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Compulsory land acquisition by government and litigations in Ghana: an empirical study of three educational institutions in Wa Municipality

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ABSTRACT

This study examined government's compulsory acquisitions of land for public educational infrastructure development in Ghana, using three case studies in Wa Municipality of Upper West Region. The strategy of inquiry was qualitative, involving key informant interviews with heads of the acquiring authorities and beneficiary institutions as well as semi-structured interviews with pre-acquiring owners and settlers of the lands. The findings revealed that the processes of compulsory acquisition of the subject lands had been delayed, and it is unclear when they would be completed. The processes were not properly followed as determined in the State Lands Regulations of 1962 (L.I. 230) and its subsequent amendments, which provide the processes or procedures for state acquisition of lands under the State Lands Act of 1962 (Act 125), leading to agitations and litigations between landlords and government institutions. The study attributes the problems of compulsory land acquisition to failure of acquiring institutions to follow procedures laid by regulations on compulsory acquisition. It recommends that landowners should be represented in the acquisition process from the onset to ensure fairness and prompt payment of adequate compensation as provided for by the law to reduce tension and litigations between government institutions and landlords.

1. Introduction

Governments all over the world have the priority of providing basic infrastructure for the development of their countries and to promote social and economic wellbeing of their citizens. Such developments span the educational, recreational, residential, health and transportation sectors and can be conveniently categorized into social and economic facilities. In Ghana, since customary land tenure systems dominate (about 78%) the nature of land ownerships (Kasanga and Kotey, 2001; Larbi, 2008), the government through the President, relies on existing legal provisions for compulsory acquisition of lands for large infrastructural developments where private treaties are not feasible. For instance, Article 20(1) of the 1992 Constitution of the Republic of Ghana permits the President of the Republic to acquire land compulsorily 'in the interest of defense, public safety, public order, public morality, public health, town and country planning or the development or utilization of property in such a manner as to promote the public benefit' (Republic of Ghana, 1992:19). Also, Section 1 of the State Lands Act, 1962 (Act 125) gives the government powers of eminent domain to acquire any land in Ghana when such acquisitions are in the public interest or for public purpose such as the provision of social and economic facilities in any part of the country.

Upon the publication of an Executive Instrument (EI) regarding the land in question, all proprietary and jurisdictional rights, titles or other interests vested in traditional authority or any other person concerning government acquired lands are extinguished. Among other things, compulsory acquisition aims to provide land for public purposes, to correct economic and social inefficiencies in the use of land to deliver on broader goals of social justice, and to ensure equity in the land sector through the redistribution of land (Adu-Gyamfi, 2012; Akrofi and Whittal, 2013; Wily, 2018). It is also a very useful tool for city redevelopment strategies and for land use planning. This notwithstanding, traditional authorities, groups or individuals, in their own will, and for the interests of their communities, may release tracts of land to the government for purposes of infrastructural development. Such lands released to or acquired by government become public lands. It is also the case that the government may enter into private contract with landowners to acquire lands for public purpose or public interest where the conditions for such acquisition are favourable, for example, where the land is contiguous and belongs to a single and identifiable owner.

Compulsory acquisition of land by government for socio-economic development in Ghana is not new, it dates back to colonial periods. This has been done under various regimes and enactments (see Larbi, 2008). Legal instruments that regulate compulsory acquisition of land by government provides for prompt payment of fair and adequate compensation to recompense the owners of the acquired

lands. For example, Section 4(1) of Act 125 and Article 20 clause (2a) of the 1992 Constitution of Ghana, which back government's land acquisition, makes allowance for compensation of persons whose lands have been acquired compulsorily. Payment of such compensation must be prompt, fair and adequate to represent the value of land taken and meet the requirement for restitution. According to Denyer-Green (1994) and Larbi (2008), one purpose of compensation is to overcome opposition from expropriated owners by payment of a price, which turns an unwilling seller into a willing seller. In addition, per the laws of compulsory land acquisition in Ghana, compensation payable to dispossessed persons is based on the market value of the land taken (Section 4[3] of the State Lands Act, 1962 as amended in 2000, Act 586). The basis of the compensation is to ensure that affected households or families neither lose nor gain as a result of their land being appropriated for public interests. In a situation where the expropriated person is not satisfied with the compensation, he or she can seek redress in the High Court (Republic of Ghana, 1992).

According to Kotey (2002), the exercise of compulsory acquisition of land by government is associated with several controversies, including undermining of tenure security, and negative impacts on equity and transparency due to non-payment of compensation or payment of inadequate compensation. King and Sumbo (2015) also note that, there have been cases of compulsory acquisitions without the payment of prompt, fair and adequate compensation and others without compensation at all. There are also instances where serious difficulties arise because what constitutes 'prompt', 'fair' and 'adequate' compensation is not clearly defined (King and Sumbo, 2015). Moreover, Larbi (2008) and Adu-Gyamfi (2012) have argued that, one major problem of compulsory acquisition of lands in Ghana is litigation with original landowners due to government acquisition of land far in excess of actual requirements, encroachment on acquired lands, and change of use of compulsorily acquired lands as against the stated original purpose of the acquisition.

Available and accessible studies on compulsory land acquisition and compensation in Ghana (Larbi, 2008; Adu-Gyamfi, 2012; Akrofi and Whittal, 2013; King and Sumbo, 2015) have not adequately considered issues of litigations in the process of application of the state's power of eminent domain. This study closes this gap by examining government's compulsory acquisition of lands for public educational infrastructure development in the country and litigations thereof, using three case studies in Wa Municipality. In Wa, there have been several acquisitions of family lands by the state for development projects following its elevation to the status of a regional capital in 1983 and subsequent springing up of tertiary educational institutions, particularly the Wa Polytechnic (Wa Poly) and a campus of the University for Development Studies (UDS). Issues pertaining to state acquisition of lands for public educational infrastructure development and regularization have become very important in the quest of ensuring effective land administration and management practices in the study area.

2. Compulsory Land Acquisition and Legal Powers in Ghana

The emergence of modern states and development of science and technology with an associated rapid growth in population have brought in their wake the need for the state to acquire lands for public purposes such as education, health, transportation, energy, security and defense. The process by which the state acquires land for these purposes is what is termed as compulsory acquisition, also known as Eminent Domain in the United States (US) or Compulsory Purchase in the United Kingdom (UK) or Expropriation in Canada (Kyei-Bafuor, 2014; Bhattacharyya, 2015). Compulsory acquisition is the power of the government to acquire private rights in land without the willing consent of the landlords for societal benefits (King and Sumbo, 2015). It is a power possessed in one form or another by governments of all modern nations. This power is often necessary for social and economic development and protection of the natural environment (FAO, 2008).

In Ghana, the government adopted two main legal frameworks for accessing land for public infrastructure and social development in the colonial era. These policy frameworks were expropriation instrument, which enabled compulsory acquisition with compensation in the Ashanti colony, and appropriation instrument, which guaranteed compulsory acquisition without payment of compensation (except for buildings and growing crops) in the Northern Territories (comprising now Upper West, Upper East, North East, Savannah and Northern Regions). The taking of lands compulsorily was a result of the inability of the colonial government to vest all unoccupied lands or waste lands in the British Crown through a series of land bills in the 1890s due to opposition by lawyers and chiefs at that time (Rimmer, 1992; Bantsi-Enchill, 1964; Larbi, Antwi and Olomolaiye, 2004). The expropriation of land was made through the Public Lands Ordinance of 1876 (Cap 134) and owners of lands so acquired were compensated after thorough examination and validation (Larbi *et al*., 2004).

In 1952, the Public Lands (Leaseholds) Ordinance (Cap 138) was passed which enabled the colonial government to acquire land on leasehold basis and pay amounts on rent instead of a lump sum compensation for the lands acquired compulsorily (Kasanga, 2002). The reversionary interest of the leases was vested in the indigenous owners. Every land acquired was conveyed to the Governor, after a court examination for the acquisition process, and procedures for payment of compensation and claims. A certificate of title was issued to the Governor, which vested the land in the Crown, extinguishing all subsisting interests of the lessor in the land over the lease period (Kasanga, 2002). On the other hand, the appropriation policy allowed the colonial government to acquire land in northern Ghana without payment of compensation to the landlords (Bening, 1996). The Northern Territories Ordinance, 1902 (Cap 111) was legislated to appropriate all lands in northern Ghana, whether occupied or not, to the colonial Governor to be held and administered for common benefits, direct or indirect, of the natives (Yaro, 2010). The rationale behind this policy was to nationalize all northern lands to give easy access to lands for development. Sufficient notice was given to vest the lands in the Crown to

extinguish all rights over the land without payment of compensation.

According to Bening (1996), the vesting of northern Ghana lands was also as a result of the desire of the colonial Governor at the time to construct a railway from Kumasi to the north. This was to prevent the commercialization of land and speculation on large tracts of land at low fees by persons with commercial interests from the south and to guard against the fear of future landless peasantry in the north. At the same time, the Ashanti Administration Ordinance, 1902 (Cap 110) was passed to vest the management and administration of all Ashanti lands in the Crown. Subsequently, the Kumasi Lands Ordinance of 1943 (Cap 145) devested the lands back to Asantehene as a replacement to the provisions of Cap 110. However, the devesting of Ashanti lands did not include the Part 1 Lands vested by the colonial leaders under the Town Boundary Ordinance of 1928 (CAP 143), which was one mile radius from the Kumasi Fort (now Armed Forces Museum), and 100 yards of stool lands from the centre line on each side of existing roads vested under the Road Appropriation (Ashanti Administration) Ordinance, 1902 (Agyen-Brefo, 2012). These stool lands subsequently became state or government lands. Subsequently, these lands have remained under huge contestation between the state and the Asante Stool. The latter claims that, since the lands were held as vested lands in the 1900s, all returns on transactions in such lands ought to be accounted for. Alternatively, the lands should be returned to the Asantehene (Agyen-Brefo, 2012).

After Ghana's independence, a number of legislative instruments have been passed to effect compulsory acquisition of lands in the country. These legislative enactments include: State Property and Contracts Acts, 1960 (C.A 6), State Lands Acts, 1962 (Act 125), Administration of Lands Act, 1962 (Act 123), Lands (Statutory Wayleaves) Act, 1963 (Act 186), Public Conveyancing Act, 1965 (Act 302), the 1992 Constitution of the Republic of Ghana, and the Minerals and Mining Law, 2006 (Act 703). However, among the various legal frameworks that have existed before and after the independence of Ghana, the principal laws used to effect compulsory acquisition or vest the interests in lands in the President for and on behalf of the citizenry are the 1992 Constitution of the Republic of Ghana, State Lands Act, 1962 (Act 125), the Administration of Lands Act, 1962 (Act 123), and the Minerals and Mining Laws, 2006 (Act 703).

Compulsory land acquisition, displacement and compensation payment are separate processes in Ghana, with little involvement of landowners or affected persons. Emboldened by various legal provisions, the state acquires land compulsorily by an Executive Instrument (EI). According to Nyarko (2014:14):

> *… compulsory land acquisition in Ghana is essentially completed upon the publication of an Executive Instrument (EI) by the President, subsequent to which all previous interests in the land are extinguished. There is no requirement for prior consultation or even notification of the landowners, much less informed consent. The landowners only become involved in the process after the acquisition instrument has been published, where compensation is payable.*

Article 20(2) of the Constitution of Ghana (Republic of Ghana, 1992) requires that compulsory acquisition of land shall be made under law which provides for: prompt payment of fair and adequate compensation; and a right of access to the High Court by any person who has an interest in or right over the property whether direct or on appeal from any other authority, for the determination of his/her interest or right and the amount of compensation to which he/she is entitled. This notwithstanding, studies (e.g., Larbi, 2008; Adu-Gyamfi, 2012; Akrofi and Whittal, 2013; Gyasi, 2016) have shown that land owners or users are often required to be hurriedly relocated for the commencement of the proposed infrastructure project, forcing people to be displaced even before compensation payment processes begin.

The State Lands Regulations, 1962 (L.I. 230) and its subsequent amendments provide the processes or procedures for state acquisition of lands under the State Lands Act, 1962 (Act 125). This process, when duly followed, is supposed to guide the acquisition of any private land compulsorily without any or many problems created for the affected owners. Article 20 of the 1992 Constitution also reinforces the processes laid down by L.I. 230. The procedure for compulsory acquisition by law may be sub-divided into five stages: i) application by acquiring body or institution, ii) formation of a site advisory committee, iii) preparation and execution of an executive instrument (E.I.), iv) publication of the E.I. and gazette notification, and v) compensation assessment and payment. Though the fifth stage is properly stated in the laws of compulsory land acquisition, but it is usually not recognized by some researchers (see Larbi *et al*., 2004) as a stage that finalizes the process of acquisition since it often occurs after the E.I., which indicates the formal acquisition of the land, has been published. However, it is noted strongly that the state cannot have any smooth and peaceful compulsory acquisition that is free from encroachment and litigations without payment of compensation to the affected people.

Furthermore, in the process of compulsory acquisition, the acquiring body or beneficiary institution, in consultation with the Lands Commission and the Land Use and Spatial Planning Authority, searches for a suitable land for the proposed project. An application is then submitted by the acquiring body, together with a description of the land with 16 site plans, to the Regional Minister. The Minister constitutes a site advisory committee to carry out inspection on the site and submit its report for approval. Following the approval, a first notice is posted on the site indicating that, that parcel of land has been proposed for compulsory acquisition by government. Here, the landlords and community members become aware of government's intention of acquiring the land. This is the time litigations begin among people in the community claiming ownership of interests in the proposed land. It has been observed that the process of acquisition takes a considerable period of time (Agyen-Brefo, 2012) since the preparation of the E.I. and its implementation goes through several and rigorous processes before publication. After publication of the E.I., a second

notice (according to L.I. 230) is given, which allows landowners to submit their declarations of titles or interests in the land and compensation is determined and subsequently paid.

There are three practical conditions that must be satisfied before an E.I. can be published in respect of a particular government land acquisition. These are: 1) the need for the acquiring body or beneficiary institution to show ability to pay full compensation to the expropriated landowners, 2) justification to acquire and retain the same size of land as proposed (it is the policy of government to return part or full size of the land acquired if not used for the intended purpose), and 3) a reassessment of compensation payable on the basis of the current market value to reflect current value of the land.

In acquiring land compulsorily, the body or person acting on behalf of the state, and in accordance with Section 1 of the State Lands Act, 1962 (Act 125) Subsection (4), must give a month notice to the landlords and people of the community in which the subject land is situated. In principle, the entire community is to be notified about government's intention of acquiring the parcel of land for public purposes, but this rarely happens as local people normally get a sense of the acquisition only when government officials go to the site to carry out demarcations (Kortey, 2002; Larbi, 2008). This sometimes causes fear and panic amongst owners of the land and creates tension between chiefs or landowners on one part and acquiring bodies or authority on the other. Creating community awareness at the initial stages of compulsory acquisition of land is necessary due to the fact that passage of the enabling E.I. and its subsequent notification take a long period to be completed.

3. Materials and Methods

The research adopted a case study design. The strategy of inquiry was qualitative where the processes and statuses of the selected lands were assessed using phenomenology (Husserl, 1970). The cases studied (Figure 1) were purposely selected because of the size of land involved and the ability to access information (see Patton, 1990). The selection of the cases was also influenced by the period of acquisition: the Wa Technical Institute (WaTech) land acquisition began in 1988 (before the promulgation of the 1992 Constitution); that of UDS began in 1995 and that of Wa Poly started in 2001. This ensured that the selected cases cut across different legal regimes on land in the country.

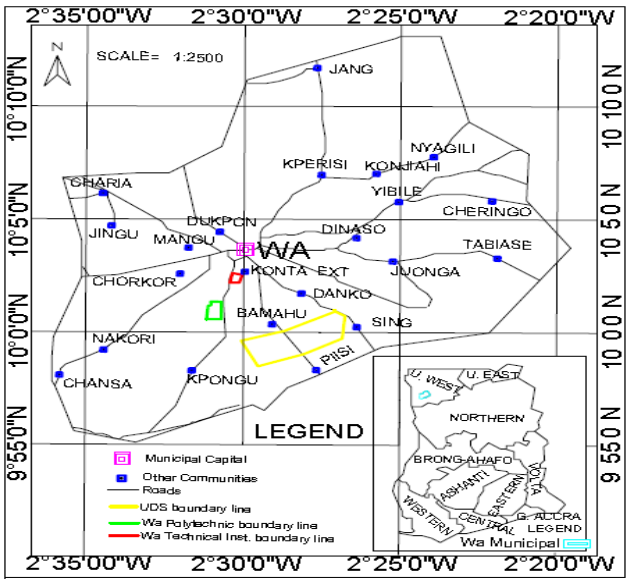

Figure 1: Map of Wa Municipality showing locations of the study cases

Data for the study (both primary and secondary) were acquired from the three public educational institutions considered as study cases (UDS, Wa Poly and WaTech), the Lands Commission, and the Land Use and Spatial Planning Authority through records search and key informant interviews. Semi-structured interviews were used to obtain primary data from heads of the pre-acquiring owning families and settlers/farmers of the selected lands. The family heads were purposively selected but the settlers/farmers were selected accidentally. The semi-structured interviews were conducted in the local language *('Waali')* by trained research assistants who are fluent in it. In all, the study interviewed 38 people from the landowning families and 80 settlers/farmers (see Table 1) together with the heads and unit heads of the acquiring authority and beneficiary institutions.

Table 1: Respondents for semi-structured interviews

	Land owning families		**Settlers/Farmers**
Case land	Name of family	No. of people interviewed	No. of people interviewed
UDS	Bawone	3	60
	Yipaala	3	
	Tafuguro	4	
Wa Poly	Yidaanayiri	3	20
	Yikori	6	
	Yijiihi	12	
WaTech	DangoliWawang	2	-
	SalifuSunkari	3	
	Sandao	2	
Total	**9**	**38**	**80**

Data obtained from the field was analysed qualitatively in line with the objective of the study using the thematic analyses approach (see Braun and Clarke, 2006). The themes that were generated covered the processes of land acquisition, payments of compensation and subsequent litigations, effects of the acquisition on the lives of affected people and the challenges associated with the state's land acquisitions. The results of the various interviews were analysed based on these themes and presented qualitatively using narratives.

4. Results

In this section, the selected case studies (see Figure 1) are discussed by focusing primarily, but not exclusively, on the backgrounds and processes of land acquisition.

4.1 Processes and challenges of compulsory acquisition

4.1.1 Case I: The University for Development Studies (UDS) land

The UDS land is located in Bamahu, south-east of Wa, the municipal capital (Figure 1) and covers a total area of approximately 14.03km^2 or 3,466.88 acres as published and stated in E.I. 40 (Figure 2), but it is about 3,524.71 acres on the ground, which is approximately 14.26km^2. It lies between Bamahu and Piisi on both sides of the Wa-Kumasi trunk road with major part of the land falling to the eastern side of the road. The Upper West Regional Coordinating Council in collaboration with the Regional House of Chiefs in 1995 proposed the land for acquisition for the start of the University Campus. A site advisory committee was constituted, and the committee submitted an inspection report to the Regional Minister for approval on 7 March 1995. An interim valuation report was prepared on buildings and economic trees affected by the acquisition and submitted to the Ministry of Education through UDS management in 2003. From there, the process of acquisition came to a halt and several pressures were mounted on government through the Lands Commission and UDS management by the landowners, agitating that the undeveloped part of the land should be released back to them. This agitation went on until 2011, when E.I. 40 was gazetted and published in April and October respectively. After publication of the E.I., notification was given on the site for the landlords, farmers and settlers to declare their affected interests in the land and full valuation of compensation amounts to be paid was carried out in 2012 but payments are yet be to be made.

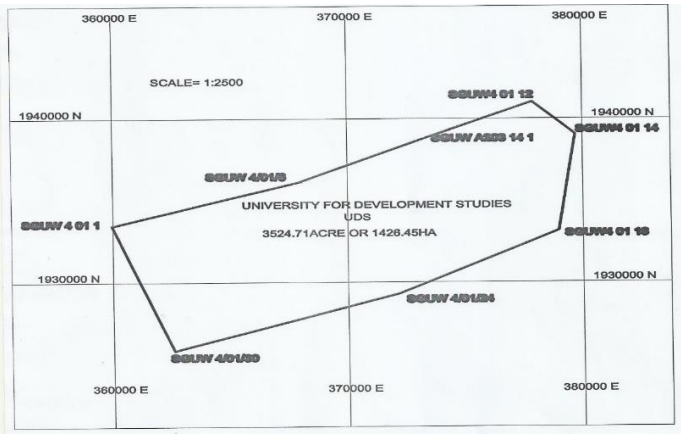

Figure 2: Outline of the UDS land

Source: Lands Commission, Wa, 2017

The study revealed that four families initially claimed ownership of interests in the UDS land. Out of these, three families - the Yipala and Bawonee of Sing and the Tafali of Kpongu - submitted their title declaration (affidavits) from the High Court of Justice together with their site plans to the Lands Commission. These three families also prepared site plans to cover the entire land. The Yipala family claimed about 82.59 acres of the land, the Bawonee family claimed about 2044.07 acres and the Tafali family claimed about 1398.05 acres. Two other families namely, the Somboli family of Bamahu and the Tangaju family of Kpongu, also submitted their claims to parts of the land to the Commission. These families claimed to hold allodial titles in the land and were vested with the ownership of the land by virtue of inheritance from their ancestors through evidences contained in sworn affidavits from the High Court. According to a valuation report done by the Somboli family, the family presented about 995.55 acres of the land to the Lands Commission as claim of interests. The study also revealed that the Kpongu Tangaju family submitted a claim of 521.20 acres.

In all, a total land area of 5041.46 acres was declared as the interests owned by the claimants, which far exceeds the official size acquired and published by the state (i.e. 3524.71 acres and 1426.45 hectares on the site plan). The resulting overlapping and boundary disputes became a very hectic situation for the acquiring authority to deal with. Further studies on the claims at the Regional Lands Commission and responses obtained from the landlords revealed that the Tangaju and Tafali families have reconciled and merged their claims to seek for common interests in the land. It was revealed that the claim by the Somboli family was a subject matter of litigation and that the three families (Yipaala, Bawonee and Tafali) teamed up and took the Somboli family to court claiming that the latter did not have any allodial or customary freehold title to the land. This brought conflict of interests between the Somboli family and the other three families, but after the resolution of the conflicting claims, the court case has been withdrawn.

The procedure in the State Lands Regulations of 1962 (L.I. 230) was followed in the acquisition of the UDS land: a site

advisory committee was formed to submit an inspection report, publication and notification of an E.I., and submission of claims of interests in the land, and assessment of final compensation. Even though, compensation due the landlords, farmers and settlers has been determined, it is yet to be paid. This makes the process of acquisition, as prescribed by the laws of the country, incomplete. Also, it was observed that there were some lapses in the acquisition of the UDS land, which have contributed to the challenges associated with the entire acquisition till date. The gap identified by the study is that, Lands Commission prepared an interim valuation report to an amount of GH¢410,000.00, to which the University was expected to have deposited part of this money with the Commission in a special (escrow) account. This initial deposit of money signifies the government's ability to pay full compensation when the enabling E.I. is published. In addition, part of the money paid into the escrow account was to be used to settle the people whose properties were destroyed to pave way for construction activities to commence. The research revealed that nothing was paid with respect to the above. The E.I. has to be amended to correspond to the total land of the composite plans of the various families. The families want the amendment done early to allow the process to continue.

4.1.2 Case II: The Wa Polytechnic land

The Wa Poly land is located on the right side of the Wa-Kpongu main road, and on the western direction of the same road (Figure 1). Specifically, the site is situated close to Kpaguri Residential Area in Wa and it is about 4km from the center of the town. The land covers a total area of 294.74 acres (Figure 3). The land for Wa Poly was proposed for acquisition by government in 2001. In 2003, a site advisory committee, consisting of 14 members was formed which submitted its survey report as well as recommendations to the Regional Minister for approval. After approval had been given, an assessment was made on crops or farms that were to be destroyed to pave way for construction of the Polytechnic. Compensation with respect to this was paid to the affected farmers in 2003 through funds obtained from the Ghana Education Trust Fund (GETFund) for the commencement of physical development of the Polytechnic. Afterwards, the process of acquisition slowed, and the landowning families mounted a lot of pressure on the government through the Lands Commission and the Polytechnic Management demanding their compensation. Several correspondences were made by the families threatening to sue the government over an incomplete acquisition process until October 2011 when E.I. 31 was published in the national dailies in respect of the land. The assessment of full compensation on the land, crops and economic trees was done in 2012 but payment is yet to be made to the affected families.

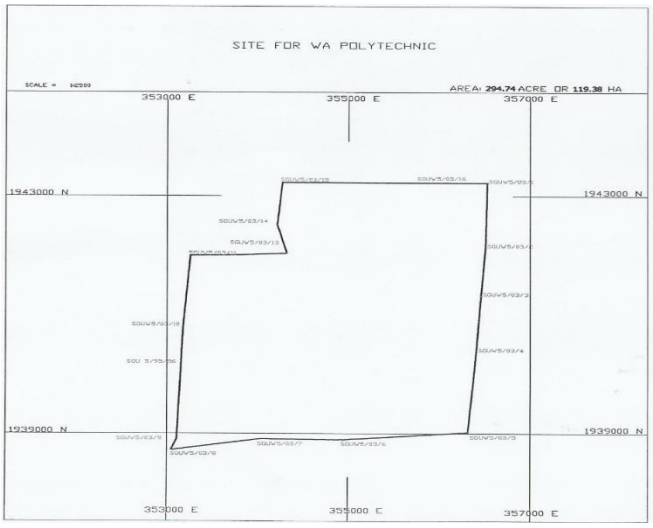

Figure 3: Areal map of Wa Polytechnic land

Source: Lands Commission, Wa, 2017

The study revealed that several families were laying claims to the ownership of interests in the entire Wa Poly land. Three families namely, Yidaanayiri (also known as the Tendamba) of Kpaguri, Yikori and Yijiihi were on one side claiming ownership of the entire land whilst other two families on another side namely, the Kunbanje family of Kpaguri and Fan-na family of Kpongu have teamed up to claim interests in the same land. These counter claims by the families from both sides, coupled with court litigation have become a hindrance to smooth acquisition of the land by government as well as payment of compensation to the affected individuals.

According to information obtained from the field, acquisition of the Wa Poly land followed the principles set out in L.I. 230; a site advisory committee was formed to submit its site inspection report for approval through to the publication of an E.I. for the acquisition in 2011. The study revealed that government was able to pay part of the money contained in the interim valuation certificate through funds obtained from the GETFund. Part of this money was used to compensate only those farmers whose crops were destroyed at the initial stage of development of the Polytechnic, such as the construction of access roads, lecture halls and the main administration block. All this while, the landlords and farmers were denied access to the land for farming whereas the E.I. used to effect official acquisition of the land was not published until October 2011. Therefore, between 2001 and 2011, the landlords and farmers did not have the capacity to use, occupy and dispose the land. Those who farmed on the land did so at their own risk since the farms could be destroyed any time the Polytechnic needed those portions of the land for development. Assessment and payment of full compensation due is the last phase in the process of acquisition. However, since 2012, no compensation has been paid to the landlords and farmers after publication of the E.I. Unless counterclaims by the families are settled, processing for payment of final compensations cannot be concluded.

4.1.3 Case III: The Wa Technical Institute (WaTech) land

The land for WaTech is situated at Napogbakole Extension Residential Area, Wa. It is located on the left side of the Wa Poly-Kpongu trunk road and at the junction of a branch road linking the Star Standard School and the SSNIT Flats through to the Wa-Kumasi trunk road (see Figure 1). The total size of the land is about 94.10 acres (Figures 4). The WaTech land was proposed for acquisition between 1988 and 1989, by the then Regional Coordinating Council and spearheaded by the PNDC Regional Secretary at that time. In April 1990 a 13-member Site Advisory Committee, formed by the PNDC Regional Secretary, carried out site inspection and submitted their findings as well as recommendations to the Regional Secretary for approval. After the approval, the report was forwarded to the Lands Commission for further processing, and for an E.I. to be prepared and sent to the Ministry of Lands and Natural Resources for gazetting. Nothing was heard from government concerning the passage of an E.I. to indicate the formal acquisition and payment of compensation. In 2004, all the three families claiming interests in the land came together and wrote to the school authorities, copying the various stakeholders, that part of the land should be released back to them for their farming activities since the land was their only source of sustenance. The plea of the families for the release of the undeveloped part of the land as well as the compensation went on several times until 2012 when the affected families joined together and sued the government (Ghana Education Service and Lands Commission) at the Wa High Court for non-payment of compensation. Information obtained from the Regional Lands Commission, through an interview, revealed that upon the High Court ruling part of the assessed interim value was paid into the families' account. The officer interviewed indicated that:

> *The court case over the subject of acquisition has been determined and judgment was given in favor of the landlords. Per the records, the landlords obtained judgment from the court with an assessed value out of which 4.25% has been paid into the families' account. The acquiring institution pays this money into the families' special account to indicate their readiness to pay full compensation after the publication of the E.I. In addition, the court ordered that the Bank of Ghana should pay the remaining amount from the GES account to the families' account.*

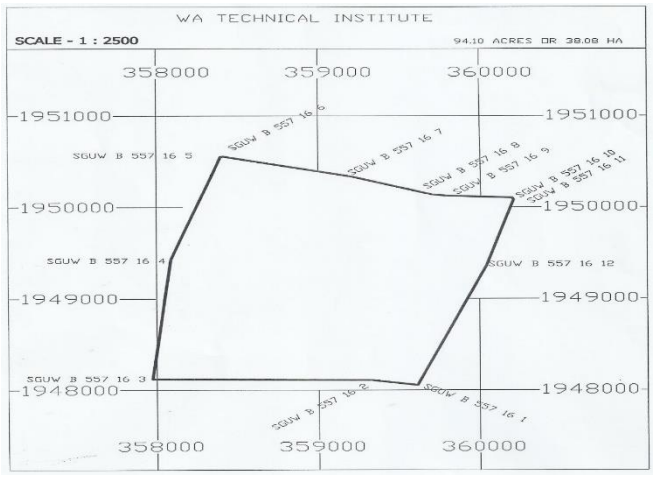

Figure 4: Areal Map of Wa Technical Institute land (WaTech land)

Source: Lands Commission, Wa, 2017

The study revealed that the WaTech land is owned by three families. The family heads inherited the land from their ancestors. Their ownership rights were evident in title declarations from the High Court to the Lands Commission. The three families are the Dongoli Wawang, Salifu Sunkari and Sandao all of Sokpayiri Tendamba Clan of the Wa Customary System. For this land, the study revealed that there were no adverse claims or court litigations over its ownership. The only litigation found on the land was between the landowning families on one side and GES and Lands Commission on the other side over non-payment of compensations. An interim valuation report on the land was prepared by the Lands Valuation Board in 1994 for GES to deposit part of the interim value in an escrow account opened by the Lands Commission to prove their ability to pay full compensation when an E.I. is published. It was realized by the study that GES did not have funds to make part payment of the interim valuation certificate. This halted the process of acquisition until 2018 when the E.I. was published to pave way for the payment of compensations. Compensations have since been fully paid to the affected families.

However, the study identified some lapses in the process of the acquisition. Firstly, the Regional Secretary approved the site advisory committee's report in 1990, but it took about four years before an interim valuation report was prepared after the Secretary had approved the committee's recommendations, causing a delay in the process of acquisition. Meanwhile, physical developments were on-going on the site for the establishment of the Institute. Secondly, GES did not deposit part of the value in the interim valuation certificate in a special account, which was supposed to be used to pay for destroyed crops, structures and economic trees, but went ahead to take over the land for construction of classroom and dormitory blocks. Moreover, contrary to L.I. 230, which provides that an E.I. should be published as evidence of effective acquisition of the subject land by the state, the institution had commenced full operation on the land without an E.I.

In 2012, all the landowning families teamed up and sued GES and Lands Commission at the High Court over the incomplete acquisition process of the subject land. After the court proceedings, judgment was given in favour of the landowners and part of the interim valuation certificate was paid by GES into the families' account to enable the passage of an E.I. to indicate formal acquisition of the land. It is interesting to note that the WaTech land is the only government acquisition in the Municipality which the study revealed that there was no adverse claim with respect to the ownership of interests in the land. That is, there is no family litigation over ownership of interests in the land.

4.1.4 Effects of the acquisitions on the lives of pre-acquiring owners and settlers/farmers

The processes by which the lands under study were acquired have really affected the pre-acquiring people in the subject neighborhoods. The study revealed that the effects of the acquisition on the landlords and settlers/farmers cut across all the three subject lands. Only few effects were identified to be specifically related to individual lands and such have been highlighted here. The results indicate that acquisition of the lands has taken away the farmlands of the landlords, settlers and farmers, which were the main sources of their livelihoods, especially in the case of UDS and Wa Poly lands (Table 2). Many of the affected families are large, comprising polygamous families with several children, so the entire family depended on the same land for their livelihoods. According to the head of one of the land-owning families of the Wa Poly land from Kpongu:

> *Since the E.I. was published, those who farm on the Wa Polytechnic land did so at their own risk as the land could be taken away any time without notice for development. This sometimes leads to our crops being destroyed in the course of the development.*

As a result of the acquisitions, affected families do not have access to the lands again, and even for those who farm on the lands, the land sizes have reduced and they farm around the boundaries and areas where development has not yet reached. A farmer in Bamahu reported:

> *I used to farm four acres of maize every year, but I now have access to only about one and half acres. Even I was told by the University authorities that I cannot continue to farm there because farming activities (including burning grasses) disturbs them.*

Women in the affected communities depend on economic trees on the lands to generate income, through collecting shea nuts, edible fruits/leaves, and charcoal production to support their families. These sources of income are threatened because women now have limited access to economic trees on the acquired lands. Indeed, the WaTech land has been fenced to prevent *'intruders'* from interrupting school activities. A 43-year old woman in Kunfabiala No. 1 lamented:

> *All the trees we used to pick fruits from are being destroyed by the UDS people due to expansion of development on the Campus. At times when we go to collect mangoes from the land, we are chased away by the security men. Also, we cannot burn charcoal on the land as we used to.*

Nonpayment of compensations to the expropriated owners of the lands has worsened their economic conditions since they lost their sources of livelihood. Also, the families complained that the establishment of the institutions did not benefit them. A landlord of the UDS land in Sing said:

> *The University did not help us since our family has not benefited anything from the institution. It did not provide opportunities for our children; if you do not have money to pay school fees, your children cannot access education from the institution.*

Table 2: Farmlands lost to compulsory acquisition

Case land	**Size of land (acres)**									
	1-5		**6-10**		**11-15**		**16-20**		**21 or more**	
	LO	**SF**	**LO**	**SF**	**LO**	**SF**	**LO**	**SF**	**LO**	**SF**
UDS	1	19	-	16	-	11	2	8	4	6
Wa Poly	2	9	8	6	1	4	1	1	6	-
Total	**3**	**28**	**8**	**22**	**1**	**15**	**5**	**9**	**10**	**6**

LO = Landowners; SF = Settlers/Farmers

Source: Field Survey, 2018.

Another landlord of the UDS land in Kpongu said:

> *If you do not have money to build a hostel or operate a market store to serve students, your life becomes miserable since farming, which is the major occupation of the people, has declined and those who farm need to borrow land from other families in far places.*

Similarly, a respondent from the Wa Poly landowning families in Kpaguri stated:

> *Many people from different backgrounds can come to the Polytechnic to acquire knowledge and go, and our children cannot attend since we do not have money. Also, our family members are not part of the laborers in the institution. Therefore, the acquisition of the land did not help us.*

A respondent from the landowning family of the WaTech in Sokpayiri also stated:

> *The acquisition killed us; it destroyed our families' life. When will I get the opportunity to become the big man that I wanted to be? The acquisition did not help because it did not provide opportunity for our children. Our family threatened the PNDC Regional Secretary and government officials before they came to plead with us during the acquisition.*

As a result of the subjects of acquisition, the youth in the affected communities migrate to other places, such as Wa Town or southern parts of the country, to seek greener pastures. This was also attributed to loss of livelihoods due to government's acquisition of lands. It was revealed by a 60-year old man in Kunfabiala No. 1 that: *Most people you see in the community now are aged (60 years and above). Only a few youths are found here because there is no work for them.*

Families in Kunfabiala No. 1 face imminent loss of their places of abode due to acquisition of the UDS land. The entire community falls within the UDS land, so the people are likely to become homeless if the University expands to cover the place they are currently occupying since provisions were not made in the acquisition process to either resettle them or integrate them into the University community. During the data collection, a settler expressed his worry:

> *We do not know what to do or where to go to. If government had paid the compensation due us at the early stages of the acquisition, it would have helped us to plan well for our lives. But now that no compensation has been paid to us, we cannot plan very well for the future due to lack of funds to resettle at new places.*

The acquisitions of the three subject lands have caused destruction of family gods, shrines and cemeteries in their respective locations. With respect to the Wa Poly land, a landlord in Kpongu indicated:

> *My family has shrines/gods on the land, and some of them were affected by the acquisition. Evidence of this can be seen in the adverse claim by my family (the Ahassan Kubanje family of Kpaguri) and the Fan-na family of Kpongu in our joint declaration to the Lands Commission.*

5. Discussion

The study reveal several procedural breaches of State's Lands Regulations, 1962 (L.I. 230) and its subsequent amendments providing the procedures for compulsory acquisition of lands under the State Lands Act, 1962 (Act 125), which is also reinforced by Article 20 of the 1992 Constitution. In all the cases studied, farmers indicated that they were on the field doing their usual farming activities when they saw surveyors and some government officials demarcating the lands. It was upon their enquiries that they were told government had acquired the lands for the establishment of the institutions. Some landlords also indicated that they were called to the site after the lands had been surveyed to show them the boundaries of acquired lands. In the case of the settlers, they got information about the state's acquisition circulating in the area which became sudden news to them since they had no other places to live or do farm work. These revelations affirm studies by Kortey (2002), Larbi (2008) and Gyasi (2016) that in some places, affected people became aware of state acquisition when they saw surveyors on the field.

Section 2(2b) of the State Lands Regulations, 1960 (L.I. 230) requires that not less than 24 hours' notice of the proposed entry be given to the occupier of the land, in appropriate form where there are inhabited dwellings on the land concerned. This implies that the site advisory committee can visit any land proposed for inspection and make recommendations for the state's acquisition only after giving not less than a 24-hours' notice to the affected people in the community. However, responses obtained from the affected people in this study indicated that the landlords, settlers and farmers were not issued notices in any form with respect to the entry of the lands by the committees. In some instances, respondents were not even aware of the exact date and time the site advisory committees entered the proposed sites to carry out their mandates. Besides, in the WaTech land in particular, the committee was constituted after the subject land had been taken over by government and development had commenced on it. The acquisition and management of the lands for UDS, Wa Poly and WaTech have left in their trail several unresolved problems including loss of livelihoods, imminent eviction of families without resettlement, and destruction of cultural monuments such as gods, shrines and cemeteries. Similar findings have been reported by Gyasi (2016) and Kabra (2016).

6. Conclusion

The study revealed that the processes of state's acquisition of the subject lands have not been smooth. The process of acquisition of the WaTech land, though completed, has not been without challenges including delays in publication of E.I. and failure to engage landowners early enough in the process. The processes of acquiring the UDS and Wa Poly lands have not been completed: they are awaiting

determination of compensations pending resolution of boundary disputes and ownership litigations respectively. It is clear from the study that the processes of compulsory land acquisition were not properly followed as outlined in L.I. 230, thus raising agitations and litigations from and amongst landlords. The violations identified in the acquisition processes were non-notification of entry by acquiring authorities, no consultations with affected people before acquisitions, non-sensitization of community members to create understanding of the basis of acquisition and the concept of compulsory land acquisition in general as well as litigations amongst landowners/families. These have generated misapprehension on the part of the expropriated landowners and settlers/farmers, most of whom have lost their major livelihoods as a result of government's acquisition of their lands.

The current land requirements by government for development of educational infrastructure remain crucial, especially as the country embarks on major reforms in the sector including establishment of new institutions and expansion of existing facilities. However, institutional frameworks and practices of compulsory land acquisition are both weak and fragmented. The existing inter-sectoral or inter-ministerial development system in Ghana has reinforced weaknesses in compulsory land acquisition practices and a move towards sectoral independence is imperative. Acquiring land compulsorily for development has often endangered traditional or established livelihoods. The lack of comprehensive compensation systems in the country makes it difficult to check conformity of large-scale land acquisition for development with local livelihood needs. It is therefore essential to redefine the compulsory land acquisition process and payments of compensation as a response to both problems and future livelihood sustenance of affected families. To reduce tension and litigations between government institutions and land owning families and increase public confidence in regulations, this study recommends that *land* owners should be represented in the *acquisition* process from the onset to ensure fairness and prompt payment of adequate *compensation* as provided for by the law.

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