youth group who want to see the development of our town we can petition the elders of the town when we see that resources are utilised but not properly accounted for. Traditionally, we cannot just walk to the chief to demand accountability, but we do this through the council of elders who would then convey our grievance to the chief. If on the other hand it is with the way the UC [PAC] does the allocation we petition its chairman directly and request for public declaration of accounts.

It was the view of the Youth Association that the community require to be made aware of how their resources and revenue are utilised. People should also be given the opportunity to seek clarification on collective resources of the community¹⁶⁹. These views articulate the expectations of the local inhabitants in particular the youth of the community.

5.4.3 The Great Women's Association at Adausena

The Great Women's' Association at *Adausena* was formed in May 2010. It has as its President a representative of the queen mother¹⁷⁰. The formation of the association was motivated by support that women in the area had received from the General Manager¹⁷¹ of Newmont's department for Environment and Social Responsibility (ESR) between 2009 and 2010. It was an objective of the General Manager to support and promote the development of women in the Company's area of operation. This inspired the women in *Adausena* to come together to form the association in order to articulate their ideas for development and to seek support to undertake activities of interest to the community.

All women in the community are free to become members in as much as they are prepared to take active part in the group's activities which is aimed at community development. Membership of the group was estimated to be about 100 but about 80 are the active members¹⁷².

¹⁶⁹ According to the leader of the group this is what transparency and accountability means to the people. Interview with *Adausena* Youth Leader on 09/09/2010. He explained further that there have been occasions where the traditional authority presented to the whole community at durbar revenue from stool land and what it has been used for. Opportunity is given for people to seek clarifications. Such is the kind of accountability processes expected of those in authority to control their resources.

¹⁷⁰ She is therefore closely linked to the chiefly elites.

¹⁷¹ The General Manager at the time of the fieldwork was out of the country and could not be contacted for confirmation.

¹⁷² Interview with AWL on 10/09/2010. Adults of 18 years and above, married or single are eligible to join the association.

The role of the women's association in development

The Women's' Association has the objective of promoting development in the community through women. It is the belief of the group that women are an essential part of family life and for that matter have a lot to offer in terms of contributions to the enhancement of community life. The leader of the association also elaborated on how their activities could support family life saying 'we also want to ensure that women are able to support their spouses in all aspects to improve the lives of their families'. This was aimed at building the capacity of the women to engage in viable economic activities. These include training in how to set up small scale business and how to engage in alternative livelihoods programmes.

Funding of the association is through monthly levies of Gh¢1.00 from each member. This was the regular source of income to the association. However, it was explained that this contribution was insufficient for their activities and so most of the time they have had to depend on external sources of funding for their activities. For instance, for training to build their capacity in small scale business management they had to seek funding from NGOs that operated in the District and were willing to support. This provided them with support for skills training in the preparation of a local type of soap using oil palm. The following are some activities that have been undertaken by the association since it was formed:

- (1) supported the youth in the provision of communal labour towards the construction of taps for the supply of potable water,
- (2) have mobilized, through collective action and lobbied for the development of a new market place in the area. They had to lobby the chief for the space and this has been allocated for development¹⁷³,
- (3) have engaged in mediation and settlement of marital disputes between members and their spouses. This was to ensure that there was peace in every marriage for successful family development
- (4) have had training in business development and skills capacity development. These were facilitated by local NGOs (e.g. Olives) and

¹⁷³ This was probably because of the relationship the leader of the group had with the queen mother (as the queen mother's representative).

(5) taken action to stop activities considered as detrimental to the educational development of children in the area. An example was collective action to stop a 'video' (cinema) operator in the area from showing movies during school hours. The women explained that this action was taken because the operations affected children's attendance to school.

Apart from engaging in activities that are aimed at their set objectives the women's association in the community actively participates in decision making and planning of developmental projects. During a group discussion the women's leader explained that:

Women do participate in the discussion of projects in the community. The planning of projects is discussed at community durbars and every adult is allowed to express an opinion. My personal experience was at a meeting where we discussed the provision of potable water in the community. We made proposals on the type of tap we wanted to the NGO that was funding the project to install¹⁷⁴.

The group, however, pointed out that although the association is not directly involved in the management of stool land resources they were aware of the procedures and process involved in the management of the community's collective resources. It was further explained to me that:

Farmland allocations are done by individual families through the heads. But for building plots it is the chief who does this. The chief is the custodian of our lands (according to our custom and national laws). So when land is ripe for conversion to non agricultural use the farmer (user) is informed and then the TCPD is asked to prepare a scheme for the area.

The above shows the presence of local associations in the case study area. These associational institutions have undertaken activities that cut across what other institutions in the area are engaged in doing. It is important to note these institutions have interests in the way collective stool land resources are managed in the area. Whether directly or indirectly involved in how the community's resources are managed there is evidence that they seek for transparency and accountability in the judicious use of the resources by the authorities which have the mandate to do so.

5.5 Newmont Golden Ridge Limited: land access and mining investment

Newmont Golden Ridge Limited, Akyem Project (NGRL) is a mining company with legal interest as a leaseholder, to exploit and invest in mining on stool land in the BND. As a result of this it was identified as important actor with regards to land relations and

¹⁷⁴ Interview with AWL on 10/09/2010 and group discussion with AWG on 11/09/2010

development in the communities studied (this will be explained in chapters 7 and 8). Both NGRL and Newmont Ghana Gold Limited, Ahafo Mines (NGGL), are Ghanaian subsidiaries of Newmont Mining Corporation based in Denver, Colorado in the United States of America (USA). Whereas NGGL has been actively producing gold at its mines at Ahafo, in the Brong-Ahafo Region of Ghana since 2006, NGRL has been exploring for gold and assessing development opportunities at Akyem, in the Eastern Region of Ghana since 1997¹⁷⁵. In 1997, three companies, La Source SAS, Gencor, and Kenbert Mines undertaking mineral exploration in the Birim North District¹⁷⁶ formed Golden Ridge Resources Limited. La Source subsequently acquired Gencor's interest increasing its holding in the Company to 80 percent. In 1999, La Source transferred its share in the Company to Normandy Ghana Gold Limited. In 2002, Newmont acquired Normandy and an additional 5 percent of Kenbert Mines Limited shares to increase its holding in the Company to 85 percent. In late 2005 Newmont moved to 100% ownership when it acquired the remaining Kenbert shares. In 2008, the name of the company was changed to Newmont Golden Ridge Limited (NGRL).

As a result of mineral exploration in the BND since 2002 and subsequent discovery of commercial quantities of gold reserves NGRL applied for a mining lease from the Government of Ghana¹⁷⁷ to enable it operate a surface mine within the mining enclave of BND. The land which contains the minerals is stool land and is being used by the local communities within the district for agricultural purpose. Various interests and rights are held in the land which the mine project will affect when the mining lease is granted.

In 2010 the Government of Ghana granted a 15 year lease to Newmont to operate a surface mine in the district. This followed the approval of the mine Environmental Impact Assessment (EIA) by the Environmental Protection Agency (EPA). The process of assessing the impact of the mining on local community people and businesses included a public hearing attended by all the local chiefs and people from the communities within the districts that are anticipated to be directly affected by the mine project. These are called Project Affected Communities (PAC). Based on the plan and report that Newmont presented for the EIA the local communities showed support and

¹⁷⁵ Compensations Negotiations Framework, June 2008.

¹⁷⁶ This was then known as the Birim District, until 2008 when the district was split into two; the Birim North and Central.

¹⁷⁷ In Ghana all mineral reserve found within the territorial boundaries of the country are held in trust by the President on behalf of the people of Ghana. Article 254 of the 1992 Constitution of Ghana

were willing to make their land available for the Company to invest in its mine operations.

Although the state granted Newmont a lease for the use of the land the Company required the permission of the people as well since they are the lawful users of the land. The Minerals and Mining law in Ghana requires that such lawful users and owners of land which is to be taken for mining be paid compensation (This is explained in detail in chapter 8)¹⁷⁸. Generally, within mining communities in Ghana compensation payments for land has often negotiated between the mining right holder and the traditional authorities, represented by local chiefs. However, studies undertaken by various scholars have shown how problematic this has been and has often led to dispossession of land and property and conflicts within mining communities (Akabzaa, 2000; Akabzaa *et al* 2007; Tsuma, 2010, Yankson, 2010, Ayelazuno, 2011). This has often delayed mining projects.

It was to address this that compensation negotiation in the BND was therefore designed to include the local inhabitants whose land and property are directly affected by the mining lease. As a result of the mining lease Newmont has become an important institution (led by its key local actors the ERS officer and CDM) in the district with regards to stool and resource utilization¹⁷⁹. Apart from the local citizens living within the mining area the other institutions and actors are the public land sector agencies and local government authority. Their functions and role have been explained above.

5.6 Conclusion

This chapter aimed to outline and examine the role of actors and institutions in the BND and their role with regards to stool land management and development. I therefore examined both state and non-state institutions which were identified with these issues. The study found multiplicity of institutions and actors in the BND and examined they way they interacted at various levels and in different capacities over stool land resources and the implications for the kind of developmental outcomes that are produced in the area. These institutions and actors were categorised as:

(1) those that have evolved from the customs and traditions of the people, e.g. chieftaincy and the council of elders;

¹⁷⁸ In addition to that mining operations are also regulated by the International Finance Corporation and World Bank's operational guidelines and policies on compulsory land acquisition and involuntary resettlement which Newmont adheres to

¹⁷⁹ Community Development Manager's role in the negotiations is explained in Chapters 7 and 8.

(2) those individuals or groups of people who voluntarily forms of associations to pursue development objectives for their respective communities. These included youth and women's groups, and

(3) those that are established by the state and therefore operate within a bureaucratic legal framework, e.g. the local government authority, public land sector agencies, MPs, and the Unit Committees.

The chapter showed that the institutions and actors at the district do interact in the performance of their duties in ways that have produced different kinds of outputs for the people. The following points are of particular importance:

Firstly, each of the above institutions and actors are supposed to draw their authority and legitimacy from tradition and custom, the state legal framework or some form of recognition and acceptability by the local people in the way they operate in the District. In particular chiefs derive authority from traditions and were therefore expected to exercise it within established customary norms and practices of the society. Officials of state institutions operate within laws that establish these institutions but in practice these institutions often take into consideration the local circumstances in the performance of their duties. This had allowed the development of some form of informal relationships and deepened the formally required collaboration between chiefs and public sector land agencies in regards to stool lands and natural resources management. The associational groups in the district were engaged in activities undertaken by traditional chiefs, state and private institutions. These groups are often community-based and are involved in various forms of local activities for development. There was evidence that they seek for the judicious management of stool land by the traditional authorities.

Secondly, the institutions and actors were not mutually exclusive in the performance of their roles. They collaborated, complemented and competed, in some cases, with each other in the management of stool land resources and the provision of public goods, e.g. chiefs collaborated with public state land agencies in the management and administration of stool lands but appear to compete with the local government authority in land use planning. However, traditional chiefs, state institutions at the district level and other local actors and investors tend to complement each other in various ways that facilitate the provision of public goods. This analysis showed that in the BND the management of community land and the provision of public goods were guided by a complex mixture of cultural practices and norms of society as well as statutes of the

state. But these actors and institutions work with each other in different ways that have produced both positive and negative results for the communities.

In addition to the above, it has been argued that public land sector agencies are mandated to be responsible for the administration of land while the respective stool land owners take decisions with regards to the management of stool lands. However, in practice there is no strict dichotomy of function. For instance, the PVLMD was involved in land management decision making at the local level by providing advice to chiefs and guidance in the preparation of leases which required the consent of chiefs to facilitate the registration process. The latter function bolstered claims made by chiefs to be the absolute owners of land without consideration of the interests of the customary freeholders. But this relationship appeared to have a positive aspect too. It was claimed by officials of the PVLMD that the preparation of leases by its officials facilitated speedy registration of land. It also ensured that only certified stool land owners were able to make allocations to prospective developers.

Similarly, chiefs have assumed more power in land use planning. The District Assembly is the legal authority with powers for planning land uses within its jurisdiction. However, what was observed suggested that because chiefs are the custodians of land they tended to make decisions with regards to land conversions from farm lands to non-farm uses often ahead of the planning schemes prepared by the TCPD. Thus, people proceeded to develop their allocated land without the need to seek planning and building permits from the TCPD. Even though these decisions were made informally by chiefs, it was found that they were made in collaboration with some state officials. On the one hand, this, in practice seemed to have taken away the bureaucracy involved in getting a planning scheme prepared, while on the other one can argue that only a few tend to benefit financially from these forms of collaborations.

With regards to stool revenue, the OASL did not receive the expected cooperation from traditional chiefs over the collection and disbursement of stool land revenue. Some chiefs' were able to collect what amounted to the actual market value of land from prospective developers without providing records to the OASL. It was also shown that there were no effective mechanisms for monitoring and ensuring that community members benefit from stool revenue that was paid to chiefs and the BNDA. Thus, accountability for revenue from royalties remains one of the challenges of holding chiefs responsible. In the BND where Newmont was making investment in mining there was the potential that stools would be receiving huge revenue from mineral royalties

but how would this affect the development of the local communities? In the next chapter I focus on the politics of managing stool revenue by chiefs.

Chapter 6

Politics of Managing Stool Land and Revenue

6.0 Introduction

In Ghana chiefs are recognised as custodians of collective land and natural resources, and are expected to act as managers of these resources for and on behalf of their communities¹⁸⁰. Both customary and statute laws in Ghana prescribe how these resources are owned and controlled. Customary law in Ghana has established that land (including natural resources) is an intergenerational property that is managed by traditional authorities (Ollenu, 1962). However, as noted (in chapter 3) the politics of the colonial administration under indirect rule and the role that chiefs played affected the level of authority that chiefs had over stool land during colonisation and the period leading up to and after independence.

Empirical data from the four selected communities in the Birim North District points to how contemporary traditional authorities have relied on their traditional authority, which appears to be largely reinterpreted and contested, to govern collective resources. Even though some of the land management practices of some chiefs may seem to contradict established customary principles in some communities, perceptions about how chiefs exercise authority over stool land are divided. The reason for this may be traced to the level of trust that local people have in the authority of the institution of chieftaincy. However, how that authority is exercised by individual chiefs is what raises contestable issues in the communities with regards to the management and utilisation of revenue that is derived from stool land.

This chapter focuses on traditional chiefs and how revenue from stool land is managed. The chapter examines the following:

- (1) What constitutes stool land revenue?
- (2) An analysis of what type of structures, if any, are put in place to facilitate the management of collectively owned resources and how the anticipated revenues from these resources are mobilised and utilised, i.e. how do traditional authorities manage stool land resources in the case study district. This is an intricate question of determining whether or not the community derives benefit from these revenues.

¹⁸⁰ The 1992 Constitution Articles 36(8) and 267 (1)

(3) The analysis of the fluid nature of the politics surrounding the way these revenues are managed.

6.1 What Constitutes Stool Land Revenue?

Land, minerals and timber resources provide a means of generating revenue at the district level. Thus, ownership and control of these resources constitutes a means to wealth creation. What is significant under the land tenure regime of Ghana is the established and accepted fact that different interests and rights may subsist at the same time in any parcel of land and the ownership or control of it imposes some level of responsibility on those who legitimately control. Thus, in the Birim North district, where land is generally found to be stool land, chiefs are expected to exercise proprietary authority over land in accordance with the customary law of the people. The authority extends over the management of land resources, especially the revenue that is derived from it, on behalf of the citizenry who collectively own it.

People's interests in land, minerals and timber resources which are owned collectively and controlled by traditional authorities and the state are not in the physical resources *per se* but what these resources are able to produce and provide. Does the management of stool land bring about development to the people through, for instance, the provision of public goods? This is an issue of concern to the people and they are often interested in the revenues that these resources are able to generate and what these are used for.

6.1.1 Types of stool land revenue: direct sources

At the district level stool land resources generate different types of revenue. These are generated from direct and indirect sources. The direct forms of revenues are received from land transactions in the form of farm rents, ground rents, and *drink money* (a popular Ghanaian local term for a lump sum payment usually paid for acquiring an interest in land). The indirect sources of revenue comprise those that are generated through activities which are not directly controlled by the traditional authorities, such as grant of mining leases and licences for timber concessions. These produce royalties and rents (This will be discussed in section 6.1.3).

The BND is within the rural agricultural areas of Ghana. A lot of subsistence agricultural activities take place in the district. Land transactions mainly involve the payment of farm rents, which are mostly paid by non-natives who have migrated from areas outside of the district or from another stool area. These people are often referred to as tenant farmers. The tenant farmers derive their interest in land through native members

of the communities or from the respective chiefs. They are therefore required to pay rent for the use of the land. This may be seasonally or monthly, but the regularity of payment is usually agreed at the time of the transaction.

On the other hand, ground rents are charged for the use of land for non-agricultural uses, e.g. building plots. An assessment of this is usually made by trained bureaucrats who work in public land sector agencies, in this case the Office OASL. Estimates of what is paid as ground rent for every parcel of land are determined by the plot size and the transaction fee for the land. The OASL is the designated public agency that collects this form of revenue for disbursement to beneficiary institutions.

Furthermore, *drink-money* in Ghana constitutes one main source of revenue that accrues to local land transactions. It represents the payment of a one-off lump sum of money for the acquisition of stool land, usually for building purposes and cash crop farming (discussed in section 6.1.2 below).

6.1.2 The Concept of 'Drink Money' Explained

*Insa ko ahenfia ensan emba*¹⁸¹

Historically, *drink money* used to be a sum of money paid (*in lieu* of the offer of drinks for the customary pouring of libation) for any grant of land, usually by the chief. The practice was common with allocation of land for farming to 'strangers'¹⁸². This money used to be only of customary significance but over the years the value of land has become so commercialised that the amount paid as *drink money* can no longer be taken on the face value as a customary token. In recent years *drink money* is now commonly associated with the lump sum payment made in exchange for land, usually for the development of buildings. It has been found that this money is equivalent to the actual economic value of the land in an open competitive market. But this is often treated by chiefs as a symbolic customary token sum which is not supposed to be accounted for by the traditional authorities. As a result it is even more difficult to find evidence of how much revenue is generated through the collection of this *drink money* by chiefs (Andreasen *et al*, 2011). However, it is common knowledge that when land is sold out for non-farm uses a lump sum payment of money is often made to the traditional authorities. This *drink money* constitutes a major source of revenue for stools but chiefs continue to argue that it represents only a symbolic customary token

¹⁸¹ Interview with Regional Officer OASL on 14/01/2010 and *Gyasehene of Adausena* on 11/07/2010

¹⁸² Usually migrant tenant farmers

for the grant of land. This is why it has become a contestable issue in local communities in Ghana.

It is however important to note that traditional authorities often receive *drink money* land transactions that are to be used for non-farming purposes, unless land is given out as a gift, which is rarely the case in areas where land has commercial value. This distinction is important because data collected from the communities suggested that the allocation of land for farming is done differently from that for non-farming uses. In the former case chiefs are usually not involved, except where land is required for cash crop farming (cocoa and oil palm) by migrants and other large scale commercial farming.

The origin of the customary practice of the payment of *drink money* for land is well captured in the Akan saying '*insa ko ahenfie nsan emba*' (literally meaning drinks offered to the chief at his palace do not come out of it [palace])' Because of the contentious nature of the *drink money* conundrum I explored whether the OASL is able to account for it since this is often collected directly by the chiefs. In response to this the Regional Officer of the OASL started by making reference to the above popular Akan adage often quoted by traditional authorities in support of the non declaration of drink money to the public. The OASL officer elaborated that traditional authorities have often argued that they are unable to provide accounts of drink money collected to the OASL because it has never been a customary practice to do that¹⁸³. This is because the *drink money* is presented to the chief as a gesture of acknowledgement and appreciation for the allocation of land. Thus, the *drink money* they receive only represents the customary symbolic gesture of thanksgiving to signify that a transaction on land has taken place between the chief and prospective user of the land. In a subsequent interview with the *Gyasehene of Adausena*, this argument was confirmed as the claim by the traditional authorities in the district¹⁸⁴.

Furthermore, *drink money* is usually presented to the chiefs in the presence of the stool elders, usually, the Plot Allocation Committee (PAC) members who serve as witnesses to the land transactions.¹⁸⁵ Traditionally, if drink was offered it was normally shared among those present and the remainder kept by the chief at the palace for his personal use and to entertain guests. It is an unusual practice for the drink (now money) to be declared to the rest of the community. Although in reality what is now offered as *drink*

¹⁸³ Interview with the Regional Officer, OASL on 14/01/2010.

¹⁸⁴ Interview with *Gyasehene of Adausena* on 11/07/2010

¹⁸⁵ *ibid*

money has risen to assume the real market value of the land, the notion behind this traditional practice has not changed and appear to remain largely unchallenged by the members of land owing communities. Thus some traditional authorities do still advance the argument that the practice of non-disclosure of drink money is still relevant as it is in line with the customs and tradition of the people. Chiefs therefore continue to receive and control huge amounts of revenue generated by stool lands. This revenue constitutes community revenue in as much as it is generated from the allocation of stool land for various uses.

It seems to be the case that the management of the *drink money* and generally all revenue from stool land, depends largely on the performance of individual chiefs. For instance, the *Krontihene* of *New Abirem* explained that usually 'the proceeds [*drink money*] from land sale is usually split between what goes to the stool for its maintenance and the rest into the community treasury to support development projects in the community'¹⁸⁶. In line with this the chief of *Adausena* argues that:

The rents and royalties received are from their own land which they can collect and manage so why would the state impose an institution [the OASL] on them to do that and then charge a fee for it?¹⁸⁷.

The above points to the challenges and unresolved issues on how to deal with *drink money*, and all other forms of stool land received by traditional authorities. Not much is being done by members of the stool land owing communities to formally challenge the claim and control over stool land by traditional authorities¹⁸⁸.

Thus, revenue from stool land, including *drink money*, still remains a contentious and complicated issue and there seem to be challenges hinging on how to make chiefs account for it¹⁸⁹. In fact chiefs have argued out and continue to rely on the claim that custom forbids the sale of land because of the belief that it is an intergenerational property (Ollenu, 1962). Traditional authorities in the BND have argued that stool lands are not sold outright¹⁹⁰ (although this is contrary to what has been the practice as noted by scholars such as Hill, 1963 and Field, 1948 as discussed in chapter 3). Chiefs' only give out leases, which the leaseholder is only required to present drinks for the performance of libation as a show of appreciation to the traditional authorities.

¹⁸⁶ Interview with *Krontihene* on 03/09/2010

¹⁸⁷ This fee is in reference to the 10% of total revenue taken by the OASL for administrative purposes.

¹⁸⁸ There was no record of litigation that seeks to challenge chiefs on this issue in the communities.

¹⁸⁹ The OASL has not stated official position on how to ensure that this is accounted for and drawn into the other forms of revenue which the office collects and disburses. Interview with Senior Stool Lands Officer (20/07/2011)

¹⁹⁰ Land is said to belong to countless dead , the living and future generations (Ollenu,1962)

Historically, at the village level in the Akyem *Kotoku* area where these communities are located, when there were land transactions for farming or for any grant that did not attract substantial monetary exchange the chief was not informed. However, for every sale of land one-third was expected to be paid by the *asasewura* (land owner) to the chief (Field, 1948). The origin of this arrangement remains unclear, but chiefs in these communities often refer to statutory law which recognises chiefs as the heads of stool land community and therefore are expected to endorse any allocation of land from that stool. However, it may be that the origin of is rooted in the implementation of an administrative practice by public state land agencies, which required chiefs to endorse land transactions because of their legal position as managers of stool land (see chapter 5). This has now given chiefs the authority to claim cash sums of money, which remain unaccounted and pocketed as private income. There seem to be no justification for this practice, albeit it constitutes a reinterpretation of customary law especially by urban based chiefs who control stool lands.

Data on how much is paid for land shows that this depends on a number of factors (1) the use, usually building plots and large acquisitions of land for commercial agriculture tend to attract higher payments of *drink money*; and (2) the location of the land. Cash payments representing *drink money* were found to range from about Gh¢1,000 to over Gh¢1,500 in the towns depending on these two factors¹⁹¹. These payments are usually collected directly by the traditional authorities (usually through an allocation committee) and are distinct from what may be collected and disbursed as stool land revenue by the OASL. The above analysis raises a number of issues with implications for benefits that communities might derive from stool land.

The above suggests that while chieftaincy may rely on customary traditions (that the stool is sacrosanct and cannot be questioned) to avoid accounting for their stewardship over stool land revenue, they do in reality exploit the economic benefits of customary land. This in essence defeats the fundamental principle that underlies customary land holding (Kasanga, 2001; Ubink, 2007; Ubink, 2008). This is because of the nature of authority chiefs are expected to exercise over stool lands. The position of chiefs enjoins them to treat revenue from stool land as community revenue. However, this has always not been the case. The failure of traditional authorities to be transparent and accountable over stool land transactions, as expected, to their constituents about this

¹⁹¹ Field notes (August-October, 2010). From £435 to £652 (£1=Gh¢2.3 as at 30th September, 2011) The lowest price for land was recorded at *Praso Kuma* while higher values were recorded at *New Abirem*, a more urbanised town.

potential huge source of revenue tends to question the legitimacy of their authority to manage stool land resources in the way that has been observed. As will be shown below (section 6.3) some chiefs tend to rely on close allies within the community through whom they exercise their authority to allocate and collect this form of revenue which creates a clientelistic relationship whereby only a few people benefit from the communal resource. These are people who are usually drawn into land management committees that are locally referred to as Plot Allocation Committees (PAC)¹⁹².

Under different tenure agreements customary freeholders may grant use rights to non-natives or other natives who require land for farming in these communities. In the BND the prevalent customary arrangements under which land may be accessed for farming are through share cropping, leasehold or hiring of land. The outright sale of land to prospective farmers is no longer encouraged as it is said to be against the tenets of customary land ownership in the district. Also, unless land is required in large quantities for commercial agriculture, chiefs are not usually involved in farm land transactions in the district. However, since traditional authorities' claim to be the legitimate authority to decide when land can be converted to non-farm use (which seems to be it widely acknowledged and practised in the district, as in other parts of Ghana), they are able to control revenue that this produces. This practice remains largely unchallenged.

In addition to the above it is also important to note that chiefs' command over all forms of direct forms of revenue from stool land has been facilitated by administrative procedures of public land sector agencies and the collaboration that chiefs have been able to develop with these institutions (see chapter 5). The implications are that:

- (1) No customary freeholder¹⁹³ can make an allocation of land which would be recognized by the state, without the concurrence of the local chief,
- (2) The reason that only the chief is recognized as the legal authority to make allocation of land which is accepted for registration serves to take away any legal right in land transactions from customary freeholders to the chief, who by implication has the right to receive the revenue that accrues on land. It also provides an opportunity for the chiefs to collect *drink money* from the prospective buyer of the land. Sometimes this becomes an extra cost to the buyer because the customary freeholder may have sold the land to the buyer without the involvement of the chief;

¹⁹² This has been discussed in chapter 5

¹⁹³ See chapter 3

(3) The consequent effect on registration of stool land is that it lessens the customary freehold to leasehold with a maximum tenure of 99 years for building plots and 50 years if it is for agricultural purpose. This is because the Constitution of Ghana only allows for the creation of a maximum of 99 years lease. Customary freeholders have a perpetual interest in land and registration of this in accordance with the current legal provisions would truncate their interest to a maximum of 99 years. This appears to suggest that transactions with non-natives of an area are likely to attract more registrations than with natives¹⁹⁴.

In addition to the above forms direct revenue managed by controlled by chiefs in the BND, minerals and forest products in the form of gold and timber respectively also generate indirect sources of revenue mainly in the form of royalties.

6.1.3 Types of Stool Land Revenue: Indirect Sources

The main types of indirect sources of stool land revenue are rents and royalties. Royalties constitute payments made for the ongoing use and exploitation of natural resources¹⁹⁵. It represents a proportion of the value realised from the exploitation of the resources by a licensed individual or company to the state from which the stool receives a share. It is important to note that apart from transactions that involve the allocation of land for various uses, traditional authorities and individual citizens are not directly involved in the mobilisation of revenues that legally accrue on natural resources (e.g. minerals -- gold, diamond and timber). Minerals and timber create royalties which are usually paid directly to the Government Revenue Authority¹⁹⁶ (GRA). A proportion of the royalties (80%) is retained by the state and the remaining 20% divided equally and paid to the OASL and into the Mining Development Fund. The 10% share received by the OASL constitutes revenue that is disbursed in a pre-determined formula to the stool from which the rents and royalties were collected, the traditional council of the paramountcy and the District Assembly¹⁹⁷.

The OASL as mandated by law disburses stool land revenue into the respective stool land accounts. These stool accounts controlled by the chiefs who are expected to

¹⁹⁴ It is the view of the Attorney-General that a review of the Constitutional provision is made to allow for the registration of the customary freehold in Ghana. But as at the 2010, when this field work was conducted no such formal review had been made.

¹⁹⁵ Royalty is defined as usage-based payment by one party to the owner of an asset for ongoing use. Thus, section 25 of the Minerals and Mining Act 2006 (Act 703) requires that the payment of mineral royalty for exploitation of minerals, such as gold.

¹⁹⁶ This was formerly the Internal Revenue Service (IRS) In Ghana. The GRA is established by GRA Act 2009, Act 791.

¹⁹⁷ The 1992 Constitution Article 267(6)

manage revenue paid into it for and on behalf of their constituents¹⁹⁸. Unlike the *drink money* is possible to ascertain how much revenue is mobilised through royalties because that is received by the OASL before it is apportioned to the respective stools. Revenue data extracted from the ledgers of regional and district offices of the OASL showing revenue from royalties and rents over the period 2005-2010 (6 years) for the four communities in the case study district are presented in Table 4. The data do not include the '*drink money*' that is directly collected by chiefs and which the OASL lacks the legal authority to demand that it is accounted for by the chiefs.¹⁹⁹

It can also be reckoned from Table 4 that over the 6 years period the BNDA received a total of Gh¢11, 623, representing approximately 55% of royalties and rents collected in the area. Over the same period the OASL made payments of Gh¢ 726, Gh¢345 and Gh¢ 265 to the stool land accounts of *Abirem*, *Ntronang* and *Adausena* respectively.²⁰⁰ These payments represented 25% of the share of revenue collected by the OASL from the respective stool lands. It is imperative to note that the BNDA, like all other District Assemblies in Ghana, receive a greater share of revenue (more than the stools and traditional authorities) from stool lands and natural resources but the beneficiary communities appear not to be well informed about what the funds are used for²⁰¹. As a result concerns have been raised by the community people (including the chiefs) about the lack of accountability and transparency over how the BNDA uses its share of revenue from stool lands.

A critical look at the data presented in Table 4 suggests that royalties and other forms of revenue that are officially paid into stool land accounts are relatively inadequate for the communities. However, this is potentially likely to increase given that the mining of gold is soon to commence and for which Newmont will be paying increased royalties to the state, part of which will be disbursed to the stools. The low royalty payments have been noted and that seems to have generated discussions on the need for the state to

¹⁹⁸ For instance an amount of Gh¢11.4 Million was paid by Newmont Gold Ghana Limited alone as royalties during the first quarter of 2011 (Daily Graphic, May 2011 page 15)

¹⁹⁹ Email correspondence with Senior OASL officers and interview with Regional OASL officer on 19/07/2010. They indicated that even though the OASL is opposed to the collection of *drink money* by traditional authorities they [OASL] have not been able to take any official position on this. Additionally they are also aware that *drink money* has been transformed into huge monetary values but traditional authorities still refuse to account for it as expected under the Constitutional provision (Article 267(2) of the 1992 Constitution).

²⁰⁰ Some chiefs treat this as private income and may not use it as for public goods for the community

²⁰¹ This is because the BNDA does not label public goods provided by the source of funding. There is no legal requirement for them to do so and so neither the stools nor the OASL can hold it accountable for the use of the 55% of revenue from stools.

give more to the mining communities. The President of the Ghana Chamber of Mines (GCM) has argued that mining communities need to receive more royalty payments from the state than the current situation, but the government seems to have a different view and has counter argued that the issue is not about the quantum of royalty but how it is used²⁰²:

While the Chamber [of Mines] contends that the royalties are woefully inadequate, the Ministry [of Lands and Natural Resources] believes that the amount of royalties paid is not the issue but how judiciously [transparency of disbursement] it is used for the benefit of the mining communities.

It is the contention of the GCM that the State only pays a 'minute fraction' of what the mining companies in the country pay to the state. The GCM therefore proposed that the government should consider an upward review of the amount of royalties paid to the mining communities from 5.5% to 30% of what is paid to the State, over a specific period of time. It also added that such payments should be tied to the development of specific infrastructural projects in the beneficiary communities. The State however is concerned with issues of how transparent and accountable traditional authorities are even with the current quantum of royalty payments.

Table 4: Disbursement of stool land revenue by the OASL to case study communities from 2005 - 2010

Stool Name	Year 2005	Year 2006	Year 2007	Year 2008	Year 2009	Year 2010	TOTAL (Gh¢ ²⁰³)
<i>Abirem</i>	39.56	60.84	45.17	231.21	212.21	137.49	726.59
<i>Ntronang</i>	14.29	9.45	-	111.60	27.90	182.25	345.49
<i>Adausena</i>	16.91	-	13.77	20.77	166.56	47.95	265.96
<i>Praso kuma</i> ²⁰⁴	-	-	-	-	-	-	-
Traditional Council	211.56	214.08	336.14	1,363.72	1,393.91	1,764.43	5,283.84
BNDA	651.02	1,020.38	1,493.57	3,106.88	2,504.77	2,846.37	11,622.99

Source: Extracted from the OASL Stool Land Revenue Ledgers, Koforidua (2011)

Citizens of the communities appear to acquiesce in the failures of their traditional leaders to account for their stewardship as may be expected under customary and statute law. To this extent increments in royalty payments and the determination of how much revenue is created through direct land transactions by traditional authorities may further enrich chiefs. The apparent lack of formalised structures in local land management practices may be a contributory factor to this difficulty. To understand

²⁰² <http://edition.myjoyonline.com/pages/news/201202/82232.php> [Accessed on 28/02/2012]

²⁰³ £1= Gh¢ 2.30 as at 30th September, 2010

²⁰⁴ No royalties from minerals and timber are being officially exploited here and so no revenues for the period under consideration.

how chiefs are able to manage collective resources it is imperative to analyse the actual practices of land management in the selected communities.

6.3 Local land management practices: structures and implications for local communities

Chiefs appear to have limited role in local farm land transactions (see section 6.1.2). What is still debatable is the extent to which chiefs may exercise authority over land transactions for non-farming purposes. Ongoing mining investment in the district has opened up opportunities for non-farming uses of land and encouraged the re-parcelling of farm lands for urbanised uses. These issues are examined within the context of how traditional authorities have adapted to these changes in order to control and exercise authority over collective stool land resources; what structures and procedures have they adopted to facilitate the mobilisation and control of land revenues? The analysis in this section also examines the outcomes of the land management practices and their implications for the community inhabitants.

There seem to be established generally a locally held view that chiefs do not directly get involved in farm land transactions. Land transactions for farming purposes usually are made between the indigenes of a stool (with a customary freehold interest in land, locally referred to as *asasewura*²⁰⁵) and prospective tenant farmers who are mostly non-indigenes (usually referred to as strangers or migrants). A contractual agreement for the land may be agreed for seasonal or long term use of the land. During these transactions customary rites are performed: this involves the customary pouring of libation with drinks provided by the prospective farmer. A formal agreement is usually made between the parties at which time they decide on whether to share the produce (harvest) of the land or of the land itself after a few years of cultivation of the crop. This is generally common for cash crop land transactions. These forms of sharing arrangements are locally known in Ghana as *abunu* or *abusa* respectively.

Abunu refers to the agreement to share equally, while in the case of *abusa* the sharing is done in three equal parts. An *abunu* transaction allows the stranger farmer to cultivate crops, usually cash crops, at his own expense on land that is provided by the land owner. For cash crops, such as cocoa or oil palm, after a few years of cultivation (range from about 5-10 years) when the crop begins to bear fruits the land is shared into two parts. One part goes to the land owner and the other half to the farmer, who then acquires an interest in the land for the life expectancy of the respective crop. In

²⁰⁵ land owner

the case of an *abusa* contract, the agreement is made for sharing of the crop yield in three equal parts. Two parts are given to the farmer, if he provided the inputs and labour to cultivate the crops, while the land owner takes one part. These two local farming practices have evolved over the years as part of the customary practices of people who leave in farming communities. These arrangements are found in the Wassa area in the western cocoa producing region of Ghana and among oil palm farmers in the Eastern region (Hill, 1963; Berry, 1993, 1997, 2001; Amanor, 1999, 2001; Boni, 2005; 2008). Generally, the role of traditional chiefs is often limited to witnessing the transaction and the performance of the customary pouring of libation, which is used to close out land transactions.

On the other hand chiefs have a direct significant role in the allocation of land for all other purposes, apart from land for subsistence farming, as discussed above. How urban (non-farm) land transactions are made and the management of revenue from these are now examined in each of the four communities. The specific role that chiefs' performed is examined with a focus on the kind of structures established by the traditional authority for the mobilisation and utilisation of stool land revenue.

Case 1: New Abirem

Thirty years ago when I first came here to start a cocoa farm in this town [Abirem] it was very small but had plenty fertile agricultural land. I contacted a land owner and we had an abunu contract. Today I have my own farm land and house. Now people have to go to the chief to get land for building, which they pay a lot of money. This is even getting worse now because of Newmont coming here to mine gold²⁰⁶.

In this town if you want a plot of land to build on you have to go to the chief. This is because it has been our practice that we recognize the chief as the grantor of the land. The chief is the custodian and leader of the community. When land is ripe for conversion the chief consults with the Town Planning [officials] through his Plot Allocation Committee (PAC) to prepare a scheme for the area²⁰⁷.

The above provides perspectives of two key informants on who control land in *New Abirem*. It also suggests that this may be as a result of an accepted practice of the people which has allowed the chief to manage their collective resources on their behalf.

²⁰⁶ Interview with *Opanin* YM on 5/01/2010. A migrant who had lived in *New Abirem* for over 30 years may be considered as a native of the town.

²⁰⁷ Interview with STN on 2/09/2010. A native public servant who work with the Non-Formal Education Unit of the Ghana Education Service and had lived and worked in the native town for many years.

As noted in Chapter 3, *New Abirem* is the capital town of the BND. There are therefore increasing commercial activities and development taking place. This has been compounded by the discovery of gold, which is the subject of land acquisition in the district. These activities have further increased the demand for land for non farming activities. Land values are therefore on the ascendency providing lucrative incentives for the conversion of land from farming to building plots. Land transactions for building purposes attract the direct payment of drink money to the chief, as explained above, and periodic ground rents which are supposed to be regularly assessed and collected by the OASL.

A PAC is in charge of the allocation of land in the *New Abirem* stool land area. This according to the chief is to provide transparency in the way the stool's lands and revenue are managed²⁰⁸. However, how the existence of a PAC could guarantee accountability in collective resources management was subjected to further interrogation. The PAC is made up of the chief's selected representatives, comprising sub-chiefs²⁰⁹ and selected elders of the traditional council and members of the Unit Committee (UC). The PAC is responsible for the actual allocation of land and collection of fees and drink money on behalf of the chief. The sub-chiefs (under the divisional stool) control the stool lands that fall within their area of jurisdiction but the authority to do so is delegated by their chief at *New Abirem*. The PAC and the sub-chiefs are accountable to the chief who controls their activities.

Essentially, the main function of the PAC is the allocation of land as directed by the chief. The traditional authorities of the town explained that the authority to convert any land from agricultural use is the prerogative of the Chief²¹⁰. But the chief cannot do this alone by himself. To facilitate this, the chief established a PAC (with the *Adontenhene* of the town as its leader) and entrusted it with the authority to act on his behalf. The composition of the members of the PAC, as above raises issues of accountability to the people. For instance, the sub-chiefs and Council of Elders are part of the traditional authorities and more likely to be close allies with the head chief at *New Abirem*. The UC members who serve on the PAC seem to have been personally selected by the chief. Although, originally UC is a democratically elected body, as noted in Chapter 4 and 5, membership to serve on it has been non competitive since the inception of the local government and decentralisation concept in Ghana. Thus, one can generally

²⁰⁸ Interview with the Chief of Abirem on 10/07/2010 and *Krontihene* on 03/09/2010

²⁰⁹ Led by the *Adontenhene* of *New Abirem*

²¹⁰ Interview with the *Krontihene* of on 03/09/2010 and Chief of Abirem on 10/07/2010 and group discussions with OPNA on 02/09/2010

argue that even the membership of the UC itself has been influenced by the authority of local chiefs. Thus, the PAC is in practice directly accountable to the chief.

Decisions with regards to a change of land use usually start with consultations between the PAC and respective sub-chiefs of the sections of the town where the conversion is being contemplated to meet the demand for land for urbanised uses. However, the procedure for undertaking urban land conversions has raised a number of issues and contestations with implications for the customary tenure system. Firstly, the consultations appear not to involve the customary freeholders who according to customary²¹¹ law have established perpetual rights to the use of the land (Woodman, 1996). Secondly, there seems to be a claim that suggests that the customary freeholder's interest in land is only limited to farming. The traditional authorities have argued that stool lands in the area belong to the chief but indigenous members of the stool political community have the right to use the land for farming purposes only. This right does not include the right to sell with the intention of changing the use of the land from farming to a different use, e.g. as a building plot. The latter decision is considered the prerogative of the chief. This claim appears to blur the distinction between what constitutes collective stool land as established under the principles of customary law as practiced in the law courts of Ghana and what constitutes lands that belong to the royal family of which a chief is a member. Similar findings have also been made in studies conducted in the peri-urban areas of Kumasi (Andreasen *et al*, 2011; Ubink, 2007).

The above claim to authority to make decisions with respect to the conversion of farm lands into building plots is perceived differently by different people in the communities and thus makes it a contentious issue. Chiefs and their council of elders constitute main proponents of the argument that chiefs have the authority to decide when farm lands are to be changed into building plots. This view is sometimes supported by members of the community with close ties to the traditional authority. Thus, at *New Abirem* the members of the PAC, which is led by the *Adontenhene*, and sub-chiefs often support the exercise of authority by the chief over the conversion into building plots. Opposing views to this have been expressed by the elected Assemblyman and the youth of the town²¹². However, there are also those local inhabitants who seem to acknowledge the chiefs claim as a local practice, which no one seemed to challenge. How this came about no one seems have a clear idea. Thus, while some may counter the claim made by traditional authorities and their allies there are others living in the

²¹¹ As well as common law

²¹² Interview with Assemblyman on 02/09/2010

community who appear to support the notion that chiefs have the right to make such important land use decisions. For instance, when asked who controls and allocates land for development in the town, some indigenes said that:

Who allocates land depends on the use to which one wants the land for. Farm land allocations are made by the individual land owner (i.e. the customary freeholder), but for building plots it has been a practice in this town that we recognise the chief as the one to make such grants. The chief has selected some people to do this on his behalf and they work with the Unit Committee²¹³.

Land administration procedures and practices for the registration of land titles might partly account for and reinforced chiefs' claim to exercise of authority over land allocation (as was discussed under section 5.2.5). As noted the administrative practice is based on the established notion of chiefs being custodian of stool lands²¹⁴. It is not supposed to be an attempt at reinterpreting customary law. Ollennu (1962:127) has stated that:

By customary law, no valid alienation of a stool or family land can be, made except by the occupant of the stool, acting with the consent and concurrence of the principal member of the family

Perhaps the above and the Constitutional provisions that establish stool land a community property to be managed by traditional chiefs underpin the administrative procedure implemented by the PVLMD.²¹⁵ The commercialisation of land, which creates wealth, has also contributed to chiefs' claim for authority to make decisions about land conversions. This is because authority to make the resulting allocations goes with the right to command the revenue from the collection of *drink money* and other rents.

Land Conversion Process

Although traditional authorities initiate decisions for changes on stool land use (through the PAC) they do not engage in the direct preparation of planning schemes. That authority remains a statutory function performed by the TCPD and is recognised and respected by the traditional authorities. *New Abirem* stool lands have been surveyed and planning schemes prepared for allocation. The TCPD do this for a fee which is agreed between the chief and the officials. The conventional practice has been that the planning scheme is prepared based on the arrangement that some of the plots are

²¹³ Interview with Assemblyman on 2/09/2010, *Opanin* YM on 5/01/2010 and STN on 2/09/2010

²¹⁴ Interview with Senior Lands Officer of PVLMD on 19/07/2010 and the CEO of the Lands Commission on 16/07/2010

²¹⁵ Article 36(8) and 267(1) of 1992 Constitution of Ghana

either taken by the TCPD *in lieu* of payment for costs of surveying and preparation of planning schemes or the plots are sold out to pay for the service charges (Andreasen *et al*, 2011).

The land allocation process starts with an application for land to the chief through the PAC. The PAC allocates a vacant plot of land to a prospect buyer who pays the drink money plus an allocation fee (i.e. an administrative charge to the PAC)²¹⁶. This is then recorded and the purchaser receives an allocation note as proof of the transaction. The allocation note is a valid document that is held by the purchaser of the land and forms part of the documentation that is required for the registration of title to the land. The amount paid as *drink money* for a plot of land in *New Abirem* ranged from about Gh¢200 to 1,500²¹⁷. Part of the drink money was supposed to be used in the payment of compensation to the customary freeholder and the stranger farmer (if any) for the loss of the land and crops. Where there are no crops on the land at the time the land use change was made then compensation is only made for the bare land.

Before a chief makes decisions for change of use the customary freeholders (who usually farm on the land or may have rented it out to migrant farmers) are usually informed. The need for land use changes has sometimes resulted from the expansion of the town accompanied by increased demand for the provision of residential housing and commercial buildings. A customary freeholder whose land is affected by such decisions is expected to be fully compensated for the loss of his crops and land. Compensation arrangements for these vary from locality to locality. As indicated above the acceptability and the basis for it is not very clear, as it appears to defy extant customary law principles, which states that²¹⁸:

Chiefs are customarily and constitutionally obliged to administer land in the interest of and for the development of the whole community. Stool lands are communal properties. As long as there is vacant land each member of the community has the right to farm and build on part of it, which gives the member a usufructuary title to the land. The usufructuary interest is heritable and is extinguished only through, abandonment, forfeiture or with the consent and concurrence of the interest holder²¹⁹. The usufructuary cannot be deprived of

²¹⁶This is sometimes negotiated with the chief, depending on the location of the land and what the applicant's use of land.

²¹⁷ That is £86 to £652 (as at September 2010, £1= Gh¢2.30)

²¹⁸ Article 36(8) and 267(1) of 1992 Constitution of Ghana

²¹⁹ In the latter case the usufruct is entitled to compensation for loss of farm land and crops.

any of the rights constituting the interest. Not even the chief can lay adverse claim (Ubink, 2008:4).²²⁰

No one is also able to explain the basis for the determination of the quantum of land given back to the customary freeholder whose land is taken and parcelled into building plots. At *New Abirem* the generally acceptable practice was that the customary freeholder gets a 25% share of building plots that are parcelled from the converted land. For instance, if the farm land being converted produces 12 plots after the TCPD prepares a standard layout from it then 3 plots are given to the customary freeholder, which he independently decides what to do with it. If he chooses to build on it has to meet the planning standards set for the zone. Otherwise the person was free to sell out the plots given as compensation and move out to a different location to lease land for building and farming²²¹.

Although some people talk about the existence of a PAC, which is usually constituted by the chief and operates under his direction and authority, others have explained that plot allocations are actually made alone by the *Adontenhene* of the town²²². There are divergent views on the existence and awareness of any group of people working as the PAC²²³. It was in fact difficult to identify the members of the PAC. Questions about who does land allocations in the town were often made in reference to the *Adontehene* of the town. He appears to be the one everyone knows does allocations of land together with some staff of the TCPD²²⁴. The *Krontihene* of the town claims that the PAC provides periodic reports and accounts to the chiefs who sometimes may authorise it to be presented to the community during special community durbars²²⁵. However, since there were no available records of such public disclosures it tends to give credence to the view that only the traditional authorities manage and have access to the resources and revenue from the community's stool land.

Provision of Public Goods

At the district level people depend a lot on land for their sustenance through subsistence farming. As a result people are more particular in how stool land is utilised as a resource for community development. Local people expect to derive collective

²²⁰ Ubink cites Danquah, 1928; Ollenu, 1962 and Woodman, 1996

²²¹ Interviews with the Chief and *Krontihene* of *New Abirem* on 10/07/2010 and 03/09/2010 respectively; Selected community opinion leaders on 02/09/2010

²²² Follow up interview with Assemblyman 2 (2011)

²²³ *ibid*

²²⁴ An informal interview between one of my field Assistants (AO) and WNACH (2011)

²²⁵ Interview with the *Krontihene* on 03/09/2010

benefits from the way these resources are controlled by traditional leaders. How this is done affects people's perception of how good or bad a leader may be.

One of the ways of ensuring that the community is made aware of how collective resources are managed may be to set up an institutional structure that sets out the functions and authority, especially who it is accountable to. In a community where the main economic resource, land, is communally owned it is imperative that the authority and people selected to facilitate the management of the resource act within the customary principles of collective ownership at all times. One way of achieving this might be to ensure that there is transparency in the selection of the PAC and the requirement for periodic public declaration of how revenue is generated and utilised. Local inhabitants often want to know what their leaders are doing with the community's resources. This is something that appears to elude the local people at *New Abirem*.

Questions about how much revenue is derived from land transactions do not often yield specific responses from the traditional authority. For instance, even though the chief and some of his elders at different times claimed that when the PAC allocates land they provide accounts of this before a decision of how the revenue is used is made they could not provide specific documentations on what items of expenditure were actually implemented. But according to the *Krontihene* of *New Abirem*, 'the revenue that was mobilised from stool land resources was partly used for the maintenance of the stool and to support development projects in the community'²²⁶. It was not possible, however to verify any specific items except for the construction of a community durbar grounds (located on the compound of the chief's palace) which some community members acknowledged was the initiative of the chief. In addition the chief indicated that the community through its leadership often initiated the provision of projects for some of the needs of the community²²⁷. The allocation of land free of charge to the BNDA to facilitate the construction of a market for the town was given as one of the contributions of the traditional authority to local development²²⁸. Other examples of frequently undertaken projects were given as renovation of school buildings and provision of potable water. The community has also benefitted from the support of individuals and institutions, in particular Newmont and the District Assembly. These have supported,

²²⁶ Interviews with *Krontihene* on 03/09/2010 and opinion leaders on 02/09/2010

²²⁷ Interview with Chief of *New Abirem* on 10/07/2010 and *Krontihene* on 03/09/2010

²²⁸ The actual funding of the market is by the BNDA with support from local business people who have made monetary payments ahead of completion of the market stalls to ensure that they secure shops when it is fully completed. According to the DPO the market when completed will be a 3 storey building with shops. The first part comprising open sheds is completed and was commissioned for use in 2011. Interview with the DPO (1/3/2012)

through various collaborations, new school buildings, and a computer training centre for the community (see chapter 7 and 8).

The traditional chiefs in the communities affected by mining activities do receive some periodic cash sums of money from Newmont. This is to help support the chiefs in the company's area of operations to meet contingency expenses. However, the *New Abirem* chief set aside part of this as funds for development, although it was meant for his private use.²²⁹ The chief's declaration of direct cash rewards from Newmont to the community has been perceived by some people as the qualities of good leadership, even though they appear not to be very satisfied with the lack of openness in the way stool revenue, generally is used²³⁰. People seem to accept the way the local chief goes about stool land transactions; how authority is exercised over land use changes, land allocation and the composition of the PAC set up to facilitate stool land management. These have not been openly challenged and it remains as an established practice in the community.

The above continue to be the status quo especially with urbanised land use. However, land acquisitions by Newmont seem to have triggered concerns about the effects on peoples' land rights, which were likely to be lost and so have led to agitations for the expected compensation payments to be made directly to the individual usufructuary holders. This constitutes a departure from what used to be the case when compulsory acquisitions were made with regards to stool lands (see Chapter 7).

Case 2: Adausena

*Land is allocated by the chief. For farming purposes it is by the individual land owners but with the knowledge of the chief farmer, but for building plots the Plot Allocation Committee do this under the direction of the chief*²³¹.

Traditional authorities in *Adausena* are directly responsible for the allocation of land for all non-farm uses. The *Gyasehene* who has been acting as the substantive chief²³² made the claim that this is because chiefs are custodians of stool land. They have the authority to take decisions that will ensure that land is available as building plots for development. The subjects of the stool have a usufructuary right only, which can be used perpetually for farming. As a result when the land over which a usufructuary right

²²⁹ Interview with the CDM on 17/09/2010 and *Gyasehene* of *Adausena* on 11/07/2010

²³⁰ Interview of CDM on 17/09/2010, Assemblyman on 02/09/2010, OPNL on 02/09/2010 and STN on 02/09/2010.

²³¹ Chief farmer of *Adausena* on 9/07/2010

²³² The head chief lives in London but his duties are performed by the *Gyasehene* while he is away.

is exercised is required for a non-farming use, ownership to it reverts to the chief. This, the *Gyasehene* claimed is because the land becomes communal land once more and is not limited to the exclusive use of that subject only. For this reason the chief becomes the legitimate authority, in his position as custodian, to allocate land and or to endorse it for registration purposes²³³. This has been the argument often made by some chiefs but it does not appear to be disputed by the local people, especially in an area like *Adausena*, which is yet to experience intense increases in land values as exists in Accra and Kumasi. It is when values in land begun to appreciate in value that this claim by chiefs becomes questionable, but often only by those who are willing to litigate in the court of law and are prepared to live with the stigma of being labelled by their local compatriots as litigants.

In *Adausena* building plots are also allocated by the chief through his authorised agency the local PAC. Here the PAC is also made up of selected representatives of the traditional authority and members of the UC who have been put together by the chief²³⁴. Because of the involvement of the UC in the PAC, some local inhabitants view the PAC as a sub unit of the UC²³⁵. There is therefore some ambiguity when people talk about the 'committee' in the town. This is usually in reference to either the UC or the PAC. To the ordinary local inhabitant the two committees were the same.

The core function of the PAC is mainly for the allocation of building plots. Similar to *New Abirem*, decisions with regards to the conversion of land into parcels for building are made by the chief and the PAC. This is followed up by the PAC liaising with the TCPD to prepare a planning scheme for the area²³⁶. They collaborate with and assist the TCPD to identify, survey and parcel out the lands for allocation. Land values in this community ranged from Gh¢35 to Gh¢150 per plot²³⁷ from 2007 to 2008, but rose up to about Gh¢ 500 per plot by the middle of 2010. This rapid increase in land values was attributed to the expansion of Newmont project activities in the district, which had attracted a potential labour force to the area. It was also because they had commenced

²³³ Interview with *Gyasehene* on 11/07/2010

²³⁴ ²³⁴ Even though members of the PAC claimed there were also representatives of the Market Women's Association but this could not be verified at the time

²³⁵ Interview with the members of the PAC on 10/09/2010; Assembly woman on 10/09/2010 and leader of Women's association on 10/09/2010

²³⁶ *ibid*

²³⁷ The size of a plot varies from town to town and within a town from location to location. The plots sizes are usually measured in feet as (100 X 100), (100 X 90) and even in some areas it is (90 X 70) feet. There appear to be no one standard measurement for a plot of land in all the communities even though this is professionally done by surveyors and planners from state institutions.

the process for negotiations of compensation payments for lands that might be affected by mining activities²³⁸.

In *Adausena* (as was the case in the other communities) there is the locally made arrangement that whenever farm lands are converted to allow for urbanised uses, an indigene whose land is affected is fully compensated for loss of land and property. The existing arrangement is that 1/3 of the number of plots created from the land, after it has been surveyed and parcelled into plots, is given to the customary freeholder as a form of compensation. The rest are then leased out by the chief, who charges and collects *drink money* and allocation fees. An allocation note is usually given to the allottee²³⁹ to signify that the transaction is completed. The note often contains a clause to the developer to start construction within a year or else the chief has the right to re-enter the land and take possession of the plot for reallocation. The notion is to prevent speculators from keeping undeveloped land for future resale to reap income that arises from increasing land values. All these transactions are expected to be documented by the PAC and reported to the chief and the community²⁴⁰.

How the allocations fees and drink money are managed has always been debatable. According to the PAC when land is allocated the revenue that this creates is documented and periodically accounted for to the chief and his elders. A detailed account is presented to the whole community at the end of every 4 years when the term of office of the committee expires²⁴¹. The PAC usually keeps the fees collected, but this is after it has been presented to the chief and he has taken a certain percentage for the maintenance of the stool²⁴². What is left is kept in a community fund lodged at a community bank. The PAC has a treasurer who manages the account on behalf of the community²⁴³.

Another direct source of revenue to the local chief is derived through companies that have been granted Timber Concessions. The *Gyasehene* indicated that the local chief

²³⁸ Interview with key informant H3 on 4/01/2010 and chief farmer on 09/07/2010

²³⁹ The person who is allocated the land

²⁴⁰ This was common to all the communities but none of them was able to provide proper documentary evidence of such records of plots allocated and the fee charged

²⁴¹ Interview with the PAC on 10/09/2010. This term of 4 years is in reference to the time limit for the UC members which is statutorily provided in the Local Government Act 1993 (Act 462).

²⁴² The actual items of expense that this is used for is determined by the chief, as presumably it is a private income to him.

²⁴³ Although the PAC elaborated on this issue it failed to provide me with documentary evidence of the claims made. However, it maintained that this procedure is followed. In an interview with the *Gyasehene* he testified that part of the revenue received from land transactions is used for the maintenance of the stool as required by law (in reference to the Constitution of Ghana)

does not have a right to grant concessions. He showed knowledge of this by making reference to Ghana's statutory laws which give that power to the Forestry Commission. However, a person given a concession licence is obliged to appear before the local chief to present it to the traditional authority the right given to commence business. And during this procedure, customary *drink money* is offered to the chief. How the community benefits from such concession holders is that the chief would normally request the investor to support the development of some projects in the community. This is because the operation of the business is expected to have some impact on the local people. While some of them make some periodic payments of money to the chief to support or meet the cost of ongoing projects, other license holders may opt to undertake the projects by themselves. By this gesture some developments projects have been supported by timber concessioners, e.g. construction of public toilet facilities. According to the *Gyasehene* the investors sometimes consider this as part of their Corporate Social Responsibility (CSR).

Provision of Public Goods

Development of communities in the BND is the responsibility of the local authority. However, data collected suggests that communities in the district, especially those impacted by mining, have received support in the provision of public goods from Newmont (this will be discussed in detail in Chapter 8). Some individual and institutions, apart from Newmont, have also been able to provide resources or undertaken specific projects in the *Adausena* (see below). This seems to suggest that although the community's stool land generates revenue the inhabitants had to rely on the support from external bodies to be able to provide public goods and services. It was therefore of interest to find out what happened to revenues that were directly received by traditional authorities through land transactions and the stool land accounts operated by the OASL.

To help explore how public goods are provided I first asked for what are considered public goods to the community. The responses I collated generated a list of what might constitute public goods. This list includes potable water, improved educational, health and sanitation facilities. The chief of the town, who resides abroad, claims to have provided some public toilet facilities from his own personal resources. He had also received financial support from international networks that included a Non-Governmental Organisation (NGO) in the Netherlands and Big STEP a local NGO for

the development of school facilities in the town²⁴⁴. Hometown Associations²⁴⁵ in Accra, Kumasi and abroad have made monetary contributions to support some development projects and annual festivals. Assistance from Newmont and a local benefactor helped in the establishment of an Information and Communication Technology (ICT) centre for the community (36 computers donated by the benevolent person and building and furniture by Newmont). Furthermore, Newmont had also supported the community in the provision of potable water (4 boreholes), the rehabilitation of a school and construction of an information centre, to liaise between the Company and the community.

In addition to the above the BNDA and the MP for the constituency have all contributed in various ways towards school development projects in the area. The BNDA provided a 6 unit class room block, office and toilet for the community, while the MP also contributed to some projects by providing Gh¢10 million, 16 packets of roofing sheets and 300 bags of cement²⁴⁶. The chief elaborating on why the community had to seek support from elsewhere for local projects:

Community revenue mobilization was very low and so we have to rely on investors and funds that come from the state. But the delivery of funds from the state is saddled with bureaucratic and corrupt officials²⁴⁷.

No project was labelled as having been provided with resources from stool land transactions. This raises the question on what happens to revenue derived from these collective resources which are either directly or indirectly received by traditional authorities. Although as Table 4 shows very little is officially received from the OASL as stool revenue.

Case 3: Ntronang

Even I as a queen mother do not know what happens to moneys that are generated from our own resource. ...Everywhere in the town it is clear that people are not happy and do not trust the chief on how he handles revenue from community resources²⁴⁸.

²⁴⁴ Interview with Chief of *Adausena* on 09/09/2010

²⁴⁵ I found out that these are not established associations but often refers to individual citizens of the community leaving in the bid cities and abroad who sometimes put resources together to support local projects.

²⁴⁶ Interview with chief farmer on 07/09/2010, Assemblywoman on 10/09/2010, *Gyasehene* on 11/07/2010 and chief on 09/09/2010.

²⁴⁷ Interview on 9/9/2010.

²⁴⁸ Interview with queen mother of *Ntronang* on 02/10/2010

The above sums up the thoughts and feelings of some people at *Ntronang* about the way traditional authority is exercised over collective resources. The control and management of stool land resources at *Ntronang* adds a different dimension to what happens in the other selected communities of the District. There is a legitimately installed chief who has the authority to control and manage the community's collective resources. However, as I will show, how this is done appears not to be popularly supported by the local inhabitants.

In an interview with the traditional authorities at *Ntronang*, they explained that there are four main sources of revenue and financial support to undertake development projects in the community. These are royalty payments and revenue from the stools resources, community levy, and support from government through the District Assembly and collaborative partnerships with local investors, e.g. Newmont²⁴⁹. These constitute the community's main source of development projects.

The chief of *Ntronang* directly controls stool land resources. Planning the use and mobilisation of revenue from the land and natural resources of the stool is one of the responsibilities expected from the traditional authority²⁵⁰. Chiefs may perform this duty through intermediaries which may include elders of the traditional council and representatives of the people. Although the traditional authority claims to have control over all the lands and the recognised authority to allocate land for non farming uses, information from other interview sources contradicted this. Some community members have refused to accept this claim and challenged the authority of the chief to undertake the conversion of land held under customary freehold without consultations with the usufructs. This has often resulted in conflicts as a result of which community members tend to engage in direct land transactions without regard to the chief's endorsement to validate the transactions and adherence to official land use schemes for the area²⁵¹.

Responses to the question on who controls and manages land in the community yielded divergent views. As in the case of *New Abirem* and *Adausena*, opinions differ over the way land transactions for urbanised uses are conducted. Different categories of people interviewed at the community provided different insights into how this is done. On the one hand, the traditional authority presents the view that the chief is the

²⁴⁹ Interview with chief and elders on 4/01/2010

²⁵⁰ Ibid. This was a claim made by the chief.

²⁵¹ There were claims that the chief had commissioned the TCPD to prepare a layout for the community but the implementation of the scheme was problematic for the chief as it appears he lacks control over some lands in the area. Interview with traditional elders on 25/08/2010, Assemblyman on 02/10/2010 and youth leader on 31/08/2010

custodian of stool lands in the area and every subject has the right to use land only as a usufructuary, in accordance with the customary practice of the people²⁵². As in all stool land communities in the district, this is explained to mean that the decision to convert from farm land to building plots is the prerogative of the traditional authority. The chief does not take decisions on land use independently but does so with his PAC, which is constituted by people who have been carefully selected by the chief to facilitate the management and allocation of the stools land.²⁵³ The queen mother of the community pointed out that the PAC operate under the directives of the chief and so are not accountable to the community with regards to management of the stool's lands and other resources .

Contrary to the above, the views expressed by other community members (especially the youth) suggest that there is no such recognised body referred to as a PAC. This group argue that land allocations are done by the chief with the assistance of a few of his cronies to support him and they take directives from him. The Assemblyman of the town, in an attempt to clarify the apparent conflicting situation about the existence of a land management body elaborated that prior to the reign of the current chief there was a PAC but it was dissolved following the installation of the chief. Attempts to revive the PAC failed as the idea did not receive the needed attention by the traditional authorities. The chief prefers to deal directly with land transactions with assistance from people who have some personal close ties with him to help him to do as he wanted.

The above suggests that the chief does not appear to be in actual control of all the stool lands. It would seem that some natives (with customary freehold in land) are actively allocating land without informing the chief²⁵⁴. These natives grant leases to prospective developers without recourse to the chief. This enabled them to receive and hold onto direct cash payment [drink money] for the land. Those who engage in this made the argument that their customary right in the land cannot be wished away by anyone, including the chief²⁵⁵. These transactions are not only limited to building plots

²⁵² Interview with selected traditional elders of *Ntronang* on 25/08/2010. During the interview the elders could not provide the names of the members of the PAC, but two of them said they were members.

²⁵³ During the interview the elders could not provide the names of the members of the PAC, except to say that they are part of it and it exists.

²⁵⁴ Interview with the youth leader on 31/08/2010, Assemblyman on 02/10/2010 and traditional elders on 25/08/2010

²⁵⁵ Since this is established by customary law and administered in the law courts.

but also affects land given out to people to invest in *galamsey* in the area.²⁵⁶ Revenues that accrue from these allocations go directly into the pockets of individuals.

Community members expressed dissatisfaction with the way revenues of the stool are managed. For instance, it was alleged by some community members that fees paid by a mobile company MTN for space to erect a communication mast were not accounted for²⁵⁷. Furthermore, the people also complained of failure by the chief to declare to the public periodic payments which had been received from Newmont²⁵⁸. Statements such as 'we hear and see improvements in their lifestyles when these monies are paid to them' were very common in the community²⁵⁹. This was in reference to the purchase of a new cross country vehicle by the chief after the community had information that Newmont had paid some monies to the chiefs. The community had expected that the chief would declare this and use (some) it to support development projects in the community²⁶⁰.

Provision of Public Goods

The people living in the community are aware that the traditional authority is in receipt of revenue from managing collective stool land resources. However, there was no official record of projects provided with this for the community. The list of community needs included; school facilities, market and a lorry station. All these have been provided with financial support from the District Assembly and institutions such as

²⁵⁶ Interview with informant (N1) 20/05/2010; NYL on 31/08/2010 ,Assemblyman on 02/10/2010 and queen mother on 02/10/2010

²⁵⁷ Ibid

²⁵⁸ According to the CDM of Newmont this was supposed to be money to be used by the traditional authority. Other chiefs often declared and shared this with their community. This was used as a basis of distinction between two chiefs. The sharing gesture by the *New Abirem* chief was commended by his people and viewed as a good chief, while the contrary was said about the chief of Ntronang who it was alleged had received two payment instalments and kept both to himself. No share went to his elders and the queen mother until they confronted him. One of the payments was estimated be Gh¢12, 000 out of which the chief offered about Gh¢2, 000 to the community. This was after the queen mother and Elders had demanded a share be made to them. According to the Assemblyman the people of *Ntronang* took this matter up to the paramount chief when a second amount of about Gh¢22, 000 received by the chief was alleged to have been used for his personal improvements. He bought a new vehicle without giving anything to the community. Subsequently, the queen mother from of the traditional area declared that all future direct cash payment made by Newmont to traditional authority at *Ntronang* was to be shared in three parts one each to the chief, community and elders of the traditional council.

²⁵⁹ Interview with NYL on 31/08/2010, Key informants N1 and N2.

²⁶⁰ It appears this monies paid by Newmont were for the personal use of the chief, but the community expected the chief to make it public. Some community members claimed the company was by this gesture influencing the chiefs so that they are not able to resist the investment in mining. This was refuted by the CDM of the Company(Interview on 17/09/2010)

Newmont and NGOs²⁶¹. For instance, there was ongoing support to redevelop the Roman Catholic school. This was supported under a tripartite arrangement with the District Assembly and Newmont²⁶². An NGO is providing a new school block and the MP is also sponsoring the construction of 6 unit classroom block for the Presbyterian school. The District Assembly was in the process of renovating the market in the area to improve on facilities. Without these forms of support the community might not be able to provide the public goods identified. It may be argued that local government authorities have the responsibility for the development of communities within their areas of jurisdiction, but they are also faced with inadequate resources. Development is therefore facilitated if communities are able to raise finances, which might then be supplemented by the DAs. In addition to this the arrival of Newmont seems to have improved the provision of public goods in the mining affected communities.

Although the traditional authorities have not been able to use revenues for the provision of public goods as expected they do provide leadership in mobilising the local community as a result of the respect for tradition and custom. It was observed that in spite of all the difficulties and the seeming lack of trust in the chief, the authority of chieftaincy institution to control stool land resources was not in dispute (see Table 6 and Table 7). However, the problem seems to be with the performance of the individual chief of the respective community. In particular how the chief exercised authority over stool land resources and revenue.

Case 4: Praso Kuma

*The PAC allocates and keeps record of transactions and revenues that accrue on land... We have used this to support the construction of clinic, electrification project and school building.*²⁶³

Praso Kuma does not have ongoing mining activities (as explained in chapter 4). Thus land transactions for the development of building constitute one of the main sources of stool land revenue in *Praso Kuma*. There lack of mining and timber activities over the community's stool land area had affected the potential for the area to generate revenue to be managed by the OASL. There was therefore no record of stool land accounts (as shown on Table 4)²⁶⁴. This therefore suggests that no royalty payments

²⁶¹ Interview with Assemblyman on 02/10/2010 and queen mother on 02/10/2010

²⁶² Details of this in Chapter 8

²⁶³ Secretary to the PAC (Interview on 24/09/2010)

²⁶⁴ Interview with the Regional and District level officers on 14/01/2010 and 11/08/2010 respectively confirmed this.

are made to the *Praso Kuma* stool. Land transactions to meet emerging demand for building and cash crop farming remain the only sources of revenue and opportunities to realise benefits from stool land. However, these constitute direct forms of stool land received by the chief (examined in sections 6.1.1 and 6.1.2).

How the chief mobilises and uses the direct sources of stool land revenue has implications for the development of the town. The PAC now collects and controls revenue from the stool's resources. As in the other communities the PAC is made up of representatives of the traditional authority and the UC. There are 6 members in all with half of them being members of the town's UC. They are empowered by the chief to allocate and receive fees (including drink money) for the allocation of building plots. What was different though about the PAC in this town was that it collects and manages the use of all land revenue (see below). The PAC is also, expected to make public information about their activities to the community, usually during annual festivals²⁶⁵. As a result of this there were no problems and conflicts over the way the chief exercises authority over land use changes and transactions. It might also be that because the community is rural with no significant demand and need for rapid land use changes as occurs in *New Abirem* and *Ntronang*. There is still evidence of an abundance of fertile agricultural land, which perhaps might help in explaining why decisions to convert farm lands that are in proximity to the emerging urbanised area are not strongly opposed. This is because those local inhabitants affected by any land conversion decision and given compensation for their land and are able to find alternative farm lands.

The PAC was empowered to do all allocations on behalf of the chief. Usually for residential and commercial use building plots the chief is not directly involved in the transaction. This is done by the PAC, who record and inform the chief of the transaction. However, for land transactions required for large scale commercial use the chief does the allocation together with the PAC²⁶⁶. This includes the allocation of prime land along the only main road through the town centre. Although because of its rural setting, compared to the other three case study communities, the value of building plots is relatively much lower. As of 2010 a plot of building land, which was measured in relation to the size of the chiefs place attracted a price that ranged from Gh¢200 to Gh¢1, 200 depending on the location in the community and whether the purchaser was a native or non-native. This constitutes stool land revenue that records should have

²⁶⁵ Interview with the Chief on 28/09/2010 ,Secretary to the PAC on 24/09/2010 and the Unit Committee Chairman on 23/09/2010

²⁶⁶ Interview with (secretary to the PAC) on 24/09/2010

been made available to the OASL, but as explained above this is claimed as *drink money*. A native usually pays less for a similar size of building plot than a non-native. It was explained that the difference was because the native was bound to be involved in the performance of community services which is not the same with a non-native²⁶⁷.

An interesting finding that was made in *Praso Kuma* was that plot sizes were not professionally surveyed and marked. The PAC uses the external dimension of the chief's palace as a local standard for measuring plot sizes. There is no planning scheme for the community because it is expensive to hire the services of a professional surveyor, which will increase the cost of the transaction and affect the returns from the sale of the land. It is to minimise this cost while ensuring that some level of standard is maintained that the chief has allowed the PAC to use the area covered by the palace as the unit for measuring plot sizes²⁶⁸. In all land allocations the PAC keeps a record of the nature of the transaction and revenue in their registry²⁶⁹.

Provision of Public Goods

Apart from revenue set aside for maintaining the stool (a very common claim made by chiefs), the rest is put into a community treasury to be used for development. According to the Chairman of the UC because the community depends largely on its own revenue it took it over 10 years to be able to complete a health facility in the town²⁷⁰. Generally revenue generation capacity is very low from the community since there is no large scale commercial exploitation of natural resources in the area. As a way of boosting the level of revenue generation capacity in the community from local resources in the area, the chief and the people established a community oil palm farm in 1992. This is supported through communal labour. The community makes use of proceeds from the community farm to undertake its projects. This constituted a significant source of revenue that was used to start the construction of the health post for the community.

The analyses above generally suggests that local community members did not trust, and in some cases strongly opposed the way chiefs managed stool land and the revenue it produces. The prevalence of these issues in the communities seemed to have affected popular views about chiefly responsibility over stool land.

²⁶⁷ Interview with the Chief of *Praso Kuma* on 28/09/2010 and the PAC on 24/09/2010

²⁶⁸ Ibid

²⁶⁹ Field note (September, 2010). However, neither the Secretary to the PAC who made me aware of this record keeping nor the chief provided evidence to support the claim.

²⁷⁰ The community health post (clinic was officially opened in September, 2010).

6.4 Popular perceptions of traditional authority and land

The extent to which chiefs exercise control over land transactions and decisions about land uses have implications for the perception of their subordinate citizens. Under customary law chiefs have rights and responsibilities over stool land which is recognised by all community members. However, these seem to be changing as the examination of people's views from the survey data will show.

A popular survey of 301 respondents was conducted to find out about the perception of local inhabitants on issues regarding access to and management of stool land and the extent to which these affect the security of interests in land. The analyses of the data were conducted using Statistical Package for Social Sciences (SPSS).

First, I analysed which authority had the responsibility to manage and control access to land and natural resources. The responsible authority refers to the legal right to deal with land and natural resources. The result of the analysis is presented in Table 5. The Table shows that 44% of the total number of respondents acknowledged that both chiefs and the government²⁷¹ were responsible for the management of stool land and natural resources. This is because of the awareness that apart from stool land under the management of chiefs the state own lands in the local communities, which are for public uses such as schools and housing for state institutions.

In addition to the above, 39% of respondents were of the view that it was the chief only who had the responsibility to manage these resources. Other authorities who were mentioned as having the responsibility to manage land were the paramount chief (3%) and family heads (2%). Thus, the popular view was that the paramount chief and the heads of families were not expected to be solely responsible for the management of stool land at the local level. This is important to note as the stool members will not hold anyone accountable for revenue from stool land other than their own local chief. It also shows why chiefs and the state's land sectors agencies are the focus of contact in everyday land transactions in these communities. However, a breakdown of the results by communities shows some difference in *Praso Kuma*, where 49% of respondents acknowledged that the chief had the authority over stool land.

Although chiefs legitimate responsibility to manage stool land is acknowledged by local inhabitants as shown by the results in Table 5, how they exercise authority in practice is often contested, especially with regards to urban land. Awareness of the problematic

²⁷¹ The local inhabitants use the Akan word '*aban*' which literary translates as government. In actual fact they are referring to the State (and its relevant agencies)

nature of chief's authority over stool land led to a further investigation on whether or not stool members might prefer an alternative authority to manage stool land.

Table 5: Responsibility to manage land and natural resources

Authority	Percentage (%) ,n=301
Chief and Government	44
Chief Only	39
Government	11
Paramount Chief (Omanhene)	3
Family Head	2
Total	99*

Source: Survey data (2010)

*1% of the respondents did not know who was actually responsible for managing land in the communities.

Based on the interviews and group discussions undertaken earlier during the fieldwork four main institutions were identified as those that the community inhabitants might interact more frequently with in land transactions. Respondents were therefore asked which of the four institutions they would prefer to manage their land and natural resources. The result of this analysis is presented in Table 6. The Table shows that overall chiefs are the most preferred authority (42%) to manage stool land natural resources. However, an aggregation of the responses on the other three institutions, which are all agencies of the state, raises questions about how popular traditional chiefs are in regards to the way they exercise their authority over stool land. A case can be made that local inhabitants were more likely to consider an alternative institution other than the customary institution of chieftaincy.

Table 6: Who would you prefer to manage land and natural resources?

Authority	Percent (%)
Chief	42
Lands Commission	38
Town and Country Planning Department	10
OASL	10
Total	100

Source: Survey data (2010)

This result shows that generally community members have more preference for chiefs to exercise authority over stool land and natural resources compared to other institutions at the community level. However, analysis of the results according to communities shows that generally the chief of *Ntronang* does not enjoy as much

support from his people as the other three chiefs in *New Abirem*, *Adausena* and *Praso Kuma*. Although other institutions may be preferred the largest single group of local inhabitants in *New Abirem* (49%), *Praso Kuma* (61%) and *Adausena* (43%) prefer the chief to manage stool lands in contrasts to *Ntronang* where the Lands Commission is rather the most preferred institutions (42%) compared to 24% by the chief. This is shown in Table 7. This supports the findings from analysis of interview data about *Ntronang* where there is a low level of trust in the chief with regards to the management of stool land (see Case 3). Again these results shows that only in *Praso Kuma* is the majority of community members in favour of the local chief, elsewhere there is the preference for other institutions.

Results of the analyses give indication of some preference for traditional chiefs to manage stool land. It was therefore imperative to find out how secured local inhabitants, both indigenes and non indigenes, felt about the rights and interests they held in land; whether it was threatened in anyway by the actions of chiefs and under what circumstances land may be taken away. In Table 8 the results show that 77% of the respondents in all the communities perceived the chief as the one who could take back land from them.

Table 7 who would you prefer to manage land and natural resources? results by communities

Authority	Community			
	<i>New Abirem</i> (%)	<i>Ntronang</i> (%)	<i>Praso Kuma</i> (%)	<i>Adausena</i> (%)
Chief	49	24	61	43
Lands Commission	39	42	27	38
TCPD	12	12	3	12
Stool Lands (OASL)	-	22	9	7
Total (%)	100	100	100	100

Source: Survey data (2010)

A number of reasons were given to explain why the chief might exercise his authority to take back land which is being used. Of the 77% of respondents who stated that the chief had the authority to take back land from them 49% gave the reason as *"because the chief has the customary authority to control and manage stool lands"*, while 46% said *"because the chief has the right to take stool land when it is required for development (building purpose) other than farm use"* and 5% indicated that *'the chief has the Constitutional right to take back land'* in apparent reference to Article 36(8) of the 1992 Constitution of Ghana which recognises chiefs as managers of stool land in a

fiduciary capacity. The first two explanations provide support to the way chiefs in all the communities are able to decide land use changes which affects the customary freehold often held by indigenes.

Table 8: Who has the authority to take away land from you?

Authority	Percent (%), n =301
Chief	77
Individual land owners	7
Government	6
Family Head	1
All the above	9
Total	100

Source: Survey data (2010)

In addition to the study also investigated how indigenous inhabitants and migrants accessed land for the various uses and how the allocation of land was made. Analysis of interview data suggested that there were divergent opinions in some of the communities on how building plots are allocated. Except *Ntronang* all the other communities seemed to suggest the existence of a PAC, although the composition and how it functions remained unclear to some respondents. This provided the impetus to find out through the survey how people actually accessed land in the communities. Respondents were therefore asked which authority allocated land, as well as the procedure. The responses for these questions were important for two reasons.

Firstly, this was to establish whether or not there was a land management structure for the allocation of building plots, and secondly the level of awareness of this structure amongst the local inhabitants. The results presented in Table 9 shows that 76% indicated there was a plot allocation committee, while 24% responded negatively to an awareness of any such committee in the community.

Table 9: Is there a committee for the allocation of land (plots) in this community?

Response	Percentage (%), n=301
Yes	76
No	24
Total	100

Source: Survey data (2010)

A furthermore analysis of the results show how divided opinions are about how members of the committee were constituted. The result of this analysis is presented in

Table 10, which shows that of those who responded yes to the existence of a PAC, 39% responded that its members were elected by the inhabitants of the respective communities, while 33% indicated that PAC members are usually appointed by the chiefs. The highest level of perception about the election of PAC members might be due to the reason, explained earlier that they were often constituted by selected UC members who were perceived as democratically elected.

Table 10: How do people get to serve on the plot allocation committee?

Response	Percentage (%)
By popular election	39
Appointed by chief	33
Do not know	4
Total	76*

*24 % represent those who responded *No* to the existence of PAC

Source: Survey data (2010)

Further observations that are made from the survey data are: Firstly, the data showed that the largest group of respondents who indicated the absence of PAC were from *Ntronang*. This provides support to interview data (in Case 3 analysed above) about *Ntronang* which questions the existence of a formal and acceptable land allocation committee. Secondly, although the popular views from all the communities seem to suggest that traditional chiefs have an important role and responsibility over stool land this study could not identify a *properly* constituted land management structure under the authority of local chiefs²⁷². However, in specific cases the results show that *Praso Kuma*, which is primarily a rural community with relatively less active land transactions that there is strong support for the chief's authority over land. On the other hand, in *Ntronang* the popular view is that stool land is managed under the personal direction of the chief as private property, which completely defeats the customary principle of land tenure.

Additionally, the analysis might also be interpreted to lend support to findings about the different ways in which chiefs exercise their authority over stool land in areas where there is growing commercialisation of land thereby encouraging land conversions, especially in areas where land markets are non-existent or operate at a minimal level. *New Abirem* and *Ntronang* are two towns where increasing urbanised activities are relatively taking place. This has the potential to create increased revenue from

²⁷² There were neither clear guidelines nor structures for established land (plot) allocation committees in all the communities.

collective resources. In addition to that there is also increased revenue to be derived from royalties for gold and timber activities. The citizens were therefore aware of these transactions and revenue and expect that traditional authorities are accountable in the way they manage community resources. On the other hand *Praso Kuma* is more rural, compared to the other case study communities, with no immediate prospects of deriving additional revenue from minerals and timber or land transactions. The stool does not presently generate sufficient revenue from royalties and ground rents. This is due to lack of a viable land market as a result of the town's rural configuration as well as the lack of commercial exploitation of any form of natural resources from the stool land. It also implies that relative to the other three communities, there is less expectation of the local inhabitants from their chief in regards to stool revenue mobilisation. With only a limited source of revenue it is difficult to conclude whether not he might be more transparent and accountable compared to other chiefs. It is therefore reasonable to understand why the majority of the community inhabitants prefer the chief to manage and exercise authority over land as shown in Table 7.

6.5 Implications of how stool land is managed in study communities

An examination of the way authority is exercised over land and the impact of mining in the communities' points to a number of implications. The analyses of the land management practices in the four communities' points to the following issues:

Reinterpretations of traditional authority over stool land

The practice whereby chiefs claim to have authority to decide when land use is to be changed from farm land to building plots is widespread in the BND. The general notion that for building plots, the allocation of land is only valid if made between the chief and the prospective developer has a number of implications on the security of customary freeholders.

Firstly, there appears to be no customary basis for the argument that when the need arises for land at the fringes of the town to be converted from farm land into building plots, the ownership in land reverts to the chief. This constitutes reinterpretation of the customary law, insofar as it undermines the rights of customary holders (Ubink, 2006; Andreasen *et al*, 2011). Chiefs are expected to exercise authority over stool land only in their capacity as 'trustees'. This principle is one that has been well established under customary law in Ghana (Woodman, 1996; Crook, 1987). Chiefs are not the absolute owners of stool lands under Akan concept of customary land tenure (Ollenu, 1962). Thus, chiefs and their families cannot be the original owners of land owned by their

respective communities. However, the findings about chiefs making important decisions about land use changes are not isolated as similar findings from studies conducted in peri-urban Ghana have been made by Ubink(2008) and Andreasen *et al*(2011).

Secondly, the community as a whole loses its source of revenue which could be used for development. Since chiefs allocate land under customary principles without making public the drink money they collect it is difficult to hold them accountable for such transaction. Some of the challenges to this practice, as the evidence from *Ntronang* pointed out, are that people have resorted to selling lands on their own and keeping the proceeds before the chief does so. In addition to that there is always the potential for double sale of land, since these transactions are not coordinated in a way that would ensure that plots allocated are properly recorded.

Thirdly, where there is ambiguity over who controls and exercises authority over land it can lead to illegal activities taking place on land such as *galamsey*, which only benefit a few who directly allocate their lands for this mining activity²⁷³. This leads to the loss of revenue that could have been better mobilized for collection by the community for development.

Lack of capacity to manage stool land resources

The inability for traditional authorities to put in place acceptable land management structures that can manage stool land in ways that are transparent and accountable contributes to the non-disclosure of stool revenue. What has been noted from above is that in all the communities' there are loosely formed or as in some cases non-existent, structures for managing stool lands, and poor records keeping on land transactions. The evidence points out that at all times chiefs control land revenue. They are able to do this through local institutions that appear to serve only the interest of the chiefs.

The use of PACs in all the communities serves as a facade in customary land management. The presence of the PAC seems to portray that stool land is managed in a participatory and accountable way. But as the analysis above has shown in practice these are often filled with members of the local elite and loyalists of the chief. This raises concerns about how transparent and accountable these local institutions might

²⁷³ Local term used in Ghana for small scale mining such as gold and diamonds. It is generally an illegal activity mostly undertaken by unlicensed individuals who discover minerals land.

be and whether or not they can facilitate local communities to generate revenue that can be used for development. While in smaller towns such as *Praso Kuma* and *Adausena* chiefs have personalised the authority to make allocations, this was not, for now, a big issue. What is observed in *Ntronang* is as a result of the lack of openness and accountability by the chief.

Effect on the level of trust for traditional authority

A summary of responses received on who may be described as a good chief in the communities showed that for a chief to be described as good and effective he must be seen by his people to have the following characteristics²⁷⁴:

- 1) must have respect for his elders and people;
- 2) regularly hold consultation with his people and allow them to participate in the affairs of the community.
- 3) must be seen to be transparent and accountable with the resources of the community. A chief was expected to show openness in the way local resources are managed.
- 4) must have the capacity to lobby and attract investment and development to the area.
- 5) respect the customs of the community

What was generally common in all the communities was that local chiefs who were trustworthy and transparent were respected by their people. Although some people in *New Abirem* expressed dissatisfaction with the way stool land is managed through the PACs, they respected the chief and were willing to support him at all times. This was because he had in some cases made known to the community how he had used direct cash payments he had received from Newmont and other institutions to support local development projects. Similarly, the chief of *Praso Kuma* is lauded by his people for allowing the PAC to collect and manage local resources without direct interference. But observations at *Ntronang* showed the contrary where the people, in particular the youth openly opposed him and refused to take part in communal labour. This under a respected chief would attract traditional sanctions.

According to the queen mother of the *Ntronang* specific charges of mistrust have been levelled against the chief in regards to money paid by Newmont (as discussed under

²⁷⁴ Interview with Local leaders at *New Abirem* on 02/09/2010, Assemblyman of *Ntronang* on 02/10/2010 and at *Praso Kuma* on 29/09/2010.

Case 3). Serious allegations of mistrust against a chief could result in destoolment and the queen mother plays an important role. Where she is unhappy about a chief it can have significant consequences for the authority of the chief.

Inability to meet the challenges of provision of public goods

The way chiefs have managed revenue and in some cases taken it as personal income tends to affect and weaken their ability to mobilise local revenue to be used for the provision of developmental public goods. As a result they have had to rely on external support most of the times to be able to invest in development projects. But this appears to be one role they have played well in their communities.

Chiefs have facilitated and attracted other institutions to support their communities. They have the capacity to mobilise their people, especially if they are trusted and respected such as the chiefs of *New Abirem*, *Adausena* and *Praso Kuma*. For instance, the chief of *Adausena* was able to attract both local and international organisations to support the community in the provision of public goods. This makes up for the failures of the traditional authority to provide some of these. No one seems to question how chiefs use the share of revenues they receive from the OASL account. Often the conflict with chiefs has been about the sale of land. The failure of chiefs to draw in all sources of revenue has led to a slow pace of development in these communities. This poses serious challenges to development in local communities. These conditions and practices drawn from above are not limited to this district but are major land issues in Ghana.

6.6 Conclusion

This chapter has focussed on the types of revenue and what structures have been established for managing stool land resources in four selected communities in the Birim North District. The question that was posed is how stool land and the revenue that it generates are managed. This served as a basis to discuss how accountable these structures are and who benefits in the process. The discussion centred on the role of traditional chiefs and their relationship with other locally established actors and institutions as well as the state institutions at the district level. Chiefs make various arguments to claim control over collective stool land resources. Analyses and examination of the four case study communities' in the BND provide evidence of the dynamic and fluid nature of stool land management and the implications and outcomes for development in the communities.

Traditional chiefs in Ghana have a legitimate authority, both customary and legal, to manage the collective stool land resources of their communities. These resources provide a potential source of revenue to be used for development for the beneficiary communities. It may also provide a means to personal wealth and political authority. However, the management of these resources is not only a traditional or legal matter, but entail the engagement of different local actors and institutions with different political authority and interests. Central to this are the interests and political authority of the traditional chiefs. How they exercise their customary authority over the management of stool land resources and how they engage with the other institutions affects their authority and opportunity to control the benefits that are derived.

Chiefs have argued that the citizens have an unchallenged customary right to the use of land for farming but they do not have the authority to transfer or engage in land conversions for a different use. Customary freeholders are not entitled to change the use of the land with the intention of selling the interests in absolute terms. The chiefs contend that the authority to do this is within the remit of their authority under both customary and statute law. This is prevalent where there are urban influences associated with the commercialization of land and the rapid development of land markets. As a result the struggles to control stool land resources continue to take place as this is considered to be the basis of wealth and political power (Owusu, 1970). The right to determine land use also defines who has the right to allocate it for other uses. Although these claims appear to be generally acceptable and practised in the communities it does have implications for customary law as established and practised in the Ghanaian courts (Woodman, 1996). There were some indications in *Ntronang* that local inhabitants have exercised the right as customary freeholders to allocate land for other uses. But this appears to be peculiar to this community because of the personal attributes of the local chief. They found that stool land was managed as private property to seek personal wealth. Although it may be argued that this is also observed in other localities in Ghana, it is not the norm for local inhabitants to strongly oppose their chiefs as the situation in *Ntronang* might suggest (Ubink, 2008). Challenges to chiefs' land management practices are seldom pursued by local residents.

The chapter also examined popular views about chief's authority over stool land and its implications on the local community. The conclusion that may be drawn from the analyses of how traditional chiefs exercise authority over stool lands is that people recognise that chiefs are not the only authority to manage land. Only in one community

did a majority give preference to the chief to manage land, and that was a community where there is no mining investment and low land transaction activities.

Chapter 7

Land Access and Compensation Negotiations in the Birim North District

7.0 Introduction

This chapter is the first part of the unusual system of negotiations observed in the Birim North District (BND). Large land acquisitions required for mining investment in the district opened up more challenges to debates about the exercise of chiefly authority and its implications for the members of stool land communities. Chiefs continue to control stool land that is required for development. However, because of the problems about how they exercise authority over land, which have been discussed in the previous chapters, a new system for negotiating compensation for land affected by mining lease was developed in the BND. The new system included elected representatives drawn from all the mining-affected communities in the District.

This chapter presents empirical evidence from the analysis of the background and development of the system of negotiating compensation as a result of the release of stool land required for mining investment. Specifically, the compensation system involved traditional chiefs, locally elected representatives of groups of local inhabitants, officials of Newmont, public land sector agencies and the BNDA. The analysis will focus on the role of traditional chiefs within the negotiation process and questions its implications for the authority of chiefs to act as trustees of stool land. I will precede the analysis by examining the legal framework for mining in Ghana. This chapter aims to draw out the implications of the negotiations system for the authority exercised by traditional chiefs in the BND.

7.1 Land acquisition and compensation: negotiating access to land for mining

In Ghana, all natural resources that are found on and under the land are held in trust by the President for and on behalf of the citizens of the country²⁷⁵. Permission to have access to land for mining investment may be legally granted through a lease by the state. The state has the authority to do this under the power of compulsory acquisition, which usually entails compensation payments for those whose land may be affected by the extent of the lease²⁷⁶. The alternative is for compensation payments to be negotiated under a private treaty agreement between a prospective investor and the land owners. In line with this latter option Newmont undertook to negotiate access to

²⁷⁵ The 1992 Constitution, Article 257 (6) and Act 703 section 1.

²⁷⁶ Article 20 of the 1992 Constitution

land required for its mining operations in the BND directly with the individuals whose lands may be affected by its project. The negotiation of compensation in the manner pursued by Newmont as observed in the BND is different from the usual statutory procedure of land acquisition within other mining communities in Ghana.

It is common practice in Ghana for negotiations to be done with traditional authorities in respective communities where collective stool land is required for investment. This is so because, as noted earlier, traditional chiefs are expected to act as trustees of stool land. But while individuals and families have usufructuary titles in land, chiefs may negotiate to maximize their personal benefits without considering other interests held in land. As a result sometimes mining companies have been accused of taking land which constitutes a major source of livelihoods for local people in their areas of operation without compensation payments or adequate provisions for alternative means of sustenance. This seems to compound the already problematic nature of chiefs' management of land (as discussed in chapter 6).

Although the inhabitants living in the mining affected communities in the BND appeared willing to allow access onto their land for mining they wanted compensation to be negotiated directly with them (rather than through their local chiefs) for the loss of their property rights and assets²⁷⁷. This was to ensure that they did not end up being dispossessed of their land and property as studies in other mining communities in Ghana have shown (Akabzaa, 2000; Akabzaa *et al*, 2007; Tsuma, 2010; Ayelazuno, 2011).

However, if Newmont were to engage in negotiations individually with the mining-affected persons it could potentially have taken a very long time to accomplish and may not therefore have met the statutory requirement for prompt compensation payment²⁷⁸ (this will be discussed in section 7.1.1). Delayed compensation payment also had the potential to raise anxiety in the communities. Thus, according to the Community Development Manager of the Company:

To avert potential delays assessing individual compensations and anxiety Newmont decided to deal with the affected persons, mostly farmers, as a group. But there were many affected people, over 1000 people so the Company proposed the formation of a committee of representatives to negotiate on behalf of all the mining affected people²⁷⁹.

²⁷⁷ The taking of land for mining has often been severely contested in some communities in Ghana.

²⁷⁸ Article 20 of 1992 Constitution and section 74 of Act 703

²⁷⁹ Interview with CDM on 17/09/2010

However, the negotiations were expected to be conducted in a way that met the criteria provided by the statutory laws for compensation in Ghana²⁸⁰. This necessitated the involvement of officials of the public land sector agencies that regulate land administration, the local government authority of the District, other state institutions and political authorities at the local level. These institutions provided technical advice and guidance in the negotiations process (to be discussed in section 7.3). The idea for a collective process to negotiate compensation as proposed by Newmont led to the establishment of two committees for compensation and for the provision of public goods (the latter committee will be discussed in the next chapter). The proposition made by Newmont was accepted by the people living in the mining-affected communities (and their chiefs) as a process to facilitate land access and compensation²⁸¹ to advert potential issues of dispossession of property.

My aim in this chapter therefore is to analyse this unusual system of negotiations and its implications for the authority that chiefs exercise over stool land and their communities. However, this is preceded in the next section by examining the legal framework that regulates compensation payments for mining in Ghana.

7.1.1 Legal provisions regulating access to land for mining

Current laws governing mining activities in the country are the Mineral and Mining Act, 2006 (Act 703) and the 1992 Constitution. Under Act 703 before the holder of the mineral right undertakes any activity or operation they must obtain the necessary approval and permits required from the Forestry Commission and the Environmental Protection Agency (EPA) for the protection of natural resources, public health and the environment. The EPA Act, 1994 (Act 490) empowers the EPA to ensure compliance with the environment assessment regulations and to prescribe standards and guidelines relating to the pollution of air, water, land and other forms of environmental pollution. The Environmental Assessment Regulation, 1999 (LI 1652) lists, among others, mining extraction and processing as activities that require a mandatory Environmental Impact Assessment (EIA). Thus, before mining activities take place, the holder of a mineral right (the mining company) must carry out an EIA and submit a report to EPA for approval. These measures are intended to mitigate the adverse

²⁸⁰ Article 20 of the 1992 Constitution and under Act 703

²⁸¹ Interview with the CDM on 17/09/2010, Opinion leaders of *New Abirem* on 02/09/2010, Chief of *New Abirem* on 10/07/2010, *Gyasehene* of *Adausena* 11/07/2010 and Key informant (1) of *Ntronang* on 20/05/2010

effects of mining on the environment, sources of livelihood and the people within the operational area of mining activities. The Act also provides that mineral rights are owned by the state. Section (1) of the Mineral and Mining Act, 2006 (Act 703)²⁸² states;

Every mineral in its natural state in, under or upon land in Ghana, rivers, streams, water-courses throughout the country, the exclusive economic zone and area covered by the territorial sea or continental shelf is the property of the Republic and is vested in the President in trust for the people of Ghana.

Both the 1992 Constitution and the Act 703 give the ownership of any mineral found within the territorial jurisdiction of Ghana to the state. Thus, the ownership of mineral resources is vested in the President in trust for the citizens of the Republic of Ghana. The state is therefore legally the authority to grant rights to mining companies in the form of licensed concessions and leases (permits).

Furthermore, surface rights to land are both publicly and privately owned Ghana. These surface rights include farming rights, right to build, right to possess and enjoyment of economic trees both natural and artificial, right to alienate etc. These surface rights can be derived from allodial interests, usufructuary or customary freehold interest, leasehold interest and all other forms of lesser interest such as *abusa* and *abunu* known under land tenure arrangements in Ghana. Significantly, the ownership of any of the stated interests does not include the right to minerals found on or beneath it except where the state is the owner or vested with such interest. The President can under appropriate legislation, such as Lands Commission Act, 2008 (Act 767) compulsorily acquire any land for mineral exploitation. Land compulsorily acquired by the state under this power becomes state land.

With regards to arrangements for compensation payments when land is taken the state recognises that although mining provides significant socio-economic benefits to the local communities it also can lead to significant negative impacts on the local communities. It has been noted that mining activities can lead to the relocation and in some cases resettlement of local communities and the destruction of farms and property. Thus local inhabitants, often farmers, may be forced out of their homes and sources of livelihood. In accordance with provisions contained in the 1992 Constitution, compensation for expropriated land must be “prompt, fair and adequate”.²⁸³ These provisions are also expected to be met under Act 703, which specifically instructs that where any land is compulsory acquired for mining purpose, the owner or lawful

²⁸² Derived from article 257(6) of the 1992 Constitution.

²⁸³ The 1992 Constitution Article 20

occupier must be compensated by the holder of the mineral right. Section 73 (1) of Act 703 states that:

The owner or lawful occupier of any land subject to a mineral right is entitled to and may claim from the holder of the mineral right compensation for the disturbance of the rights of the owner or occupier, in accordance with section 74.

The principles of compensation for mining affected properties are set out under section 74 (1). The Act provides that compensation to which an owner or lawful occupier may be entitled to include:

- (a) deprivation of the use or a particular use of the natural surface of the land or part of the land,
- (b) loss of or damage to immovable properties,
- (c) in the case of land under cultivation, loss of earnings or sustenance suffered by the owner or lawful occupier, having due regard to the nature of their interest in the land and
- (d) loss of expected income, depending on the nature of crops on the land and their life expectancy”.

The law has also made provision that the amount of compensation payable under the Act 703 shall be determined by agreement between the parties, which is the holder of mineral right and the affected owners. Because of the customary position of chiefs' with regards to stool land negotiations for land compensation are usually between chiefs, who are expected to act in their legal capacity as custodians, and mining companies in Ghana. However, what seemed to be the norm was not the case observed in the BND.

7.2 Framework for compensation negotiations in the Birim North District

Negotiations for access to land and property for compensation in the Birim North District can be traced back to the year 2002 when Newmont started undertaking mineral exploration activities in the district. Newmont's mining project at Akyem has been designed as a surface mine and involves excavation of open pits. The life span of the mine was expected to be 15 years. A Mining Lease was granted by the Government of Ghana in January 2010²⁸⁴. It was estimated that the mine project would require the acquisition of about 1,907 hectares of land used by farmers in the area for cultivation of food and cash crops or is covered by forests with valuable timber species.

²⁸⁴ Environmental Impact Statement: *Akyem Project*, 2008

The development of the Project would also result in the physical displacement of about 1,331 persons living in communities and settlements within the Mining Area in the district²⁸⁵. The mining affected people were required to be resettled and compensated in accordance with Ghana's current legislative requirements and in conformity with best practices set by the International Finance Corporation (IFC)²⁸⁶ and World Bank operational policies for land acquisition²⁸⁷. The mine project affected four (4) main stool land areas hosting about eight (8) communities and a number of hamlets and farmsteads. The affected communities comprise; *Adausena*, *Hweakwae*, *Mamanso*, *Afosu*, *Abirem* (Old and New), *Ntronang* and *Yayaaso*, and some 5 hamlets and farmsteads. Land and property in these designated areas which are affected by the mine operations are expected to be compensated, as discussed above. Newmont was committed and determined to pay compensation in accordance with this through negotiations by private treaty with the project affected communities, taking into account the relevant national statutory requirements and the social safe guard policies of the IFC and World Bank.

Compensation payments for crops destroyed through prospecting and exploration of mineral activities had been ongoing in the BND before the arrival of Newmont²⁸⁸. But this was usually on a small scale compared to the acquisition after Newmont was granted mining lease. There was therefore no formal forum for negotiating compensation payments until 2002, when a committee was first established to negotiate compensation rates. This was officially inaugurated in 2002 by the Regional Minister of the Eastern Region of Ghana²⁸⁹. At the time it was called the Crop Rates Review Committee (CRRC) because only crops that had been affected by the Company's mining exploration were entitled to compensation. However, this was subsequently changed to the Compensations Negotiations Committee (CNC) in 2008 in anticipation of the mining lease granted by the State²⁹⁰. The change of name also reflected the new scope of the Committee's work. The granting of the mining lease

²⁸⁵ Resettlement Action Plan, *Akyem* Project Birim North District (2010)

²⁸⁶ International Finance Corporation (IFC) Performance Standard 5 (Land Acquisition and Involuntary Resettlement) and World Bank Policies on compulsory acquisition

²⁸⁷ Compensations Negotiations Framework, June 2008.

²⁸⁸ See section 5.5. Newmont purchased the right to continue mineral prospecting and exploration from different companies that were already operating in the district.

²⁸⁹ Resettlement Action Plan: *Akyem* Project, BND (2010:220). BND is within the administrative boundaries of the Eastern Region. The Regional Minister is the Political and administrative head of the region.

²⁹⁰ This was granted by the state through the Ministry of Lands and Natural Resources in January 2010

gave Newmont the legal interest in the land for a 15 year period²⁹¹. By this the Company was obliged to assess and pay compensation for all the items stipulated in the Mining law (Act 703). The fulfilment of this statutory requirement gave the Company the right to enter and clear the land area, which was being used as farmlands and dwelling places for the local community.

The CNC was a new concept to be developed and so its establishment in 2008 was preceded by a lot of consultations with the communities (see section 6.2.1). Consultations were held between Newmont and a broad category of people in the local communities which included traditional chiefs, farmers, youth and women's groups. This was first started as a process to create awareness among the local community on the implications and potentials of the mining operations in the district and to help develop the framework for the new system of negotiations²⁹². The consultations led to the establishment of working groups based on specific themes of compensation derived from Act 703. The working groups were constituted by representatives from the mining-affected communities and included traditional authorities, public land sector agencies and district level officials of Ministries, Departments and Agencies (MDA) of the state. The Terms of Reference (ToR) and objectives of the working groups were that they were to explore and collect information about local knowledge and practices that would serve as the framework for the negotiation²⁹³. This was done to facilitate the work of the CNC and to speed up the period of land and asset negotiations.

7.2.1 Developing the negotiations framework: the Working Groups

The establishment of the working groups was based on mutual agreement. This was in recognition of the fact that the communities and Newmont were to foster common understanding and knowledge of a number of issues concerning the provisions in section 74 of Act 703 and generally about compensation for land in Ghana. It was also to help manage community expectations about the mining investment in the District. Accordingly four groups were established and given a ToR to perform specific tasks. The Working Groups adopted participatory and consultative approaches to collect information that was considered relevant to the establishment of the Compensation Negotiations Committee (CNC). The participation of the communities was considered

²⁹¹ This is subject to renewal

²⁹² My personal observation which I noted was that perhaps this was part of a strategy adopted by Newmont to ensure that the local communities did not oppose their investment in the area. (Field notes Septemebr,2010)

²⁹³ Reports on the recommendations of the Working Groups on Land, Crops, Immovable Property and Speculative Activities, April 2008

paramount in the process. With the help of consultants hired by Newmont to assist the community representatives, data was collected through the use of interview guides and focus group discussions in the communities. Each group held a series of meetings over a period of four weeks before delivering its report. The groups were for land, immovable property, crops and speculative activities.

First, a Land Working Group (LWG) was constituted to solicit and collate information on local land practices and expectations. This was to facilitate the negotiations for entitlements for deprivation of the right to use the natural surface of the land by land owners and users. This information was used during the negotiations after the CNC was formed (this will be discussed in section 7.3). The specific issues the LWG were asked to report on included²⁹⁴:

- (1) to solicit and collate community views on the various uses of land and the changes that have occurred over the years,
- (2) to determine who may be eligible to receive land compensation and the different rights in land that have evolved in the local community, and
- (3) to solicit community views and propose to the CNC what the community perceives as fair, adequate and reasonable compensation for the different interests in land.

Representatives from the communities were selected at public gatherings in each mining-affected community. Two representatives who had served previously on the CRRC were elected to be on the LWG. Each of the four main stools in these communities was represented by one traditional authority. Newmont was represented by one of its own staff and a specialist consultant on land issues²⁹⁵, and one official each from the Lands Commission²⁹⁶, Commission on Human Rights and Administrative Justice (CHRAJ) and the National Commission for Civic Education (NCCE)²⁹⁷.

Second, an Immovable Property Compensation Working Group (IPC) was formed and tasked to solicit the views of the local community on what their expectations were in regards to the compensation for their loss of property and resettlement expectations of

²⁹⁴ Report on Land and Compensation related issues, April 2008

²⁹⁵ Referred to as contractors by Newmont

²⁹⁶ A Senior Lands Officer from the PVLMD

²⁹⁷ The CHRAJ and NCCE were there to ensure that the rights of the locals were not infringed upon such as through intimidation or threats, while the NCCE was there to guide the representatives to know that they were there to perform a civic responsibility their communities. Generally, the inclusion of these institutions ensured there were neutral parties to the negotiations process.

those who would be moved from the mine area. Specifically, the IPC working group was to²⁹⁸:

- (1) collect data on local housing types and facilities and propose to the CNC what may be acceptable by the community,
- (2) make recommendations on who can represent the community at the CNC and how they were to be selected and
- (3) propose criteria on how to determine who was eligible for compensation of lost property in the local communities.

The IPC was formed by five local representatives who had experience of negotiations having served on the CRRC; two people represented Newmont²⁹⁹, one representative each from the TCPD, LVD³⁰⁰, CHRAJ and NCCE.

Third, a Crops Working Group (CWG) was constituted to collect and collate local information for the negotiations for crops³⁰¹. This was to provide knowledge on local crops and farming practices to help in the assessment and determination of acceptable compensation rates for crops. This required knowledge of both local and standard agricultural practices in the District.

The CWG comprised five local representatives who had been involved with negotiations under the CRRC. Newmont was represented by two officials with expert knowledge in agricultural practices. There were one official each from the District Agriculture Department, the LVD and CHRAJ.

The fourth working group was on “speculative activities”. This group was mainly tasked to make proposals on how to tackle challenges of people who were interested in undertaking farming or the construction of buildings in the area in anticipation of claiming higher rates of compensation. It had been observed that both local members of the communities and other people from outside were encroaching on the designated mining lease area; developing farms and putting up buildings and other structures. This was done in anticipation that when the Company’s application for a mining lease was eventually granted they would be able to attract higher compensation claims for the

²⁹⁸ Report on Immovable Property Compensation Working Group, 2008

²⁹⁹ One of them being a specialist consultant

³⁰⁰ Lands Commission

³⁰¹ Working Groups Report for Crop Rates Negotiations, 2008

property which they had on the land. This was described as speculative activities by Newmont.

Speculative activities take place in other mining communities in Ghana and were being introduced in the BND at the time. However, Newmont, without mining lease could not have prevented this from happening. The types of farms and buildings that were established were not the usual practice of farming or building houses in the area. It was only done for the purpose of attracting compensation because experiences from other mining communities showed that compensation paid for these facilities in a mining lease area were often higher than the actual cost of the property. Although Newmont had no legal basis to prevent this from happening, there were some of the community members who disapproved of this practice. There was therefore a mutual agreement that measures be taken to curtail these 'speculative activities'. This desire for the local community to stop this was because they did not want Newmont to be deterred from pursuing its investment in the district. The speculative activities could add extra cost to the Company's cost for compensation and also could potentially affect the negotiations process³⁰².

The speculative activities working group was made up of a selected group of people drawn from the other three. The group only worked after the other three groups above had completed and submitted their reports and recommendations.

The findings and recommendations by all the working groups led to a realisation that there was a need to develop the capacity of the local inhabitants to be able to effectively engage Newmont in the compensations negotiations. Proposals on this were accepted by Newmont because throughout these preparatory process officials of the Company and the state became aware that the representatives of the local communities and the traditional authorities lacked knowledge and capacity to engage in negotiations with Newmont. As a result of the recommendations a series of workshops and seminars were planned ahead of the start of the actual negotiations. Recommendations were also made for visits to other mining communities to interact and learn from the experiences of the local communities about the benefits and impacts of mining on their livelihoods.

³⁰² Interview with CDM on 17/09/2010

7.2.2 Building the capacity of local inhabitants to negotiate compensation

A number of activities were held at different stages before and after the CNC was established for the negotiations. These included:

- (1) Annual workshops on the Minerals and Mining Law and local farming practices. These were to help new members elected to understand (as much as possible) the legal provisions affecting compensations and of their obligations under the law,
- (2) Workshops to educate members on the principles and assessment of compensation and issues of property valuation relating to the various items outlined in Act 703. Both workshops under (1) and (2) were facilitated by a legal expert on mining law and a team of professional property Valuers respectively³⁰³.
- (3) In 2007 similar thematic workshops on agricultural practices were organised for the CRRC members. This was facilitated by the District head of the Department of Agriculture, experts from the Cocoa Research Institute and the Ghana Oil Palm Development Company. The workshops helped to clarify and standardised farming practices for mainly cash crops grown in the area, which include cocoa, kola, oil palm and citrus. Knowledge from this was used as the basis for developing categories of crops during the negotiations (see section 7.3.1).
- (4) In 2008 training on Mutual Gains Approach to negotiations was organized for all the members of the four working groups. This training was conducted by an expert in negotiations brought in from the United States of America (USA). This training had the purpose of educating the community representatives about the concept of negotiations. The underlying principle of the Mutual Gains Approach (MGA) was that in negotiations there were no winners and losers. The MGA is win-win process where compromises were expected to be made by the negotiating parties at all times and at all stages of the process in order to arrive at an agreement.
- (5) In 2008, a one-day seminar on the types of interest in land recognised under customary and statutory law was facilitated by the OASL in *New Abirem*. This took place during one of the monthly scheduled meetings of the CNC. It provided an opportunity for the community representatives and traditional

³⁰³ A lawyer from the University of Ghana and team of lecturers who also served as the Community Valuers from the Department of land Economy

authorities to be reminded of the state's position and recognition of interests that are recorded in the area and which are by law entitled to compensation. A legal expert on customary law was invited to facilitate the meeting and to clarify issues which were raised by the representatives.³⁰⁴

- (6) A visit to Kumasi (Ghana's second largest city) was organised for one of the sub-committees of the CNC on Immovable Property³⁰⁵. The aim was to help its members gain knowledge and insight about how bill of quantities for buildings are prepared and the methods of assessing the value of properties. A two-day workshop was facilitated by lecturers of the University³⁰⁶. On their return the participants reported to the CNC their appreciation and understanding of the valuation principles and how that was going to be useful.³⁰⁷

In 2008 another group of CNC representatives were taken to Ahafo mines, where the company was already operating. The members were taken round Newmont's operations, the resettlement villages, new schools constructed for the communities and other development projects provided by the Company.³⁰⁸ It must be stated that all the above activities were financed by Newmont. The aim of the Company was to ensure that community representatives were well informed and educated about negotiating compensation for land and property.³⁰⁹ In the next section I focus on examining the CNC, which is the forum for negotiations.

7.3 The Compensations Negotiations Committee

The CNC is a forum that serves as the arena where the mining-affected communities in the district and Newmont interact to determine all aspects of compensation resulting from its mine operations. The main function of the CNC is to deliberate on and negotiate on land, crops, immovable property (assets) and resettlement issues on behalf of the people and communities that are directly impacted by the mining operations. The aim was to achieve what was considered fair and adequate

³⁰⁴ Same as for points (1) and (2) above

³⁰⁵ This will be discussed in section 6.3

³⁰⁶ Kwame Nkrumah University of Science and Technology (KNUST). The Community Valuer who was also a member of staff of the University took a lead role to get his colleague lecturers to facilitate the workshop.

³⁰⁷ Although considering the level of education of some of the community representatives' one could reasonably assume that some of them could not have fully understood what exactly these principles meant. However, it was important to let them appreciate that the fact that the valuation for buildings was based on some well established principles. This at least was what Newmont expected to achieve (Field notes, 2010)

³⁰⁸ Minutes of CNC Meeting number 233 on 08-06-2010

³⁰⁹ Interview with CDM on 17/09/2010

compensation by both the mining affected communities and Newmont. It is for this reason that the communities and Newmont agreed for the representation of state institutions with responsibilities over land issues to serve on the CNC. These institutions mainly operated as umpires in the arena for negotiations.

In the next section the structure, process of the negotiations and the specific roles of the various categories of community representatives, Newmont and the state institutions will be examined. The analysis focuses on how in the BND land and property in which there exist different types of interests were negotiated for mining, how this addressed the potential loss of property and livelihood of the local people living in a mining district and the implications for chiefly authority over land.

7.3.1 Structure and composition of the CNC

The CNC was constituted by a representative body of 50 people who were nominated and approved by popular acclamation to represent their respective communities³¹⁰. Each of the communities within a stool area selected representatives through election or by consensus or popular acclamation. A quota system, reflecting the variations in the population of affected people in the communities was used to determine how many representatives were nominated. The population of the mining-affected people living in the communities was established by an enumeration survey conducted by Newmont. This was used to allocate quotas to the communities. The elected representatives were validated by the communities before they were registered as CNC members. The validation process involved the signing of the results of the election or acclamation by community members at public durbars. Newmont supported the system of selecting representatives by the communities for the participatory approach adopted.³¹¹

The composition of community representatives that were elected to serve on the CNC in 2008³¹² is presented on Table 11. One additional representative is nominated by each of the four chiefs to represent the traditional authority. Those usually nominated to represent the chief were either sub-chiefs or elders of the traditional council of the stool they represented. The large number of representatives comprising 50 people makes

³¹⁰ A total of about 8 communities are directly affected by the mining operations. Some stool lands in these areas are required for the mining activities

³¹¹ The process of selecting community representatives was facilitated by officers of Newmont's Community Relations Department at the District.

³¹² Every year of negotiations a new CNC is formed

the CNC an unusual form of negotiation arrangement. However, the CNC works in smaller groups designated as sub-committees (this will be discussed in section 7.3.3).

It is important to note that the community representatives are all locally resident, but are not necessarily indigenes of the communities. Some of them were farmers, teachers, retired and serving civil and public servants, traders and business men and women³¹³ who have lived in the community and are engaged in subsistent farming with established permanent homes. In addition to the local communities in the BND representatives from the four neighbouring district in the north, east, south and west of the Birim North district are included in the CNC. This was because Newmont undertaking mineral exploration the adjoining districts of BND³¹⁴.

Newmont's negotiations team comprised a team leader, who is assisted by a group of selected senior and junior officers of the company³¹⁵. They were supported by a group of expert contractors to advice on different aspects of compensation³¹⁶.

In addition to all the above, there were also a group of representatives from selected state institutions usually made up of district level officials. They were included to provide technical guidance and expertise and to ensure that the negotiations were conducted within the legal framework of the country and that the outcomes were fair, adequate and acceptable to the people. These institutional representatives comprised officials from the LVD and the PVLMD of the Lands Commission; the OASL; Ministry of Food and Agriculture (MoFA); CHRAJ, NCCE and the Community Development and Social Welfare Department (CDSWD).

³¹³ As at 2010 the CNC comprised the fifty (50) community representatives, made up of 46 representatives from the 8 communities (including traditional authorities) that are physically or economically impacted and 4 representatives from the adjoining Districts to Birim North where Newmont is undertaking further exploration activities. These Districts are *Kwahu* West Municipality, *Kwahu* South District, *Kwaebibrim* District and Asante Akyem South District.

³¹⁴ The 4 members from these districts did not have voting rights when decisions were put to vote at the CNC. Effectively they were observers.

³¹⁵ At the time of data collection in 2010 the Community Development Manager was the negotiations team leader for Newmont.

³¹⁶ These are a team of consultants hired by Newmont to provide professional advice on some specific technical aspects of the issues relating to the land access process.

Table 11: Number of CNC representatives from mining-affected communities in the Birim North District

Community/Hamlet	No. of Representatives	Traditional Authority	Total Representation
<i>Hweakwae</i>	6	1	7
<i>Bernard Amoah</i> ^{317*}	1		1
<i>Mamanso</i>	3	1	4
<i>Yaw Tano</i>	2		2
<i>New Abirem</i>	5	1	6
<i>Old Abirem</i>	1		1
<i>Adausena</i>	6	1	7
<i>E K Marfo</i> *	1		1
<i>Yayaaso</i>	4	1	5
<i>Ayensu Ziga</i> *	1		1
<i>Ntronang</i>	3	1	4
<i>Afosu</i>	5	1	6
<i>Ajenua</i> *	1		1
Adjoining Districts	4		4
TOTALS	43	7	50

Source: Akyem Project: Compensation Negotiations Framework (2008: 17)

Another category of people on the CNC were those designated as observers. These were the political and administrative officials of state institutions. They included the MP of the *Abirem* constituency, the Minister of Lands and Natural Resources, an official of the Bureau of National Investigation (BNI)³¹⁸ and the District Chief Executive of the BND and representatives of the four adjoining districts³¹⁹.

There was also Community Valuer, who together with his team provided independent professional and technical guidance to the community members during negotiations³²⁰. The reason for the community having this form of professional guidance was due to the fact that most of the local representatives did not have the requisite technical understanding and skills for property negotiation. According to officials from Newmont, the Company took the view that it would be unfair to negotiate with people who were technically disadvantaged on the issues of compensation and negotiations (as was

³¹⁷ Those marked [*] represents hamlets and farmsteads within the mining-affected communities

³¹⁸ Included probably for security reasons; to understand what goes in the CNC and its possible implications for agitations in the communities, as it is common to have local disturbances in mining communities in Ghana

³¹⁹ Field notes (September 2010). I noted that in all the meetings these people were always represented by nominated officials, who I presumed reported back on the proceedings of the negotiations.

³²⁰ A Team of professional Valuers from the Land Economy Department of the Kwame Nkrumah University of Science and Technology (KNUST).

discussed in sections 7.2.1 and 7.2.2).³²¹ As a result Newmont recommended to the community to seek a professional Valuer to guide them in the negotiations, but whose fees were paid by the Company.³²² This gesture might seem to suggest that Newmont had some advantage in dealing with the Community Valuer. But the observations I made at the negotiations at both the CNC plenary and subcommittee level, showed that the community representatives were those who took final decisions and not the Valuer. However, the team of Valuers ensured that they always provided advice on rates for compensation from a professional point of view for consideration by the Community representatives (details of this will be discussed in section 7.3.2). I also observed that it was difficult for Newmont to object to the services being provided by the Valuer without the approval of the community people³²³. This level of power that the community had over the services of the Valuer was important in the negotiation process. It was the reason why the rates finally agreed were acceptable to the local people as a true representation of their efforts at negotiating what was considered a fair and adequate compensation for their property.

The negotiations were facilitated by an external person designated by the title of Moderator. He chairs all CNC meetings and is assisted by 2 Co-Moderators who were appointed by the CNC mainly to facilitate negotiations at the Sub-committee level³²⁴. In the following section I examine how compensation payments were actually determined and how the CNC was able to fulfil its mandate on behalf of the local people. The analysis also examines the role of traditional authorities in the negotiations process.

³²¹ interview with CDM on 17/09/2010 and JA (phone 04/10/2011)

³²² Respondents on this issue were unanimous. They explained that the land and property to be negotiated on is theirs and if Newmont wants to take it away from them it was right that they do so properly so that they are not cheated. Since that will attract some costs which they are not prepared it was the responsibility to take up the fees of the Community Valuer. Interview with NAKh on 03/09/201, OPNA on 02/09/2010, AFAh on 02/07/2010 and HCF on 02/07/2010

³²³ Telephone interview with J A, a member of the Community Valuer's team from the KNUST (October,2011)

³²⁴ The Moderator was a retired professional teacher who had formerly been the Personnel Officer for the Birim North District Ghana Education Service. Apart from the CNC he was also chairman of the Water and Sanitation Board. One of the Co-moderators was a professional teacher who retired as a Circuit Supervisor for the Birim North District Ghana Education Service. The other worked at a FM radio station in a nearby town. The Moderator and the 2 Co-moderators were recruited through a selection process jointly organized by both the community and Newmont. They are paid an honorarium by Newmont.

7.3.2 The negotiations agreements: who decides and assesses the compensation?

As I explained in the introduction to this chapter the negotiation for compensation observed in the Birim North District is an unusual practice compared to other mining communities in Ghana. Usually traditional authorities, community members, officials of state institutions and mining companies do not all engage in the negotiations for compensation when land is being acquired for mining. Therefore the system adopted in the BND was one that effectively allowed the active participation of the individuals whose interests in land and property are directly affected in the determination of compensation payments. Notwithstanding this new arrangement chiefs are still being perceived as the authority to managed stool land (see Table 6 and Table 7).

Meetings and negotiations at the CNC took place in a two tier forum. There was a plenary of all the representatives of the CNC and four sub-committees. These were Sub-committees for Land, Crops, Immovable Property and Resettlement. Each member of the CNC served on at least one of these Sub-committees, except for the category of people described as observers. The mandate of the CNC was to negotiate compensation rates for and on behalf of the affected people for crops, lost or destroyed structures, deprivation of the use of land and resettlement³²⁵.

The negotiations were conducted through a formalised process in the form of meetings. Prior to each meeting an agenda was set by the Moderator and circulated with minutes of the previous meeting to all the members. The BND offered the use of its Assembly Hall for all CNC meetings. A secretariat under the control of the Moderators was responsible for recording minutes of proceedings and preparation of all other documentation produced by the CNC. Staff and logistics of the secretariat were provided by Newmont. The official language used during meetings was *Twi* (that is the local language of the communities, even though recordings of the proceedings are made in English). Thus, the Moderator and Co-Moderators were expected to be fluent not only English but in *Twi* as well. However, in the case of the MDAs, who were non-native *Twi* speakers they were allowed to speak English but this had to be translated into *Twi* for the other members by the Moderator³²⁶.

³²⁵ These are the legal requirements stipulated in Section 74 of Act 703.

³²⁶ Although I noted that almost all of them have had at least some minimum level of formal education in English (field notes July-October, 2010).

The role of the external Moderator was to facilitate and ensure that the negotiations were impartial. The Moderator was to ensure that all the representatives were given opportunities to contribute to the process by preventing any particular individual or groups of people from dominating the negotiations. The authority exercised by the Moderator was established in rules and regulations that govern the CNC³²⁷. These rules were jointly prepared by the negotiating parties, that is, the communities' representatives and Newmont under the guidance of officials from state institutions. The rules and regulations recognised the fact that the CNC was made up of different actors and institutions who had different levels of authority. Therefore to facilitate orderliness in the proceedings the rules provide that all members, regardless of status in the communities were to abide by the orders of the Moderator. Thus, it established the Moderator as the highest authority during meetings. This authority extends over that of traditional authorities (usually represented by sub-chiefs or elders) and officials of both Newmont and state agencies who were members of the CNC were also subjected to the authority of the Moderator and co-Moderators.

Schedule of Meetings and Procedures

Meetings of the CNC were usually held once in a fortnight. However, this depended on the level of progress made by the sub-committees or when there was an emergency issue to address such as when a group of people decide to resist the takeover of community lands for mining. Sub-committees were expected to regularly report to the CNC about the progress of negotiations but in practice this was only done after substantial milestones had been achieved during the negotiations.

It had been agreed with Newmont that on CNC meeting days the Company provides transport (a number of buses) to go to designated points in each of the participating communities to convey all the CNC members to the meeting and to return them afterwards. The poor state of the transport network system in the district partly explains the need for this. On arrival members were expected to formally register their attendance at the meeting. This registration was done outside of the entrance to the Assembly hall where the meeting took place. The registration entailed writing of name and signing or thumb printing, for those who were illiterate. This list was compiled and later used for the payment of allowances to the representatives after each meeting³²⁸.

³²⁷ CNC: Rules, Regulations and Procedures, 2008

³²⁸ Snacks and lunch are also provided to all the members at all CNC and Subcommittee meetings

Because transport was provided meetings were usually on schedule and lasted for about 2 to 2 1/2 hours³²⁹.

Meetings were held in a rectangular shaped room with two main entry and exit double doors at the frontage side of the building. The room was spacious enough and well ventilated to comfortably accommodate all the members of the CNC.³³⁰ Observations of the negotiations at the CNC showed that formal meeting procedures were followed. Before the Moderator calls for the start of the meeting he would usually ask whether all the vehicles sent to convey the community representatives had arrived. I realised that the members, having become acquainted with each other, know which community members were not available. It was a convention that at least each community had at least one member present before meetings were started. The formal process of the meeting commenced once the Moderator was satisfied with the attendance and that every community and Newmont was represented. However, this was not the case with the officials from the state institutions. Meetings could go ahead even if none of them were present, although a few were always in time for the start of meetings.

At the start of every meeting the minutes of the previous meeting was read out in *Twili* by the Moderator, for comments and objections. Once this had been accepted the agenda for the day's meeting was read out again by the Moderator, for consideration. It is important to note that the minutes of the previous meeting were usually distributed to all the members at least 2 to 3 days before any scheduled meeting day. The reason was that it allowed the members' time to read it and have discussions with their communities before the meeting. It was also because some of the members only have basic level of formal education and so they sought assistance from someone (children or friends) to read it with them.

The CNC might have been structured in a way to ensure equal opportunities for the participation of all its members during deliberations at the meetings. However, the sitting arrangement seemed to allow the traditional authorities better opportunity at drawing the attention of the Moderator, compared to the rest of the community representatives³³¹. On the other hand the arrangement enhanced the view of the

³²⁹ Usually from 10 am to 12.30pm.

³³⁰ I had the permission to attend and observe 4 CNC meetings and subcommittee meetings during the 2010 negotiations period.

³³¹ The following is description of the sitting room and how that makes it a complex negotiations process: Within the meeting room the members from the same communities or similar institutions sit

Moderator thereby facilitating easy notification by anyone who raised a hand to draw his attention to be given the opportunity to speak, as was the convention used at the meetings. Perhaps sitting arrangement for CNC meetings were done in the manner described because of the number of people involved in the negotiations. Although this arrangement had the potential to inhibit discussions, it did not seem to have affected the final decisions of the negotiations process. Perhaps it was because the actual negotiations were done in smaller groups within sub-committees of the CNC (this will be discussed in the next section).

It is imperative to point out that it is at the plenary session of the CNC that final decisions are made with regards to compensation. Meeting agendas³³² are first tabled at the plenary and where necessary they were sent to the sub-committee for detailed deliberations. In one of the meetings I observed the specific issues that were discussed were; (1) to receive feedback on the progress of negotiations from the sub-committees for crop and land compensation; and (2) for the Immovable Property sub-committee to make a presentation of its findings after an educational tour and workshop on how building costs are estimated both for construction and for sale.³³³ The sub-committees discuss issues referred to them for consideration and then make proposals and recommendations to the plenary for approval or for further deliberations. Each member of the plenary is also a member of at least one of the four sub-committees. The Moderator and Co-Moderators each chaired one of the sub-committees as Facilitators.³³⁴

together. The idea is to facilitate easy and fast consultation amongst members from the same community or institution. Towards the north end of the hall, i.e. on the right side when one entered the hall through the main door was a large table with two arm-chairs behind it. This was where the Moderator and Co-Moderator sit during meetings. Behind this was a wall on which was hung a medium size clock. On the right side of the table towards the far end of the room was a wall in front of which stood another long table with 3 chairs around it. This was where the recorders of the meetings sat and took minutes of the proceedings. Directly facing the Moderator's table was a set of meticulously arranged polished wooden arm-chairs. The chairs were arranged in four rows and about 9 to 11 rows back towards the back wall. To the extreme right and on the front row was where the Community Valuer's team usually sat. Behind the Community Valuers sat officials representing the BNDA and MDAs. The remaining seats were usually occupied by some of the community representatives. The two middle rows of chairs were occupied by the community representatives. On the two rows sat the representatives of the traditional authorities (or chiefs when they do attend the CNC meetings). The fourth row to the extreme left of the Moderator left was usually occupied by Newmont's negotiations team. A set of loud speakers connected to a number of codeless microphones is always available to aid communication in the room.

³³² including motions are set by both Newmont and the Community representatives

³³³ This was after they returned from College of Architecture and Planning of KNUST, Kumasi

³³⁴ The CNC Moderator and co-Moderators are referred to as Facilitators at the Subcommittees.

7.3.3 Negotiations at the Sub-committee level

Actual haggling or negotiation over rates to be paid as compensation takes place at the sub-committee level. Members of sub-committees sat around a negotiation table together with the facilitators. The Community representatives sat to one side of the Facilitator while the Newmont team sat at the other end. The MDAs usually sat with the community representatives, either by them around the table or behind. It was significant to note that no distinction was made between where the traditional authorities and the ordinary members of the community sat around the table. Notwithstanding their traditional status, the traditional authorities acknowledged the fact that they and the other members of the community had equal opportunities to contribute to the deliberations and that every member's word counts in that respect. This was unusual in the sense that traditionally, at the community level, when decisions were being made traditional authorities (chiefs) often had the final word.

Preparations of sub-committee for negotiations

It is at this subcommittee level that specific issues of compensation are discussed and recommendations made for adoption by the CNC. To be able to arrive at what is fair and adequate compensation some local data is collected and analysed as the basis for the negotiations.

A lot of preparatory work was undertaken by the sub-committees. This involved professional valuation experts collecting market data for crops and land which were then used for valuation.³³⁵ For instance, the Community Valuer also prepared a valuation report on the rates for land, crops and immovable property and advised the community on what rates to negotiate. The Community Valuer usually met with the communities before, during and after each meeting. Newmont also had a professional Valuer who prepared valuation estimates of the stated assets and advised the negotiating team accordingly. These independent valuations only served as guide to the actual rates (prices) that were agreed. It should be noted that the rates agreed for compensation were negotiated every year, since market data tend to vary periodically.

Fieldwork to collect data for this research between May and December 2010 took place at the time when the CNC was in the process of negotiating for crops and land. This provided an opportunity for me, with the permission of the members, to attend and observe proceedings at the plenary and the subcommittee. I attended a series of

³³⁵ The estimation of property values using standard methods of assessments

negotiations for the land and crops Sub-committees and had the opportunity to observe at first hand the intricacies of how compensation was determined and the role played by traditional authorities at this level. Insight gained from observing these two sub-committees are examined below

Crop Sub-committee structure and procedures for negotiations

The Crops sub-committee was made up of twelve community representatives (including 5 of the traditional authorities³³⁶), the Community Valuer, two Newmont officials assisted by two valuation consultants and two officials from public institutions, the MDAs³³⁷. During the 2010 negotiations period the sub-committee held a series of 20 meetings before completing the negotiations on tree crops as well as food crops grown in the area.³³⁸ As part of the preparatory process each negotiating party, i.e. the Communities and Newmont had to prepare their independent valuation of crops to serve as a guide on the potential value of each crop. It was in this regard that the Community Valuer's role was essential to the community. The team of Valuers working for the community had to collect market data, as well as information, relating to local agricultural practices for crops; the inputs used and how long it took to mature for harvest and the anticipated yield. This was taken into account in the valuation process. The analysis of this sort of data required expert knowledge and skill, which was beyond the expertise of members of the communities. This was the reason for which Newmont agreed to pay the fees for a Community Valuer and other support provided (as was discussed in section 7.2.1).

The Community Valuer was therefore obliged to meet with the community representatives alone before every negotiations session. During these meetings the team presented to the representatives their estimated valuation for the crops. They would then together develop a strategy of how to negotiate for higher values at the negotiations table. In practice the actual valuation figure only served as the minimum value to negotiate. The Newmont team also went through a similar process with their valuation consultants.³³⁹

³³⁶ Represent the four stools in the mine area and one traditional leader representing the hamlets and farmsteads

³³⁷ Officials from the LVD and the Ministry of Agriculture at the District

³³⁸ These cash crops were referred to as the 'Big four' by the local people because of their commercial value and the anticipated worth of compensation.

³³⁹ Interview with CDM on 17/09/2010 and JA on 4/10/2011

In all a total of about eighty (80) crops identified in the area was the subject of compensation negotiations during the period. These crops were divided mainly into cash and food crops. Examples of the cash crops included cocoa, oil palm, citrus, kola, plantain and teak, while the food crops included tomatoes, cassava, carrots and pepper. The first 2 to 3 meetings were used to categorise the crops; first into cash crops and those that constituted food crops. The second stage was used to decide the level of maturity for each crop. Three stages of plant growth were agreed to be used and these were the seedling (young), medium and matured plants. For instance a seedling was defined as a plant from the nursery to the transplanting stage, while a matured plant was one that had flowered already and about to bear fruits or harvested. In between the two was classified as medium. These decisions for the categorisation and classification as above were based on a combination of the standard commercial agricultural practices, local subsistence practices and negotiations.³⁴⁰ The process of agreeing to this first phase of negotiations involved an interactive process of haggling. For instance, while Newmont proposed four classifications for the crops, the community people objected to it and only agreed to the three classifications. The official from the Department of Agriculture only provided professional advice on what the standard criteria were but there was no obligation on any of the two parties to accept what these were but to haggle over it.

The classification and categorisation were important aspects of the negotiations because they determined how each crop was worth. The process involved a compilation of a list of all the crops known to be cultivated in the area, including wild plants on their farms and plots of land. Some of the crops included on the list were not known by some of the community people, yet others who thought such plants were found in the district argued for their inclusion. Once the classification and categorisation was completed the Valuers advising both community and Newmont were tasked to prepare a valuation of all the locally known crops and plants. At this stage of the process it became a professional issue but the community people worked closely with the Community Valuer. After completing the valuation for all the crops the Valuer had to arrange a meeting of the CNC and present the estimated values for each crop. The Sub-committee was then required by the CNC to commence the negotiations.

At the next stage of negotiations the sub-committee had to agree on which of the categories to begin with. It was agreed that they start with the food crops since it was

³⁴⁰ What the local people referred to as the 'Akyem standard'

anticipated that cash crops negotiations will take some time because it involved the crops that served as the main source of livelihood for the people and so expectations were high for higher compensation pay outs.

At another meeting the negotiations started with the Facilitator calling out from the list one crop after the other. Newmont was usually invited first to make an offer, although occasionally a member from the community side proposed their asking price. Despite the fact that the each party had relied on scientific market data to arrive at their actual estimate of value for each crop the initial offers, whether made by Newmont or the community, were often arbitrary. This I realised later was part of the strategy developed by the two parties to get a better deal. Records of the actual estimated values from both parties revealed that the prices that were agreed during the 2010 negotiations for all the crops were in fact higher than what they had as the true valuation estimates³⁴¹.

The negotiations process was often fluid and sensitive activity. The community people sometimes tend to get emotional about losing their property which had the potential effect of changing their livelihoods. As indicated in Chapter 4 the majority of people living in the area are engaged in some form of agricultural activity. Land is therefore a very important resource of income. They were therefore negotiating to give away their main source of livelihood and family property. It was observed that occasionally some of the youth, in particular, tended to disagree with the elderly community representatives on proposed prices to be paid for some crops. This occurred in particular during the negotiations for the cash crops. For instance, whereas Newmont proposed to offer the following prices per acre for the different categories of cocoa Gh¢5,899 (matured); Gh¢3,442 (medium) and Gh¢756 (seedling) the community asked for Gh¢ 8,290; Gh¢6, 380 and Gh¢3,810 for the respective categories. However, the final agreed negotiated prices for compensation payment were Gh¢7,132 (Matured), Gh¢5,400 (medium) and Gh¢1,350 (seedling). This was after two meetings of negotiations during which the youth among the community representatives had rejected a number of offers made by Newmont.

Traditional authorities and elderly members of the Sub-committee did intervene at various stages during the negotiations and pleaded with the youthful members to accept the prices offered to let the compensation proceed in order to finish off in good time. It is important to note that these pleas were often accepted out of respect for local

³⁴¹ I obtained the valuation figures from both the Community Valuer and Newmont.

leaders when made by traditional authorities. For instance, during one of such stalemates the *Krontihene* of *New Abirem*, being a traditional authority and with the respect that the people had for such authority, he was able to talk to the other members at some point during the negotiations to accept the prices offered to allow the subcommittee to make progress with the negotiations. Such pleas for compromises are not listened to if they were made by non-traditional authorities in the group. When such deadlocks occur the meeting was usually postponed to allow the community members to meet their Valuer and the Newmont team to also meet independently with their advisers for reconsideration. At another scheduled meeting the process starts all over again with both parties haggling over the price to be paid.

It will be realised from the above example that whereas Newmont sometimes proposed to pay less than the actual valuation price for crops the community also often asked for a price higher than the actual estimate advised by the Community Valuer (as part of the strategy noted above). In the end both parties were able to agree on a price that often was often above the actual price of the Community Valuer's true estimate. Until that was realised the community representatives' did not accept offers made by Newmont.

As a result of the haggling over the negotiated prices for compensation during each meeting, which was usually held over duration of two hours, on average only prices for about 2 to 3 crops were usually negotiated. The discussions, the agreed prices [rates] and the basis underlying each decision was voice recorded and minutes taken during negotiation sessions. During the period for negotiations the subcommittee was required to present regular progress reports to the CNC at plenary meetings. These were expected either weekly or every other week. The report usually did not give the actual agreed rates reached at previous meetings but it was expected to communicate the number of crops that had been negotiated on and issues which were facilitating or hindering progress.

Land Sub-committee structure and procedures

The Land Subcommittee comprised community representatives (12 including one traditional representative from each stool land area), the Newmont team, land experts (4), and selected MDAs³⁴².

³⁴² Officials from the OASL and the PVLMD were the key members in this category.

Preparations for the negotiations on how to compensate for loss of land started even before the CNC was established. Act 703 requires that a mining lease holder pay for 'deprivation of use of land'³⁴³. This is a new item introduced by the mining law for compensation in Ghana. However, the law does not clearly define what this means. It was therefore subject to various interpretations but this needed to be clarified before the start of compensation negotiations (see section 7.2.2). The findings and the recommendations of the working groups on land were also taken into consideration during the negotiation process for land compensation.

As was the case with the Crops Subcommittee above, both community representatives led by the Community Valuer and team as well as the Newmont negotiations team undertook independent market surveys to gather data on land transactions and land values in the district for comparative analysis. At one of the meetings the teams had to agree on the information they had independently collected so as to establish a common standard of land transactions and values before the actual haggling over rates commenced. Different rates were agreed for the payment of farm lands and building plots to reflect land use and location factors. It took over 3 months to agree to and finalise compensation rates for land in the mining-affected areas.

At the end of a series of negotiations meetings, each subcommittee prepared a final report on the agreements reached and any recommendations on compensation issues for presentation to the CNC plenary for further deliberations and approval.

7.3.4 Concluding agreements on the compensation negotiations

Final approval for the negotiated compensation rates was jointly made at a CNC plenary. As the analysis above pointed out the Subcommittees are tasked to do all the technical aspects of determining compensation rates for payment, but since not all the members of the CNC were in any one particular Subcommittee the final decision on each group's recommendations was made at the plenary. This was because it was the CNC as a body which was mandated to negotiate rates for compensation. It was at this forum that other members who did not serve on other subcommittees sought clarifications and justifications from the respective members of the subcommittees before the recommendations were put to vote. Once the rates were accepted they become the official negotiated rates to be paid for the year. After this the

³⁴³ Section 74

representatives were then expected to inform their respective constituents on the prices that had been agreed³⁴⁴.

A composite report detailing all the agreed rates was the prepared under the supervision of the Moderator. The outcome of the CNC's decisions was usually contained in a Memorandum of Understanding (MoU) signed between the Communities and Newmont. The MoU incorporates details on the following; the compensation rates agreed to be paid, the guiding principles rules and procedures for the negotiations and the company's commitment to the communities in relation to future rate negotiations. This was endorsed by Newmont Project's Management team and all the other members of the CNC. After this endorsement and close out the rates were then processed for the commencement of payment by the finance department of Newmont, according to each individual's entitlements which are based on the survey of lands and assets conducted as a separate activity³⁴⁵.

As noted above (see section 7.1) the new system of negotiating compensation as adopted in the BND was intended to avoid problems leading to dispossession and loss of property as well as land litigations often associated with mining and the way stool land and revenue are managed in Ghana (Akabzaa, 2000; Akabzaa *et al*, 2007; Tsuma, 2010; Ubink, 2008 Kasanga, 2001, Andreasen *et al*, 2011). On the other hand the system though not intended provided an opportunity for chiefs' political authority to be reinforced through recognition of the respect for traditional authority and in land dispute resolution.

7.4 Compensation negotiations and the authority of chiefs for development

The point has to be made that traditional authorities constitute one of the main actors and perform important role in the negotiation process. This is because with respect to land they are the legal custodians and are expected to ensure that compensation is commensurate with the interests of the local citizens. Apart from that chiefs would also want to ensure that they are able to maximise the potential wealth from stool land and

³⁴⁴ Until then the representatives are not expected to officially inform the local people of any prices to avoid creating anxiety among the people before the process was over. This is because the Subcommittees work is not final until the CNC has accepted their recommendations on the agreements reached.

³⁴⁵ As soon as a Mining Lease was granted by the State to Newmont a Moratorium is declared. This prevents further development or activity in the designated area without the written permission of the mining lease holder (section 72 of Act 703). During this time the Company sends out a team of surveyors to enumerate all the land, farmlands and crops on it, buildings and other property with the names and interests of the respective owners.

the mineral wealth embedded in it. The negotiations in the BND had a number of implications for chiefly authority and the control that chiefs have over stool land and revenue.

Chiefs acting as peace brokers during compensation negotiations

The exercise of chiefly authority during the negotiations process facilitated the successful determination of compensation. Observations of proceedings at the CNC revealed how important the authority exercised by chiefs' was for the whole negotiations process and how this expedited agreement on acceptable compensation package for the mining affected farmers (see section 7.3.3). The negotiations forum provided opportunities where sometimes chiefs' relied on their subjects' respect for custom and traditional influence to speed up the negotiations process. It was not unusual during negotiations for the communities to reject offers made by Newmont and to threaten to boycott the process or to incite other CNC members against the negotiations. Traditionally, this was considered disorderly conduct before a chief and so was always likely to be avoided if a chief intervened. The acceptance of chief's advice was because of the perceived wisdom and respect that the local people have for traditional authority. This was important for the negotiations. Although the exercise of chiefly authority in a mediating capacity was effective for the negotiations process, it might be argued that this was done to expedite the process in order to encourage Newmont's investment in the district. This is because the chiefs' themselves depended on and trusted in the Company for the delivery of development through investment in public goods.

Traditional authority in dispute settlement

The knowledge and authority of chiefs as custodians of stool land played an important role in the settlement of disputes, especially about land boundaries and tenure arrangements during the survey of property assets in the mining-affected areas. Prior to Newmont's being granted mining lease, the Company contracted private surveyors to undertake inventory of all the land and property that potentially might be affected by the mining lease. This involved the recording of ownership of land and all the types of interests and rights in the land. The professional surveyors were assisted by local people with knowledge of each stool's boundaries, land ownership and the types of land interest that were created between the parties. In each mining affected community the Chief Farmers (who were also members of the CNC) represented the traditional

chiefs. This was because the Chief Farmer was the person who by custom was often informed when a migrant was allocated farm land in their respective communities.³⁴⁶ As a result Chief Farmers tend to have full knowledge of all land allocations and agreements that take place in the community. This was important for the negotiations. The Chief farmers' knowledge in these issues facilitated the settlement of land disputes.

Newmont has a grievance system that allows the local inhabitants, whose land and property had been surveyed, to present formal complaints on issues about the process that they were dissatisfied with. This often served as a starting point for the resolution of land disputes and the ascertainment of the true ownership and rights of those eligible for compensation claims. But since the Company lacked local knowledge on the nature of customary land ownership and arrangements they had to rely on the local chiefs and Chief Farmers. To that extent it might also be argued that the presence of Newmont reinforced the importance of the authority of chiefs in the resolution of land disputes. However, it must be pointed out this chiefs' role in this manner did not determine what and how much each entitlement of compensation was claimed by litigants.

Weakened authority to manage land and invest in public Goods

Although chiefly authority is important for the negotiations process to take place, because of their legal status in the communities, on the other hand it has implications for the level of trust in the fiduciary capacity chiefs are expected to play with regards stool land. The innovative negotiations process is emerging because of the reported cases of lack of transparency and accountability with revenues derived when mining companies engage traditional authorities in compensation negotiations (Akabzaa, 2000; Tsuma, 2010). This gives an indication that subjects members of stools are no longer dependent on chiefs to provide leadership with regards to land dealings as it might potentially lead to dispossession. In addition to that there is no law that prevents the direct engagement of people affected by mining activities to negotiate for compensation although chiefs are by law expected to be managers of community land. Thus, in the long run there is the potential that chiefs' would lose authority over all land transactions and there would be less expectation from their community members with regards to investments in public goods.

³⁴⁶ Interview with Chief Farmer of *Adausena* on 07/07/2010 and *Hwaekwae* on 20/09/2010

7.5 Conclusion

This chapter aimed at showing the system of negotiating compensation for land and property to enable access to land for mining in the BND. The interest in this was because the system constitutes a paradigm shift from what has been going on within other mining communities in Ghana. In addition to that I examined the implications of the negotiations process for the authority that chiefs exercise over stool land, given their legitimate position as custodians of land.

Large acquisitions of land for mining investment and increasing peri-urban activities presented challenges for the authority that chiefs' exercise over stool and over their communities. This is because it tends to revive historical debates about control over land, which appear to be reinventions of customary principles of land tenure. In spite of the problematic nature of chiefly control over stool land, community members show respect for the institution of chieftaincy and its authority over land, although perceptions about the exercise of this authority by individual local chiefs differs amongst local people.

In this Chapter I have examined the legal framework regulating land acquisition and compensation payments for mining in Ghana and pointed out that although chiefs manage stool land it does not include mining rights. Mining leases are granted by the state and makes provision for mining lease holders to pay compensation for those whose land and properties are affected. Until recently mining companies have often negotiated and paid compensation for affected stool land to chiefs. This chapter showed that the revenue derived from land compensation and royalties from minerals tend to be treated as private income by some chiefs. This has been criticised and contested because it often results in loss and dispossession of assets by community members³⁴⁷. This, in addition to the problems of stool revenue management by chiefs, as was shown in Chapter 6, raised concerns about compensation payments to be made to chiefs when land was being acquired by the multi-national mining company, Newmont in the BND. Mining companies are aware and have shown concerned about how revenue from stool land that is paid to chiefs has been managed. It was as a result of these issues that by mutual agreement, inhabitants of mining affected communities in the BND (including traditional chiefs) and Newmont together developed a system that ensued the direct participation of all those who were affected directly by the mining lease in the compensation negotiations. The chapter examined the composition of the

³⁴⁷ Akabzaa (2000; 2007), Tsuma (2010, Yankson (2010) and Ayelazuno(2011)

Compensation Negotiations Committee (CNC), which is made of representatives of the different actors and institutions in the District (as discussed in chapter 5).

Analysis of the negotiations procedure showed that compensation was determined by mutual agreement and from the collective effort of all the members of the CNC. Decisions were made based on a combination of Ghana's statutory requirements, customary practices of land transactions and standard practices of valuing land and property for compensation claims. What was also important from the analysis was the role of traditional authorities in the CNC negotiations. It was shown that respect for the knowledge of traditional authority over land issues was important in the negotiations process. Where there were disputes about types of interests and ownership for land or boundaries traditional authorities provided guidance in resolving disputes. Chiefs also acted as brokers during dead locks during the negotiations, which facilitated peaceful determination of compensation payments. Thus, although an evolving system of negotiating compensation was put in place at the BND, partly to address some of the problems of chiefly authority over stool land and revenue, the traditional authority and role of chiefs in the process was not eliminated. However, how compensation was determined was not a matter left between the mining company and chiefs only.

Generally, this chapter has shown that the negotiations system has to a large extent reinforced the authority that is exercised by chiefs in the communities. On the other hand it also draws attention to the point that since chiefs' alone are no longer trusted to negotiate compensation on the behalf of their communities when land is required for large scale investments the interests of mining affected people are better protected through innovative multi-institutional committee systems.

Chapter 8

Co-Production of Public Goods: Local Initiative for Development

8.0 Introduction

Local government authorities in Ghana have the legal mandate for planning and providing development within communities under their jurisdiction. Thus, as noted in Chapter 4 and 5, the BNDA is the authority that has responsibility for planning development within the case study communities³⁴⁸. The BNDA depends on funds from both the state and its own internally generated sources to do this. Traditional chiefs, in their capacity as trustees of stool land are also expected to use the stool revenue, among others, to support development in their communities. In chapter 5 it was noted that these institutions faced various challenges, including financial, and were therefore not able to adequately fulfil these responsibilities as expected. The mining investment in the district provides the opportunity to provide public goods in the mine affected communities (see Table 11).

Mining investment in the BND has not only led to issues of compensation payment for lost property and land (as examined in chapter 7), but has also introduced a different dimension to the way public goods are provided in the mine affected communities. In addition to the CNC a second forum was established and called the Social Responsibility Forum (SRF). Evidence from field data suggests that the forum seemed to have provided an opportunity for traditional authorities to demand development projects from Newmont thereby shifting the expectation and responsibility of accounting for their stewardship of community land revenue. This chapter focuses on the new form of arrangement under which the provision of public goods was negotiated. The analysis focuses on the multi-institutional collaborative arrangement amongst the local inhabitants and their traditional leaders, state institutions at the district level with responsibilities for resource management and development and Newmont.

This chapter examines the nature of the multi-institutional form of co-production for that facilitates investment in public goods. This would be done by analysing the role of the various actors in the negotiations under the new multi-institutional co-production arrangement at the mining district in BND. In addition to the above, the chapter also analyses popular perceptions of the ability of traditional authorities' to provide public

³⁴⁸ Section 46 of Local Government ,Act1993 (Act 462)

goods. This would be followed by examining the outcomes and politics of negotiating development and its implications for the authority of chiefs.

8.1 Co-Production as a collaborative local strategy for development

It has been pointed out in chapters 5 and 6 that on the one hand members of stools and inhabitants of local communities expect traditional chiefs to facilitate development through the provision of public goods using revenue from stool land. On the other hand chiefs tend to use their ability to provide public goods and development generally, as objects to secure their continued stay in power. However, chiefs have not been able to adequately fulfil this expectation for a number of reasons often attributed to the low level of financial resources available to them. Thus, where an opportunity arose as in the case of Birim North, it provided an opportunity for the negotiation of the sought-after development that was lacking in the communities.

Traditional chiefs have the opportunity to bring development in mining communities because they often become the focal point for negotiating access to land. The literature however points out problems with how chiefly authority is exercised over land and the revenue it produces within other mining communities in Ghana (as discussed in section 2.3.2). A number of issues contribute to this. Firstly, there have been claims of widespread property dispossession amongst local inhabitants as a result of loss of rights and interest in land and property affected by mining operations, but for which compensation paid to traditional authorities were often treated as private income. As a result of this community members were sometimes suspicious of traditional authorities of engaging in under hand dealings with mining companies leading to persistent conflicts in some mining communities. Secondly, mining communities tend to be neglected and lack basic public goods (Akabzaa, 2000; Akabzaa *et al*, 2007; Owusu-Koranteng, 2008; Tsuma, 2010; Yankson, 2010).

On the other hand private investment entities such as mining companies have a CSR to the communities where they operate, and therefore have to work to be acceptable by local inhabitants by showing the advantages of having their operations in these communities. This gives companies such as Newmont the *social licence* to operate³⁴⁹.

³⁴⁹ CSR is a concept whereby companies do not only fulfil their legal expectations but allows them to go beyond compliance and voluntarily integrate social and environmental concerns in their business operations and in their interactions with their stakeholders (Yankson, 2010:358). It ensures that companies investing in a community respond to the social, economic and environmental expectations of society. *Social licence* to operate refers to the approval of local communities to enable companies to proceed with a project (<http://sociallicense.com/definition.html> [last accessed on 01/09/2011])

Thus, mining companies have invested in public goods that are often lacking or are under-provided in communities where they operate. However, investment in public goods is often done at the discretion of the mining companies since they fund such projects. There is often no coordination with the local authorities, which are mandated by law to plan and provide development. It was in recognition of this and the success realised from the implementation of the CNC (as demonstrated in chapter 7) that Newmont and the mining affected communities mutually entered into agreement to form a collaborative multi-institution for the provision of public goods to facilitate development in the district.

The joint effort at providing public goods in the mining-affected communities in BND is described as co-production in the sense that it required inputs (stool land resources, financial capital and expert knowledge and services) provided by traditional chiefs and community members, Newmont and officials of state institutions at the district respectively. This description follows from Ostrom (1996), who used the concept of co-production to define the process where ‘inputs used to produce goods or services are contributed by individuals [actors and institutions] who are not in the same organisation’ (see section 2.4). Similarly, as discussed in chapter 2, other scholars have found service provision arrangements in developing countries, which have relied on local forms of arrangements to provide public goods and services as a result of the states weakness (Lam, 1996; Masud, 2002; Joshi and Moore, 2004; Olivier de Sardan, 2011(a) and (b); Workman, 2011 and Leinweber, 2012).

The form of co-production as observed in BND is unusual compared to what occurs in other mining communities in Ghana. Akabzaa (2000), Akabzaa *et al* (2007) and Tsuma (2010) have pointed out that conflicts arise in mining communities in Ghana because local inhabitants have often been suspicious of traditional chiefs (see section 2.3.2). However, community members affected by Newmont’s mining project in the BND were not only consulted about the provision of public goods, but had access to a formalised institution that was expected to serve as the forum where all the planning and decisions for the provision of public goods are made. This took place at the Social Responsibility Forum (SRF) under an arrangement, known locally as “*tripartite agreement*”. Under this agreement the mining-affected communities (including *New Abirem*, *Adausena* and *Ntronang*) constituted one party, the BND another and Newmont was the third party³⁵⁰. This was developed out of mutual need and dependence and made use of locally

³⁵⁰ Akyem SRF Agreement between The Akyem Mine Local Community, BND and NGRL (2011:4)

based association of actors and institutions (Olivier de Sardan, 2011(a) and (b); Workman, 2011). The SRF created the arena where decisions about development projects were expected to be initiated and finalised. It also served as the forum where Newmont and the communities deliberated on a number of issues on developing community relationship, sustainable social investments, community development, capacity-building, employment and livelihood enhancement programmes for the mining-affected communities³⁵¹.

8.1.1 Co-production negotiations at the Social Responsibility Forum

Before I delve into the analysis and discussions about what took place at the SRF it is imperative to provide a historical background to its establishment. The formation of the SRF was preceded by one called the Community Consultative Committee (CCC) which was formed in 2005, when Newmont first arrived in the BND. The purpose was to provide an avenue to receive and address community grievances and development issues as a result of Newmont's presence in the District. This was also used as the platform for the Company to receive written requests from the chiefs and members of their communities for support to provide public goods that were lacking or underprovided in the various affected communities³⁵². The CCC had the District Chief Executive Officer of the BND as its chairman. Its members comprised selected representatives and the traditional chiefs from all the communities affected by mining operations and the representatives from the MDAs at the District level as well as Newmont. However, over the years most of the issues that had led to the establishment of the CCC were addressed, and yet Newmont's investment in the area was still ongoing. This required further engagement between the Company and the communities. The focus and objective of the CCC was reviewed to ensure a more sustainable way of addressing the development challenges in the area. This brought about a change of name from CCC to Social Responsibility Forum (SRF)³⁵³.

Again (as was the case with the CNC), the original idea for the establishment of the SRF was proposed by Newmont officials by explaining that the Company wanted to engage more with the local community through a more participatory approach³⁵⁴. Furthermore, Newmont also wanted to streamline the processes of providing support to

³⁵¹ Guiding Principles, Rules and regulations of the Akyem SRF, 2009:4

³⁵² These included provision of schools, potable water, health facilities and employment opportunities to the youth of the area.

³⁵³ Interview with CDM on 17/09/2010, AB Newmont contractor on livelihood programmes on 1/10/2010 and on 19/03/2010 (phone) and OPNA on 02/09/2010

³⁵⁴ Interview with the CDM of Newmont on 17/09/2010

the communities. This was because the Company together with the local inhabitants realised that developments in the communities needed to be synchronised with the overall development plans of the District. There was therefore a recommendation to involve the BNDA, as a key actor, in the negotiation Committee.

The process to establish the SRF started in 2007. A MoU was drawn up to that effect. The BNDA welcomed the notion of the SRF since it was aimed at ensuring a coordinated development in the communities affected by the project³⁵⁵. Under the *tripartite* arrangement the local inhabitants 'own' all the development projects supported by the Company. This, it was explained was to ensure sustainability of projects because of the level of community participation in the planning and decision making process³⁵⁶. The agreement also set out the responsibilities of all the parties and projects that might be undertaken³⁵⁷. The members of the community were required to develop their own ideas and solicit support through the SRF for funding and implementation.

The formation of the SRF created increased level of awareness amongst community members about the activities of Newmont in the District. This was because the forum provided the opportunity for the raising and clarification of issues about the company's activities. This information was then carried over into the respective communities by the SRF members. This contributed to improvement in the acceptability of the Company's operations in the District. Although it is common in Ghana to find communities resisting operations of mining companies, in the BND local inhabitants rather pushed for Newmont to speed up its investment. For instance, in 2008 Newmont presented its Environmental Impact Assessment (EIA) for appraisal at a public hearing, facilitated by officials of the EPA. The local inhabitants from all the mining-affected communities and their chiefs who attended openly declared their support for the Company's investment and strongly countered opposition put across by agents of an environmental Non-Governmental Organisation (NGO) about Newmont's operations in the district³⁵⁸. The latter organisation opposed the surface mining proposed by Newmont and the takeover and compensation for land and other property in one of the communities (known as

³⁵⁵ Interview with the DPO on 17/06/2010

³⁵⁶ Interview with CDM on 17/09/2010

³⁵⁷ Interview with CDM on 17/09/2010 and DPO on 17/06/2010

³⁵⁸ RAP (2010). During this event a group representing *Wassa Amenfi* Communities Affected by Mining (WACAM) raised environmental concerns about the project.

Yayaaso)³⁵⁹. However, this did not affect the decision to grant mining rights to Newmont.

Following approval of the EIA, arrangements were formalised for commencement of negotiations leading to compensation for the release of land to commence mine project development. This also started the process of formalising arrangements to set up the SRF. Inhabitants of the communities were aware that it was unusual for mining companies working in local communities in Ghana to agree to negotiate development projects in the manner proposed by Newmont. Thus, the community representatives on both the CNC and SRF have explained that the reason why Newmont had the support of the local communities was because the Company has been very open to them about their investment and mine operations, as well as the nature of the support and benefits the communities were entitled to over the period of their lease³⁶⁰. This bolstered the level of trust and acceptability of Newmont in the district. Newmont therefore obtained the social licence to operate in the District.

Two conclusions can be made from the positive perception that local inhabitants have about Newmont's community engagement strategy in the negotiations. Firstly, if Newmont's strategy was to get the support of the communities through collaborations by the introduction of the SRF for development purposes then it was a successful strategy that made a positive impact not only for the Company but also for the local communities. The Company was perceived as a 'community friendly' institution³⁶¹. Secondly, it was also possible that Newmont was using its project at *Akyem* (and *Ahafo*) in Ghana to demonstrate how responsive it was to local communities in areas that it operates (compared to other mining companies). This was happening against the backdrop of arguments advanced against mining companies in Ghana and Newmont's own operations in other parts of the world which have left unfavourable legacies and

³⁵⁹ Field notes (July, 2010)

³⁶⁰ Field notes (September, 2010). At different CNC meetings which I had the permission to attend I engaged with different representatives from the communities at different times. When I asked them why they will not oppose Newmont's operations as there were aware has been happening in some mining communities. The general response was that from the regular meetings and interactions with officials of the Company they have no cause to contest what it was doing. It was also noted that because negotiations was involved ordinary community members rather than with only traditional chiefs, the local inhabitants are well informed of the benefits that come directly to them and are not threatened by dispossession of their property.

³⁶¹ That is the Company is sensitive and responsive to the needs of the people living in the project-affected areas of the district.

negative perceptions about the activities of mining companies.³⁶² If these arguments are held then the Company's operations in Ghana provide opportunities to leave positive legacies in these communities. This may have the potential to influence mining policies in Ghana, if good outcomes are realised in the long term.

8.2 The Social Responsibility Forum: the role of local actors and institutions

It has been stated above that the SRF was constituted by local representatives³⁶³. These comprised traditional authorities and ordinary citizens of the communities, officials of Newmont and the BNDA and other decentralised state institutions at the District. Some of these representatives were already members of the CNC. The document which established the SRF provided for a governance structure composed of the following categories of people in the District³⁶⁴:

- a) an external Moderator, who is appointed through a selection process by the members of the forum;
- b) Six (6) representatives of Newmont comprising the General Manager for the ESR (Akyem), the Community Development Manager, Communication Manager, Human Resources Administrator, Community Relations Superintendent and one senior Community Development Officer;
- c) The District Chief Executive of BNDA
- d) The District Coordinating Director of BNDA
- e) Planning Officer of BNDA
- f) The Member of Parliament for the Birim North Constituency (as an observer)
- g) Two representatives from District level MDAs (occasionally co-opted from the NCCE,CHRAJ,TCPD, MoFA and Labour Commission).These members are observers and have no voting rights at the forum
- h) The paramount chief and queen mother of the *Akyem Kotoku* area or their representatives
- i) Nine traditional authorities (chiefs usually attend but may be represented by a nominated sub-chief or by an elder of the traditional council) one from each of the mining-affected communities.

³⁶² The United States of America, Peru and Indonesia

³⁶³ Eligibility criteria for community representation are be literate, have some basic community work experience and preparedness to serve the community (s. 3.2 2 of the Guiding Principles, Rules and regulations.2009)

³⁶⁴ Akyem SRF Agreement between the Akyem Mine Local Community, BNDA and NGRL (2010:6 and 28-31)

- j) Ten youth representatives (one from each of the mining-affected communities, elected at a public forum in their respective communities)
- k) Ten representatives of women's groups (one from each of Project Affected Communities)
- l) Ten other elected representatives, from each of the communities. These were made up of farmers because they had been identified as those mostly affected by the mining operations through the loss of farm lands and other property.

The composition of the SRF shows that each affected community was represented by at least 4 different categories of people: the traditional authority, the youth, women and what was generally categorised as community representatives made up of people who may not belong to any of the first three specific groups of people. These people were categorized generally as 'farmers'. However, in practice the category included traders, retired teachers and civil servants living in the communities. Interviews with leaders of the youth and women's groups in *Adausena*, and *Ntronang* suggested that activities of these groups in the District were prompted by the arrival of Newmont and its activities in the area³⁶⁵. These groups are socially recognized in the communities and operate as civil societies. Thus, the SRF is formed by non-partisan representatives and expected to remain politically neutral without the involvement of political party representatives.

The agreement that set up the SRF stipulates that its membership was to be selected through an election process conducted by the District Electoral Officer (DEO) in a secret ballot³⁶⁶. Prior to the elections each representative group was expected to submit the names of their nominees in writing to the DEO who compiles and conducts the elections on a set date. After the election the DEO submits the names of elected representatives to the local chief who subsequently presents members of their communities to the SRF³⁶⁷. It is not clear why the names had to pass through the local chief before submission to the SRF. But it may seem that elected candidates will have to have the approval of the local chief before they were allowed to represent their respective group and community's interest at the SRF. Otherwise, the DEO ought to have been required to submit results of the election directly to the Moderator of the SRF. This seems to suggest that chiefs have control over representatives at the SRF.

³⁶⁵ See Chapter 5 (derived from Interview with Youth leaders at *Adausena* on 09/09/2010, *Ntronang* on 31/08/2010 and Women's leader at *Adausena* on 10/09/2010)

³⁶⁶ Schedule 2 of the SRF Agreement document (2010:18)

³⁶⁷ Schedule 2 of the SRF Agreement document (2010:18)

Each of the different categories of people that formed the SRF was expected to perform specific roles³⁶⁸.

The Moderator: The SRF was chaired by an external Moderator who was expected to be impartial, consistent and transparent during meetings³⁶⁹. The Moderator's role was to preside over meetings and ensuring that negotiations were conducted in a manner that enabled the local communities, Newmont and BNDA reach agreements on issues of development in the Project Affected Areas³⁷⁰. Similar to the CNC, the Moderator at SRF controlled proceedings at meetings and commanded authority during proceedings. The authority of the SRF's Moderator was similar to that of the CNC (discussed in chapter 7). The Moderator was not the final decision-making authority. Decisions were reached through voting or by consensus of all the representatives with voting rights.

The Moderator's position was advertised locally and on all community information notice boards in the District when it became vacant. Preference was usually given to persons with knowledge of the local culture and political relations and who was respected by the people. Allowances and other incidental costs by the Moderator were paid by Newmont. Not only that, but all the representatives; i.e. the traditional authorities, state officials and community representatives and all those classified as observers are all paid allowances for each meeting they attend³⁷¹. The Moderator's role and arrangements and procedures for transport and meetings for the SRF were similar to the CNC (see section 7.3.2).³⁷²

The Traditional Authorities and Community Representatives: Traditional authorities or their nominated representatives and the community representatives were expected to attend SRF meetings to participate in decision making on behalf of their constituent communities and groups. They were expected to identify issues of development in their communities and present it to the SRF for consideration and support. It was also expected that traditional chiefs and community representatives keep their communities

³⁶⁸ Akyem SRF: Guiding Principles, Rules and Regulations (2009)

³⁶⁹ This position was filled by a Senior Lecturer of the University of Cape Coast, Ghana. The selection and interview was done jointly by selected representatives from the SRF. But prior to 2010 he had provided consultancy services to Newmont during which he developed a Framework for Sustainable Social Investment Partnership in the Mining Sector based on the Newmont Experience.

³⁷⁰ Akyem SRF: Guiding Principles, Rules and Regulations (2009)

³⁷¹ Each member receives Gh¢15

³⁷² Comment based on observations noted in my Field notes (June-October, 2010)

adequately informed about Newmont's activities in the area and all other issues of development that are discussed at the forum. The SRF also recognised the authority and power of traditional chiefs and how that could enhance its work. Thus, chiefs were expected to maintain peace and harmony in their respective communities and to provide advice to the Company on all matters of land tenure in the area.

Newmont Representatives: It was expected that official representatives of Newmont had the mandate to make decisions on behalf of the Company. That was why at a least one senior management official was expected to lead the Company's team. The team was expected to have the capacity to make decisions as well as provide answers to issues of concern that were raised during meetings.

Representatives from the BNDA and State institutions (MDAs): the BNDA was the third party to the tripartite agreement. Its role was to ensure that decisions about development projects fitted into the overall development plan of the District, and for those affected communities in particular. It was also expected to make a contribution towards the cost of providing development projects in the affected districts.

The BNDA together with all the participating state institutions were also there to provide technical advice to the SRF³⁷³. Occasionally, selected experts and resource persons were invited to meetings to educate or clarify issues of development to the members (as was the case with the CNC).

In the next section I examine the processes and challenges through which decisions and funding of public goods were made.

8.3 Framework for negotiating the provision of public goods

The establishment and inauguration of the SRF in 2010 resulted in the development of three main documents that set out the framework which regulated the tripartite arrangements. These documents comprised (1) Guiding Principles, Rules and Regulations³⁷⁴, (2) the SRF relationship agreement between the Local communities,

³⁷³ Akyem Social Responsibility Forum: Guiding Principles, Rules and Regulations (2009)

³⁷⁴ The document sets out the principles under which the SRF operates the rules, regulations, code of behaviour and sanctions for non-compliance. It also sets out the procedures and regularity of meetings, decision-making and planning for development projects. Additionally, it outlines the governance structure of the SRF, purpose, functions, eligibility criteria for membership and election procedures and dispute settlement mechanisms. It also provides schedules on the election of the body of representatives from the community, youth and women's groups.

BNDA and Newmont³⁷⁵; (3) Local Employment agreement between Newmont and the Local communities.

The SRF created a new 'public space' that ensured community participation in decision making and the establishment of local synergy for development between state and non-state actors and institutions (Körling, 2011:30). The SRF framework thus created a forum for the exercise of local authority by the various political actors and institutions in an attempt to maximise gains either for themselves or for the groups and institutions that were represented. This was where important collaborative decisions for community development were made. Newmont considered this as a step towards the fulfilment of their CSR; working in close collaboration with the local communities for the success of their investment while supporting the communities through the provision of public goods.³⁷⁶

8.3.1 Nature of agreements and decisions process

What community development projects were selected was always the result of the local community's own initiative or from Newmont's independent efforts at improving on development in the communities. In the first instance, community representatives and traditional authorities were expected to meet and identify what was needed by the community. This was to provide them with the opportunity to collate the views of the community for presentation. It was also expected that the community representatives and traditional authorities were able to agree on what to present, if for instance they require support for a project. This was expected to be done to avoid duplication of requests from the representatives and also from raising issues at the SRF that

³⁷⁵ Akyem SRF Agreement between the Akyem Mine Local Community, BNDA and NGRL draft (2010). The purpose is to further the partnership between the Company and the communities that have been affected by mine operations in the area in order to sustain development in the area. This is expected to be achieved through the implementation of three interrelated agreements³⁷⁵: (1) The relationship agreement which sets out what the mining Company (Newmont) is committed to doing for the communities during the life span of the mining in the area and the commitment expected from the people in the affected communities which includes using dialogue to resolve any grievances they may have as a result of mining activities in the area; (2) The employment agreement which sets out the principles and guidelines for local labour employment in regards to the Company's use of unskilled labour in the area. Through this the Company has committed itself to recruiting 100% of its unskilled labour force from the communities in the affected areas; (3) The Foundation Agreement. This is an evolving process with the long term goal of growing to become a Foundation Trust to manage a planned development fund. The Company aims to commit 1% of proceeds from every ounce of gold produced into a development fund to be managed as a trust on behalf of the communities affected by the mining operations.

³⁷⁶ Interview with CDM of Newmont on 17/09/2010 and DPO on 17/08/2010

benefited only particular individuals rather than serve the interest of the larger community, although in exceptional cases this may be considered.

At SRF meetings each community nominated a representative to present their request for consideration and deliberation. Provision of physical infrastructural development topped the list of issues that were often requested because they were under provided or not available in all the communities. These requests become the subject for negotiations and debate at the SRF. What was significant about the SRF was that final decisions were not independently made by Newmont alone nor the BNDA, but they were collectively made by members of the SRF taking into account the needs of each community, costs involved and the social and economic benefits of the project to local citizens.

Although decisions were made by collective agreements, records on the financial arrangements suggested that Newmont contributed more funds to projects than what was made by both the communities and the BNDA. Under the tripartite arrangement Newmont had agreed to provide the largest proportion of the financial cost of all projects compared to contributions made together by the communities and the BNDA³⁷⁷. The BNDA had agreed to make financial contribution towards projects that receive budgetary approval and assistance from Newmont through the SRF. Thus, depending on the cost involved in the provision of a public good Newmont was expected to provide up to 60-70% of the cost and the remaining 30% was shared between the BNDA and the beneficiary community. Usually 20% of the cost was taken up by the BNDA and the community provided 10% in the form of labour - skilled and unskilled. There were no records of direct financial contribution by the chiefs in the 3 communities studied towards projects that had been provided. This was in spite of the claim made by some of the chiefs that they had used revenue from stool lands for development purposes³⁷⁸. This could not be verified as they did not provide any records or any actual examples.

³⁷⁷ Interview with CDM 17/09/2010, DPO on 17/06/2010, the chiefs of *New Abirem*, *Adausena* and Traditional Elders at *Ntronang* on 10/07/2010, 11/07/2010 and 25.08/2010 respectively and OPNA on 02/09/2010 and group discussions with Youth leaders from *New Abirem*, *Adausena* and *Ntronang* 01/09/2010

³⁷⁸ Interview with the District Planning officer on 17/06/2010 and Community Development manager, Newmont on 17/09/2010 interview with *Gyasehene* of *Adausena* on 11/07/2010; *Adausena* chief on 09/09/2010 and *Krontihene* of *New Abirem* on 03/09/2010

An examination of interview data showed that before the inauguration of the SRF some development projects had already been commissioned in the communities (see examples below). These projects were started as a result Newmont's own initiative in fulfilment of their CSR or were the result of independent lobbying of Newmont officials by the respective local chiefs in their bid to attract development to their communities. This was possible because chiefs' depended on and made use of their legal position as custodians of stool land as leverage to bargain for community development projects. Thus, by 2010 the following projects had already been provided in the respective communities:

1. The construction and renovation of school buildings at *New Abirem* and *Adausena*, and nurses quarters at *New Abirem*. Total costs of these projects were financed through three separate contributions of Gh¢ 20,000 by the BNDA while the remaining cost was provided by Newmont³⁷⁹.
2. At *Ntronang* a 6 unit classroom facility, office and store for the Roman Catholic school had been constructed.
3. At *Adausena* the renovation of a 4 unit classroom block, store and office was successful as a result of independent informal arrangements between traditional authorities and Newmont³⁸⁰.
4. Newmont on its own also funded the construction of a new building used as the District police station at *New Abirem*. This was to ensure that adequate security was provided in the District, in particular in the areas where the company would be undertaking its mining operations.

The above provides an indication of the kind of arrangement that preceded the SRF through which community development projects were provided. It was to streamline these and in particular to ensure that the provision of public goods was not left to be negotiated between only local chiefs and Newmont that led to establishment of the SRF for these to be negotiated.

Living within the communities and interacting with the local inhabitants coupled with the permission to attend and observe negotiations proceedings provided an opportunity to gain wealth of knowledge and easier access to community representatives on both the

³⁷⁹The equivalent of £8, 696 (£1=Gh¢2.30 as at 30th September, 2010). Interview with the CDM on 17/09/2010. He was however unable to provide documents on the total construction cost of the project by Newmont.

³⁸⁰ Interview with CDM on 17/09/2010; DPO on 17/06/2010; Elders at *Ntronang* on 25/08/2010 *Gyasehene* of *Adausena* on 11/07/2010.

CNC and SRF. The latter was important for follow up discussions and sometimes clarifications on issues that I had observed during negotiations and in the community. What is presented below was drawn from minutes of proceedings at the negotiations of the SRF. This is to show the nature of cross-cutting issues that formed the subject for deliberation during SRF meetings.

8.3.2 Examining the negotiations process and outcomes

I have indicated from above that the SRF took up all ongoing discussions about development when it was formed. Such issues were brought to the attention of the forum at its first meeting. The SRF was therefore the body mandated to continue and to ensure that these were accomplished. The following information was gleaned from the minutes of the first SRF meeting and provides insight into how business was conducted and the level of participation and exercise of authority by the representatives³⁸¹.

As pointed out earlier negotiations meetings were conducted under formal arrangements. Thus, at the first official meeting³⁸² of the SRF a review of the previous meeting was read out [in *Twi* to all the members] before the agenda for the day's meeting was considered. All the representatives for the different categories of groups and institutions were present in addition to the queen mother and a representative of the paramount chief of the Akyem *Kotoku* traditional area³⁸³. After the minutes of the previous meeting was read out and accepted business for the day was tabled for deliberation. First, an introductory remark was made by the Moderator. This was followed by briefing of the members about the establishment of a standing committee to prepare the SRF agreement framework on the nature of the tripartite arrangement which would guide procedures and decisions of the SRF. Second, the Moderator then asked all the representatives of the local communities, BNDA and Newmont to conduct an independent review of the document when it was ready before it could be accepted as working document of the SRF. This brief introduction then paved the way for other issues on the agenda to be discussed.

What followed exemplifies the level of collaboration that was being developed between the mining company and the local community and the diversity of issues that are discussed at the SRF.

³⁸¹ SRF meeting number 1 held on 24th March, 2010 at the District Assembly Hall at *New Abirem*

³⁸² That is after the formal inauguration of the SRF

³⁸³ See Chapter 4 for explanation that the selected communities of this study are all within one of 3 divisions of the Akyem, i.e. the *Kotoku* division.

First, an official of Newmont negotiations team presented an influx mitigation plan to the SRF for consideration. The plan made proposals on how the Company together with the local communities plan to deal with the anticipated increase in the number of people who might migrate into the communities and nearby towns as result of the mining investment in district. Newmont took the opportunity to present to the community representatives the background, purpose and the interventions of the mitigation plan that the Company had prepared. The idea was twofold: (1) to get the community (and the BNDA) inhabitants informed through their representatives and (2) solicit for their input and feedback.

The presentation of the proposal was followed by open discussions and feedback. Records of the discussions that followed after the Newmont's presentation show that that the queen mother of the paramountcy (who represented traditional authority) spoke first. She commended the Company for its foresight. She then appealed to the SRF members to support the proposed plan. In effect this concluded any further contribution from the community representatives as it was customary that when a traditional authority speak at community gatherings no subordinate was allowed to speak on the same issue thereafter. As a result the queen mother went on to make an appeal to Newmont to establish 'High standard schools' in the communities where the mine activities were located to raise the standard of education in the area. Once the subject had shifted to requests for projects a local chief³⁸⁴ also followed it up with a request to Newmont to support the District Police by providing them with two vehicles to facilitate their patrol activities. The purpose of the request was to facilitate adequate security coverage by the police in the mine affected communities.

Second, the meeting moved on to another subject matter when a community representative took opportunity of the presence of the District Co-ordinating Director (DCD) of the BNDA to question about what was being done about the poor condition of roads in the District. The DCD explained to the SRF that road construction in the District was outside the mandate of the BNDA and indicated that it was the responsibility of the Ghana Highway Authority (GHA). The DCD then suggested that the BNDA and the traditional authorities together could lobby the GHA to ensure roads in the District were in good conditions at all times.

³⁸⁴ The *Krontihene* of New Abirem

Third, Newmont took the opportunity to inform the members of progress that it had made on its own initiative to provide equipment and other logistics to hospitals in nearby towns *Oda* and *Nkawkaw* (which serve as referral hospitals) in the District; the award of contract for the construction of 12 boreholes to local contractors to improve supply of potable water in the project affected communities and the plan to support the construction of a new female ward for a new hospital at *New Abirem*.

The above deliberations at the forum provided an opportunity to understand the kinds of issues that are considered at the SRF and the nature of the decision-making processes during the negotiations. Although the idea of the SRF was to ensure participatory decision making it might be suggested that the presence of traditional chiefs sometimes do not help in the actual participation in discussions by ordinary community representatives as shown by the queen mother's option to speak first followed by another traditional authority. On the other hand the SRF worked for Newmont because it provided a medium for the community [representatives] to be well informed of plans for community development projects which they plan to support. This was important for the image of the Company as it ensured that traditional authorities do not take credit for having been able to bring development to the communities through the use of private [personal] arrangements with the Company. This was because in practice, the Company had not been able to prevent chiefs from lobbying officials for development (this will be discussed in section 8.3.3).

Employment opportunities as a development output

During the field work I found out that development was interpreted by local inhabitants to mean the provision and availability of infrastructural projects as public goods. However, when respondents in the popular survey conducted in all the four communities were asked to provide answer for what was the most important public good required, the data when analysed showed that the availability of employment (job) opportunities was considered a form of development. Ten percent of (10%) respondents ranked employments as the fifth important public good (development output) in the district³⁸⁵. I found out that creating job opportunities for the local inhabitants featured prominently in the negotiations at the SRF. Although employment may not constitute a public good (as defined in section 2.4) its relative importance to the local communities pointed to the need to explore what was being done about it.

³⁸⁵ Total (N) =301. Analyses of survey data are presented in section 8.4 below.

I found out that one of the key agreements made under the SRF relates to the employment of local skilled and unskilled labour by the Company. This was aimed at addressing the level of unemployment in the local community, especially as the mining operation affected land and agriculture activities which are the main source of economic activity in the area. The issue of local employment was therefore considered a sensitive issue, as it could provide the source of livelihoods to the communities and therefore needed to be addressed to ease anxiety among the local people, especially the youth. An employment agreement was therefore negotiated in 2010 as part of three relationships agreements between the local communities and Newmont under the SRF³⁸⁶. This was aimed at ensuring that Newmont remained committed to a sustainable economic and social development of the people living in the communities affected by the mine operations. Since concerns had been expressed about the lack of employment in the area, which was worsened by the Company taking over lands used for agriculture, it was imperative for the SRF to work out a solution for this. Newmont also recognised that failure to find acceptable solution this could have implications for their operations in the District. This was because the youth who were very active in the area could potentially prevent the Company from having access to the required lands, albeit they had the mining lease from government³⁸⁷. Thus, as part of the negotiations the SRF developed criteria and agreement for the distribution of employment opportunities available in the Company (See Table 12).

The employment agreement requires that Newmont employ 100% of its unskilled labour force and up to 35% of skilled labour from locals living within the affected communities. A criterion had been designed to determine the proportion of locals to be employed from each of the ten affected communities. This was influenced by the extent of impact on the community as a result of loss of land and property by the people. Thus areas directly impacted negatively by the mining operations were weighted to get more job slots compared to those areas that were not directly affected by the mine operations. Five factors were negotiated used in the development of weights for determining employment distributions. These were:³⁸⁸ Mining Area (50%); Equity

³⁸⁶ Agreement between Newmont and the Akyem Mine Local Community on Local Employment, 2010

³⁸⁷ The youth in other mining communities in Ghana have organised protests that can stop or delay mining operations

³⁸⁸ Agreement between Newmont and Local Community on Local Employment (2010:7-8) and SRF Summary report on the Local Employment: Community Durbars held from 4th May to 4th June 2010. (1) The Mining Area factor is determined by the size of impact of mining operations on the people and their livelihoods in a particular community. A community that loses a large share of land due to mining operations should benefit by getting the biggest proportion of employment. The equity factor ensures

(10%); Population influx (10%); Mining Lease Area (20%), and commitment to peace (10%).

Applying the above criteria Table 12 shows the employment distribution of unskilled labour for the communities based on the agreed weights. For instance employment quotas for the respective case study communities was ; *New Abirem* 11%, *Adausena* 18%, *Ntronang* 10% . *Adausena* had the highest proportional share of employment allocation compared to the others because the mine area was located mainly on its stool land leading to the resettlement of people living in one of its suburbs (*Yayaaso*). The loss to this community therefore extended beyond land and property; it also affected their social and economic lives.

that employment opportunities are distributed fairly among all the communities. The influx factor is in regards to communities with largest population size, which may be as a result of the sudden influx of people in the town as a result of the mining activities. (2) The Mining Lease factor is determined by the community with the largest proportion of its land in the mining lease area granted to the company. (3) The Commitment Factor is determined by the town that shows greatest commitment to the Social Responsibility Agreement and maintaining good relationship with the Company, maintaining peace and order and avoiding illegal acts such as *galamsey* activities that have the potential to undermine the operations of Newmont. To facilitate conflict resolution grievance procedures have been established to receive complaints from aggrieved individuals or groups. This however does not in any way denying the fundamental human and Constitutional rights of the local people. The CHRAJ and NCCE participation in the SRF is partly to ensure that the rights of the local citizens are not in any way violated.

Table 12: Proportional sharing of jobs in mining-affected communities in the BND

Community/Town	Shared Equally (10%)	Shared by Population Influx (10%)	Shared by Mining Lease Area (20%)	Shared by Mining Area (10%)	Shared by Community commitment (10)	Total Jobs (100)
Adausena	1.0	1.5	5.0	9.5	1.0	18.0
<i>Adjenua</i>	1.0	-	-	3.0	1.0	5.0
<i>Afosu</i>	1.0	2.0	2.0	5.0	1.0	11.0
<i>Hwaekwae</i>	1.0	1.5	4.5	9.5	1.0	17.0
<i>Mamanso</i>	1.0	1.0	2.0	1.0	1.0	6.0
New Abirem	1.0	2.0	2.0	5.0	1.0	11.0
Ntronang	1.0	1.5	1.5	5.0	1.0	10.0
<i>Old Abirem</i>	1.0	0.5	0.5	-	1.0	3.0
<i>Yaw Tano & Hamlets</i>	1.0	-	1.0	4.0	1.0	7.0
<i>Yayaaso</i>	1.0	-	1.5	6.0	1.0	10.0
Paramountcy	-	-	-	2.0	-	2.0
Total	10.0	10.0	20.0	50.0	10.0	100.0

Source: Agreement between NGRL and the Akyem Local Community on Employment (2010:11)

As part of the negotiations the SRF required Newmont to compile and provide quarterly reports on local employment statistics. The report was expected to explain the steps that had been taken to achieve the targets set out in the employment agreement and provide reasons where there were any deviations³⁸⁹.

8.3.3 Challenges of the negotiations

The discussion above shows that issues that were considered at the SRF negotiations were diverse in nature compared to the CNC, which was more focussed on compensation for land and other property. It is to be noted also that because of the nature of issues for negotiations at the SRF the superior chiefs often attend together with other traditional authorities and were seen to occupy front row seats (similar to CNC arrangement described section 7.3.1). This sitting arrangement, which was made out of respect for traditional authorities do not seem to help community representatives who want to speak to catch the eye of the Moderator³⁹⁰. Although the community

³⁸⁹ Ibid:5

³⁹⁰ Field notes (July –September 2010) observations made and informal discussions with CNC representatives

representatives have argued that they always insisted on being given the opportunity to speak, if they realised that traditional authorities (sitting on front row seats) were given more attention to contribute to discussions than them because of their proximity to the Moderator³⁹¹.

Apart from the above traditional chiefs continue to lobby Newmont directly (as they used to) for support in the provision of public goods in their communities. It will be recalled that before the establishment of the SRF, Newmont's support to the communities was not structured and did not officially involve the BNDA. Thus, community development projects were undertaken either through Newmont's own initiative in order to win support for its project or they were based on traditional chiefs' ability to lobby potential providers, including Newmont and the state, to provide some public goods and services. In the case of Newmont the traditional authorities were often successful in getting support because Newmont recognise that chiefs held custody over stool lands and that was essential for their investment. Without chiefs' support, the Company would find it very difficult to gain local endorsement for its mining operations in the district (Zandvliet and Owiredi, 2005). Some chiefs were therefore able to attract various forms of development assistance by relying on their ability to lobby officials of the Company. For instance, the chief of *New Abirem* stated that 'chiefs are initiators of local projects and they have done this over the years'. He explained that a computer training facility was established at *New Abirem* with support from Newmont through what he referred to as his 'close relationship' with the Company³⁹². In addition to that the town benefited from his relationship with some officials because he could go over to the Newmont offices and demand for assistance on various development issues. For instance, the chief gave an example of asking Newmont to renovate some school buildings in the town after a rain storm that reaped off the roofs of the buildings.

Similar, instances of direct contacts between local chiefs and Newmont were provided at *Ntronang* and *Adausena*. At *Adausena*, the *Gyasehene* indicated that Newmont has provided 4 bore holes to supply potable water to the community. The Company had also renovated the local Junior High School building. Through the chiefs networks the MP of the constituency supported the construction of a kitchen to facilitate the school feeding programme started by the NPP government. The MP also made contributions

³⁹¹ *ibid.*

³⁹² Interview with local chief on 7/1/2010

towards the development of street light projects in the town³⁹³. A similar claim was made at *Ntronang* that the chiefs was able to lobby Newmont to assist in the provision of standpipes to supply potable water to the community and also renovated some school buildings³⁹⁴.

The above examples show how chiefs were making use of their personal networks and political influence at the local level to bring development projects to the communities. These were possible as identified by Zandvliet and Owiredu (2005) that chiefs' legal authority over stool land provided leverage and a strong bargaining power in their personal relationship with the Company. However, in the long term negotiations at the SRF will not only reduce the level of expectations about the role and ability of traditional chiefs in the provision of public goods but will also have significant implications for the authority they exercise in their communities (as shown by the negotiations of land compensations in chapter 7).³⁹⁵

From the above it can be argued that traditional authorities may appear to be happy with the kind of informal relationship that they had depended on and used to attract development projects to their respective communities. This was expected to change under the SRF. The SRF had introduced some formalities which sought to break the link between chiefs and the Newmont, which over the years had helped chiefs to show how influential and powerful they might be in attracting development projects. Even though it seemed the chiefs supported the establishment of the SRF and do in fact participate in discussions, it did not prevent them from pursuing private negotiations with Newmont for additional assistance for development projects outside of the SRF. This kind of relationship found between Newmont and some of the local chiefs had been described as 'too close' by community members. They perceive chiefs to be in alliance with Newmont from which they derive private benefits and therefore threatened the chiefs with destoolment (Zandvliet and Owiredu, 2005).

Another challenge that the SRF as a new 'public space' for planning development faced was how to ensure that projects agreed for implementation can be incorporated into the plans of the District. The BNDAs role was to ensure that agreed projects could be incorporated in the development plan of the respective community as well as the

³⁹³ Interview with *Gyasehene* of *Adausena* on 11/07/2010

³⁹⁴ Interview with the Council of elders of *Ntronang* on 25/08/2010

³⁹⁵ The popular survey presented in the next section suggests that chiefs were lowly rated in terms of ability and responsibility to provide public goods needed most by the respective communities.

overall development plan of the District. Although, the DCE, DCD and Planning Officer were all members of the SRF, they are not the only people who design development projects for the District. Under the DA concept there are Committees responsible for this. However, it was the plan of the SRF that all community development projects fit within the District's own plan for development, but because these projects are created by different institutions there were administrative challenges. However, in the long run this anomaly could be addressed since there were some officials of the BNDA also on the SRF this anomaly could be addressed³⁹⁶.

The establishment of the SRF to facilitate community development seemed to be a welcome idea to the local inhabitants. However, data from a popular survey conducted in the case study communities provide indications of the implications for the perceptions of the authority that chiefs exercise at the local community. Results of the survey are examined in the following section.

8.4 Popular perceptions about the authority and responsibilities of chiefs

In chapter 6 of this thesis, the ability to bring infrastructural development was identified as an important criterion used by the inhabitants to determine the performance of chiefs. As a result chiefs, apart from the performance of customary functions engage in activities that have the potential for developing their respective communities.

To examine what community members expect of their chiefs respondents who were selected during the popular survey were asked about the responsibilities of chiefs to their communities and whether this was being fulfilled. The result of the analysis is presented in Table 13. The analysis suggests that a chief's ability to bring development is rated highly by 59% of all the respondents who took part in the survey³⁹⁷. This supersedes expectation of chiefs' role in dispute settlement (10%) and ensuring security and protection of the inhabitants, although 15% of the respondents expected a chief to do all the items listed on Table 13.

³⁹⁶ Interview with DPO on 17/06/2010 and key informant (3) on

³⁹⁷ Number of respondents, n= 301

Table 13: Community members' expectations about the responsibilities of chiefs

Task	Percent (%), (n=301)
Bring infrastructural development	59
Ensure security and protection of the inhabitants	13
Dispute settlement	10
Promote investment and job creation	3
All of the above	15
Total	100

Source: Survey data (2010)

Interpreting development as the provision of physical infrastructures (i.e. public goods) respondents were then asked to name, from their perspective, the community's most important public good and who provides it. Results from all the four communities on Table 14 shows that health and sanitation facilities are important to the communities. More than one third of the respondents (34%) would like to have improvement in the health and sanitation conditions in the communities.

Table 14: Most important Public Goods needed by communities

Public Good	Percent (%)
Health and sanitation	34
School (Infrastructure)	19
Market	17
Potable Water	12
Employment and jobs	10
Electricity	4
Community Centre	3
Other*	1
Total	100

*District Court and Housing for accommodation

Source: Survey data (2010)

Respondents also provided an indication of the authority that has either provided or is expected to provide the public good they named as most important for their community. Overall public goods have been provided by the state through the District Assembly. Table 15 shows that eighty percent (80%) of respondents either stated specifically that it was the BNDA or some other government institution (including Ministries) that is providing the public good. The results presented below also show that only 6% and 5% of respondents mentioned the local chief and MP respectively of having provided the public good they indicated.

Table 15: Who provides the public good listed as most important for the community?

Institution	Percent (%)
District Assembly	80
Newmont	7
Chief	6
Member of Parliament	5
Ghana Water Company	2
Total	100

Source: Survey data (2010)

It is important to note that the results presented in Table 15 above raises important questions about how revenue from stool land is utilised by traditional authorities. This is because it appears revenue from stool land does not appear to be invested in what is considered an important public good required by the community. It also suggests that chiefs cannot on their own provide public goods for the development of their communities. Although, chiefs in the four communities have claimed to have invested proceeds they have received from stool lands in community projects, there was no verifiable evidence on what stool land revenue are used for that benefits the community inhabitants. Except in *Praso Kuma*, where the construction of a community health centre was said to have been funded mainly from revenue from the community's farm project³⁹⁸. In all the communities chiefs and community members seem to depend on external support, apart from the state, for the provision of public goods.

How does the inability of chiefs to show evidence for the use of stool land revenue impact on their authority? An exploration of this issue revealed that this affects the level of trust that members of communities have in their local chief. Popular perceptions about which community members were trusted to provide public goods of importance to the community was examined. This was based on a scale of how much trust they have in the named authority. Respondents were asked to show the level of trust on scale of (1) a lot, (2) a bit and (3) not at all. The result of the analysis is presented in Table 16. Those who were trusted *a lot* to be able to deliver public goods in the communities were the Government 87% (other state agencies excluding the BNDA), Newmont (79%), the local MP (62%) and BNDA (57%). On the other hand those who were rated high on the *Not at all* and *a bit* comprised the local chief, NGOs and the paramount chief of the traditional area. What these results show is that local inhabitants do not perceive local chiefs as the people who are trusted to provide public

³⁹⁸ The project took 11 years to complete. This was because of the low ability to generate revenue from within the community. Interview with Chief of *Praso Kuma* on 28/09/2010 and Group discussion with Chairman and members of Unit committee on 23/09/2010

goods in the communities. This may be as a result of the problematic nature of chiefs' claim to authority over stool land and the revenue that it generates, and the lack of evidence of what it is used for.

Table 16: Who is trusted in this community to provide public goods? (Rate the level of trust)

Actor/Institution	LEVEL OF TRUST (<i>n</i> =301)			
	A LOT	A BIT	NOT AT ALL	TOTAL (%)
Government	87	12	1	100
Newmont	79	17	4	100
MP	62	30	8	100
District Assembly	57	39	4	100
Chief	36	46	18	100
NGOs	35	39	26	100
Omanhene (Paramount chief)	15	21	64	100

Source: Survey data (2010)

Different factors may account for the apparent lack of trust in chiefly authority with regards to the provision of public goods. The inhabitants' lack of trust in the ability of chiefs to provide public goods and development, generally, may be partly explained by the reason that government is seen at all times to be the initiator and funder of development projects in these communities.

The low level of trust may also be as a result of the way chiefs have managed land and the revenue it generates, which is perceived by the community to be unsatisfactory. Over the years the customary relationship between chiefs and their citizens has not changed but their role and ability to engage in local activities have been diminished by the state.³⁹⁹ As a result of this the development of a community is often influenced by the political connections that a chief has with current government. The provision of development projects to a community does not appear to depend solely on the resources available but on other factors as well. For instance, how a chief is able to lobby within the political circles of the ruling government and the historical pattern of voting of the local inhabitants⁴⁰⁰. It is generally perceived in Ghana that where a community has a historical pattern of voting that favours a particular party in power it

³⁹⁹ Interviews with Professor (*Naa*) S. Nabila who is the President of the National House of Chiefs in Ghana on 13/12/2010 and a land tenure expert and former National Facilitator of Customary Administration in Ghana on 22/07/2010

⁴⁰⁰ Interviews with Professor (*Naa*) S. Nabila on 13/12/2010

tends to benefit more from development projects than one that is perceived to not to be sympathetic in terms of votes to the government.

Furthermore, the discovery of gold in the district leading to the arrival of Newmont seems to have shifted expectation and attention on who is expected to provide public goods from both the state and chiefs. Following from results presented in Table 15 showing who provided public goods respondents were asked to indicate who *can better* provide the public goods to the community. This was important to examine which authority was perceived as being the most effective and can deliver on the needed public goods for the community.

The analysis shows that Newmont was perceived as the most effective institution capable of providing better public goods. Thirty five percent (35%) of respondents thought that based on what the Company had done so far in the communities (through the multi-institutional co-production agreements) it was capable of investing in public goods than all other institutions in the District, including the state. The results ranked chiefs in fourth place with 11%. There results did not show much difference in peoples' perception between the MP (23%) and BNDA (21%) as better providers of public goods for the communities.

The results on Table 16 might be interpreted to mean that the presence of other institutions, especially Newmont, have shifted what inhabitants of local communities expect chiefs to do with the revenue that they receive from stool land. Thus, chiefs continue to depend on Newmont and their ability to broker with politicians and the state to bring development to their communities. This dependence may have long term implications for the authority of traditional chiefs.

Table 17: Perception of who can better provide public goods to communities

Institution	Percent (%)
Newmont	35
MP	23
District Assembly	21
Chief	11
Government	10
Total	100

Source: Survey data (2010)

Newmont's investment in mining in the district appears to have affected perceptions of the level of trust that local inhabitants have about chiefs' ability to invest public goods by using stool land revenue. As has been explained earlier in this chapter, it was the arrival of Newmont that facilitated the introduction of multi-institutional co-production in

the mine project affected communities. This contributed to the involvement of organised local institutions in the negotiation process and to plan and invest in public goods in the mining affected communities. However, the presence of the SRF and the participation of locally recognised institutions, in decisions-making for public goods provision raise a number of issues that might have implications for the authority exercised by chiefs over the communities.

8.5 Implications of the SRF for the authority of chiefs

From the perspective of the local inhabitants the SRF provides an opportunity for the ordinary citizens to contribute in a non-traditional setting towards the development of their community. The SRF brings traditional authority and their subordinate citizens together under an arrangement where unlike at traditional meetings of the local community, decision making is moderated by an independent authority and framework⁴⁰¹. To that extent it raises questions about the exercise of authority of the chief.

It has been pointed out in this chapter (and in chapter 7) that the negotiations systems in the Birim North District are an unusual practice, compared to other mining communities in Ghana. This seems to deviate from known practices where consultations have been held with traditional chiefs both in compensation negotiations and provision of community development projects (Akabzaa, 2000; Akabzaa *et al*, 2007; Tsuma, 2010; Yankson, 2010). What are therefore the implications for the authority of chiefs at the local level?

Authority to invest in public goods

Chiefs are expected to ensure development in their community. In all four communities selected for this research this appears to be the single criterion that people most frequently referred to as expected from a chief⁴⁰². This has long been recognised as an important criterion to measure the performance of a chief (Dunn and Robertson, 1972). The tripartite arrangement under the SRF provides opportunities for chiefs to achieve this and bring development to their communities. However, it appears chiefs desire to fulfil this through their individual efforts rather than through some form of joint arrangement.

⁴⁰¹ i.e. the Moderator

⁴⁰² Field notes, September, 2010 and interviews

The role of community representatives in the SRF might seem to affect the power of chiefs alone to lobby for public goods, but their authority, especially over stool land is not affected. Chiefs' therefore depend on this to maintain their political authority. As a result traditional chiefs sometimes adopt and use subtle threats and intense lobbying in order to attract projects which they take personal credit⁴⁰³. A case in point was in 2010 when the chief of *Adausena* initially resisted access to some portion of the land required by Newmont for the construction of a resettlement village for inhabitants whose land was located within the mine lease area granted to the Company. To prove the level of his authority over the stool land the chief offered an alternative land which the Company deemed as unsuitable for the planned resettlement village. This resistance stalled progress in developing the mine project. The chief wanted to use this as a form of leverage which might attract money payments from the Company before the preferred site was released for the development of the resettlement site⁴⁰⁴. However, members of a sub-committee of the CNC negotiating for resettlement joined by members of the select committee of the SRF intervened to ensure that this did not cause undue delay in the development of the resettlement community.

Thus, although chiefs may find themselves involved in an unusual negotiations process over stool land they are able to use their traditional authority over stool land and to adapt to the evolving circumstances. This can affect the availability of land for development as the above has shown, and can have implication for the trust in traditional chiefs as providers of public goods. Therefore, having a forum which allows for participation of community members and district level state institutions to work towards co-production of public goods exercise some form of control over how chiefs exercise their authority for the overall benefits to community members.

Local institutions in problem solving

The existence of the SRF (as well as the CNC) facilitates development through informal hybrid institutions (comprising non-state⁴⁰⁵ and state institutions). What I have referred to in this chapter as multi-institutional form of co-production. The involvement of farmers, youth and women's associations, which are locally based and legitimised by

⁴⁰³ The threats are sometimes in the nature of not allowing mining their lands, if they are not supported in the implementation of development projects.

⁴⁰⁴ There were speculations within the local community that the chief had been offered money. But this was not verifiable since neither the Company nor the chief will confirm or deny this.

⁴⁰⁵ i.e. refers to the institution of chieftaincy and its associated bodies as well other socio-political groups at the local level

the inhabitants to represent them at the SRF, creates the opportunity for the participation of ordinary citizens in decision-making for development. It also ensures that benefits to be derived from the exploitation of minerals from within stool land is spread across all the mining-affected communities and not depend on the negotiating ability of individual chiefs. Although chiefs control stool land and revenue and can negotiate to bring development to communities, what is happening in BND seem to suggest that the provision of public goods might be better provided where other legitimate local institutions are working well, than by traditional authorities only.

Chiefs' Authority reinforced in the selection of community representatives

Chiefs played an important role in the selection and validation process of selecting local citizens to represent the communities at the negotiations. The selection of members to the SRF usually took place during community meetings. Prior to 2008 these were usually supervised by the chief and observed by staff from the Community Relations Department of Newmont. The list of selected representatives was then compiled and presented to the chief to be officially passed on to Newmont as representatives of the respective community. This arrangement seems to have given chiefs the power to validate community representatives for the SRF and could potentially allow only people who are loyal to chiefs to be given approval to serve on the SRF. However, under the framework agreement prepared for the SRF elections are expected to be organised and facilitated by the District Electoral Officer (DEO)⁴⁰⁶. Perhaps it was in recognition of the potential challenges it created.

8.6 Conclusion

In this chapter I have shown how multi-institutional co-production can contribute to the provision of public goods through the collaboration of locally based state and non-state institutions, which have various interests and rights over stool land and revenue. I have demonstrated that the failure to disclose and use stool revenue by chiefs for development, coupled with inadequate funding from the state can be overcome by taking advantage of investments in the local communities by private institutions which make use of local resources. Thus it is important to note that legitimate local institutions, which can represent the interests of local inhabitants are necessary for development to take place. The chapter also examined what the presence of the multi-

⁴⁰⁶ Akyem SRF Agreement between the Akyem Mine Local Community, BND and NGRL (2010)

institutional arrangement of co-production means for the authority of chiefs in the local communities

This chapter examined further local efforts aimed at addressing problems through the negotiations for developmental outputs. I have examined how the arrival of mining investment in the BND has led to the development of collaboration between local communities affected by mining operations, the local government authority responsible for planning development in the District and the mining company. These were main actors in a multi-institutional co-production arrangement to streamline and provide public goods. This co-production arrangement is one that has been developed based on needs and dependence and uses locally based association and groups of people. The Social Responsibility Forum (SRF) provided a public space for decision making and planning for the provision of public goods for the mining affected communities in the BND. However, the analysis showed that agreements made at the SRF were mainly based on a Memorandum of Understanding (MoU) amongst the three parties for implementation. The MoU also showed that the financial cost of public goods was contributed by all the parties, although it was Newmont that provided about two-thirds of the total cost.

The chapter pointed out that SRF and the co-production arrangement evolved from the under provision of public goods, which result from weak state capacity and failure of chiefs to channel stool revenue into development. However, since corporate institutions such as Newmont have the responsibility to ensure development occurs in their areas of operation the development of the SRF facilitates that this is achieved in a coordinated way. The findings showed that until the formation of the SRF the contribution of Newmont for development was targeted at individual communities and sometimes did not fit in with overall development plans of the BND. This also provided opportunity for chiefs to lobby the company directly to attract development to their respective communities. Although chiefs' ability to lobby projects worked it depended on a number of factors such as the status of the chief and the extent to which the company's activities directly impacted on the stool land. The SRF however aimed to control such personal networks from the provision of public goods, although findings from the analysis has shown that chiefs still maintain personal networks with officials of Newmont for development projects. It was also shown that because of the authority that chiefs have in stool land they tend to use it as a leverage when dealing privately with officials of Newmont. This created suspicion that they derive some private benefits from the Company.

Results of the perception in the communities on the authority of chiefs showed the lack of trust in chiefs' ability to provide public goods and in the use of stool revenue. However, the presence of the multi-institutional arrangement under the SRF has shifted attention from what traditional chiefs do with revenue that stool land produces. Local inhabitants now look up to what development outcomes are provided under SRF agreements. This shows that local communities now trust representatives on the SRF to be able to negotiate provision of public goods better than traditional authorities only.

Chapter 9

Summary and Conclusion

9.0 Introduction

This study explored traditional chieftaincy as a form of locally rooted political authority that provides problem-solving characteristics for development. The main focus of the research was to find out whether traditional chiefs can be effective and legitimate providers of developmental outcomes, linked to the way they exercise authority over land and natural resources. By focussing on Ghana, where traditional chieftaincy remains extremely strong and respected, I analysed data on how chiefly authority is exercised in practice over stool land. The main research question that this study examined was: *how and to what extent do traditional chiefs in practice manage collective land resources for and on behalf of their community?* Analyses of empirical data were undertaken to show the following: how stool land is managed (the authority and role of local level institutions - non-state and state); the specific role of traditional chiefs and how they exercise authority over stool land revenue, and the role of chiefs within two negotiations arenas for compensation and public goods; in particular how traditional authority is exercised within the complex mixture of institutions within these public spaces, and how legitimate is the authority exercised by chiefs in their communities? In the following section I would explain the theoretical background to the thesis and draw out the main findings of the research.

9.1 Summary of empirical findings

Chapters 2 and 3 provided the background to the thesis. The theoretical framework for this thesis draws on the literature on the nature of chiefly authority and the problem of legitimacy of political authority in African states. This, as the review of literature in chapter 2 showed is linked to the state of development in African countries. I also explored the concept of co-production to explain the findings of multi-institutional collaboration identified in the BND.

In chapter 3 I provided a detailed discussion on chiefs and the politics of land from an historical perspective. This was aimed at showing the nature and extent of authority chiefs' exercise over stool land in Ghana. This discussion focussed on chiefly authority from the pre-colonial through to the post-colonial period. I showed the implications of colonial rule on the authority of chiefs, in particular how chiefs became dependent on colonial laws for their authority, and the development of customary law, which shaped

land relations in Ghana. It was also shown how the position of chiefs under colonial administration and the policies of post-colonial governments contributed to ongoing contests and struggles for the control of stool land and the revenue it produces. These issues are more prevalent in urban and peri-urban areas where land has been commoditized compared to rural areas and in mining communities where the anticipated levels of compensation and royalty payments provide opportunity for wealth creation and political power (Owusu, 1970).

To aid the analyses I explored 4 interrelated set of sub-questions derived from the central question of the thesis (see chapter 1). The first question was: *how are stool land and natural resources managed in practice at the community level in Ghana?* This question sought to establish the framework as well as the actors and institutions that have rights and interests in stool land and their role, if any, in the management of stool land in the BND. In chapter 5 it was shown that there were a multiplicity of actors and institutions operating at different levels of authority over stool land. It was also shown how stool land in the District was regulated by both customary practices and statute law. The chapter provided evidence of how both state and non-state actors and institutions play important roles in the management of stool land. Chiefs are an important authority because of their customary position as traditional leaders of the communities. They are also empowered by custom, common law and statute law to manage stool land on behalf of members of their communities. However, the management of stool land was not left under the sole authority of chiefs; the state's public land agencies and the local government authority were also identified as key actors. The Lands Commission, represented at the district level by two agencies (that is the PVLMD and LVD), the OASL and the BNDA (the local government authority) were, expected to work in collaboration with the chiefs. However, as discussed in chapters 5 and 6 the study revealed that decisions about land transaction and uses were made by local chiefs supported by Plot Allocation Committees (PAC), which were not accountable to the local community members.

Chapter 6 was used to explore the sub-question: *How do chiefs in practice exercise authority over stool land revenue and their communities.* The first part of the chapter explored the different types and sources of stool land revenue and how they are managed. Thus, I examined the management structures employed by chiefs in the performance of their legal duties to the community. The thesis showed that in all the four case-study communities of the district (*New Abirem, Ntronang, Adausena and Praso Kuma*) the chiefs had constituted [pseudo-] land management bodies known

locally as PACs which operated under the directives of the chiefs. Members of the PACs were usually handpicked by the local chief to facilitate the allocation and collection of land revenue. What was significant about the PACs in all the communities was that apart from the sub-chiefs and members of the tradition council of elders the remaining members were drawn from the body of elected Unit Committees (UC). Thus, on the face of it the involvement of the UCs might seem to suggest that the PAC represented a popularly elected local institution for land management. But in practice they served only the interests of the chief who appointed them to the PAC. Further analyses revealed that since 1988 when the current decentralisation process in Ghana started, elections to the UCs have not been competitive, especially in the rural districts, and so they were often left to be filled up by unemployed youth and close associates of local chiefs. These findings also showed that stool land revenue was often fraught with a tradition of close decision making with no obligation for accountability. This tends to exacerbate the contestations and conflicts over the control of land revenue (Andreasen *et al*, 2010).

The findings from the above also seemed to suggest that chiefs had some level of authentic authority for controlling stool land in the manner as they did. I therefore explored a third sub-question: *what constitutes the basis of the authority that is exercised in practice by chiefs?* This was to help determine the legitimacy and acceptability of chiefs' actions and how they controlled revenue from stool land. The analyses showed that custom and statute laws were being reinterpreted to suit the personal interests of chiefs and those who controlled land. The result of this was the lack of openness in the way chiefs managed stool land, in particular the revenue it produces. Community members were denied benefits from the proceeds of land transactions and royalty payments. This had implications for the development of the local communities. This was because although chiefs were able to allocate land held by customary freeholders in return for drink money payments, the revenue was often treated as private income to the chiefs. Generally, local inhabitants tend not to challenge the authority exercised by chiefs to convert stool land for urban uses, although this, in practice undermined the customary freehold interest of indigenes. However, legally chiefs do not have the authority to undertake land use conversions since that is the mandate of the TCPD of the BNDA. But chiefs often did so privately by engaging officials of the TCPD to prepare site plans, which were then used to allocate land to meet the increasing demand for urban needs and mining in order to derive the wealth it creates and invariably for political power (Owusu, 1970).

The analysis helped to understand that although custom and tradition were important in the way chiefs' exercise authority over stool, this has been subject of constant negotiations and interpretations depending on the individuals providing historical account of land relations. The study also showed the implications of land conversions authorised by chiefs for the interests of the customary freeholders and statutory procedures. These findings were not isolated cases as studies by Berry (1993) and Ubink (2008) in other Akan areas of Ghana have shown. What was significant to note was that some chiefs were able to adapt better to the evolving circumstances. For instance, the states' public land sector agencies administrative practice which required chiefs to endorse all stool land grants was used by chiefs as the basis to command stool revenue, which remain largely unaccounted. Even where other forms of stool land revenue, received from indirect sources had been made public by the OASL, it was often treated as private income. Although community members did not seem to challenge some of these decisions, it was the failure of chiefs' to manage stool land revenue as expected by their subjects, which often created problems in the communities. The findings question the ability of chiefs' to fulfil their collective obligations as trustees of community land. The implication of these, as the study showed led to the growing lack of trust for chiefs' authority over stool land, especially since the arrival of the multi-national mining company, Newmont to invest in mining in the BND.

The manifestation of the problematic nature of chiefly authority over land in the case-study communities and the presence of Newmont had implications for the authority and mode of operation of the chiefs for local development. I therefore explored this by posing a fourth sub-question: *what are the outcomes from activities of chiefs at the local level, linked to the way stool land is managed?* This was examined by studying how mining investment in the BND, which had resulted in large acquisition of land for which compensation was required by law to be paid by Newmont, had resulted in the establishment of two negotiations committees (Compensation Negotiations Committee-CNC and Social Responsibility Forum- SRF). I showed how these two committees were unusual public spaces for negotiations compared to other mining communities in Ghana.

In chapters 7 and 8, I presented evidence of the politics of negotiating compensation for land (including other fixed property) and the provision of public goods under a multi-institutional arrangement, as a form of co-production. The analysis showed that unlike negotiations in other mining communities in Ghana, in the BND negotiations for

compensation for land was determined at a forum of elected representatives of all the local actors and institutions (see chapter 5) drawn from all the mining-affected communities. Decisions on compensation and provision of public goods were made by mutual agreement and from the collective efforts of all the members on the two committees. These issues were not left to be decided by traditional chiefs and Newmont, as was the practice in other mining communities. However, it was noted that the negotiations forums provided arenas for the exercise of political authority.

Although under the principles that established both the CNC and SRF all the actors and institutions were of equal status the analysis showed that under certain circumstances the importance of the authority the different institution were apparent. For instance, traditional chiefs' authority and knowledge of custom was respected in the negotiations. On the other hand this did not give them the power to solely enter into any form of negotiations about compensation and provision of public goods without the consent and approval of the two respective Committees. Chief's therefore relied on their traditional role as community leaders and custodians of stool land, which was essentially required for mining, as bargaining tools within the communities. While the system of negotiating compensation in the BND was to address the problems with the negotiating power of traditional authorities in compensation, it did not eliminate the relevance and authority that chiefs' exercised over stool land. This was because of Newmont's respect for chiefs as the custodians of stool land, which they did because access to land was an important factor for the success of their operations. This therefore made chiefs important in the negotiations process. The recognition given to chiefs by Newmont however, created a negative perception amongst community members about chiefs' relationship with the Company.

The results also showed that the presence of Newmont has had implications for the perception of chiefly authority in the communities. The nature of the multi-institutional arrangement under the SRF seem to have shifted attention from what traditional chiefs do with the revenue that comes to them from stool land (Table 17). This is because the local inhabitants looked up to what development outcomes were provided under SRF agreements. The significance of this finding was that legitimate local institutions which represented the interests of local inhabitants were important for development at the local level.

9.2 Wider Implications of the empirical conclusions

The following discusses the above empirical conclusions within the context of their implications for the arguments about the legitimacy of traditional authority and investments in public goods in contemporary African states

9.2.1 Traditional authority and development

The empirical conclusions drawn from the BND case study has implications for debates in the literature about the legitimacy of traditional authority and development in modern African states. Landell-Mills (1992) and Englebert (2000) have argued that contemporary African states' that have developed governance structures and policies that are based on their pre-colonial historic identity that was primarily traditional have done better at solving the problem of legitimacy of authority for development to occur in these post-independence states. This argument on the one hand presupposes the existence of an authentic form of legitimate political authority that facilitated development. On the other hand it assumes that economic stagnation occurs in states where pre-colonial and post-colonial forms of political authority are disconnected. It is further argued that the legitimacy of political authority is important for development because it allows political leaders to focus more on developing and implementing policies that enhance development (Englebert, 2000).

This study has shown that although chieftaincy is an established legitimate political institution in Ghana, the exercise of chiefly authority at the local level does not necessarily lead to development. A number of factors that account for this include; the continuous reinterpretation of customary principles as it applies to over stool land by chiefs to claim ownership and the establishment of poorly constituted land management structures that are not responsive to the community. These have created negative perceptions about chiefs as legitimate providers of development. It is also imperative to note that traditional authority is evolving in contemporary societies as a result of other influencing factors such as urbanisation and decentralisation policies of modern state governments. These factors as the analyses have shown have implications for the authority that chiefs exercise over their communities. Thus the conclusion that can be drawn from this is that traditional authority is necessary but not sufficient for development to occur. As a result chiefs might not be able to provide the form of legitimate leadership envisaged for the development of Africa.

Notwithstanding the preceding conclusion about the sufficiency of chiefly authority for development to take place scholars who have studied the resurgence of traditional

authorities in Africa provide a number of factors that might account for recent renewed interests for traditional authorities to perform important roles for development. These factors are related to governance of the modern state. It has been identified that chiefs' ability to mobilise local communities is important for the improvement of local governance (Buur and Kyed, 2007; Ubink, 2008a). Ubink (2008a:13-15) outlines the following as the justification for governments renewed interest in traditional authority:

- (1) ability to mobilise local people for development,
- (2) the legitimacy of traditional leaders and the hope to strengthen the position of government through the integration of tradition into governmental power,
- 3) chiefs act as intermediaries between government and the local people,
- (4) government's need for the co-cooperation of chiefs to achieve legislative hegemony,
- (5) for state measures and policies to meet less resistance from chiefs and
- (6) chiefs' customary courts for dispute resolution are popular in some countries as it is easily accessible, affordable and without procedural technicalities of the state's court system.

Although these are plausible reasons to engage interest in traditional authorities the question that might be asked is how are these possible where the local populace perceive traditional authority to be weak and lack trust in it. Perhaps the factors outlined above might be realistic where the majority of community members favoured and respected the authority of chiefs. The case-studies in the BND showed that where chiefs are trusted as legitimate authorities that can bring development usually the authority exercised over land are not contested as evidenced by the level of trust in the chief of *Praso Kuma*⁴⁰⁷. On the other hand in the remaining three case study communities perceptions about chiefs' capacity to invest in public goods were lowly rated. Under such circumstances, although state governments might seek to collaborate with traditional authority in the governance and development of the respective communities there is the potential that this might fail because of the lack of respect for chiefs' authority. This thesis therefore cautions against theories that seem to suggest traditional authority as the most effective form of locally rooted authority for the development of Africa.

⁴⁰⁷ See Table 16 and Table 17

9.2.2 Contemporary "traditional" chiefs and development

The authority that chiefs exercise in some parts of SSA is often labelled "traditional". Referring to chiefs authorities as traditional does not connote a static form of authority. Contemporary African chiefs are perhaps traditional only in the sense that they derive legitimacy authority from pre-colonial history, customs and practices in African societies. It is important to also note that some chiefs in Africa are mainly appointed by the state such as in Malawi there are Town chiefs (Cammack *et al*, 2010). Tradition is dynamic and hence chieftaincy as an institution also continuous to evolve. Under colonial rule chiefs were given the power to tax and distribute land by the colonial authority. The period of colonial administration therefore provided chiefs with a multiple source of authority to govern and thus, chiefs began to enjoy dual legitimacy of authority (Mamdani, 1996; Sharma, 2003; 2004).

This study showed how post-colonial governments pursued deliberate policies that were aimed at curtailing the power of traditional chiefs, but because of a lack of institutional capacity to govern the rural areas without chiefs they had to preserve chieftaincy through regulations (Baldwin, 2011; Herbst, 2000). Thus in some modern states in SSA (e.g. Botswana, Uganda, South Africa and Ghana) chieftaincy as an institution is now guaranteed under Constitutions which provide for the establishment of National Houses of Chiefs (Sharma, 2004). Chiefs therefore continue to enjoy dual sources of legitimacy of authority, which was started in the colonial period. The contemporary chief is therefore able to claim protection for the legitimacy of authority from either pre-colonial histories or culture and state laws.

Chiefs have become neo-traditional local leaders who are re-inventing themselves and adapting to changes to enable them engage with various aspects of development in local communities. Thus, in Botswana, Ghana and in South Africa, for instance chiefs remain important authorities to be engaged with by state and non-state institutions for collaborations for development. In SSA countries such as Lesotho and Botswana traditional authorities form an integral part of the local government structure for development (Sharma, 2003; 2004.; Landell-Mills, 1996). Generally some contemporary chiefs have assumed powerful political status because of the duality of legitimacy of authority. Thus, chiefs who are have strong political connections with the state's political system are able to exercise authority for personal benefits rather than seek community gains and yet remain as political authority for their communities. Although their actions might be construed to be illegitimate by their subjects and not

obeyed they continue to be chiefs because of the protection they get from state institutions⁴⁰⁸.

Thus it can be argued that where the legitimacy of authority exercised by contemporary chiefs in SSA is derived from dual sources it is an anachronism to continue to refer to them as "traditional" chiefs.

9.2.3 Mining investment and the development of local communities

The study has shown that because of the problematic nature of the authority that chiefs exercise in practice, the lack of legitimacy, transparency and accountability over stool land transactions provided the impetus for the development of multi-institutional form of co-production for the delivery of public goods.

The system of negotiating compensation and public goods in the BND constitutes a paradigm shift from what is known in other mining communities. While compensation payments have often been negotiated between traditional authorities and respective mining companies leading to property dispossession (Akabzaa, 2000; Akabzaa *et al*, 2007; Tsuma, 2010; Ayelazuno, 2011), investments in public goods have often been left to the discretion of the mining companies who consider this as Corporate Social Responsibility (CSR). This is because corporate institutions have often argued that they have CSR to ensure that communities in their operational areas are not worse off because of their activities. It has been estimated that corporate bodies spend between 0.5-1 percent (%) of profit after tax on CSR, and employ between 1-1.3 percent (%) of the total labour force in Ghana (Owusu-Koranteng, 2008:470; Gough and Yankson, 2012: 661). These estimates might seem to suggest that mining companies are not making much contribution to the development of local communities. Thus, Tsuma (2010) has questioned whether the CSR initiatives were not merely public relation tools used by mining companies to gain access to local resources, and which benefits are captured by a minority group (traditional authorities), who are supposed to be acting on behalf of the majority of inhabitants living in these communities (Tsuma, 2010:65). However, it can be argued that the results of the perception of community members about Newmont's activities in the BND and the existence of the multi-institutional co-production negotiations systems are good corporate practices. This is innovative system work ensures that benefits from the Company's operations are not claimed by only a powerful elite minority group in the mining affected communities.

⁴⁰⁸ Legitimacy is based upon the extent to which citizens accept and follow the decisions made by political authorities (Lutz and Linder, 2004)

The study has also shown that establishment of the multi-institutional co-production forum was based on mutual needs and dependence and targeted to supply the most sought-after community needs, which were lacking. This form of locally based institution resonates with findings made by scholars of the APPP in other SSA. The conclusion they have made is that the failure of public authorities to provide public goods in Africa is linked to lack of institutions which take into account local cultures and practices (Cammack and Kanyongolo, 2010; Booth, 2011; Cammack, 2011; Olivier de Sardan, 2011 (b); Workman, 2011; Leinweber, 2012). Empirical findings from across selected SSA including Malawi, Sierra Leone, Niger and the Democratic Republic of Congo show how the development of different forms of local arrangements among various institutions have been approved for the co-delivery of public services such as water and sanitation, safe motherhood, market management, public safety and education. These services are provided based on formal and informal collaborations made under complex forms of co-production arrangements that make use of existing knowledge of local cultural repertoires.

This thesis contributes to the literature above and argues that multi-institutional forms of co-production, such as the SRF in the BND, which have shown characteristics and potential capacity to solve local problems. Multi-institutional co-production should now be the focus of attention for development initiatives in Africa rather than considerations for increasing the role of traditional chiefs. Thus, one of the main conclusions that this thesis draws from the Ghana case study is that perhaps there is the need to take a more nuanced less negative view of how mining companies are working in Africa that potentially can contribute to development in local communities.

9.2.4 Strengthening chiefs authority through customary land administration

Some of the problems which have contributed to the negative perception and lack of trust for chiefs' authority are due to how stool revenue is managed. This study showed how chiefs have collaborated with and adapted elected representatives of state institutions (UC) to enhance authority over stool land in order to control the revenue that it produces. The findings from analysis of politics of land management by chief confirms studies conducted in peri-urban areas of Accra and Kumasi in Ghana by Kasanga (1988; 2001), Ubink (2008) and Andreasen *et al* (2011). However, under the multi-donor funded Ghana Land Administration Project (LAP) between 2004 and 2009 the government of Ghana started piloting support to traditional authorities to establish

Customary Land Secretariats (CLS) to facilitate the management of stool lands⁴⁰⁹. Under the LAP traditional authorities were supported for the development of ‘an effective, accountable local structures for administration of land [including dispute settlement] with particular attention to be paid to strengthening the capacity of CLS’⁴¹⁰. The idea was to enable traditional authorities to perform better their legal mandate as managers of community land.⁴¹¹

By the end of the project in 2009, thirty-seven (37) traditional authorities had been supported to establish CLSs (although most of them remained less functional). These CLSs are under the direct control of traditional authorities, usually chiefs or heads of families⁴¹². The chiefs are responsible for the recruitment of staff and are expected to pay their salaries from the revenue from stool land transactions. Although, the CLS concept and the purpose for which it was developed are laudable, in practice it seems to bolster the authority of traditional leaders sanctioned by the state system. The implication of this is that it provides a legal basis, not just an administrative procedure as the study showed, for chiefs to assume the authority to document land transactions and collect stool revenue. This has the potential to create additional opportunities for chiefs to consolidate private control of stool land and the revenue it generates to enrich themselves, thereby denying community members access to enjoy benefits on community land.

This study has shown how in *New Abirem*, *Adausena* and *Ntronang* the chiefs privately employ the services of officials of TCPD to prepare site plans for allocation of land (see chapter 6 and 7). This is widely practiced in parts of Ghana. Chiefs have also adapted the UCs to perform land management functions by acting as PAC in the various communities. The PACs are engaged in the allocation of plots to prospective developers for and on behalf of chiefs and to whom the revenue this generates are accounted. These practices do not augur well for the implementation of the CLS concept, without some form of direct state intervention. On the other hand stool lands are private lands of communities and do not constitute public lands and so the state is not obliged to be directly involved. These dilemmas compound the challenge facing the state in its attempt to finding solutions to making chiefs more transparent and accountable in the way they manage community land as was envisaged under the CLS

⁴⁰⁹ Phase one of the LAP was supported by the World Bank and other development partners including the Department for International development (DFID, United Kingdom).

⁴¹⁰ LAP Customary Administration Unit (CLA) completion report, September, 2009

⁴¹¹ The 1992 Constitution Article 36(8)

⁴¹² In family land areas

concept. The way chiefs in the case study communities of the BND have evolved the local land management practices and the claims they make to control land, and Ghana's attempt to streamlining customary land transactions, which are mainly under chiefs authority provides important lessons for land governance in SSA countries.

9.3 Study significance and contribution to knowledge

This thesis makes an important contribution to current debates about legitimacy of authority linked to the problems of state failure and the lack of development in Africa. I used the exercise of traditional authority by chiefs in the Ghana case-study to show the following.

Firstly, traditional chiefs' dependence on custom and tradition do not make them effective and legitimate leaders for development. This study highlighted the problems of lack of trust in chiefs' authority over stool land for the development of local communities. The BND case-studies helped to examine the basis of authority exercised in practice by chiefs. The study demonstrated that although chiefs' depend on custom, common law and statute to claim legitimacy of the authority exercised over stool land in practice these have not helped them to perform their collective obligation to communities as expected. This was because of the way chiefs reinterpreted and sometimes reinvented their authority in contrast to extant customary and traditional principles. The result is lack of respect for some traditional leaders. Chiefs' are therefore perceived as less effective to invest in the development of local communities. The study therefore concluded by arguing that there was the need to focus attention on other legitimate local political authorities that constitute multi-institutions (state and non-state) as a form of co-production for development in Africa and the developing world.

Secondly, there is more to be learned from the way mining companies might potentially contribute to development of local communities. Thus, the thesis also makes a contribution to debates about the implications of the activities of mining companies operating in Africa and the developing world and the implications for local development. This study draws attention to the general negative perception about mining companies being exploitative but demonstrates with the BND case-study in Ghana that perhaps we need to take a more nuanced and less automatically negative perspective about the activities of mining companies and their potential contribution to development, especially in mining-affected communities.

9.4 Concluding remarks

This study helped to further explore issues about traditional authority in Africa as the legitimate and effective authority to promote development. This has been done by examining how traditional chiefs within the mining enclave of BND exercised authority over stool land revenue that it produces. By examining the outcomes and implications of how chiefs exercise authority in practice in selected case study communities, this thesis questioned the extent to which custom and tradition (through which chiefs derive their traditional authority) might make chiefs effective legitimate local leaders for development. This is because currently urbanisation, decentralisation policies and globalisation are important influencing factors that are shaping development taking place in Africa.

Apart from the contribution that this study makes to current debates on the subject of traditional authority and the politics of development on a personal note it has broadened my scope of knowledge. Undertaking this study has helped me gained in-depth understanding and knowledge about chiefs and the politics of local development in Ghana and Africa. However, this thesis does not claim an exhaustive conclusion on the findings and contribution to the literature on the problems of legitimacy of authority for Africa's development. The main empirical conclusions drawn from the study that are however important for current discourse in the literature are:

- (1) Traditional authorities might be important political institutions in Ghana, but how chiefs exercise authority over community land is not sufficient for traditional authorities to be promoted as effective legitimate political authorities expected for local development. It is therefore important to exercise caution in the elevation of traditional authority as the most effective legitimate form of locally rooted political authority for development in Africa, as some scholars have proposed. Rather attention should be focussed on the use of multi-institutional co-production arrangements which are legitimate at the local level, and have problem-solving potentials for development.
- (2) The thesis also provides evidence to show that in spite of the negative perceptions about mining companies, they do make effective contributions to development through investments in public goods at the local level. There should therefore be a more nuanced but less negative view of the activities of mining companies and how they can potentially contribute to local development in Africa.

References

- Addo-Fenning, R. (2008) The Relevance of Traditional Governance. IN Agyeman-Duah, Baffour (Ed.) *Ghana: Governance in the Fourth Republic*. Accra, The Ghana Centre for Democratic Governance.
- Akabzaa, T. & Darimani, A. (2001) Impact of Mining Sector Investment in Ghana: A Study of the Tarkwa Mining Region. SAPRI, January 2001.
- Akabzaa, T.M. (2000) *Boom and Dislocation: The Environmental and Social Impacts of Mining in the Wassa West District of Ghana*. Accra, Third World Network-African Secretariat.
- Akabzaa, T.M., Seyire, J.S. & Afriyie, K. (2007) *The Glittering Façade: Effects of Mining Activities on Obuasi and Its Surrounding Communities*, Accra, Third World Network-Africa Secretariat.
- Alden, W., Liz (2003) Governance and Land Relations: Review of Decentralisation of Land Administration and Management in Africa. London, International Institute for Environment and Development.
- Alden, W., Liz & Hammond, D. (2001) Land Security and the Poor in Ghana: Is There a Way Forward; a Land Sector Scoping Study. London, DFID.
- Allot, A. (1970) *New Essays in African Law*, London, Butterworth and Co Ltd.
- Amanor, K., S & Diderutuah, K., M (2001) *Share Contracts in the Oil Palm and Citrus Belt of Ghana*, London, International Institute for Environment and Development.
- Amanor, K.S. (1999) Global Restructuring and Land Rights in Ghana: Forest Chains, Timber and Rural Livelihoods. Uppsala, Nordiska Afrikainstitutet.
- Amanor, K.S. (2008) The Changing Face of Customary Tenure. IN Ubink, M. Janine & Amanor, S. Kojo (Eds.) *Contesting Land and Custom in Ghana: State, Chief and the Citizen*. Leiden, Leiden University Press.
- Andreasen, J., Andersen, J.E. & Inkoom, D.K.B. (2011) Land and Revenue in a "Traditional Town" In Ghana: The Case of Nkwanta Sub-Division in Mpasatia. *Environment and Urbanization*, 23, 539-561.
- Awortwi, N. (2010a) The Past, Present, and Future of Decentralization in Africa: A Comparative Case Study of Local Government Development Trajectories of Ghana and Uganda. *International Journal of Public Administration*, 33, 620-634.
- Awortwi, N. (2010b) Building New Competencies for Government Administrators and Managers in an Era of Public Sector Reforms: The Case of Mozambique. *International Review of Administrative Sciences*, 76, 723-748.
- Ayee, R.A.J. (1994) *An Anatomy of Public Policy Implementation: The Case of*

- Decentralization Policies in Ghana*, Aldershot, Avebury.
- Ayelazuno, J. (2011) Continuous Primitive Accumulation in Ghana: The Real-Life Stories of Dispossessed Peasants in Three Mining Communities. *Review of African Political Economy*, 38:130, 537-550.
- Ayittey, G. B.N (1991) *Indigenous African Institutions*, Ardsley-on-Hudson, Transnational Publishers.
- Baldwin, K. (2011) When Politicians Cede Control of Resources: Land, Chiefs and Coalition Building in Africa: *Afrobarometer Working Paper Series paper no. 10*
- Bates, R.H. (2005) *Markets and States in Africa: The Political Basis of Agricultural Policies*, Berkeley, CA, University of California Press.
- Berry, S. (1993) *No Condition Is Permanent: The Social Dynamics of Agrarian Change in Sub-Saharan Africa*, Madison, The University of Wisconsin Press.
- Berry, S. (2001) *Chiefs Know Their Boundaries: Essays on Property, Power, and the Past in Asante, 1896-1996*, Portsmouth NH, Heinemann.
- Berry, S., Sara (2008) Ancestral Property: Land, Politics and 'the Deeds of Ancestors' in Ghana and Cote d'Ivoire. IN Ubink, M. Janine & Kojo, Amanor S. (Eds.) *Contesting Land Custom in Ghana: State, Chief and the Citizen*. Leiden, Leiden University Press.
- Boni, S. (2005) *Clearing the Ghanaian Forest: Theories and Practices of Acquisition, Transfer and Utilization of Farming Titles in the Sefwi-Akan Areas*, Legon, Accra, Institute of African Studies.
- Boni, S. (2008) Traditional Ambiguities and Authoritarian Interpretations in Sefwi Land Disputes. IN Ubink, M. Janine & Amanor, Kojo.S (Eds.) *Contesting Land and Custom in Ghana: State, Chief and the Citizen*. Leiden, Leiden University Press.
- Booth, D. (2009) Elites, Governance and the Public Interest in Africa: Working with the Grain? *Discussion Paper No.6* London, Africa Power and Politics Programme.
- Booth, D. (2011) Introduction: Working with the Grain? The Africa Power and Politics Programme. *IDS Bulletin*, 42, 1-10.
- Brempong, A. (2007) *Transformations in Traditional Rule in Ghana*, Accra, Institute of African Studies.
- Bryman, A. (2008) *Social Research Methods*, New York, Oxford University Press Inc.
- Busia, K.A. (1951) *The Position of the Chief in the Modern Political System of Ashanti: A Study of the Influence of Contemporary Social Changes on Ashanti Political Institutions*, London, New York, Toronto, Oxford University Press.
- Buur, L. & Kyed, H.M. (2005) *State Recognition of Traditional Authority in Mozambique:*

- The Nexus of Community Representation and State Assistance*, Uppsala, Nordiska Afrikainstitutet.
- Buur, L. & Kyed, H.M. (Eds.) (2007) *State Recognition and Democratization in Sub-Saharan Africa: A New Dawn for Traditional Authorities?* New York, Palgrave MacMillan.
- Cammack, D. (2011) Local Governance and Public Goods in Malawi. *IDS Bulletin*, 42, 43-52.
- Cammack, D. & Booth, D. (2008) Africa Power and Politics Programme: Local Leadership Summary. London, Overseas Development Institute.
- Cammack, D. & Kanyongolo, E. (2010) Local Governance and Public Goods in Malawi. *Africa Power and Politics Programme Working Paper Series no. 11*.
- Cammack, D., Kanyongolo, E., & O'Neil T. (2008) Town Chiefs in Malawi. *Africa Power and Politics Programme Working Paper Series*
- Chanock, M. (1985) *Law, Custom and Social Order: The Colonial Experience in Malawi and Zambia*, Cambridge, Cambridge University Press.
- Chanock, M. (1998) *Law, Custom and Social Order: The Colonial Experience in Malawi and Zambia*, Portsmouth, Heinemann
- Clapham, C. (1985) *Third World Politics: An Introduction*, London, Routledge
- Colson, E. (1969) African Society at the Time of the Scramble. IN Gann, L.H & Duignan, Peter (Eds.) *Colonialism in Africa 1870 - 1960*. Cambridge, Cambridge University Press.
- Crawford, G. (2004) Democratic Decentralisation in Ghana: Issues and Prospects. *POLIS Working Paper No. 9*. University of Leeds.
- Crawford, G. (2010) Decentralisation and Struggles for Basic Rights in Ghana: Opportunities and Constraints. *The International Journal of Human Rights*, 14, 92-125.
- Creswell, W.J. (2009) *Research Design: Qualitative, Quantitative and Mixed Methods Approaches*, Los Angeles, London, Sage Publications Inc.
- Crook, R. C. (1986) Decolonisation, the Colonial State and Chieftaincy in the Gold Coast. *African Affairs*, 85(338), 75-105.
- Crook, R. & Booth, D. (Eds.) (2011) *Working with the Grain? Rethinking African Governance*, Oxford, Blackwell Publishing Ltd.
- Crook, R.C. (1987) Legitimacy, Authority and the Transfer of Power in Ghana. *Political Studies*, 35: 552-572.
- Crook, R.C. (2008) Customary Justice Institutions and Local Alternative Dispute Resolution: What Kind of Protection Can They Offer to Customary

- Landholders? IN Ubink, J, M & Amanor, Kojo.S (Eds.) *Contesting Land and Custom in Ghana: State, Chief and the Citizen*. Leiden, Leiden University Press.
- Crook, R.C. & Manor, J. (1998) *Democracy and Decentralisation in South Asia and West Africa: Participation, Accountability and Performance*, Cambridge, Cambridge University Press.
- Crowder, M. & Ikime, O. (1970) Introduction to West African Chiefs. IN Crowder, Michael & Ikime, Obaro (Eds.) *West African Chiefs: Their Changing Status under Colonial Rule and Independence*. New York, Africana Publishing Corporation.
- Danquah, J.B. (1928) *Gold Coast: Akan Laws and Custom and the Akyem Abuakwa Constitution*, London, George Routledge and Sons Limited.
- Dunn, J. & Robertson, F., A (1973) *Dependence and Opportunity: Political Change in Ahafo*, Cambridge, Cambridge University Press.
- Economic Commission for Africa (2007) Relevance of African Traditional Institutions of Governance. Addis Ababa, Economic Commission for Africa. www.uneca.org.
- Englebert, P. (2000) *State Legitimacy and Development in Africa*, Boulder & London, Lynne Reiner Publishers, Inc.
- Field, J.M. (1948) *Akim Kotoku: An Oman of the Gold Coast*, London, The Crown Agents for the Colonies.
- Firmin-Sellers, K. (1996) *The Transformation of Property Rights in the Gold Coast: An Empirical Analysis Applying Rational Choice Theory*, Cambridge, Cambridge University Press.
- Gough, K.V. & Yankson, P.W.K. (2000) Land Markets in African Cities: The Case of Peri-Urban Accra, Ghana. *Urban Studies*, 37, 2485-2500.
- Gough, K.V. & Yankson, P.W.K. (2012) Exploring the Connections: Mining and Urbanisation in Ghana. *Journal of Contemporary African Studies*, 30: 4, 651-668.
- Grischow, J.D. (2008) Rural Community, Chiefs and Social Capital: The Case of Southern Ghana. *Journal of Agrarian Change*, 8, 64-93.
- Hammer, M. (1998) "Stool Rights" And Modern Land Law in Ghana: A Geographical Perspective on the Transformation of Tradition. *Afrika Spectrum*, 33, 311-338.
- Herbst, J. (2000) *States and Power in Africa: Comparative Lessons in Authority and Control*, Princeton, NJ, Princeton University Press.
- Hill, P. (1963) *The Migrant Cocoa-Farmers of Southern Ghana. A Study in Rural Capitalism*, Cambridge, Cambridge University Press.

- Hobsbawm, E. & Ranger, T. (Eds.) (1983) *The Invention of Tradition*, Cambridge, Cambridge University Press.
- Hyden, G. (2010) Political Accountability in Africa: Is the Glass Half-Full or Half Empty. *APPP Working Paper no.6, January 2010*.
- Jackson, R.H. & Rosberg, C.G. (1982) *Personal Rule in Black Africa*, Berkeley, Los Angeles, University of California Press.
- Jørgensen, J.J. (1981) *Uganda: A Modern History*, London, Croom Helm Ltd.
- Joshi, A. & Moore, M. (2004) Institutional Co-Production: Unorthodox Public Service Delivery in Challenging Environments. *The Journal of Development Studies*, Vol.40, 31-49.
- Kasanga, K. (2000) Land Administration Reforms and Social Differentiation: A Case Study of Ghana's Land Commission. *International Workshop on the rule of Law and Development*. London, Institute of Development Studies, UK.
- Kasanga, K. & Kotey, N.A. (2001) *Land Management in Ghana: Building on Tradition and Modernity*, London, IIED.
- Kasanga, R.K. (1988) *Land Tenure and the Development Dialogue: The Myth Concerning Communal Landholding in Ghana*, Cambridge: Department of Land Economy, University of Cambridge.
- Kilson, M. (1966) *Political Change in a West African State: A Study of the Modernization Process in Sierra Leone*, Cambridge, Harvard University Press.
- Körling, G. (2011) In Search of the State: An Ethnography of Public Service Provision in Urban Niger. IN Beach, Hugh (Ed.) *Uppsala Studies in Cultural Anthropology No.51*. Uppsala, Uppsala University.
- Kotey, N.A. (1995) Land and Tree Tenure and Rural Development Forestry in Northern Ghana. *University of Ghana law Journal* 102 -132.
- Landell-Mills, P. (1992) Governance, Cultural Change and Empowerment. *The Journal of Modern African Studies*, 30 (4), 543-567.
- Larbi, W.O. (1994) Urban Land Policies and the Delivery of Developable Land in Ghana. *Unpublished PhD*. Reading, University of Reading.
- Larbi, W.O. Antwi, A. & Olomolaiye, P. (2003) Land Valorisation Processes and State Intervention in Land Management in Peri-Urban Accra, Ghana. *International Development Planning Review*, 25 (4), 355-371.
- Leftwich, A. (1983) *Redefining Politics: People, Resources and Power*, London, Methuen and Co Limited
- Leftwich, A. (2000) *States of Development: On the Primacy of Politics of Development*, Cambridge, Polity Press.

- Leinweber, A. (2012) Muslim Public Schools in Post-Conflict Democratic Republic of Congo. *APPP Working Paper no. 22 May 2012*.
- Lentz, C. (1995) 'Unity for Development': Youth Associations in North-Western Ghana. *Africa: Journal of the International African Institute*, 65, 395-429.
- Leonard, D.K. (Ed.) (2000) *Africa's Changing Markets for Health and Veterinary Services: The New Institutional Issues*, Palgrave Macmillan.
- Lindberg, I.S. (2009) Member of the Parliament of Ghana: A Hybrid Institution with Mixed Effects. *APPP Working Paper no.2 May 2012*.
- Lindberg, I.S. (2010) Some Evidence of the Demand Side of Private-Public Goods Provision by Members of Parliament. *APPP Working Paper no. 8, February 2012*.
- Lund, C. (2008) *Local Politics and the Dynamics of Property in Africa*, Cambridge, Cambridge University Press.
- Lutz, G. & Linder, W. (2004) Traditional Structures in Local Governance for Development. Report Commissioned by the World Bank. Berne, Switzerland
- Mamdani, M. (1996) *Citizen and Subject*. Princeton. Princeton University Press
- Mann, K. & Roberts, R. (1991) Law in Colonial Africa: Introduction. IN Mann, Kristin & Roberts, Richard (Eds.) *Law in Colonial Africa*. First ed. Portsmouth, Heinemann Educational Books Ltd.
- Masud, M., O (2002) Co-producing Citizen Security: the Citizen-Police Liaison Committee in Karachi. *Institute of Development Working Paper 172*
- Mengisteab, K. (2005) African Traditional Institutions of Governance: The Case of Eritrea's Village *Baito*. IN Olufemi, Vaughan (Ed.) *Tradition and Politics: Indigenous Political Structures in Africa*. Trenton, African World Press Inc.
- Nugent, P. (2004) *Africa since Independence: A Comparative History*, New York, Palgrave Macmillan.
- Odotei, I., K. & Awedoba, A., K (Eds.) (2006) *Chieftaincy in Ghana: Culture, Governance and Development*, Accra, Sub-Sahara Publishers.
- Olivier de Sardan, J.-P. (2011a) Local Powers and the Co-Delivery of Public Goods in Niger. *IDS Bulletin*, 42, 32-42.
- Olivier de Sardan, J.-P. (2011b) The Eight Modes of Local Governance in West Africa. *IDS Bulletin*, 42, 22-31.
- Ollenu, N.A. (1962) *Principles of Customary Land Law in Ghana*, London, Sweet & Maxwell.
- Oomen, B. (2000) *Tradition on the Move: Chiefs, Democracy and Change in Rural South Africa*, Amsterdam, Netherlands Institute for Southern Africa.

- Oomen, B. (2005) *Chiefs in South Africa: Law, Power and Culture in the Post-Apartheid Era*, Oxford, James Currey.
- Ostrom, E. (1996) Crossing the Great Divide: Coproduction, Synergy, and Development. *World Development*, 24, 1073-1087.
- Owusu, M. (1970) *Uses and Abuses of Political Power: A Case Study of a Continuity and Change in the Politics of Ghana*, Chicago, Chicago University Press.
- Owusu-Koranteng, D. (2008) Mining Investment and Community Struggles. *Review of African Political Economy*, 35:117, 467-473.
- Ranger, T. (1983) The Invention of Tradition in Colonial Africa. IN Hobsbawm, E & Ranger, T (Eds.) *The Invention of Tradition*. Cambridge, Cambridge University Press.
- Rathbone, R. (1996) Defining Akyemfo: The Construction of Citizenship in Akyem Abuakwa, Ghana, 1700-1939. *Africa: Journal of the International African Institute*, 66, 506-525.
- Rathbone, R. (2000) *Nkrumah and the Chiefs: The Politics of Chieftaincy in Ghana 1951-60*, Oxford, James Currey.
- Rattray, R.S. (1929) *Ashanti Law and Constitution*, Oxford, Clarendon Press.
- Richards, A. & Kuper, A. (Eds.) (1971) *Councils in Action*, Cambridge, Cambridge University Press.
- Robertson, F., A (1971) The Development of Town Committees in Ahafo, Western Ghana. IN Audrey, Richards & Kuper, Adam (Eds.) *Councils in Action*. Cambridge, Cambridge University Press.
- Sandbrook, R. (1985) *The Politics of Africa's Economic Stagnation*, Cambridge, Cambridge University Press.
- Sandbrook, R. (1986) The State and Economic Stagnation in Tropical Africa. *World Development*, 14, 319-332.
- Sandbrook, R. (2005) Africa's Great Transformation? *Journal of Development Studies*, 41 no. 6, 118-25.
- Sharma, K., C (2004) Role of Traditional Structures in Local Governance for Local Development: The Case of Botswana. Report Prepared for the World Bank Institute, Washington
- Sharma, K. C (2003) Traditional Leadership and Rural Local Government in Botswana IN Ray, D. & Reddy, P.S. (2003) *Grass-Roots Governance? Chiefs in Africa and the Afro-Caribbean*. Calgary. University of Calgary Press
- Smith, J. (1970). The Relationship of the British Political Officer to His Chief in Northern Nigeria. IN Crowder, Michael & Ikime, Obaro (Eds.) *West African Chiefs: Their*

- Changing Status under Colonial Rule and Independence*. New York, Africana Publishing Corporation.
- Thomas & Gary (2011) *How to Do Your Case Study: A Guide for Students and Researchers*, London, Sage Publications.
- Tonah, S. (2002) Fulani Herdsmen, Indigenous Farmers and the Contest for Land in Northern Ghana. *Afrika Spectrum*, 37(1), 43-60.
- Tonah, S. (2008) Chiefs, Earth Priests and the State: Irrigation Agriculture, Competing Institutions and the Transformation of Land Tenure Arrangements in North-Eastern Ghana. IN Ubink, J, M & Amanor, Kojo.S (Eds.) *Contesting Land and Custom in Ghana: State, Chief and the Citizen*. Leiden, Leiden University Press.
- Tsuma, W. (2010) *Gold Mining in Ghana: Actors, Alliances and Power*, Bonn, University of Bonn.
- Ubink, J. (2007) Traditional Authority Revisited: Popular Perceptions of Chiefs and Chieftaincy in Peri- Urban Kumasi, Ghana. *Journal of Legal Pluralism*, 55,123-161.
- Ubink, J. (2008a). Traditional Authorities in Africa: Resurgence in an Era of Democratisation. Leiden, Leiden University Press.
- Ubink, J.M. (2008b) Struggles for Land in Peri- Urban Kumasi and Their Effect on Popular Perceptions of Chiefs and Chieftaincy. IN Ubink, J, M & Amanor, Kojo.S (Eds.) *Contesting Land and Custom in Ghana: State, Chief and the Citizen*. Leiden, Leiden University Press.
- van de Walle, N. (2001). *African Economies and the Politics of Permanent Crisis, 1979-1999*, Cambridge, Cambridge University Press.
- Weber, M. (1968) *Economy and Society*, Berkeley, University of California
- Woodman, R.G. (1996). *Customary Land Law in the Ghanaian Courts*, Accra, Ghana Universities Press.
- Workman, A. (2011). The Politics of Public Goods Provision on Post-Conflict Makeni, Sierra Leone: Co-Productive Relationships between the City Council and Interest-Based Associations. *APPP Working Paper 15*.
- Yankson, P.W.K. (2010). Gold Mining and Corporate Social Responsibility in the Wassa West District, Ghana. *Development in Practice*, 20, 354-366.
- Yin, K.R. (Ed.) (2003). *Case Study Research: Design Methods*, Thousand Oaks, London, Sage Publications.
- Yin, R., K. (1994). *Case Study Research: Design and Methods*, Thousand Oaks, Sage.

Zandvliet, Luc & Owiredi, Emma Nikki (2005) Report on Corporate Engagement Project- Ahafo and Akyem Projects, Newmont Ghana Gold Limited. *CDA-Collaborative Learning Projects*. Cambridge, USA.

Ghana Government Publications

1. Administration of land Act,1962 (Act 123)
2. Akim Abuakwa (Stool Revenue) Act No.78 of 1958.
3. Ashanti Stool Land Act 1958
4. Chieftaincy Act, 2008 (Act 759)
5. Environmental Protection Agency Act, 1994 (Act 490)
6. Environmental Assessment Regulation, 1999 (LI 1652)
7. Introduction to Ghana's Local Government System. Institute of Local Government Studies (2008)
8. Lands Commission Act,2008 (Act767)
9. Local Government Act,1993 (Act 462)
10. Local Government Ordinance 1951
11. Minerals and Mining Act,2006 (Act 703)
12. Minerals and Mining (Amendment) Act, 2010 (Act 794)
13. National Land Policy. Ministry of Lands and Natural Resources, Ghana. 1999
14. Office of the Administration of Stool Lands Act,1994 (Act 481)
15. State Lands Act, 1962 (Act 125)
16. Stool Lands Control Act 1960 (Act 79)
17. The 1992 Constitution of the Republic of Ghana
18. The Composite Budget for the Birim North District Assembly for the Fiscal Year 2012 (BNDA,2012)
19. 2010 Population and Housing Census: Final Results. Ghana Statistical Service, May 2010

Institutional Documents (Unpublished)

1. Akyem Social Responsibility Agreement (2010) .NGRL
2. Akyem SRF Agreement between Newmont and Local Community on Local Employment (2010). NGRL
3. Akyem SRF Agreement between the Akyem Mine Local Community, BND and NGRL (2010)

4. Compensations Negotiations Framework, June 2008. NGRL.
5. Compensation Negotiations: Rules, Regulations and Procedures (2008)
6. Environmental Impact Assessment Statement, Akyem Project (2008)
7. Resettlement Action Plan, Akyem Project Birim North District (2010). Newmont Golden Ridge Resources Limited (NGRL)
8. Report on Crops Working Group (2008). NGRL
9. Report on Immovable Property Compensation Working Group, 2008. NGRL
10. Report on Land Working Group (2008)
11. Report on Speculative Activities. NGRL

Appendices

Appendix A: List of people interviewed

1) Case study communities

New Abirem

	Name	Status/ Occupation
1	Nana Amu Kyeretwe	Chief of New Abirem
2	Nana Opuni Asamoah	<i>Krontihene</i>
3	S.T Nkansah	Teacher and Director of Non-Formal Education, Ghana Education Service
4	Opanin Ofori Amoako	Teacher/farmer farmer
5	Edward Kwaning	Assemblyman
6	Dallas Nketsiah	Farmer and Leader of Youth Association (Afosu)
7	Henry Mensah	Farmer
8	Nana Yaw Kusi	Chief Farmer
9	Nana Kwaku Dompreeh	<i>Adontenhene</i> (Afosu)
10	Emmanuel Narh	Member UC/farmer
11	Emmanuel Seth Ansah	Member UC
12	Judith Asiedu	Trader and CNC representative
13	Kate Asumang	Farmer/CNC representative

Adausena

	Name	Status/occupation
1	Nana Boni Abankro III	Chief
2	Nana Bredu Darkwah	Chief Farmer
3	Nana Kurankye Ababio	<i>Gyasehene</i>
4	Nana Ama	Leader of Great Womens' Association/farmer
5	Kofi Harrison	farmer
6	Stella Gyegye	Member UC/ trader
7	Josephine Amankwa	Assembly Woman
8	Joseph Donkor	Member, UC
9	Oheneba Donkor	Member of UC
10	Charles Adom Boateng	Leader of Adausena Youth Association/farmer
11	Francis Nti Asumaning	Secretary Youth Association
12	Kofi Abedi Stephen	Member UC/ carpenter
13	Kelly Gyimah Mensah	Community elder
14	Narh Kwaku	Farmer/CNC representative

Ntronang

	Name	Status/occupation
1	Nana Frimpong-Ampem	Ex-chief /community elder
2	Nana Kwaku Duah	Community elder
3	Nana Akoraa	Chief
4	Yaw Ahenkorah	Assembly man (Ahenebrono)
5	Seth Frimpong	Leader of Divine Youth Association
6	Felix Oppong	Youth Association/farmer
7	Daniel Kyei	Youth Association/farmer
8	Nana Kwadwo Puni	Youth Association
9	Nana Nyama Kyerewaa	Queen mother
10	Akua Akyaa	farmer
11	Samuel Osei-Sarfo	Farmer
12	Joseph K. Badu	Member UC/farmer
13	Kwame Ablokwa	Member UC
14	Michael Minka	Farmer
15	Barima Asomaning	

Praso Kuma

	Name	Status/occupation
1	Nana Kwaku Boateng	Krontihene
2	Nana Amoako Oteng	Chief
3	Nana A.K Agyeman-Gyeabuo	Elder/farmer
4	Nana Kwasi Agyeman	Elder/farmer
5	Alice Nimo	Member, PAC/farmer
6	Sam Akowuah	Chairman of UC
7	Rauf Baba	Secretary to PAC and member UC
8	Kwaku Antwi	Member of UC
9	Gyimah Kinsley	Community elder/farmer
10	Kwame Owusu Nsiah	farmer

2) List of public officers

1. Mr Emmanuel Ikpe, DPO, BNDA (
2. Mr. Alex Owusu Addo, TCPD,BNDA
3. Mrs Dorcas Dede, District officer, OASL, BND
4. Dr. W. Odame Larbi, CEO, LC, Accra
5. Mr. Maxwell Adu-Nsafoa, Senior Lands officer,PVLMD
6. Mr. Geoffrey Osei Sarfo, Regional officer, OASL
7. Mr Jonathan, Valuation officer, LVD
8. Mr. Ben Quaye,SLO,LAP
9. Mr. Kwasi Dautey, Senior Stool Lands Officer,OASL
10. Dr. Gad Akwensivie,Stool Lands Officer,OASL

3) List of experts and academics

1. Naa Professor John S. Nabila, President of the National House of Chiefs/
Senior Lecturer , Geography Department, University of Ghana
2. Dr. Antwi Adarkwah, Land tenure consultant and former National Facilitator,
Customary Land Administration, Ghana
3. Professor Sebastian K. Amanor, Lecturer and Deputy Head of the Institute of
African Studies, University of Ghana
4. Dr. Ntifo Siaw, Moderator of SRF and Senior Lecturer University of Cape Coast
5. Mr. Jonathan Ayitey, Community Valuer and Lecturer Kwame Nkrumah
University of Science and Technology, Ghana
6. Professor Seth O. Asiamah, Community Valuer (Head) and Lecturer at the
Kwame Nkrumah University of Science and Technology

4) Newmont staff and contractors

1. Mr. Felix Apoh, Community Development Manager/Head of Newmont
negotiations team
2. Mr. William Oti-Sarpong, Land Compensation expert, Landpro Consulting
Limited
3. Mr. Kwasi Asare-Darko, Land Access manager, Landpro Consulting Limited
4. Mr. Adam Babatunde, Project Manager, Newmont's Community Livelihood
Programme/ SRF

Appendix B: Interview Guides (semi-structured questionnaires)

B1-1: Interview guide for traditional chiefs and elders (opinion leaders)

(Interview would start after brief introduction of the research objective)

Customary tenure

1. Could you describe the nature of the customary tenure system in this community?
 - How did this stool acquire its land?
 - Does the stool family own all or part of the lands in this area?
 - What are the different types of interests in land in this community?

Traditional Authority

2. Would you describe how a chief is selected in this community?
3. When are the responsibilities of a chief in this community
 - What traditional measures are there to ensure that a chief fulfils these obligations?
4. How does your subjects show their approval (or disapproval) of your actions?

Management of community resources

5. Who controls stool land and natural resources this community?
 - Describe the specific role of chiefs in the management of land and natural resources on a stool land
 - What kind of structure do you have in place for managing land and natural resources?
 - Is there a land management/plot allocation committee?
 - Are there any issues with land in this area?
 - How about access to land by migrants for farming; mining, land use planning
6. How are decisions about land and development issues made?
7. How people express their opinions about the way land and natural resources are managed in this area?
 - In what way can you tell if the people accept (or reject) the way community resources are utilized?
8. Tell me which Local Associations are involved in resource management and development? *(Prompt: find out whether there are Town Development Committees, Home-Town Associations, Youth or Churches, etc)*
 - Are you a member of any local association? What part do play in this group, if you are?
 - How does the presence of local associations, if any, influence how land and natural resources are managed?

9. What has been the role of the following in the community with regards to stool land and natural resources management?
 - State Land Agencies (LC, OASL, Survey Department, TCPD, Ministries of Agric, Environment)
 - The District Assembly and the District Assembly representatives
 - The Mining Company, Newmont
 - Any other Company or investor
10. Tell me about the revenues (rents and royalties) that are received from land, mining and timber resources in the community? Which are collected by the following
 - OASL
 - Stool
 - Government
 - *[prompt chief should talk about relationship with OASL and District Assembly and the disbursement of revenues]*

Provision of Developmental Outcomes

11. What do you think are the predominant concerns and welfare needs of this community and how are they these addresses?
 - How and to what extent are chiefs involved in the provision of public goods and services for their communities?
12. Who and/or what organizations or institutions (whether state or non-state) are involved in the provision of these community needs? *(note this could include many other government agencies and ministries, private investors, NGOs, donors, etc)*

B1-2: Interview guide for chief farmers and other selected community members

(Interview would start after brief introduction of the research objective)

1. What is your role *[as a chief farmer]* in the community?
2. How does one become a chief farmer in this community?
 - How is a chief farmer selected?
 - How long does one serve as a chief farmer?
3. Are you a member of the negotiations committees? Tell me about your role in this *[or any other community activity involved]*

[ask the following for chief farmers]

 - Would you describe your specific role in the ongoing field surveys being undertaken by Newmont?
 - How are you able to determine peoples farm boundaries and ownership?

- Have there been any challenges and how have you addressed these, if any?
- 4. How are land disputes adjudicated in this community?
 - Which people are involved and how are they selected?
 - To what extent are their decisions acceptable to the disputants?
- 5. What are the main community needs and who provided/ would provide them?
- 6. How is development project planned/ initiated in this community?
 - Are there any committees/or groups that do these?
- 7. To what extent are you, [*as a chief farmer*], consulted in the planning and implementation of development projects?
- 8. How are projects funded?
 - Sources of funds? --- Community? State? Or local investors? Or combination? [*Prompt for discussion on all possible sources?*]
- 9. Who allocates land and grants concession for timber and minerals in this area?
 - What authority do they have for doing this?
 - Are payments received for these grants? And who collects them?
 - What is the revenue derived from these transactions used for?
 - Are there specific examples of this in the community?

B1-3: Interview with groups/ associations

(Interview would start after brief introduction of the research objective)

1. What does the association stand for in the Community?
 - How long has this Association been in existence?
2. Would you tell me what you have been doing in this community?
 -
3. Who constitute the membership of the Association?
 - Do the chief/elders of the community have any role in your association? What are these?
4. To what extent does your association participate/ influence development projects that take place in the community? How are you involved in planning and implementation of projects?
5. How are your activities funded? [*prompt for specific examples and why are funds provided*]
6. Do some members (or leaders) of the association serve on the Unit committees?
 - How were they selected?
7. Would you tell me how you work to ensure that community resources are utilised in a way that benefits the people?

- Who allocates land in this community? And how? Is this a customary procedure?
- If revenue is derived from this how is it utilized
- What are the options for checking any abuses?

B2-1: Interview guide for the District Assembly (Birim North)

(District Planning Officer)

(Interview would start after brief introduction of the research objective)

1. Briefly describe your mandate with regards to development in this District?
 - What do you do to fulfil this mandate?
 -
2. What are the main community needs of this District?
 - Specifically what are the main developmental needs of the communities within the areas affected by Newmont Operations? [*prompt; New Abirem, Adausena, Ntronang, Afosu, Yayaso, Maamaso, etc*]
 - Apart from the District Assembly are there any other institutions/organizations (formal or informal, private or state) that are involved in the provision of the community needs identified?
 - How are the District Assembly's developmental projects funded?
 - Specifically, how are investment companies, such as Newmont , GOPDC, etc., involved in development projects
 -
3. The District Assembly gets a share of revenue collected from stool lands. To what extent is the Assembly involved in the collection of this revenue?
 - How is revenue from stool lands utilized? Are there any examples?
4. To what extent does the Birim North District Assembly play a part in the management of land and natural resources and land use planning? [*TCPD officer*]
 - Specific mandates? Roles?
 - Any form of collaborations or arrangement (formal or informal)?

B2-2: Interview with TCPD Officer of the Birim North District

(Interview would start after brief introduction of the research objective)

1. Briefly describe the functions you perform in the District with regards to the preparation of planning schemes and zoning.
 - What other roles do you perform in the district
2. Which parties are involved in the development of land use plans/schemes?
 - To what extent are the communities in the district involved in land use planning and zoning? What specific role, if any?
 - Who are involved and what role to they perform
 - If chiefs /traditional authorities are involved, would you describe their role
 - would you tell me about any land use plans that you have developed in recent times
3. How is the development of land use plans funded in this district

4. Would you describe how you interact with traditional authorities/chiefs and other investment concerns, such as Newmont, in the performance of your duties
5. Apart from land use planning and zoning, to what extent are you involved in the allocation of land, concessions for timber and minerals in the district?
 - Would you describe your role, if any, in these?
 - Would you tell me about some of the challenges encountered and how you address them

B2-3: Interview Guide for Lands Commission

(Targeted officials CEO, Lands Officers (PVLMD and LVD) for BND 0

(Interview would start after brief introduction of the research objective)

1. What are main tasks of the Lands Commission with regards to the management and administration of Stool lands?
 - Specifically how do you manage the different range of interests and ownerships in stool land?
 - What specific role do you have in the management of minerals and forest products (e.g Timber) found on stool land? *E.g. concurrence for stool land transactions, land use planning, registration documentations*
 -
2. What challenges do you encounter in the management of stool lands?
 - How are these challenges peculiar to stool lands in the *Birim North District*? *[NB; especially with regards to land boundaries and ownership claims]*
 - Can you explain how you go about addressing challenges that you encounter in the performance of your functions?
 -
3. Briefly describe how far the CLS under LAP is addressing its main objective of strengthening the capacity of traditional authorities to manage their land?
 - What has been the successes and failures (specific examples)
 -
4. What are the specific roles of chiefs over stool land areas in land allocation, land use planning and land registration? *[Prompt for Birim North District]*
 - If there are other institutions/persons involved can you list and explain their specific roles.
 -
5. How does the way chiefs in practice exercise their control over land and natural resources facilitate or hinder your functions?
 - Can you tell me about specific instance(s) of chiefs role being helpful to your role,(Would you recommend that) and
 - Another instance(s) where chiefs role have hindered your role.(to what extent did this issue constitute a set back to your work and how did you overcome this)
6. From what you have said about the role of chiefs in land and natural resources, to what extent are they able to fulfil their Constitutional and customary role as custodians of their community's resources?
 - Are there some specific examples that you can give as evidence of this?

-
- 7. To what extent does the way chiefs exercise control over land natural resources impact on the development of their communities?

B2-4: Interview Guide for Administrator, OASL

(District and Regional officers)

(Interview would start after brief introduction of the research objective)

1. Briefly describe the functions of the OASL in the stool areas that your office covers in the Birim North district?
 - What is the range of interests in land that you deal with?
 - What kind of data base do you have that you able to determine the claimants and ownership of the various interests and rights to stool land and natural resources(minerals, timber, etc)
 - How does the OASL get to know which properties to collect revenue from?
 - Details about the different types of revenue collected? How are these collected and who collects them? (Is this done only by the OASL or are chiefs involved in some way? Explain?)
 - How do you deal with the issue of 'drink-money'? is it possible to account for it?
 - How are the revenues (rents and royalties) disbursed?
 - What challenges are encountered (i) in revenue collection ,(ii) in revenue disbursement, and how do you address these issues (*give specific examples of these*)
 -
2. How are chiefs involved in the administration of stool lands?
 - Is there any form of arrangement (formal or informal) that is working or not working?
3. About the CLS under LAP, to what extent are they able to meet the objective of strengthening the capacity of traditional authorities to manage their land?
 - What challenges have you encountered in your interactions with chiefs and how have you addressed these? (*Prompt for some examples*)
 - To what extent are chiefs in a position to manage community resources in a way that will be beneficial to their local communities?
 - How may the CLS approach be improved upon?
4. How would the operations of CLSs in stool land areas impact on the management of land and natural resources for the development of communities?

B3: Interview Guide for Expert authorities and researchers

(Interview would start after brief introduction of the research objective)

1. From your experience would you describe to me the how chiefs are managing stool land and revenue?
 - a. Structures, who are involved and how selected
 - b. What is your view on this whether they can be effective and accountable to the community members
2. Are there any challenges and difficulties chiefs encounter in the management of lands and how do they deal with it.
 - a. Nature of challenges and how they are created? Who are those involved and why?
 - b. How were these challenges addressed?*(any specific examples)*
3. How would the operations of CLSs in stool land areas impact on the management of land and natural resources for the development of communities?
4. How and to what extent do you think the way chiefs manage stool land can impact on the development of communities?
 - Do chiefs have the capacity to lead/influence development in their communities? *explain and provide some examples*

B4: Interview Guide Newmont

(Community Development/Social Investment Manager)

(Interview would start after brief introduction of the research objective)

1. Briefly describe your functions with regards to community development in the Community?
 - What is Newmont's policy towards the development of the community?
2. What have you identified as the main needs of the people in these Communities?
 - What contribution have you made towards the provision of these needs/
 - To what extent do you involve the local community in planning and provision of projects?
 - Any form of collaborations with your company? *[prompt for specific examples and description of the responsibilities of institutions or persons involved]*
 - Give examples of some development projects/outcomes. Describe the process of initiation, planning, implementation and funding.
 -
3. How do you go about acquiring land for your operations?
 - Who do you contact for land?
 - Who receives compensation?
 - Do you know how compensation received for community resources is disbursed/ utilized?
4. Are there any problems experienced over the following:
 - Ownership
 - Land rights
 - Land allocations/concessions, by chiefs and other land agencies?
 -
5. What development projects have /are undertaken by your company for the communities in its areas of operations?
 - Do other organizations (chief, land agencies, government, etc.) play a part in these projects?
 - What form of arrangements do you have with these other organizations?

Appendix C: Survey Questionnaire

This survey is being undertaken as a key component of doctoral research by Charles Ankisiba of the Institute of Development Studies, UK. The aim is to solicit the views and perceptions of selected people living in communities in the Birim North District on how land and natural resources are managed for the development of these communities.

A. General

Date.....

Time.....

Town/Community.....

1. Gender: ☐M ☐F
 2. How long have you been living in this community?
☐ Up to 10 years ☐ 11-20 years ☐ 21-30years ☐ 30 years and above
 3. Where do you come from (*your home town*)?
 4. How old are you (years)? [*Respondent must be 18+ years*].....
 5. What is your level of formal education?
☐None ☐Primary ☐Middle/JHS ☐Secondary/SHS ☐Tertiary
 6. What work do you do?
-

B. Customary Tenure, Access and Management of Resources

7. Who would you contact to get land in this community? [*You tick more than one response*]
☐The Government ☐ Chief ☐Family ☐Individual ☐ Other (specify)...
8. Have you or any member of your household ever approached the chief for land in this community? ☐Yes ☐No [**Go to Q.18**]
9. What was the intended purpose for you or member of your household acquiring the land?
☐ Farming ☐Building ☐both farming and building ☐Mining (*Galamsey*)
☐other use (specify).....
10. Briefly describe the procedure you or member of your household went through to acquire land in this community?
11. Would you tell me about any challenges that you or your household member may have encountered?
12. Did you or a member of your household make any **cash** payment when you last acquired land? ☐Yes ☐ No [**If No, Go to Q.18**]

13. If yes, how much was it?

14. Who was the cash paid to? ☐ Chief ☐ Individual land owner

☐ Family head ☐ Government Agency ☐ Other (specify).....

15. Apart from the cash payment made when the land was acquired, do you/ member of household make some periodic payment of money? ☐ Yes ☐ No **[Go to Q.18]**

16. How often is this periodic payment made?

☐ Monthly ☐ Seasonal (farming) ☐ Yearly ☐ other
(specify).....

17. To whom are the periodic payments made to?

☐ Chief ☐ Land owner ☐ Stool lands ☐ District assembly ☐ other
(specify).....

18. What do you think the cash payments for land and natural resources are used for?

☐ Upkeep of the chief ☐ Support local projects ☐ Government keeps it
☐ Don't Know

19. Who in this community is/are responsible for managing land, forest products and minerals?

[Respondent may tick more than one]

☐ Family Head ☐ Local Chief ☐ Omanhene
☐ Government Agency (specify)..... ☐ Other (specify)

20. Is there a Committee for the allocation of land (plots) in this community?

☐ Yes ☐ No **[Go to Q.22]**

21. If yes to Q.20, tell me about how people get to serve on this land allocation committee?

22. Looking at the way land is allocated in this community, would you say the process is working well? Please explain

Control and rights over land and natural resources

23. In this community who could take land away from you? *[Respondent may tick more than one]*

☐ Government ☐ Chief ☐ Land Owner (indigene) ☐ Family head

☐ Other (specify).....

24. What is your reason(s) for your response to Q.23?

25. Who do you think has the right to control land and natural resources in this area?

☐ Family head ☐ Government ☐ Chief ☐ Other (specify).....

26. Which of the following would you prefer to manage the land and natural resources in this stool land area?

☐ The traditional chief ☐ Lands Commission ☐ Town and Country Planning

☐ Stool Lands (OASL) ☐ Other (specify).....

C. Traditional Chiefs Authority and Development

27. Would you tell me about the responsibilities of a chief to the community?

28. What happens if a chief is not able to fulfil the expectations of the people in this community?

29. How do the chief and people of this community take decisions on the development of the town?

30. Have you ever been to a meeting at which the chief and elders discuss the development of the town? ☐ Yes ☐ No **[Go To Q.36]**

31. If yes, what was the particular development issue?

32. Would you tell me about your contribution to the discussion, if you were able to make any?

33. What decisions were made?

34. How was the particular development project funded?

35. Would you describe your experience when you took part in the discussions?

36. Which of the following Institutions/ Associations are in this community?

<i>Name of Association</i>	<i>Tick if present in community</i>
Youth	
Town Development Committee	
Other(specify)	

37. What is the role of the association(s) that is present in **Q.36** in the development of the community?

38. What role does the chief play in the above association(s), if any?

Let us talk about leadership in this community.

39. What leadership qualities do you expect from a chief?

40. Please list what you consider to be the 3 most important leadership qualities of the chief of the community.

D. Developmental Outcomes

41. What do you consider to be the most important public good of this community

42. Do you know who provides item in this community?

<i>Item</i>	<i>Provided by/ to be provided by</i>	<i>[Indicate whether the respondent knows or don't know]</i>
1		
2		
3		

43. In the Table below indicate your level of trust for the following in their ability to provide the needs of the community you listed in Q.41 above.

<i>Person/Institution</i>	<i>Level of trust</i> <i>[Indicate whether a lot; a bit; not at all]</i>
District Assembly	
Member of Parliament	
Local Chief	
<i>Omanhene</i> (Paramount chief)	
Government (Ministry of.....)	
Newmont (Mining Company)	
NGO	
Other (Specify.....)	

44. Please list any development projects that you are aware have been provided specifically with revenue realized from land allocations, timber and mineral royalties in this community?

45. What would you expect to find in a community that can be described as developed

46. Overall which of the following person(s) or institution(s) do you think can provide the items listed in Q. 46, if any?

☐ MP ☐ Local chief ☐ District Assembly ☐ Newmont ☐ Government (Ministry.....)

☐ Other (specify).....

End Interview and Thank Respondent

Time: