

CHALLENGES OF LAND ACQUISITION IN THE MINING COMMUNITIES OF TARKWA, GHANA

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OUTLINE FOR PRESENTATION

- Introduction
- Land Rights and Ownership in Mining Communities
 - Customary and Statutory Tenure Systems
 - Impacts on Land Acquisition
- Materials and Methods
- Observations and Discussions
 - Historical Records on ownership
 - Boundary and Land Availability Problems
 - Consequences of Boundary Problems on Land Acquisition
 - Potential Sources of the Problems
 - Suggestions for Dealing with the Problems

Introduction

- high rates of migration, population growth, urbanization, and pressures over land and socio-economic facilities in mining communities of Ghana, particularly in the Tarkwa areas
- Towns, families and stools that used to live kilometres apart have now merged and overlapped due to urbanization and developmental activities associated with mining
- Some mining concessions are being encroached for residential uses and some dwelling places have come under mining activities
- Natural features used in the past to mark and describe land boundaries become obliterated, locations of some settlements, streams and roads have been changed, ridges have been flattened, valleys filled and permanent markers like concrete pillars have been destroyed.
- In some areas, it is difficult to tell whether the land belongs to a family or a stool or a mining company and which family or stool or company is the rightful owner.
- These boundary and ownership problems have resulted in confusion, abuse, conflicts, undue delays, and extra expenses in land transactions in mining communities
- Need for surveyors and land buyers to have knowledge of these problems and the underlying causes and how these may affect the acquisition, surveying, and registration of land parcels in the mining areas of Tarkwa, Ghana.

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Fig. 1 Map of Ghana Showing the Location of Tarkwa and its Surrounding Mining Areas

Land Rights and Ownership in Mining Communities

- Land rights are owned by individuals, families, stools, government and mining companies
- mostly vested in stools under the control of chiefs as custodians.
- Land holdings within these areas include grazing rights, residential and agricultural rights, state ownership of forests reserves and public estates, and exploration and mining rights.
- problems associated with major land holdings in the area include:
 - indeterminate boundaries of stool and family lands
 - acquisition of large tracts of lands by government and mining companies
 - landowners being left almost landless and becoming tenants on their own lands.
 - challenges in the acquisition of land for residential and other private uses.

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Land Tenure System and Its Impacts on Land Acquisition

Customary System — land is viewed as:

- a common heritage from God to the indigenes, through their ancestors
- to be preserved and handed to successive descendants.
- no recordings of ownership and transfer of rights in the land required
- surveying and registering of land parcels and transactions not required
- insecurity of tenure and conflicts over land boundary and ownership

Statutory System — ownership, transfer and transactions in land rights are:

- based on state-laid-down procedures
- relationship between people and land are regulated
- land boundaries, ownership and transfer of rights are determined, approved, documented and registered through state agencies
- the relation and the flow of information among the state agencies at most mining areas are not well structured and coordinated.

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• too slow or weak to regulate land transactions at the mining communities (Bugri, 2008; Kasanga and Kotey, 2001).

Land Tenure System and Its Impacts on Land Acquisition

Impacts on Land Acquisition

- Both customary and statutory tenure systems are operating in mining communities, adding its own challenges to land transactions — some use only one system and others both .
- To acquire land for housing and other projects, one must first meet all the customary requirements in addition to meeting the statutory requirements.
- The power of attorney to enter and develop any piece of land is generally issued by the chiefs to prospective ‘buyers’ after all necessary customary requirements and payments have been met.
- thereafter, the prospective buyer needs to get the land demarcated and surveyed, and obtain all necessary documents (like ‘indentures’) and apply for registration of his right in the land and permits to develop it from the state agencies.
- Different Agencies deal with the registration of different rights— eg Mineral Commission for mineral and mining rights and Land Commission for residential rights
- He may then start developing the land while waiting for approval from the state.
- It is during this period, after he has invested so much in the land acquisition, that a ‘buyer’ usually comes face-to-face with the real problems of the land, such as disputes over ownership boundaries and multiples sales during the registration.

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Materials and Methods

- reconnaissance survey was carried out to get first-hand information about the boundary and ownership problems in the mining areas of Tarkwa, Ghana.
- the methods used include, literature review, and a search through the
- local, district, regional and national archives of the administrator of stool lands,
- survey and mapping division of the lands commission, minerals commission and small scale departments, and the offices of the chiefs and traditional council for relevant documents,
- field interviews and observations for evidence of the locations of the old boundary points and lines, and their conditions.
- the materials used include plans and data of the old boundaries,
- court documents describing the locations of adjudicated boundaries,
- topographical maps and mine plans of concessions in the area

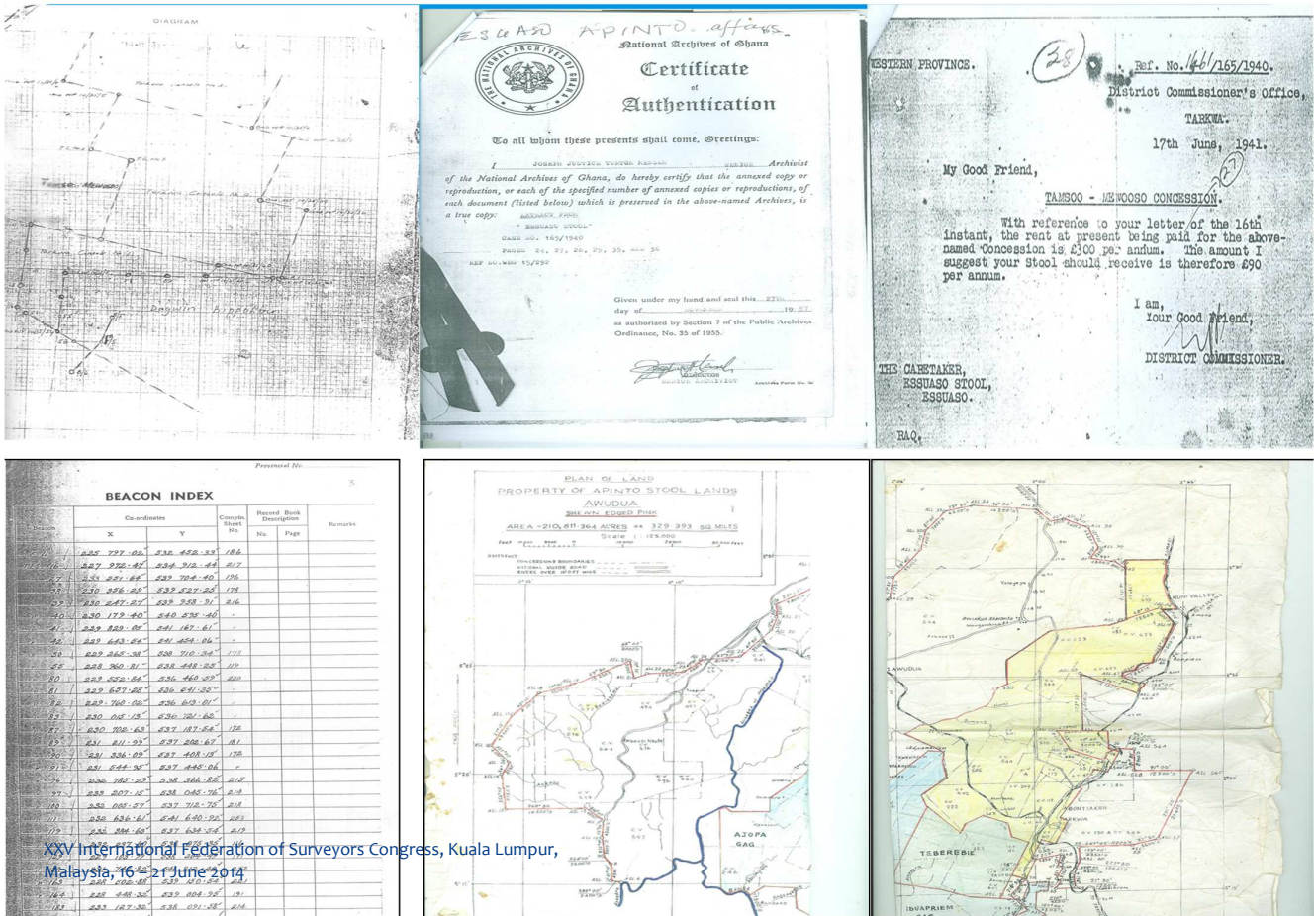
Observations and Discussions

Historical Records and Evidence of Ownership

- Some records of ownership dating back to the early 1900s and beyond are available but very little or no ground markers or evidence exist now to support these records.
- Ownerships were mainly of stool, family and mine concession lands
- Surveys were of primitive types (e.g. compass), boundary markers were mainly of natural features that no longer exist, the paper drawings are faded and torn, and
- people with first-hand information of the rightful owners and boundaries on the ground are diseased.
- Some of the maps/plans and data sheets were inconsistent with others and with ground evidence found during the study.
- For example, the locations and nature of some communities and the topography at some places have been changed and so were no longer consistent with the information in these old documents.

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- Fig. 2 shows examples of these old records



Observations and Discussions

State of Boundary Markers or Evidence on the Ground

- boundary markers found during the field survey include *state pillars* (control points), **mine concession monuments** and *massive stool and family land pillars* set up in the 1930s and beyond (Fig. 3).
- most of these markers are being destroyed without any recourse to their importance in resolving boundary and ownership disputes and smooth acquisition and registration of land rights.
- natural boundary markers like trees are gone, river courses and routes have been changed, hills have been levelled, and valleys have been filled.
- few permanent markers left are in very bad state, unstable and may soon be lost (Fig.3).
- Some boundary lines and markers were found running through or at the houses and offices of some people and companies (Fig. 4).
- no care or protection of these markers.
- Mining activities, (especially 'galamsey'), infrastructure and housing developments were observed to be main factors of the destruction (Fig.3-Fig. 4).



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Fig. 3 State of Boundary Markers in Mining Areas of Tarkwa (2013)



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Fig. 4 Destruction of Boundary Markers by Mining Activities



Destruction by Other Developmental Activities



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Fig. 6 Destruction by Residential, Social and Business Activities

Land Availability for Residential Purposes

- Free stool and family lands are now scarce in the Tarkwa mining communities
- large tracts of lands taken by mining companies and they keep expanding their boundaries
- rising demands and pressures on land for residential and other socio-economic needs
- some chiefs and families are knowingly or unknowingly selling lands that are in mining concessions for residential and other uses.
- rising land encroachment, multiple sales and conflict due to inadequate public knowledge and the absence of clear boundary demarcations
- small-scale miners, especially ‘galamsey’ miners, have been invading and destroying surrounding lands available.
- some residential buildings have been destroyed or abandoned due to mining activities
- high cost of accommodation and problems with peaceful coexistence in mining communities.
- **Challenge here is how to peacefully negotiate with mining companies to release lands to the expanding communities within their catchment areas.**

Potential Sources of the Problems

- Introduction and Expansion of Surface Mining Activities
- Relocation of Settlements/communities
- Destruction of boundary markers by mining and other construction activities
- Farm Compensation
- Delays in executing court decisions on boundary disputes
- Lack of effective institutional systems for protecting and preserving boundary markers
- Increase in migration, population, urbanization at mining centers

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Consequences of Boundary and Ownership Problems on Land Acquisition

- confusions, conflicts, undue delays, and extra expenses in land transactions
- difficulties as to the rightful owner of land — a family, stool, the state or a mining company
- multiple sales, surveys and site plans of the same lands or parcels due to overlapping boundaries and ownership
- conflicting surveys and cadastral plans that result from surveying wrong and overlapping boundaries
- difficulties in registering lands due to problems about rightful owner-family/stool/company/state
- rightful compensations and/or royalties have either not been paid at all or paid to wrong owners or to the government coffers due to conflicting claims
- some settlers and house owners have been making multiple payments to different families or stools that claim ownership over the same land where they have built.

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Suggestions for Dealing with the Problems

- Defining New Boundaries. In the absence of adequate and reliable evidence to retrace the original boundaries, new boundaries have to be decided upon by a court process and agreement between parties for the establishment of new boundaries.
- Prompt Execution of Court Judgments. Avoidance of delays in executing court judgment regarding boundary demarcation. It should be done while those involved and ground evidence are available to help/guide the surveys.
- Boundary Markers. Existing Boundary markers should be protected and reinforced. New boundary markers should be of permanent materials

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Suggestions for Dealing with the Problems

- Monitoring/Surveillance of Boundary Pillars:- by local land owners and surveyors. Legal and institutional backing to protect boundary markers
- Engagement of Mining Companies in negotiations to release lands to expanding communities within their catchment areas
- Educating the public as to the importance of survey pillars and need for proper documentation and registering of land ownership and transactions
- Surveyors need to pioneer the public education and offer professional advice to landowners, lawyers, chiefs, and land buyers about how to avoid land disputes

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CONCLUSIONS/RECOMMENDATIONS

Conclusions

- Land boundary and ownership problems are rising in Tarkwa and many other mining areas, and these present formidable challenges to land acquisition for residential and other socio-economic needs.
- Absence of clear demarcations and reliable survey plans of stool lands, destruction of boundary markers, overlapping and multiple ownership and procedures for land transfer are some of the prevailing causes of the problems that need to be addressed.
- Knowledge of these problems and the challenges they pose to land acquisition and registration in the area should serve as a guide to all stakeholders that engage in land transactions in the area, to act properly and avoid adding to the problems.

Recommendations

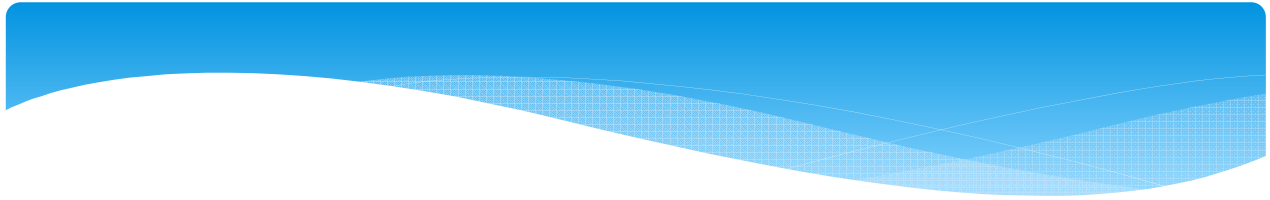
- Mining companies should appreciate the need to release lands for residential needs and provide funds to support demarcation, survey and protection of important land boundaries and markers within their catchment areas.

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CONCLUSIONS/RECOMMENDATIONS

Recommendations (Cont’)

- All the necessary stake holders (the state, chiefs, mining companies and private land developers) must be engaged in peaceful negotiations about how to handle land boundary and ownership problems in mining communities.
- Professional Surveyors play critical roles in resolving land boundary and ownership conflicts. All stakeholders should recognise this and engage their services in all land transactions.
- Surveyors should not just be interested in getting paid for their services but see to it that their services contribute to prevention and peaceful resolutions of boundary conflicts in all mining communities where they may work.



Thank You

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