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## DEVELOPMENT AND HUMAN RIGHTS

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Juana Kweitel and Laura Trajber Waisbich**  
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## ABSTRACT

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Since the return to constitutional rule, Ghana has intensified efforts to promote human rights. However there are several challenges with the promotion of property rights, especially with regard to land ownership. This challenge, borne out of the tensions between the modern and the traditional state, is exacerbated by the plural legal systems in place as well as the challenges of rapid urbanisation and a high unemployment rate, particularly in the Greater Accra region. The liberal market system promoted by Ghana's return to constitutional rule led to increased investment in land and demands for greater security in land title. This led to efforts aimed at land reform. These notwithstanding, the inability of the state to enforce its rules and elicit compliance have meant that the land market remains a minefield. The consequence has been the emergence of private security service providers who employ illegal means of enforcement to protect land and landed property. Popularly known as land guards, these security providers are the nightmare of landowners in the Greater Accra region. Using primary and secondary sources, this paper examines the rationale behind the demand and supply of land guard services and the implications of such services on property rights in Ghana. We conclude that the weak law enforcement capabilities of the state and rampant corruption in the land management institutions facilitate conflicts in land markets and encourage people to resort to individual security mechanisms. We argue that as long as such illicit security measures are employed, the state's authority and monopoly over the use of force will remain irrelevant in the land sector.

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# KILLING TO PROTECT? LAND GUARDS, STATE SUBORDINATION AND HUMAN RIGHTS IN GHANA

Linda Darkwa and Philip Attuquayefio

## 1 Introduction

Several indicators suggest that Ghana is on a path of growth and development. There have been suggestions that the country is the fastest growing economy in sub-Saharan Africa, and in 2011 the country was reputed to have attained a middle-income status. Situated in a sub-region where many of its neighbours have been victims of violent armed conflicts, Ghana is hailed as a beacon of peace. Undoubtedly, compared to its neighbours, Ghana deserves this praise. However, the dynamics that characterise its development have also facilitated a number of security challenges. Although some of the challenges are fairly new, most are old. A number of the security challenges confronting the state are a result of the modern state's inability to facilitate a re-engineering of the traditional state system to suit the needs of the country's present political, social, and economic landscapes without alienating the traditional structures—particularly because the state does not have the capacity to effectively enforce its authority throughout the country.

Ghana's return to constitutional rule in 1992 ushered in a period of optimism. On the one hand, the rights and freedoms of citizens have been guaranteed whilst on the other hand, the new political order has encouraged a liberal economic regime. This new political and economic dispensation has facilitated the development of strong institutions, which has in turn encouraged investment. During this same period, Ghana has experienced high volumes of rural-urban migration, a surge in the urban population, and a high demand for land for both residential as well as industrial development. The high demand for land has enhanced the commercialisation of lands, especially in Accra and its surrounding environs. The high value placed on land had implications for the former politics surrounding land ownership, acquisition, and transfers. The opportunity

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*Notes to this text start on page 159.*

to make money off the sale or lease of lands facilitated a number of conflicts between families, communities, and individuals on ownership issues. These conflicts were exacerbated by the convoluted dynamics of land management that had been occasioned by the distortions of colonial rule and the consequent plural legal systems that emerged. Questions surrounding the definition of ownership and the rights and duties of lessors became much more prominent with the increase in land commodification following the return to constitutional rule in 1992. The challenge was compounded with the ineffective land administration processes, which were in place for land management.

The challenges confronting the land industry are not necessarily new phenomena. Writing in 1955, Pogucki suggests that the rising land values in Accra were a result of “rapid residential development and congestion in the commercial and industrial areas” (POGUCKI, 1955, p. 10-11). According to him, even in 1955, demand was exceeding supply and causing an increase in food prices because of the “retreat of cultivated areas as a result of the extension of town limits” brought about by the increase in population. He discusses issues of ownership and the rights and obligations imposed by customary law on those in charge of land administration in the traditional governance system, and areas of conflict. His work provides useful insights into the traditional structures for land management in the pre-independence period. Although Pogucki raises the definitional challenge of ownership in traditional land administration, his discussion is limited to the range of rights that a political head may exercise for a group on whose behalf he administers land. Thus, although the dispute over the right to exercise certain measures of authority contributes to the insecurity confronting landowners in Ghana today, it does not delve into the issues of multiple sale and criminality confronting contemporary land management.

Gough and Yankson (2000) admit that the primary challenges underlying the management of land markets in developing countries are the complex relationships between people and land, the different tenure systems that exist among the various societies within states, the exertion of state control over lands in the post independence period, and the plural legal system which pitches Western legal provisions against the customary laws of the diverse societies. Although these challenges are not new, contemporary issues such as rapid increases in urban populations have resulted in overcrowding conditions in many cities in the developing world.

Amanor (1999) explains that the unattractive nature of agriculture to youth as a result of its meagre pay offs combined with high levels of unemployment in rural communities facilitates rural-urban migration which undoubtedly increases the urban population. He argues that there is an “interrelationship between the penetration of international capital, the restructuring of the economy, the political economy of social and class formations, and local livelihood struggles for access to resources” (AMANOR, 1999, p. 23). Although his work focuses on agribusiness, he provides useful insight into the effects of land expropriation for the production of produce for the international market on the people living in those communities.

Focusing on land management in Accra, Gough and Yankson suggest that the overcrowding conditions in Accra have resulted in high costs of rent in the city and a subsequent conversion of agricultural lands to residential and commercial lands. According to them, the peri-urban areas which previously only had indigenous

settlements and were used for subsistence farming have been converted to residential areas (GOUGH; YANKSON, 2000, p. 2.489). This has led to an increase in the price of land and facilitated perceptions of alienation and inequality among the poor indigenous people and especially among the youth.

This perception often pits the youth in some communities against traditional rulers who they accuse of selling community lands for personal gain. However, Gough and Yankson explain that while some chiefs may exercise political and administrative authority over a parcel of land and the inhabitants, they may not be the allodial title holders, which means that they do not have the power to sell the lands. As a result, while the lands may be sold, the bulk of the revenue accruing from such sales may not get into the community where the land is cited. Their work reveals that some of the challenges that have arisen between the youth and some chiefs over perceptions of land alienation, lack of transparency, corruption, and inequity may actually be as a result of the youth's lack of knowledge regarding the actual ownership of those lands.

In his work *Customary Land Law in the Ghanaian Courts*, Woodman (1996) provides an exposition on the customary law provisions for modes of creation and transfer of land, and the persons who may hold interests in land. His work provides definitions for a number of concepts and entities in land administration. He also provides the parameters of the authority given by various groups in the traditional system (communities, families, clans, etc.) to persons charged with the administration of lands other than their personal properties. His work suggests that persons entrusted with the management of lands on behalf of groups cannot make unilateral decisions concerning the appropriation of the land without consulting the principal members of the group. Woodman touches on the conflict between some of the customary law provisions and the provisions of the modern state system. Woodman's work reveals the neatly laid out *de jure* provisions for the management of land in Ghana and the tensions present in the *de facto* application of the laws.

Despite a plethora of work on the land management problem in Ghana, we did not come across any works that addressed the phenomenon of "landguardism" and its effects on the security of Ghana. Although there are efforts at reforming land management in Ghana, "landguardism," the phenomenon of employing constituted groups of mainly young persons who engage in the use of illegitimate force to protect land and landed property in exchange for remuneration in cash or in kind, has been on the rise in Accra. This is arguably due to the challenge of multiple sale of lands; long legal processes for the resolution of land conflicts by the courts; lack of faith in the police and court systems as a result of perceived corruption and bias; and weak law enforcement, which facilitates the activities of gangs in the land industry (DARKWA, 2012). Although land guards seek to present themselves as private security operatives, they operate outside the framework for the provision of private security services and utilize violence and/or the threat of violence in the provision of security for land and landed properties. Their activities are illegal and a contravention of the existing laws on the provision of private security services.<sup>1</sup> The use of land guards for the resolution of land conflicts affects the enjoyment of property rights, as those without the resources to employ land guards often lose their lands to those with the capability to pay for such services.

## 2 Methodology

Using key informant interviews with three land guards,<sup>2</sup> a focus group discussion with five land guards,<sup>3</sup> a retired police officer,<sup>4</sup> a serving police officer,<sup>5</sup> a building contractor who employs the services of land guards,<sup>6</sup> and content analysis of newspaper articles, this paper seeks to provide insight into the nature of the activities of land guards and to demonstrate their negative impact on the enjoyment of property rights. It discusses perceived collusion between the state's security apparatus and criminal elements in the land industry. Finally, the paper explains the resilience of land guards through rational choice theory and concludes that until the Ghanaian state is able to reform the land sector effectively and elicit compliance for its laws as well as address the challenge of unemployment, the activities of land guards will continue. Only eight land guards were interviewed for the paper because it is difficult to get land guards to discuss their activities due to the illegal nature of their work. However, the responses obtained can be generalized for the phenomenon in the Greater Accra region because the interviews reached a point of data saturation at which point nothing substantively new was being discovered.

## 3 Land guards as organized criminal groups: Framing the issue

Land guards exist primarily to meet a demand for land protection services. As aforementioned, the phenomenon of land guards surged in the period following Ghana's return to constitutional rule in 1992; a period which saw the liberalization of markets and an increase in economic growth opportunities and credit access.<sup>7</sup> These developments sparked an increase in the acquisition of property as potential investors sought out investment opportunities in real estate and ordinary citizens felt relatively secure to invest in land. Increased interest in land acquisition led to an appreciation of land value, especially in Accra, the capital of Ghana. It is noteworthy, however, that these processes unfolded within a transitional environment – from military dictatorship to democracy. Thus, a number of the institutions, processes, and norms necessary for resolving emerging challenges from land contestations were non-existent, inefficient, or inadequate.

To put the phenomenon of land guards into proper perspective, it is imperative to provide an overview of issues surrounding land ownership and acquisition in Ghana. About 80% of the total land area belongs variously to stools/skins,<sup>8</sup> individuals, families, and clans. To a large extent, “private lands in most parts of the country are in communal ownership, held in trust for the community or group by a stool or skin as a symbol of traditional authority, or by a family” (GHANA. Ministry of Lands and Forestry, 1999, p. 2).<sup>9</sup> However, the commodification of land has upturned the traditional values attached to land as an asset held in trust for communities and generations yet to come. In many instances, the increased economic value of land has led to a struggle over ownership and control. This struggle brings to the fore and probably amplifies an inherent challenge in the customary land tenure system – the ambiguity of boundaries (KOM, 2003). The challenge emerges from the fact that beyond establishing boundaries with trees, rivers, and other natural or man-made

elements, very little existed by way of reliable documentation. Consequently, conflicts over such boundaries frequently became exacerbated. The challenge of ambiguously demarcated land boundaries is not limited to communities but extends to family and clan lands. Thus, there are challenges of establishing ownership and control between communities as well as between clans and families within the same community.

The challenge of ownership and control creates another difficulty in terms of who has the *locus standi*, within a family or community context, to sell land. This is reflected in the Latin maxim *Nemo dat quod non habet* (that a person cannot give out that which s/he does not have). The challenge essentially lies in establishing who has title over a parcel of land – something many non-indigenous members of a community may not easily be able to verify. This inability to easily verify ownership of title has led to instances of multiple sales of the same parcel of land by several vendors laying claim to ownership of that land. Thus, to prevent other claimants from selling lands, a claimant may either go to court or resort to the use of force. In some instances, even when cases are in court, families may employ the use of force to prevent either side from appropriating parts of the land in contention (KOM, 2003, p. 16).

In a related vein, the lack of easily accessible and verifiable information on which individual within a family/clan or traditional area (community) has the right to sell land compounds the issue of multiple sale. Traditional authorities have designated structures assigned with specific functions for the smooth administration of their communities. Usually, there are designated families, title holders, or individuals mandated by custom to oversee all assets of the community; and who, in consultation with the chief and elders, may give out land to members of the community and allocate land to prospective buyers on behalf of the community. However, it is not always clear who has a right to sell community lands. Thus, some chiefs acting in this regard have been accused of acting outside of their mandates.<sup>10</sup> Perhaps what is worse is the fact that, contrary to the constitutions of their communities, these individuals enrich themselves with the proceeds of the sales without any benefits to their communities.

Given these challenges, many buyers become victims of multiple sale and have to turn to courts of law to seek redress.<sup>11</sup> However, the long and costly processes of accessing justice in general and land litigation in particular often act as a deterrent to resorting to the formal processes of the judiciary. Even in instances when there has been recourse to the formal justice systems, it is still imperative to ward off contestations and prevent contenders from developing the land. This necessitates physical surveillance.

As a result of the above context, land ownership, transfer, sale, and acquisition in Ghana are fraught with several challenges, which necessitate surveillance and physical protection against encroachment. However, the Ghana Police Service does not provide surveillance services for individual private property. Generally, they only physically intervene after there have been complaints of trespassing, vandalism of property, unlawful occupation, or when there are clashes between opposing factions (DARKWA, 2010). The non-statutory private security providers do not usually undertake land protection services, probably as a result of the high risk involved. Consequently, parties in disputed land transactions have to guarantee the security of land through their own

means. This leads to chaos and anarchy, as the demolition and counter-demolition of structures are to establish ownership. The emergence of land guards is therefore in response to a need for the physical protection of private property interests. Although land guards' recourse to the use of excessive force, including deadly force with illicit small arms, is illegal, their services are highly sought after as they are considered the only viable choice for the protection of land (DARKWA, 2010).

As the country deepened its democratic processes, efforts have been made to develop and strengthen state institutions. As a result, some reforms have taken place in the land industry to provide better administration and management as well as guarantees for purchasers of property.<sup>12</sup> Systematic land titling and digitalisation of land titles have made it possible to verify land title within a shorter period prior to purchase.<sup>13</sup> The question that begs an answer however is why the phenomenon of land guards continues to persist even after reform in the land sector. In fact, instead of becoming obsolete, information in the public domain suggests that land guards have become more brazen and vicious. The answer is three-fold. First, the incentives for being a land guard are sufficiently appealing and provide an impetus for the continued provision of land guard services despite the inherent associated risks.<sup>14</sup> Secondly, despite reforms in the land sector, many of the challenges, such as multiple sales and forcible appropriation of land, persist, which lead to a continued high demand for the services of land guards. Thirdly, the multiple roles performed by land guards (facilitated by their reputation as ruthless people) keep them in business as they are employed for different purposes including the provision of personal security to politicians and, in extreme cases, serving as hired assassins.<sup>15</sup> Thus, despite their obvious illegality, land guards remain active because (a) there is a demand for their services; (b) given their resources and opportunities available to them in the legal market, the envisaged utility of their illegal actions significantly exceeds engaging in the legal market; and because (c) of a perception that the risk of apprehension, arrest, and punishment is minimal.<sup>16</sup>

#### 4 Profiling land guards

In order to appreciate the nature of interviewees for the study, it must be indicated that there are different categories of land guards. Although they all perform the same basic function of protecting land and landed properties, their motives are not always the same. As mentioned above, the vast majority of lands belong to stools, skins, and/or families. These lands are held in trust for the entire community and generations to be born. Therefore, there is often shared responsibility to protect the communal inheritance. Any perception of exploitation through sale of the communal lands may be met with hostility. In this instance, young people in a given community may rally together to prevent, or at least frustrate, the sale or the development of some lands. Their contention is usually with the traditional authorities that may sell the parcel of land. These kinds of land guards are formed sporadically to address a specific problem and usually exist only for the period of contention. They do not receive any remuneration, save being able to prevent the sale of their communal land. We refer to this category of land guards as “community guards.”

The second category of land guards can be aptly referred to as “amateur land guards.” These are groups of young people within communities who come together to exploit landowners and developers. Once the land is procured, they impose a levy referred to as a “digging fee” prior to development. Failure to pay the “digging fee” could result in violent clashes between workers and these groups and, in some instances, vandalism. This category of persons is best described as extortionists, although they often allege that, as members of the community, they ward off encroachers from the land, thereby alluding to some semblance of protection. Although these persons usually operate within their own communities, some may also join other land guards elsewhere.

The third category of land guards includes those who work with the traditional authorities within the communities and who have sought refuge under the traditional *Asafo* institutions.<sup>17</sup> They usually accompany those delegated by the traditional authorities to demarcate land and they also demand payment of “digging fees.” Two of the land guards interviewed positioned themselves within this category. Interestingly, neither of them belongs to the families for whom he claims to be working. It is therefore evident, as indicated in earlier paragraphs, that they could not be members of the *Asafo* group and only evoke that as a tool of legitimization.

The last category of land guards is young persons who work under identifiable hierarchies and provide protection services to the highest bidder. They may be contracted for a wide range of jobs including providing protection services for land and landed property, VIP protection, and the elimination of opponents and threats. They have a reputation of being ruthless and are usually feared. They do not necessarily belong to any community and work in different areas of the country.<sup>18</sup> Although there are various categories, membership of such groups is fluid. This means that an individual may be a member of all the various categories.

Most land guards perform multiple functions and rely on their “networks” to perform in their various roles. To maximise time and profit, land guards may run shifts or rotate. For example, if five land guards are recruited by five different land/property owners to provide protection in a particular location, they (the land guards) agree to a shift system that allows them to rotate. This means that all the lands are guarded by one or two people at a time. This arrangement frees up their time and allows them to take up other assignments.

Land guards from the first category (community land guards) usually do not demand money from prospective buyers. They see themselves as the “defenders of their heritage” and their contention is usually with the traditional authority in place. However, those in the second category demand money because they believe that, as members of the community, it is their right to do so. Sometimes, after their extortion, they may offer protection services for which separate terms have to be negotiated. Members of the third category present themselves as the “warriors of the land” - *Asafo*. Portraying themselves as the legitimate protection unit of the traditional authority, the money they receive is perceived as a token in exchange for protection against potential encroachers. They, like the second category, may also negotiate separate contracts to provide additional “surveillance” services. The last category of land guards provides services for clients in conflict with other clients, clients in

conflict with communities, conflicts between families over ownership, and traditional authorities in conflict with one another over boundaries, demarcations, and control.

Most land guards live in low-income communities such as Nima, Ashiaman, Adjiringano, Amasaman Zongo, and Tudu.<sup>19</sup> According to interviewees, most land guards fall within the ages of 17-40 years old, although there are older ones who serve as mobilizers, coordinators, and commanders. Most do not have the requisite qualifications for employment, yet a good number of them have finished basic secondary schools (junior high school).<sup>20</sup> Although they may belong to different organizations, they network extensively, relying on communication technology such as mobile phones to run their organizations. They work under pseudonyms, keep their identities secret, and often negotiate through a trusted middle person. They avoid face-to-face contact with their clients until they are certain of the clients' authenticity. Apart from taking advantage of a wider network platform, their recourse to modern communication technology is sometimes calculated to evade arrest. Irrespective of their motives, all land guards have certain common characteristics. They are mostly young, unemployed, and have very few rudimentary skills for legal employment, or no skills at all.

## 5 Land guards and human rights violations: Some case studies

Newspapers are awash with stories of land guards' activities resulting in injury, loss of investment, and, in some cases, death. A few examples are presented here as evidence of the negative impact of land guard activities on economic and social rights as well as the right to life. In November 1998, Richard Owusu Sekyere (popularly known as Kweku Ninja), a police officer at the Police Academy and Training School, and Jerry Wornoo (alias Taller), of the Striking Force Unit of the Ghana Police Service, were killed by land guards when the two allegedly attempted to erect pillars (which serve as boundaries and also indicate ownership) on plots of land they had acquired in Ablekuma, a suburb of Accra (AWORTWI-MENSAH, 2001).

In December 2005, there were reports that Godfrey Cobbinah, a senior administrator at the Internal Revenue Service (IRS), had been killed by land guards at Achiaman near Amasaman. As President of the Welfare Committee of the IRS, Cobbinah was inspecting land acquired by some members of the IRS when he was killed (LAND guards kill..., 2005). On 24<sup>th</sup> September 2010, it was reported that residents of Oyibi, a developing suburb in Accra, had been subjected to brutal attacks by land guards and threatened with eviction (LAND guards brutalise, 2010). On 1<sup>st</sup> August 2011, the Daily Graphic reported that land guards had terrorized a businessman in his house. The attack was linked to a fight by the businessman's company against encroachers on the company's land, which was acquired for commercial agriculture (AZU, 2011).

The above is a sample of the stories available in public sources. It must be noted, however, that many more incidents remain unreported and inaccurately reported.<sup>21</sup> Although the stories are worrisome, the manner in which the atrocities are carried out is even more alarming. In all of the cases mentioned above, the crimes occurred in full view of witnesses, an indication of the land guards' fearlessness. Land guards

threaten, maim, and kill their victims in addition to demolishing property and preventing hired labourers from working. These activities undermine investment and development and are undoubtedly an affront to the right to life and freedom from fear, as well as a violation of the economic and social rights of victims.

## **6 Land guards as organized criminal groups: Establishing the Linkage**

Land guards are more than ordinary criminal gangs. Rather, they are part of organized criminal groups. Providing a proper classification for them is imperative for understanding their seeming resilience and so as to design appropriate mechanisms for addressing the challenges they pose to human and state security. There is no consensus on a definition of organised crime (ALBANESE, 2000, p. 410; HAGAN, 1983, p. 52). However, Albin provides a useful definition for establishing the nexus between land guards and organised crime. He defines organized crime generically as “any criminal activity involving two or more individuals, specialized or non specialized, encompassing some form of social structure, with some form of leadership, utilizing certain modes of operation, in which the ultimate purpose of the organization is found in the enterprise of the particular group” (ALBINI, 1971, p. 37). This definition places organized crime on a continuum and allows for relative degrees of organization, specialization, and structure. In his Organized Crime Continuum Model, Frank Hagan suggests that for a criminal organization to qualify as organized, it ought to be highly organized, have a hierarchy, restricted membership, and an agreed code of secrecy. In addition, it must use violence and/or the threat of violence, provide illicit goods in public demand, and be profit-oriented. Finally, the group must have immunity through enforcement and may be corrupt (HAGAN, 1983, p. 54).

A profile of land guards obtained through interviews confirms different degrees of organization and structure. Most land guards (i) are part of extant structured groups,<sup>22</sup> (ii) have identifiable leaders who utilize violence and the threat of violence to achieve their aims, and (iii) are mainly motivated by expected remuneration (in cash or in land). Some of these groups are backed by people of influence in their communities and/or at the national level. The membership of these organizations is generally fluid, allowing members to move in and out freely. There is, however, a core standing team around whom the other members coalesce. This latter group tends to occupy the highest positions and has restricted membership (ATTUQUAYEFIO, 2009).

## **7 The response of the Ghanaian State to the menace of land guards**

Despite efforts to address the challenge of land guards, no holistic strategy has been developed to address the demand and supply sides of the activities of land guards. There is no single, comprehensive response to the menace of land guards in Ghana. However, there are various legal provisions contained in different instruments, which prohibit one or more of the activities of land guards. The right to protect private property, including land, is guaranteed, and Section 39 of the Criminal Code

(Amendment) Act, 2003 (Act 646) prescribes the situations under which force may be used to protect such property. It also stipulates the level of force that may be used. It provides *inter alia* that,

- (a) a person in actual possession of a house, land, or vessel, or goods, or his servant or any other person authorised by him, may use such force as is reasonably necessary for repelling a person who attempts forcibly and unlawfully to enter the house, land, or vessel, or to take possession of the goods;
- (b) a person in actual possession of a house, land, or vessel, or his servant or any other person authorised by him, may use such force as is reasonably necessary for removing a person who, being in or on the house, land, or vessel, and having been lawfully required to depart therefrom refuses to depart;

Although force may be employed, it is limited to what is reasonable. This means that landowners and their caretakers or security providers do not have the right to use unlimited force to prevent others from taking over their property. In effect, the use of excessive force that sometimes results in excessive loss, injury, or death contravenes the law. Secondly, although the use of force is permissible, it must be carried out within the ambit of the law. This means that the tools employed in exerting force must be legal. In effect, should there be the need to have recourse to the use of firearms, the possession and use of such must be within the confines of the law. Thus, the use of illicit weapons in securing land is illegal.

Despite the limitation to the use of force in the protection of property, land guards continued to employ illicit weapons in the commission of violent atrocities – in the name of protection. The continued mayhem caused by the land guards led to an explicit ban on their activities in 2004 by the Minister of Interior (LAND guards banned..., 2004). Despite the ban, the activities of land guards persisted, leading to the issuance of a second ban by the police service three years later (LAND guards banned, 2007). Subsequently, there have been several directives by politicians instructing the police to effectively deal with land guards. In addition to the above, the state has sought to address the source of the demand for land guard services – contention over land – by reforming the processes for verifying land titles, obtaining indentures, and title to land. These reforms notwithstanding, efforts must be made to minimize the benefits of the land guard industry so as to make it unattractive to young people as employment.

## 8 Explaining the resilience of land guards through the rational choice theory

The above-mentioned efforts notwithstanding, the challenges of land guards continue to persist. It is therefore necessary to proffer a rationale for their continued resilience in order to help develop appropriate responses. Using ideas borrowed from analyses of crime and deviance, the crime-as-work model, and rational choice theory, we provide an explanation of the resilience of land guards in Ghana.

At the backdrop of our analysis is the methodological individualism of rational choice theory that explains social phenomena from the perspective of individual

decision-making processes. Such processes are often characterised as social interactive events by which individuals act rationally in an attempt to achieve a beneficial balance between their rewards and costs. The process therefore involves a social exchange of some sort, one that involves costs and benefits for respective parties. Such costs and benefits may manifest in economic or extra-economic terms. Homans (1961), for instance, observes that as economic action involves an exchange of goods and services, social interaction includes the exchange of approval and certain other valued behaviours. In “Participation in illegitimate activities: a theoretical and empirical investigation”, Isaac Ehrlich also suggests that violation of the law occurs as a result of perceived incentives because:

*[a]ny violation of the law can be conceived of as yielding a potential increase in the offender’s pecuniary wealth, his psychic well-being, or both. In violating the law, one also risks a reduction in one’s wealth and well-being, for conviction entails paying a penalty (a monetary fine, probation, the discounted value of time spent in prison and related psychic disadvantages, net of any direct benefits received), acquiring a criminal record (and thus reducing earning opportunities in legitimate activities), and other disadvantages.*

(EHRlich, 1973, p. 523).

From a rational choice perspective, one of the motives for the activities of land guards is economic. The three land guards interviewed were convinced that their activities as land guards paid better than their trades – Yao, who has worked in a private security company, is a mason and an amateur boxer; Mohammed A is a driver; and Mohamed B a subsistence farmer. All three became land guards because the position offered them better rewards. Put differently, those who engage in crime perceive it as work that has the propensity to yield returns that exceed what they earn in the legitimate, competitive market (WILLIAMS; SICKLES, 2002, p. 479). All three work as full time land guards and belong to various networks that allow them to organize shifts, thereby enabling them to take up more than one assignment at a time, and in so doing maximize their opportunities to make more money. At least three of the land guards interviewed had economic motives. In one particular case, as a member of the royal house, the interviewee had witnessed some form of misappropriation by the elders of the Stool. Thus, in his opinion, the way to ensure that he gets what is rightfully his is to engage the buyers of the plots of land directly.

Beyond the economic motives for land guards, fieldwork revealed another motivation from a social exchange perspective highlighted by rational choice theorists. This is the element of approval. Narrating conditions of such extra-economic assignments, the land guards noted the incidence of rightful landowners being robbed of their property by wealthier and/or more politically connected individuals. They suggested that in such situations, they merely step in to right the ills of society. They stress that while any offer of money is not rejected, the payoffs from such assignments tilt more towards approval as a result of fighting for the underprivileged. Such a situation parallels Scott’s (2000) analogy that “stealing a car might be rewarding because of the pleasures derived from joyriding and the recognition accorded by fellow car thieves.”

In its simplest form, rational choice theory characterizes individuals as “rational actors who choose actions designed to maximize their own individual interests – the satisfaction of their needs and wants.” Individuals therefore undertake activities which promise rewards that outweigh the cost of such activities (INTERNATIONAL encyclopaedia of the social sciences, 2<sup>nd</sup> ed., p. 74). The individual, as a rational actor, is expected to make decisions based on an analysis of all available information at the time of the action. In effect, “a person commits an offense if the expected utility to him exceeds the utility he could get by using his time and other resources at other activities” (BECKER, 1968, p. 176). Here, the expected utility must be calculated as the expected benefit minus possible cost (where cost includes both financial elements such as fines, and non-financial elements like arrest and incarceration). This therefore means that the rational actor would desist from crime if the perceived cost of the illegal activity would outweigh its expected benefit. Conversely, it means that the rational actor would engage in crime if the expected benefits outweigh whatever cost may be incurred. It is therefore not surprising that despite the existence of the above challenges in the pre-1992 era, the challenge of land guards was almost non-existent. This, it can be assumed, was a result of the military presence in government.

Land guards made conscious decisions to assume the position because they believed it was to their advantage. In other words, having weighed their individual abilities and resources against the opportunities available in the legal and illegal markets, they were convinced that the opportunity in the illegal land guard market was superior. While the above explanation sheds light on the reasons why individuals may become land guards, it does not provide an explanation for the resilience of land guards in the face of the potential consequences.

The primary reason for the resilience of land guards in Ghana is attributable to weak law enforcement capabilities, corruption, and interference in the law enforcement processes. The resilience of land guards can therefore be explained through the rational choice theory (RCT). Land guards are rational actors. In the first place, given the challenges still present in Ghana’s land administration, opportunity exists for work in the provision of illegal security services. Secondly, land guards do not need specialized skills to conduct their operations and so there is no need for investment in education or training. Thirdly, enforcement of the law with regards to land guards is weak. Thus, land guards are not deterred by the possibility of arrest and detention. Yao and Mohammed A indicated that they had both been arrested several times but had never been arraigned before court because their “employers” stepped in. Similarly, Mohammed B, who was in police cells during the interview, expressed optimism that his “master” would be able to “kill the case.” Here, the perceived threat of punishment is almost insignificant as their prior experiences suggest that their crimes go mostly undetected and, when detected, the punishment tends to pale in comparison to the alleged offence.<sup>23</sup>

A combination of factors therefore sustains the activities of land guards. These include the demand for their services, the opportunity for remuneration, and weak law enforcement structures that make detection, arrest, and punishment unlikely.

To avoid detection and arrest, land guards have sought to metamorphose into the legal security structures of the state by exploiting the legal gaps between the

traditional and modern state as well as the weaknesses in coordination within the law enforcement sector. Since the issuance of bans and increasingly aggressive efforts by the Ghana police to deal with the situation, land guards have sought to integrate their services into legitimate security service provisions. Land guards have resorted to three main ways of presenting themselves as legitimate security providers filling the lacuna in security service provision for private property.

Currently, some land guards present themselves as members of traditional *Asafo*<sup>24</sup> groups and as such, legitimate defenders of their communities and the communities' properties. This reference to *Asafo* groups adds an interesting dynamic to the discourse by attempting to evoke structures of the traditional state to legitimize activities that are antithetical to the modern Ghanaian state. The *Asafo* companies of the traditional state were made up of people from specific families within the community, with defined rules of membership and clear norms guiding recruitment, deployment, and the prosecution of war. However, there has been a corruption of this with persons outside the traditional *Asafo* families being co-opted (not always by the authorized persons designated traditionally to recruit) into the so-called modern *Asafo* groups used for the protection of land. There is thus an exploitation of traditional security structures to avoid arrest.

Other groups of land guards present themselves as members of watchdog committees. Due to the low numbers of police personnel as well as logistical limitations, some community members come together to provide community policing. However, members of watchdog committees must receive clearance from the Criminal Investigation Department (CID) to provide community policing. In a country with very little citizen data,<sup>25</sup> it is difficult to conduct background checks from a central location. Due to this challenge, it becomes imperative that the various units of law enforcement cooperate closely in exercises such as background checks so that law enforcement agencies closest to the communities may provide accurate information. However, this has not always been the case, and the central agency of the Criminal Investigative Department approves lists of watchdog committees without necessarily undertaking a background check of the applicants. Consequently, a number of land guards have obtained legal cover as members of watchdog committees.<sup>26</sup>

Thirdly, land guards are presented as property caretakers whose resort to the use of force is expected to be in self-defence. Yao, one of the land guards interviewed produced a letter from the legal representatives of his client, appointing him as caretaker of a parcel of land. According to him, the appointment letter provided him with the right to be on the property and to question and ward off others who he deemed encroachers.

The security challenge posed by the activities of land guards is further exacerbated by their efforts to exploit the legal security structures to integrate their services into the legitimate economy of Ghana. While their methods of operation remain the same, land guards are rebranding their services as providers of security for private property, an area that is not covered by the police. The exploitation of legitimate structures of security to integrate their services into the legitimate economy of Ghana without compliance with the provisions stipulated in the law creates challenges by undermining the state's security structures.

## 9 Subordinating the State through land guard activities: A prognosis

There is no doubt that the activities of land guards undermine the state in several regards. As demonstrated above, land guards use illegitimate force to threaten, intimidate, and, in extreme instances, kill their victims. These activities not only challenge the state's monopoly over the use of force but also call into question the state's ability to provide and guarantee the protection to the people. Whilst land guards exist because of the insecurity of land title, their existence and the inability of the state security agencies to effectively address the threats they pose also create fear among citizens. In effect, land guards challenge the effectiveness of the state to protect its citizens and their property and thereby undermine the people's trust in the state. The success of their activities magnifies the challenges inherent in law enforcement within the country and thereby shifts trust from state agencies to themselves. In a way, while land guards may not have a deliberate agenda to supplant state law enforcement agencies, their success rates create a perception of effectiveness and thereby undermine the structures of law enforcement and official mechanisms for dispute settlement in the country.<sup>27</sup>

Although subtle, there appears to be some level of collusion between some land guards and the state's law enforcement agencies. As indicated above, some land guards have sought to legitimize their activities by disguising themselves as members of traditional *Asafo* groups, watchdog committees, caretakers, and private security providers. Through such disguises, they have obtained refuge under the protective umbrella of these agencies and succeeded in avoiding detection and arrest even though they continue to operate illegally. To further legitimize their activities and prove that they are providing stopgap services, which the police cannot provide, there are attempts to differentiate between "just land guards" and "unjust land guards." All three land guards interviewed claimed only to accept assignments after they have verified the authenticity of their clients' claims. However, they asserted that other groups might accept assignments only for the money involved. The "just land guards" thus work in concert with the police to address the "unjust" land guards. According to Yao and Mohammed A, because they have caretakers, they often arrest land guards and hand them over to the police.<sup>28</sup> However, this categorization is really of no practical value as all land guards employ the same *modus operandi* in the execution of their duties – the use of illegitimate force. The classification therefore only serves to distinguish between those who collude with the police and those who do not.<sup>29</sup>

Due to a lack of information, it is impossible to conclusively state that land guards corrupt law enforcement agencies. However, anecdotal evidence suggests that the employers of land guards often pay to free arrested land guards on bail and "kill" the case.<sup>30</sup> It was stated, however, that persons with political clout are able to call police stations to demand the bail of some land guards.<sup>31</sup> As mentioned earlier, some land guards provide protection services for politicians during election campaigns with assurances of employment once

they win. Although the promise of employment is usually unfulfilled, land guards can still rely on their patrons when they get into trouble.<sup>32</sup>

## 10 Addressing the challenge of land guards: Some options for consideration

Developing appropriate responses to the challenge of land guards requires addressing both the demand and supply sides. According to Skaperdas, organized crime exists “because of the existence of a power vacuum and the shortage or absence of ultimate enforcement” (SKAPERDAS, 2001, p. 108). This assertion is true for land guard services. Thus, responding to the menace of land guards requires a combination of effective laws, efficient and accessible mechanisms of law enforcement, and effective punishments that hopefully serve as deterrents.

In looking at the path forward, there is first the need to further popularize and simplify the processes of verifying land titles. Despite the reform in land administration, the processes are not well known by the ordinary Ghanaian citizen. Many people still believe that long delays associated with trying to obtain information at the Lands Commission still exist. Consequently, individuals continue to procure lands without verifying validity of title, and buyers still fall victim to multiple sales of land.

Furthermore, there is the need to intensify the cultivation of professionalism within the ranks of the Ghana police. Despite the efforts of the Ghana police service to address the challenge of land guards, they have not experienced much success because of the lack of coordination, effective research, and logistics. Their challenge with addressing land guards is not different from the challenges faced in addressing other crimes. The lack of networked systems means that there is the need for considerable coordination between the various units in the police service to be able to outwit criminals. Yet, there is very little coordination. The CID, for instance, provides clearance for watchdog committee members without consulting the police within the local communities and in the end provides clearance for land guards posing as members of watchdog committees.

In addition, it is also important to provide the police with surveillance technologies that enable them to track the activities of land guards in real time to be able to provide timely responses. According to the police officer interviewed, it is often difficult to locate land guards even when there is intelligence because they operate in the bush without easily accessible roads. Without appropriate vehicles, it is difficult to navigate through such roads, resulting in the land guards’ evasion of law enforcement agencies.

It is equally important to provide an effective intelligence-gathering system for law enforcement (QUANTSON, 2003, p. 45). A number of alleged armed robberies and murders are land-related and undertaken by land guards. Yet, the links are not always made. Interestingly, individual police officers have considerable information based on research conducted over a long period of time. However, this information is unavailable to the police service as an organization.<sup>33</sup>

## 11 Conclusion

In this paper, we have discussed the nature of land guard activity and its implications on human rights. We also examined the rationale for the seeming resilience of land guards in the face of efforts to stop their activities. It has been noted that land guards are not mere criminals but rather members of organized criminal groups who utilize illegal means, including violence, to attain their goals. The profile of land guards suggests that they are mostly unemployed youth with little or no formal education and employable skills. It has been established that land guards are rational actors who take advantage of opportunities available in the illegal economy to earn incomes. The resilience of land guards in the face of the country's efforts to prevent their activities is explained through rational choice theory: given their resources and abilities, the expected benefits of being a land guard outweigh the benefits that would accrue if the same time and energy were expended on other activities.

In spite of Ghana's relative successes in advancing human rights, the activities of land guards undoubtedly inhibit progress in this regard. While it may not be generalized that the state is subordinate to the activities of land guards, the extent to which the activities of these land guards are conducted in the open creates the perception that the state, through its law enforcement agencies, is unable to deal with such issues. That land guards do not consider detection, arrest, and punishment as sufficient threats compounds the impression that the state is subordinate or, at least, tolerant of sub-state actors engaged in activities that negatively affect the human rights of the people living under the state. This belief is counterproductive to the protection of human rights within Ghana. If the gains in advancing human rights within the democratic system are to be sustained, the state must adopt a more proactive stand against the phenomenon of land guards in Ghana.

## REFERENCES

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### Bibliography and other sources

- ALBANESE, Jay S. 2000. The causes of organized crime: do criminals organize around opportunities for crime or do criminal opportunities create new offenders. *Journal of Contemporary Criminal Justice*, Thousand Oaks, CA, Sage Publications, v. 16, n. 4, p. 409-423, nov.
- ALBINI, Joseph L. 1971. *The American mafia: genesis of a legend*. New York: Appleton-Century-Crofts. p. 37.
- AMANOR, Kojo Sebastien. 1999. *Global restructuring and land rights in Ghana: forest food chains, timber and rural livelihoods*. Uppsala, Sweden: Nordiska Afrikainstitutet.
- ATTUQUAYEFIO, Philip (Interviewer). 2009. *Understanding the work of land guards*. Interviews with randomly selected land guards (25 Mar. 2009).

- AWORTWI-MENSAH, Paul. Crowd besieges court. **GhanaWeb**, 27<sup>th</sup> February 2001. Available at: <<http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=13815>>. Last accessed on: 24 Nov. 2012.
- AZU, Vance. Land guards terrorize businessman. **The Daily Graphic**, 01 Aug. 2011. Available at: <<http://www.modernghana.com/news/342898/1/land-guards-terrorize-businessman.html>>. Last accessed on: 24 Nov. 2012.
- BECKER, Gary Stanley. 1968. Crime and punishment: an economic approach. **Journal of Political Economy**, Chicago, v. 76, n. 2, p. 169-217, may.
- EHRlich, Isaac. 1973. Participation in illegitimate activities: a theoretical and empirical investigation. **Journal of Political Economy**, Chicago, v. 81, n. 3, p. 521-565, may/june.
- DARKWA, Linda (Interviewer). 2012. **Understanding the work of land guards**. Focus Group Discussion (26 Aug. 2012).
- DARKWA, Linda (Interviewer). 2010. **Understanding the work of land guards**. Interview with Paul Avuyi (11 Oct. 2010).
- GHANA. **Criminal Code (Amendment) Act, 2003 (Act 646)**. [Ghana], 12 Jan. 1961. Available in UNHCR Refworld at: <<http://www.unhcr.org/refworld/docid/44bf823a4.html>>. Last accessed on: 24 Nov. 2012.
- GHANA. Ghana Statistical Service. 2012. **2010 population and housing census: summary report of final results**. Accra, Ghana: Ghana Statistical Service.
- GHANA. Ministry of Lands and Forestry. 1999. **National land policy**. Accra, Ghana: Government of Ghana.
- GOUGH, Katherine V.; YANKSON, Paul W. K. 2000. Land markets in African cities: the case of peri-urban Accra, Ghana. **Urban Studies**, Glasgow, UK, v. 37, n. 13, p. 2,485-2,500.
- HAGAN, Frank E. 1983. The organized crime continuum: a further specification of a new conceptual model. **Criminal Justice Review**, Atlanta, GA, Sage, v. 8, n. 2, p. 52-57, sept.
- HOMANS, George Caspar. 1961. **Social behaviour: its elementary forms**. London: Routledge and Kegan Paul, 1961.
- INTERNATIONAL encyclopaedia of the social sciences. William A. Darity, Jr., editor in chief. 2nd ed. Detroit: Macmillan Reference USA, 2008. v. 3, p. 74.
- KOM, Enoch D. 2003. Security of title to land in Ghana. In: **LAND as a resource for development**. Accra, Ghana: Ghana Universities Press. p. 14-27. (Proceedings of the Ghana Academy of Arts and Sciences, v. 36).
- LAMPE, Klaus von. **Definitions of organized crime**. Available at: <<http://www.organized-crime.de/organizedcrimedefinitions.htm>>. Last accessed on: 16 Nov. 2012.
- LAND guards banned. **Daily Guide**, 31 July 2007. Available at: <[www.modernghana.com/news/140089/1/land-guards-banned.html](http://www.modernghana.com/news/140089/1/land-guards-banned.html)>. Last accessed on: 24 Nov. 2012.

- LAND guards banned with immediate effect. 2004. Ghana News Agency. Accra, 4 Aug. 2004. Available at: <<http://www.modernghana.com/news/60345/1/land-guards-banned-with-immediate-effect.html>>. Last accessed on: 16 Nov. 2012.
- LAND guards brutalise Oyibi residents. 2010. Joy Online. 24 Sept. 2010. Available at: <<http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=190964>>. Last accessed on: 24 Nov. 2012.
- LAND guards kill top IRS man. 2005. **The Daily Graphic**, 28 Dec. 2005. Available at: <<http://www.modernghana.com/news/92544/1/land-guards-kill-top-irs-man.html>>. Last accessed on: 24 Nov. 2012.
- MATSUEDA, Ross L.; KREAGER, Derek A.; HUIZINGA, David. 2006. Detering delinquents: a rational choice model of theft and violence. **American Sociological Review**, Nashville, TN, v. 71, No. 1, p. 95-122, feb.
- POGUCKI, R. J. H. 1955. **Gold Coast and land tenure**: land tenure in Ga customary law. Accra, Ghana: Gold Cost Lands Department, Government Printer. v. 3.
- QUANTSON, Kofi Bentum. 2003. **Ghana, national security**: the dilemma. Dansoman, Accra: Napasvil Ventures.
- SCOTT, J. 2000. Rational choice theory. In: BROWNING, Gary K.; HALCLI, Abigail; WEBSTER, Frank (Eds.). **Understanding contemporary society**: theories of the present. London; Thousand Oaks, CA: Sage Publications.
- SKAPERDAS, Stergios. 2001. The political economy of organized crime: providing protection when the state does not. **Economics of Governance**, v. 2, n. 3, p. 173-202, Nov.
- TSIKATA, Kwaku G. 2007. Challenges of economic growth in a liberal economy. In: BOAFO-ARTHUR, Kwame (Ed.). 2007. **Ghana**: one decade of the liberal state. London: Zed Books. p. 49-85.
- UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME, 2000. Available at: <<http://cjei.org/publications/LAWJ%20Conference/un%20convention%20against%20transnational%20organised%20crime.pdf>>. Last accessed on: 24 Nov. 2012.
- WILLIAMS, Jenny; SICKLES, Robin C. 2002. An analysis of the crime as work model: evidence from the 1958 Philadelphia Birth Cohort Study. **Journal of Human Resources**, Madison, Wis., University of Wisconsin Press, v. 37, n. 3, p. 479-509, summer.
- WOODMAN, Gordon R. 1996. **Customary land law in the Ghanaian courts**. Accra, Ghana: Ghana Universities Press, 1996.

## NOTES

1. According to section 38 (2) of the Police Services Regulation Act 1970 (LI 1579) private security organisations are described as "Any organisation which undertakes private investigations as to facts or the character of any person, or which performs services of watching, guarding, patrolling or carriage for the purpose of providing protection against crime, but does not include the Police Service, the Prisons Service or the Armed Forces of Ghana.
2. The illegal nature of the land guard industry means that those who work in it are reluctant to admit that they work as land guards. As a result of the illicit nature of their work, most of them are unwilling to grant interviews. As a result, snowballing sampling was used to identify the three interviewed. Efforts to get others were however futile. Two of those interviewed, Yao and Mohammed A work primarily in Amasaman, a suburb of Accra with new estate developments. Mohammed B works in the relatively affluent area of East Legon. At the end of the interview, the interviewees confessed that the names they provided were pseudonyms.
3. The Focus Group Discussion was held in Sapeiman on August 26, 2012. However, due to the killing of a land guard seventeen days before the interview, none of the participants was willing to give out his name.
4. Paul Avuyi is a retired police officer who provided insights into the challenges confronting the Ghana police service in their efforts to address the menace of land guards. He was recommended by a serving police officer who was not willing to grant an interview.
5. The serving police officer serves in Amasaman, one of the developing suburbs of Accra. His area of operation has witnessed several incidents of land guard activities. However, as a serving police officer, he requested anonymity.
6. This estate developer employs the services of Yao and Mohammed A. He arranged the meeting for the interview but also requested anonymity.
7. Tsikata suggests that despite the challenges faced by the democratic dispensation, it "has had a positive impact on investment and growth". For more on this, see: TSIKATA, Kwaku G. Challenges of economic growth in a liberal economy. In: BOAFO-ARTHUR, Kwame (Ed.). 2007. *Ghana: one decade of the liberal state*. London: Zed Books. p. 49 –85.
8. In Ghana, chiefs in the southern parts occupy stools whilst their counterparts in the Northern parts occupy skins. During the enstoolment/enskinment of a new chief, the kingmakers in the Southern part of Ghana put the chief on the stool three times as part of the coronation. In the Northern parts of Ghana, the chief is placed on a skin thrice. Thus, the stool (in the South) and the skin (in the North) are the symbols of authority and legitimacy of Ghanaian traditional government.
9. In some places, land is held in trust for the people by the priest who tends to be both the secular and spiritual head. For instance, land among the *Konkombas* in Northern Ghana is held in trust by the *tendana*- the earth priest-, who is in charge of its appropriation.
10. In recent times, the Asantehene, one of the foremost paramount chiefs in Ghana has destooled a number of his sub-chiefs for acting out of their mandates with regard to the sale of land. Some of these chiefs are the Atwimahene destooled in November 2009 and the Abrafohene, destooled in October 2009. The office of the Asantehene keeps a record of such destoolment on <<http://www.manhyiaonline.org>>. Last accessed on: Nov. 2016.
11. The process of verifying land title has been somewhat simplified due to the computerization of the Lands Registry although the staff of the registry sometimes create artificial delays to enable them collect bribes.
12. In 1994, the government of Ghana started a process for the development of policy documents needed effective land management and administration in Ghana. In 1999, a National Land policy was adopted. It provides among others, the establishment of a Land Administration Project, which is expected to among several others, "improve the land registration and titles system in terms of security and reduction of turnaround time for service delivery". For more on the project see "Land Administration Project is on course". (Available at: <<http://www.ghanalap.gov.gh/index1.php?linkid=239&archiveid=46&page=1&adate=01%2F08%2F2007>>. Accessed on April 26, 2012; "Ghana: Land Administration Project 2". Available at: <<http://www.ghanalap.gov.gh/>>. Last accessed on: 26 Apr. 2012).
13. Currently, the verification of land title from the Lands Department takes approximately one week. The Charter of the Land Title Registry spells out the requirements for the registration of titles, conducting official searches, the registration of mortgages and conducting arbitration on disputed lands. The New Charter of the Land Title Registry is available at <http://www.scribd.com/doc/18943433/Land-Title-Registry-Ghana>. Last accessed on: 26 Apr. 2012.
14. According to the land guards, they are either paid in cash or with parcels of land. Payment may range from GHC20, 000 for ten people and above, depending on the size of the land. It appears that payment is calculated on the size of the land to be guarded.
15. Interview conducted with land guards, 25<sup>th</sup> March 2009. Although the two denied involvement in any hired killings, they gave instances where alleged armed robbers were in fact hired assassins.
16. Most land guards are young unemployed persons with very little or no education, little or no skills and instances where they have acquired some skills, these

are very basic and fetch little income in the legal market. All three interviewees suggested that they are land guards because of the lack of alternative opportunities.

17. This refers to the warriors of a particular community. They are usually constituted from the youth of the community and mostly serve as protectors of that particular community.

18. Although Yao and Mohammed indicated that they work with the chiefs of the Amasaman area, they also added that they act as caretakers of land for private individuals outside of the jurisdiction of the Amasaman chiefs and had undertaken "missions" in Aburi, Tarkwa and Aflao.

19. These are high-density areas in The Greater Accra region, South of Ghana noted as a fertile ground for breeding unemployed youth.

20. Yao indicated that he was a trained mason, an amateur boxer and had also worked with a private security company. He quit his job as a mason because he could not find work and started work with a private security company from which he quit again because of the low income he received. Mohammed A stated that he was a trained driver who became a land guard because of the unavailability of work. Mohammed B indicated that he was a returnee – having been deported from Germany. His efforts to return to Europe had failed and since he had neither formal education nor vocational training, he had not been able to find a job. In addition to guarding land, he stated that he had a subsistence farm and also kept some cattle.

21. The policeman from Amasaman stated that some of the land related killings have been wrongly classified as armed robbery related deaths.

22. Interviewees indicated that there was the "UN Group" which was the most feared; the Ashiaman Group and the Nima Group. The existence of the Ashiaman and Nima Groups is confirmed in GNA, "Police Arrest 23 Landguards" 07 October 2004 available at: <[www.modernghana.com](http://www.modernghana.com)>. Last accessed on: Nov. 2012.

23. A fuller discussion on how risk perceptions can deter or encourage crime is discussed in Ross L. Matsueda, Derek A. Kreager, David Huizinga, "Deterring Delinquents: A Rational Choice model of Theft and Violence" in *American Sociological Review*, vol. 71, No.1 (Feb., 2006) pp. 95 - 122

24. The Asafo Groups are the traditional armies of the traditional state. In pre-modern Ghana, each community had its own Asafo Company referred to by different names. Their duty was to defend their communities from attacks. Today, they are to a large extent, merely symbolic relics of the old order.

25. Ghana began a national biometric data collection exercise in 2011 for the issuance of National identification Cards. Before then, there was no database with addresses and unique identifiers such as fingerprints for easy detection.

26. Interview by Policeman from Amasaman, Accra. Yao produced a copy of his clearance certificate to operate as a member of a Watch Dog Committee. The certificate was confirmed to be authentic by the police officer who accompanied the team to the interview.

27. According to the police officer interviewed, most people who recruit land guards alluded to the fact that their resort to land guards was as a result of their lack of trust in the police system. The estate developer who employs Yao and Mohammed A also confirmed that his resolve to use land guards stemmed out of the slow and unpredictable nature of law enforcement in Ghana.

28. Yao had a letter from the legal representatives of a client appointing him as caretaker over a parcel of land. Although he admitted that he performed the same functions as other land guards, he did not consider himself a land guard in the performance of his duties to that client because of his appointment letter.

29. The police officer from Amasaman confirmed that the police sometimes obtained and used intelligence information provided to them by land guards although he was hesitant to admit that there was collusion between law enforcement agencies and land guards.

30. Mohammed B was in cells at the East Legon police station when interviewed. When questioned on his fate, he assured the interviewers that he was confident that his employer would get him out. All three land guards indicated that they had been arrested several times but had never been prosecuted.

31. The police officer from Amasama stated that they often get "orders from above" to set some arrested land guards free. This according to him frustrated the efforts of the police especially as the same group of land guards continue to operate with impunity.

32. Mohammed A stated that he had provided bodyguard services for prominent persons in both the ruling and the opposition parties. However, he has not as yet been offered the appointment promised. However, he has the contact details of some of the politicians and relies on them to get him bail whenever he was arrested.

33. Although the policeman had a wealth of documented information, he indicated that his efforts to provide it to the police service were not welcome.

## RESUMO

Desde o retorno do regime constitucional, Gana intensificou os esforços para a promoção dos direitos humanos. Entretanto, há muitos desafios em relação a defesa dos direitos de propriedade, especialmente quanto a posse da terra. Esse desafio, nascido das tensões entre o Estado moderno e o tradicional, é exacerbado pela pluralidade dos sistemas legais vigentes, bem como pelos desafios da rápida urbanização e do alto desemprego, especialmente na região da Grande Acra. O sistema liberal de mercado promovido pelo retorno de Gana ao regime constitucional levou a mais investimentos em terras e demanda por mais segurança nos títulos de propriedade. Isso levou a tentativas de realização de uma reforma agrária. Apesar delas, a incapacidade do Estado de fazer a lei ser respeitada significou que o mercado fundiário continua sendo um campo minado. A consequência foi o surgimento de provedores de serviços de segurança privada que empregam meios ilegais para proteger terras e propriedades fundiárias. Conhecidos popularmente como guardas da terra (landguards), esses provedores de segurança são o pesadelo dos proprietários de terras na região da Grande Acra. Usando fontes primárias e secundárias, o presente estudo examina a lógica por trás da demanda e da oferta dos serviços dos guardas da terra e as implicações de tais serviços para o direito a propriedade em Gana. O texto conclui que a fraca capacidade de policiamento do Estado e a corrupção generalizada nas instituições de administração fundiária facilitam os conflitos nos mercados fundiários e incentivam a busca por mecanismos individuais de segurança. Argumentamos que, enquanto tais medidas ilícitas de segurança forem utilizadas, a autoridade do Estado e o seu monopólio do uso da força continuarão irrelevantes no setor fundiário.

## PALAVRAS-CHAVE

Subordinação do Estado – Guardas da terra – Direitos humanos

## RESUMEN

Desde la restauración del Estado de derecho, Ghana ha intensificado los esfuerzos por promover los derechos humanos. Sin embargo, persisten varios desafíos respecto de la promoción de los derechos de propiedad, en especial en relación con la propiedad de la tierra. Este desafío, surgido de las tensiones entre el Estado moderno y el tradicional, se ve exacerbado por la pluralidad de sistemas jurídicos en vigencia así como también por los desafíos planteados por la rápida urbanización y el elevado índice de desempleo, especialmente en la región del Gran Acra. El sistema de libre mercado que se promueve en Ghana desde el retorno al Estado de derecho trajo aparejado un aumento de la inversión en tierras y una demanda de mayor seguridad respecto de su titularidad. Todo esto condujo a intentos por realizar una reforma del sistema de tenencia de la tierra. La incapacidad del Estado para imponer sus reglas y lograr su cumplimiento ha hecho del mercado de la tierra un campo minado. Como consecuencia, han surgido proveedores de servicios de seguridad privados que emplean medios ilegales para proteger la tierra y la propiedad inmueble. Comúnmente conocidos como guardias de la tierra, estos proveedores de servicios son una pesadilla para los propietarios de tierras en la región del Gran Acra. Con fuentes de datos primarias y secundarias, el presente artículo analiza los motivos de la demanda y oferta de estos servicios de seguridad y las implicancias que tienen para los derechos de propiedad en Ghana. Se concluye que la falta de poder del Estado para hacer cumplir la ley y la corrupción desenfrenada que afecta a las instituciones de administración de la tierra facilitan los conflictos en los mercados de la tierra y alientan el recurso a mecanismos de seguridad individuales. Se sostiene que en tanto tales medidas de seguridad ilícitas logren su propósito, la autoridad y monopolio del Estado sobre el uso de la fuerza seguirá careciendo de toda relevancia en el sector de la tierra.

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