



Urban land use planning in Ghana: Navigating complex coalescence of land ownership and administration

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ABSTRACT

Global literature reporting on land governance indicates considerable differences between land ownership and land administration. Yet, in many Sub-Saharan African countries, particularly Ghana, this relationship is blurred in complex land governance regimes. An understanding of this relationship in Ghana's customary land sector – the dominant land ownership type – is critical in advancing urban land use planning and promoting effective urban management in this era of rapid urbanisation across Africa. Unfortunately, little is known about this relationship in the context of land use planning. Using Kumasi, a rapidly growing city in Ghana as a case study, the purpose of this paper is threefold: (i) to discuss the relationship between customary land ownership and administration in the context of land use planning, (ii) to explore institutional perspectives on sustainable land use planning; and (iii) to examine the implications of customary land ownership and administration on sustainable land use planning. Using a review of relevant land use planning documents on Ghana, and interviews with four urban planning agencies and four customary land owners (chiefs/traditional leaders) in Kumasi, findings indicate a demonstration of an unclear nature of legislative planning framework and a lack of focus on customary land ownership and administration system in urban land use planning. Despite planning laws (e.g., zoning guidelines) emphasising separation of ownership from administration, findings indicate no distinction between customary land ownership and land administration as the traditional leaders (the owners) administer the land via determination of land uses, arbitration of land disputes, and location determination of important community infrastructure and services. Evidence of repetitive and cumbersome nature of land administration by traditional owners and government planning agencies, weak agency framework and coordination challenges has contributed to limited progress of sustainable land use planning in the city.

1. Introduction

Land remains an important resource for (urban) development (Ubink, 2008). It serves as an indispensable factor of production and wealth creation and is estimated to account for between half to three-quarters of national wealth worldwide (World Bank, 2003) supporting the livelihoods of many people (Boamah, 2014). The ability to ensure effective use of land is core to improving livelihoods, and critical to any comprehensive strategy of poverty reduction and sustainable development. Today, rapid urbanisation trends have increased consciousness and calls for sustainable land use planning, particularly in Africa where unplanned urban growth is alarming (Cobbinah and Erdiaw-Kwasie, 2016). Land use planning involves the design of areas to reflect residents' aspirations with reference to comfort, aesthetic,

liveability, compatibility of uses and accessibility. Within this context, urban land use planning aims at promoting harmonious spatial distribution of human activities (Briassoulis, 1999). Miller (1996:265) argues that land use planning decides “the best present and future use of each parcel of land in an area”. Without land use plans, there would be unguided and unsustainable developments creating unregulated settlements and environmental damage (see United Nations Economic Commission for Africa (UNECA, 2004).

Studies (e.g., Kasanga and Kotey, 2001; Boamah, 2014) show that multiple stakeholders (e.g., government, local communities, traditional leaders, family heads etc.) are involved in land ownership and administration efforts across African cities. That notwithstanding, land in most African countries is owned and governed by customary or traditional authorities, clan heads and families (Arko-Adjei, 2005; Land

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Administrative Project [LAP], 2007; Kasanga et al., 1996; Ubink, 2008). For example, customary lands constitute 80 % of all lands in Ghana (Kasanga and Kotey, 2001) comprising lands held by traditional authorities (e.g., stools and skins), families, clans or entire community. Unlike the Western World where land is perceived as a political or financial commodity, in Africa, it has a ritual frame (Kirby, 2005). Traditional authorities act as custodians of customary land, community values and norms which are highly revered by all citizens (Centre for Indigenous Knowledge and Organizational Development, 2009), and exercise considerable authority over land in their jurisdictions.

There are arguments that land administration - i.e. the use, regulations and management of land - should be the sole responsibility of state institutions in Africa due to their expertise (LAP, 2007; World Bank, 2003; Boamah, 2014; Asiama, 2008), while traditional leaders exercise their ownership rights. Unfortunately, evidence of land use planning across many Sub-Saharan African countries portrays a picture of conflicting roles in land administration and distortion in land management (e.g., Cobbinah and Aboagye, 2017; Cobbinah and Darkwah, 2016; Fuseini and Kemp, 2015; Siiba et al., 2018). According to African urban scholars (e.g. Yeboah and Obeng-Odoom, 2010; Owusu-Mensah, 2014), the unclear distinction between land ownership and administration is contributing to the unregulated urban land market and development across Sub-Saharan Africa. For example, customary authorities are reported to be responsible for the allocation and administration of land in their jurisdictions while state planning institutions are rendered ineffective (Siiba et al., 2018; Dadson, 2006). Yet, little is known about the relationship between land ownership and land administration in the context of land use planning literature.

While the authority of traditional owners in land governance in Sub-Saharan African countries cannot be ignored, there is an urgent need to acknowledge and establish the relationship between land ownership and land administration in the context of land use planning to direct urban Africa unto a sustainable development footing, particularly in this era of rapid urban population growth and associated challenges. In this regard, there are calls for recognition, and understanding of the linkages between land ownership and land administration in the context of land use planning, particularly, customary land ownership from an African perspective (see Asiama, 2008; Siiba et al., 2018). These calls have resonated among researchers because of the apparent disregard of customary land matters in urban planning initiatives in Africa. In Ghana, for instance, urban planning research (Fuseini and Kemp, 2015) frequently emphasises the roles and inadequacies of government planning agencies without adequate attention to traditional authorities, who at the local level are first point of call in land acquisition, development, and management. Yet, little is known, in terms of research, about the relationship between customary land ownership and land administration and how this relationship influences land use planning efforts in urban Africa.

Premised on the foregoing, this paper inquires if there is any difference between customary land ownership and land administration in urban land use planning in Africa. Using Kumasi, Ghana as a case study, this paper responds to this question by (i) discussing the relationship between customary land ownership and land administration in the context of land use planning, (ii) exploring institutional understanding of sustainable land use planning, and (iii) examining the implications of customary land ownership and land administration on sustainable land use planning. Based on these, the paper proposes measures to promote sustainable land use planning in Kumasi, which may be applicable to other African cities.

2. Land use planning, land ownership and land administration in Africa

Land use planning (LUP) as a concept has received considerable research attention (e.g., Verheye, 2009; Amponsah, 2011). Most frequently, 'town and country planning', 'spatial planning' and 'physical

planning', among other terminologies, are used to represent the role and activities of land use planning, although they may mean different things to different people, and in different contexts (Amponsah, 2011). Generally, land use planning is explained as an interdisciplinary activity involving planning the use of land, determining the conditions for the development and the location of activities, identifying measures for improving the existing physical structures and determining the conditions for the location and execution of planned physical structures (United Nations Economic Commission for Europe (UNECE, 1996). In this sense, land use planning is vital in the identification of preferred land uses that support local development goals by considering physical and geographical features of the land, and the trends of socioeconomic activities. It does this by addressing present interests, aspirations, power relations and livelihood concerns while making provisions for the future. Emphasising its importance, the United Nations Economic Commission for Africa (UNECA) (2004) characterizes land use planning as a statutory government intervention instrument or mechanism for managing the use of land in the process of urban development to promote a more convenient, accessible, attractive and equitable pattern of development for public interest. It is in this regard that Jha et al. (2010) argue that regardless of the level of planning, land use planning has principles that guide the process. These principles tend to describe what an ideal planning of the use of land should achieve. Afrane (2006) cited in Amponsah (2011) argues that these principles are:

"to achieve convenience and harmony in the use of space for all land uses; economy and efficiency in the use of resources and space; enhanced safety and adequate health standards in the space economy; and enhanced aesthetics and serenity in the built environment".

In this case, it is reasonable to argue that the principles that drive land use planning are safety, aesthetics, harmony, convenience and economy to achieve inclusiveness, pro-poor growth and sustainability.

It is however worth acknowledging that the realisation of the aforementioned principles of land use planning significantly depends on the prevailing land ownership types and land administration mechanisms (Fig. 1). Unfortunately, land ownership and administrative mechanisms across Sub-Saharan Africa are frequently characterised as convoluted, complex, intricate and problematic as land is largely customary owned, and administration roles conflicting (Boamah et al., 2012; Kasanga and Kotey, 2001; Siiba et al., 2018). According to Enchill (1964) and Woodman (1996), three kinds of customary law rights exist namely, the allodial title (held by the customary law community), a secondary law right consisting of 'customary law freehold' or 'usufruct' (which can be held by an individual or group of people who are part of the community holding the allodial title), and various types of tenancies. As shown in Fig. 1, these different systems complicate the urban development process and outcomes in Africa. Within this context, it may be justifiable to claim that land administration should be a prerogative of government agencies while traditional authorities exercise ownership, and, of course, that remains the regulatory procedure in many African countries (e.g., Ghana, Nigeria). In Ghana, the zoning and land administration requirements indicate that while traditional authorities exercise ownership over their land, the actual administration is determined by government land management institutions (see Cobbinah and Aboagye, 2017; Siiba et al., 2018). In fact, traditional authorities' dominance in land management, according to some researchers (e.g., Kasanga and Kotey, 2001) has survived all three phases (pre-colonial, colonial and post-colonial era) of Africa's land-political nexus history. In Ghana for instance, various Ghanaian governments since 1992 have publicly reiterated the necessity for non-interference in traditional authorities' affairs as provided for in the Constitution of Ghana. Traditional authorities therefore exercise some level of sovereignty and/or autonomy with respect to their control of land in Africa (Kakraba-Ampeh, 2009). In this situation, it is expected that traditional

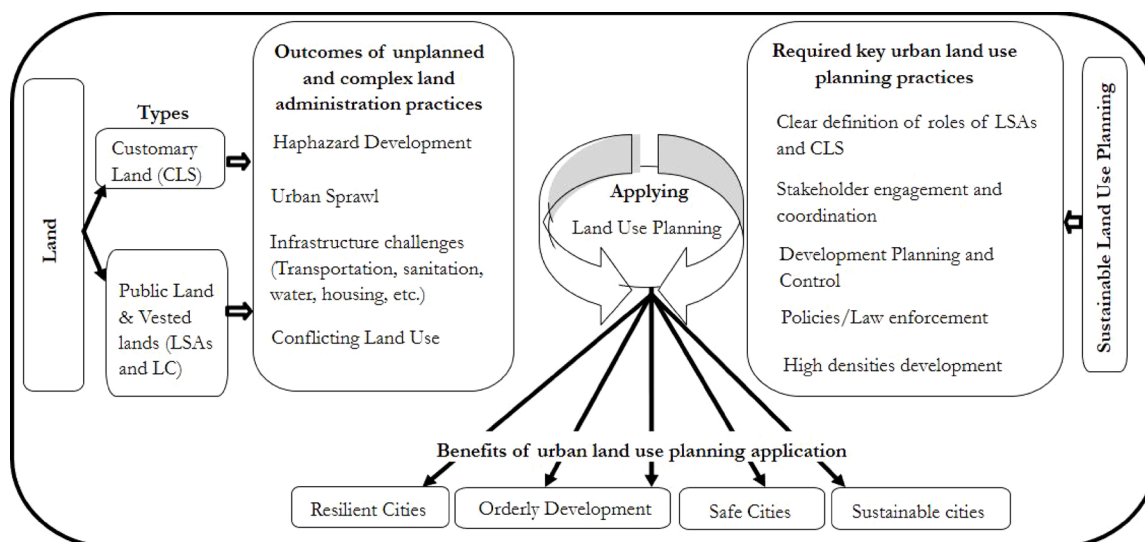


Fig. 1. Conceptual Overview.

authorities significantly influence land use planning activities in many African countries (Siiba et al., 2018; Boamah et al., 2012; Asiamah, 2008).

In Ghana, Boamah et al. (2012) argue that land use planning has generally failed to have significant impact on sustainable urban development since about 80 % of all urban development occur outside formal planning procedures, and mostly dictated by traditional authorities. This has, in turn, led to emergence of new informal settlements and expansion of already existing ones, with an estimated 70 per cent of the urban population in these situations (UN-HABITAT, 2009). This, of course, is not to argue that customary land ownership is the sole contributor to Africa’s urban blight and disfigurement, although, some (e.g. Fuseini and Kemp, 2015; Korah et al., 2017) frequently ‘blame’ the occurrence of haphazard developments on customary land administration system, because of its positionality as non-state land. In fact, research (e.g., Land Administration Project, 2007; Ubink, 2007) shows that state lands controlled and administered by government land management agencies are witnessing some of the fastest haphazard development).

Within this context, the focus should not be on whose is right or not but an understanding of a management regime that will generate sustainable outcomes. Of course, understanding, operationalising and integrating customary land ownership into land use planning is a difficult task, as the link between the ownership and administration is not well understood. This situation continues to hinder sustainable urban development efforts as conceptual and operational issues remain. It is based on the foregoing context that this present study is conducted, arguing that a customarily-informed land use planning and administration has the potential to support more participatory processes, and produce urban spaces that respond to the needs of people.

3. Materials and methods

3.1. Study setting

There exists a plethora of studies on customary land ownership and urban land use planning in Ghana (e.g., Fuseini and Kemp, 2015; Yeboah and Obeng-Odoom, 2010; Owusu-Mensah, 2014). These studies generally show that land use planning is a state-led activity focused on making urban areas liveable and improving wellbeing of dwellers. For instance, in June 1999, Ghana implemented the Land Administration Project (LAP) to have a decentralized land administration system to ensure “economic development, poverty reduction, promotion of social stability, and development of efficient land management and market”. This

project aimed at improving land tenure security, simplifying the process of accessing land and making it more transparent and efficient. The LAP sought to address the various problems confronting the customary institutions and government land agencies and to deal with the cumbersome of the land titling procedures (Ubink, 2007, 2008). The LAP was also to protect and ensure the acknowledgement of customary authority (in terms of ownership and administration) in land transactions by mandating customary owners to establish their own local administrative bodies such as Asantehene’s Land Secretariat and the Customary Land Secretariat (CLS) to facilitate coordination and efficient land administration in Ghanaian cities. This notwithstanding, there is a lack of clarity on the relationship between customary land ownership and land administration in the context of land use planning in Ghana. This is deemed important considering that many traditional authorities have assumed the responsibility of land administration with limited recognition and engagement with government land management agencies.

Government agency - the Lands Commission - has been established to oversee land administration issues in Ghana. Established by Articles 258–265 of the 1992 Constitution and accentuated by the Lands Commission Act 2008, Act 767, the Lands Commission has four land sector agencies which merge as Divisions, namely, the Land Valuation Division, Land Registration Division, Survey and Mapping Division and the Public and Vested Land Management Division. The Lands Commission has the mission of providing high quality, reliable and efficient services in geographic information, guaranteed tenure, property valuation, surveying and mapping through teamwork and modern technology. In addition, there are other available related agencies to facilitate effective land administration, including the Town and Country Planning Department (now Land Use and Spatial Planning Authority) and the metropolitan, municipal and district assemblies.

Issues of land ownership and administration in land use planning context are similar in Ghanaian cities and ubiquitous (see Cobbinah and Aboagye, 2017; Boamah, et al., 2012; Asiamah, 2008; Owusu-Mensah, 2014). This study therefore focused on Kumasi, Ghana’s second largest city, located in the Ashanti Region of Ghana (Fig. 2), with a population of 1,730,249 (Ghana Statistical Service, 2014) and a total land area of 213 km². The city remains the seat of the Asantehene – the custodian of land and culture of people in the Ashanti Region. Previously, land in Kumasi was entirely customary owned (stool land). Presently, land ownership in Kumasi is held either by the state or the stool. Related to this, Hammond (2011) states that land ownership pattern in Kumasi has undergone changes through legislation by successive governments, which presently statutorily categorises land ownership largely into two

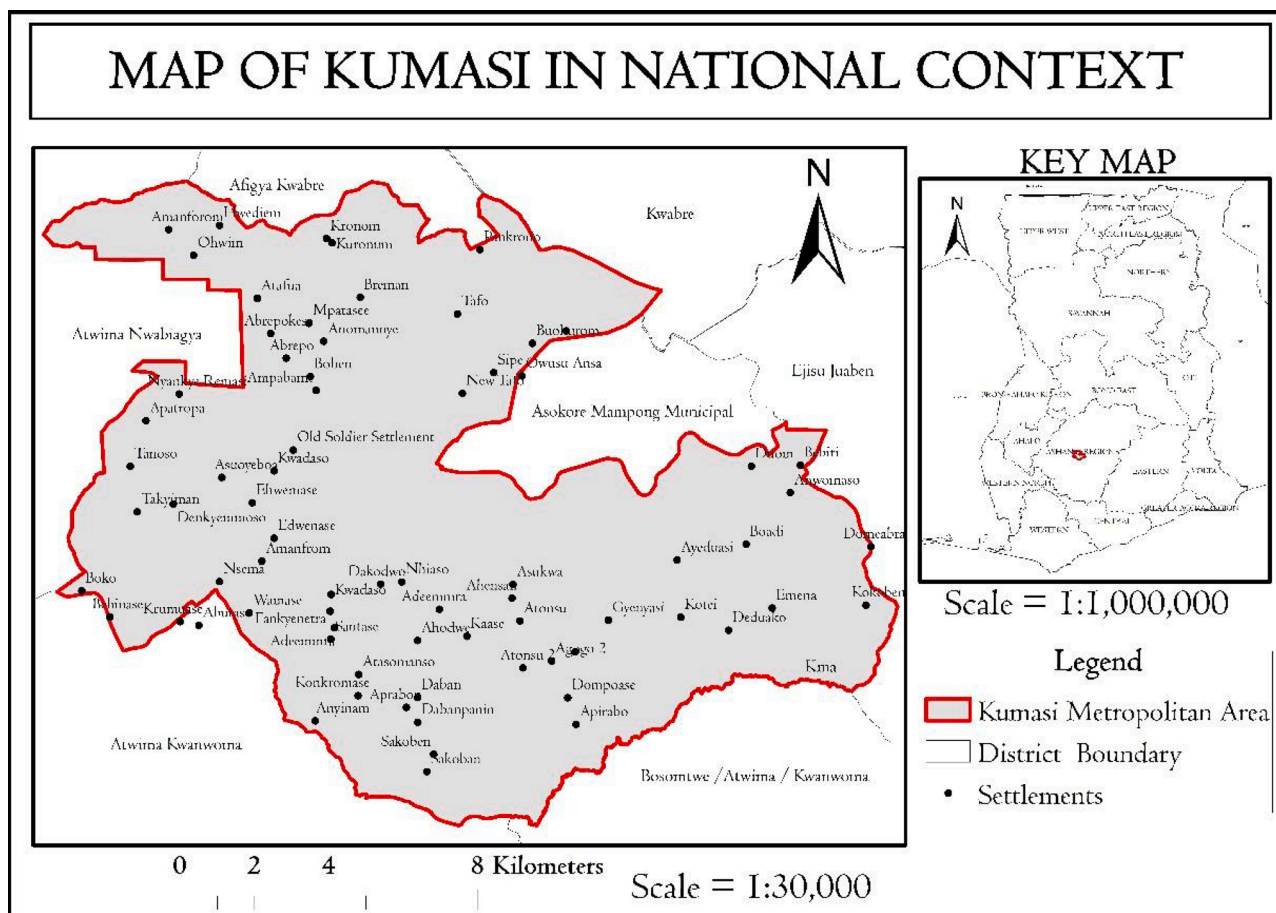


Fig. 2. Geographical location of Kumasi Metropolitan Area.

parts: part one and part two lands. However, a third category of different kind - public lands - has emerged.

The part one lands are those within one mile of the Kumasi Fort in the central business district, which is vested in the state to be held in trust for the Golden Stool (traditional head of the Ashanti Region) and natives of Kumasi as beneficiaries. The legal statutes categorise such lands among those in Ghana as ‘Vested lands’, which are managed exclusively by the Regional Lands Commission with other statutory agencies on behalf of the president. All other lands (over 80 %) in Kumasi make up the part two lands with customary ownership vested in the golden stool on behalf of the people of Kumasi (Hammond, 2011). Although the Regional Lands Commission is responsible for administering all lands in Kumasi, the customary owners have also established their own administrative bodies – Asantehene’s Land Secretariat and the Customary Land Secretariat. While these secretariats are portrayed as providing an avenue for record keeping and supporting the management of customary land, it frequently creates conflicting roles with the government land management agencies, particularly the Regional Lands Commission. The foundation of this challenge, to a large extent, lies in the limited understanding of, and clarity between customary land ownership and land administration in the planning context. In this regard, Kumasi was selected for this study for a number of reasons, namely: (i) its rapid urban population growth; (ii) evidence of dominant customary land ownership and land administration challenges; (iii) mushrooming urban land use planning challenges such as haphazard development, depletion of ecologically sensitive resources and congestion; and (iv) available background data on the city.

3.2. Research method

This research began with a review of relevant and related literature on customary land ownership, administration and urban land use planning at international and local levels. The international literature review centered on studies and publications on the concepts, theories and usefulness of land ownership in land use planning by researchers and international development agencies. The local scale review focused on customary land ownership, urban land use planning and development documents such as metropolitan medium-term development plans, reports and spatial schemes used in land use planning, development and management of the Kumasi metropolis. These documents include ‘Kumasi Metropolitan Medium-Term Development Plan (2014–2017)’ (KMA, 2014), the 1925 Town Planning Act, and 1932 Town and Country Planning Act, 1972 Town and Country Planning Act, 1978 and 1982 Town and Public Health Ordinances, 1925 Town Planning Ordinance and the 1945 Town and Country Planning Ordinance (CAP 84), Local Government Law of 1988 (PNDCL 207), ‘Land Use and Spatial Planning Act 2016, Act 925’ (Republic of Ghana, 2016) and National Land Policy of 2002.

The review aimed at uncovering urban land development and land use patterns and the place of customary land ownership and administration in urban land use planning in Kumasi. The document review provided important pathway for establishing sustainable urban land use planning situation in Ghana and in Kumasi in particular, and understanding the customary land ownership system in Kumasi. It also offered an opportunity for identifying key urban land use planning and management stakeholders in the city.

As presented in Table 1, semi-structured interviews were conducted with experts from four relevant land use planning and management-

Table 1
Interview Respondents.

Agencies	Division/Unit	Number of Respondents
Regional Lands Commission, Kumasi	Public and Vested Land Management Division	3
	Land Valuation Division	3
	Land Registration Division	3
	Survey and Mapping Division	3
Kumasi Metropolitan Assembly	Physical Planning Department	3
Customary Land Sector Institutions	The Office of the Administrator of Stool Lands (OASL)	3
	Asantehene's Lands Secretariat	3
	Customary landholders (chiefs)	3
Total		24

Source: Field Survey, February 2018.

related agencies in Kumasi, including the Regional Lands Commission responsible for land administration in Kumasi (and its related four land sector agencies comprising the Public and Vested Land Management Division, Land Valuation Division and Land Registration), the Physical Planning Department responsible for the physical and spatial planning of Kumasi, the Office of the Administrator of Stool Lands (OASL), and Asantehene's Lands Secretariat responsible for creating and maintaining up-to-date records on land transfers and boundaries, whilst facilitating the resolution of land related conflicts (Ubink and Quan, 2008) and customary landholders (chiefs).

Three officials from each of the aforementioned agencies were involved in interview conversations based on their interests, availability and knowledge on the research issue (Table 1). The interviews created an opportunity to explore in detail the research phenomenon and also offered adequate flexibility in engaging different agencies differently at the same time concentrating on similar themes of investigation (Cobbinah and Aboagye, 2017). The semi-structured interviews were conducted in English and centered on four key themes, namely: (i) land management and administration practices and agency perception on sustainable land use planning; (ii) the place of customary land ownership practices in land use planning; (iii) challenges confronting agencies in the design and implementation of land use plans; and (iv) implications of customary land ownership on sustainable land use planning.

The qualitative analysis was essentially the description and explanation of customary land ownership, administration and land use planning. Themes, codes and categories based on the interview transcripts were developed using the NVIVO 10 software programme. Data from the interviews were triangulated and results made available to the institutions through validation workshops to address any gaps and inconsistencies that might have occurred and to guarantee validity.

4. Results and discussion

4.1. Overview of land ownership and administration system in Kumasi

Officials of the Asantehene Land Secretariat and the Land Sector Agencies indicated that there exist two distinct land ownership systems in the city, namely, government or state and customary land ownership. They remarked that government lands (vested and public lands) were those acquired by the government by a constitutional provision for public interest through the powers of eminent domain. Vested lands are managed by the Regional Lands Commission on behalf of the President of the Republic of Ghana in trust for the stool (Sittie, 2006). They reported that the entire central business district is largely public lands. On customary lands, the officials indicated that they comprise about 80 % of the total lands in Kumasi, which are owned and administered by the traditional head (Asantehene). Studies (e.g., Ubink, 2008; Kasanga and Kotey, 2001; Sittie, 2006) similarly found that the Asantehene holds allodial title to all customary lands in the city and has oversight

responsibility on land disposition and administration on behalf of the Asante kingdom. The allodial title on disposition is shared among caretakers or divisional chiefs in various jurisdictions under the paramountcy of Kumasi (Kasanga and Kotey, 2001). This was confirmed during interactions with the Asantehene Land Secretariat. This practice was noted to largely influence land acquisition and administration in the city. For instance, interview findings showed that prospective land developers had to first identify available land, contact customary owners of that land and consider the purpose of such lands from offices of the Regional Lands Commission, Physical Planning Department or the Asantehene Land Secretariat. Owners of such land (i.e. caretaker chiefs) upon contact, provide allocation notes to the developer who in turn pays the market value of the land to be acquired (locally termed 'drink money'). The allocation note signified a stool's grant or permission to use such land. One of the Asantehene Land Secretariat officials further indicated that:

"In Kumasi, land acquired from the stools which is not endorsed by the Asantehene remains invalid unless a third of the 'drink money' a developer paid to acquire the land is paid to Asantehene Land Secretariat. After endorsement of the allocation note, it is forwarded to the Regional Secretariat of the Lands Commission. A leasehold document is then prepared between the grantor as lessor, and the prospective developer, as the lessee with the Asantehene Land Secretariat as a confirming party".

Although crevices exist, the above quote is a reflection of what was generally reported by all officials to be what land management regulations in the city require, which suggests how influential customary land ownership system affects land management and planning, lending credence to previous research (Cobbinah and Aboagye, 2017; Fuseini and Kemp, 2015; Siiba et al., 2018; Yeboah and Obeng-Odoom, 2010). However, the Asantehene Land Secretariat officials reported that this was not always the case. While Ghana's town planning regulations require that the traditional authorities exercise ownership over the land and government land agencies determine the administration in terms of use and management, the official indicated that the current act of traditional authorities administering land in terms of use and management is producing unsustainable land use patterns. One official of the Asantehene Land Secretariat attributed this challenge to limited recognition of traditional leaders in land administration by official land management agencies:

"Caretaker chiefs in the land administration system are responsible for giving allocation notes which are used for further processing of the land for the acquisition of title and permits. It is therefore very important to consider the functions caretaker chiefs play in land administration because they are potential sources of land associated issues such as duplication of sales and apportioning lands for use which do not conform to approved land use plans".

Interview findings revealed that prior to the design of the LAP, there have been at least three CLSs (Asantehene's Land Secretariat in Kumasi, the Akyem Abuakwa Land Secretariat in Kyebi and the Gbawe Kwatei Family Land Secretariat in Accra) operating on informal basis. The officials stated that the Asantehene's Lands Secretariat is the decentralised administrative unit of customary land administration in charge of customary land holdings and derived rights in the city. It operates as the interface between customary and public land sector agencies and their operations are governed by chiefs and heads of clans and families through the land management committees (Bugri, 2012). According to the officials of the Asantehene's Lands Secretariat, the LAP aimed at strengthening existing ones and establish more CLSs as part of the customary land administration reform in Ghana. The officials thus stated that the Secretariat contributes towards achieving an effective and accountable local structure for the administration of land to address diverse needs of people in Kumasi. It also exists to partner with

government land sector agencies to address conflicts that arise because of complex customary land tenure arrangements and land use planning. Among others, the CLS was strengthened during the LAP to create up-to-date records for land transfers and effectively grant local authorities and the Regional Lands Commission control over planning regulations. The foregoing suggests that the introduction of the CLS does not only reflect an increasing recognition of customary land ownership, but also provides an avenue for decentralised land administration supported by the Regional Lands Commission. Traditional authorities therefore have clearly defined 'allocation powers' with limited administration responsibilities (via the CLS) while state authorities are expected to play regulatory control responsibilities.

The above notwithstanding, the interview data show that land administration in the city transcends challenges on coordination and collaboration between traditional authorities and relevant state land agencies. For instance, the Regional Lands Commission is responsible for keeping a database on the number of plots or land that have been sold out for development. Even though the Physical Planning Department's mandate is to issue permits for developments, the Department also registers plots that are submitted by the Regional Lands Commission. The Office of the Administrator of Stool Lands through its activities of collecting revenue also have its own database system, which in several cases do not conform to that of the Physical Planning Department and Lands Commission. The seemingly lack of distinction between customary land ownership and land administration and challenge of coordination and collaboration among government land management agencies have collided to produce the current urban disfigurement and blight that characterise Kumasi physical development today. For example, some scholars (e.g., Forkuor et al., 2013; Boamah, 2013) explain that the complex and overlapping roles of state institutions in development efforts, including land administration, underlie the persistent urban development and land management issues in most Ghanaian cities. This is evident in several physical urban development evolving autonomously with considerable adverse implications on the city (see Korah et al., 2017; Cobbinah et al., 2019a).

4.2. Agency perspectives on sustainable land use planning

The concept of sustainable development is argued to be a 'foreign concept' which has a global outlook and could thus affect local management efforts. Hence, an understanding of the concept is deemed crucial towards ensuring effective land use planning. This section is relevant to the overall paper considering documented evidence of land conflicts that arise as a result of multiple land sales and weak coordination between customary landholders and state land agencies. An understanding of the concept of sustainable development would therefore imply that officials consider land as a resource which should benefit the current and future generations. In this case, issues of poor land use, conflicts and administration will have adverse implications on efforts to ensure sustainable development of cities. Responses of the agencies about the concept of sustainable development and land use planning demonstrated a good understanding of the phenomenon. In spite of variations in responses among the officials, the major themes extensively noted were planning for the present and future generations. For instance, officials of the Physical Planning Department stated that sustainable land use planning is being able to maintain land and manage it properly for the present and future use. It also implies making judicious land use decisions to affect this generation and not adversely affecting the future generation. The Physical Planning Department officials gave an example of how land is currently being managed in Adum area (the CBD) indicating that the area, although already built, is accommodating new developments by emphasising vertical development as against lateral development, encouraging underground parking and redesigning layouts and plot sizes to ensure judicious and sustainable use of existing space. Sustainable land use planning according to one of the officials of the Regional Lands Commission is:

"The efficient management and administration of land in a given area ensuring that its use remain important for the present generation without compromising the needs and use of the future generation"

Similarly, one of the officials of the Physical Planning Department remarked that:

"Sustainable land use planning is the identification of preferred land uses that support local development the land addressing present interests, aspirations, power relations and livelihood concerns while making provisions for the sustenance of future generations".

An official of the Asantehene's Land Secretariat stated that:

"sustainable land use planning is taking control of the management of land, taking into account the registration of titles and record keeping so that land is used for the right purposes to cater for the needs of the present and the future generation".

Within the framework of meeting future needs, studies have revealed similar pattern where prospective developers are made to purchase lands and replace traditional buildings with high-rise apartment and commercial buildings (Adebayo, 2010; Cobbinah et al., 2019b). Ali and Al-Kodmany (2012) however argue that "due to their enormous scale, high rise structures demand extraordinary determination and endurance from many stakeholders including owners, developers, planners, architects, and engineers".

Similarly, officials of the Office of the Administrator of Stool Lands indicated that land is finite and whatever use land is put to currently, should be of and yield optimum returns, without comprising future uses, considering that land is a scarce commodity. With this, the officials indicated that land destruction practices such as illegal mining, poor agronomic practices, sand winning, and poor waste disposal and management attitudes are detrimental to current and future land availability and use.

Knowledge of agency officials on the concept is consistent with the fundamental Brundtland Commission's (1987) definition of sustainable development as "development that meets the needs of the current generation without undermining the ability of future generations to meet their own needs". The foregoing shows that all land sector agencies (both customary and state agencies) have interest in managing land for the present generation without compromising on the future generation. But does that reflect in practice taking cognisance of the complex land ownership and administration challenges, particularly in relation to customary lands in Kumasi?

In spite of the good understanding of the concept among officials, there is still evidence of several unguided and unsustainable urban developments across the cityscape (Owusu-Ansah, 2015; Cobbinah et al., 2019b). Findings from this research show that the institutional officials gave similar reasons in relation to their inability to translate their knowledge into practice: lack of adequate security of tenure (encroachment), indeterminate boundaries, weak consultation with land owners, difficulty in protecting large tracts of undeveloped public lands, inadequate payment of compensation for lands acquired by the government, inadequate technical staff and logistics, delays in issuance of building permits, lack of planning schemes for some areas leading to haphazard development, corruption and fraud (e.g. multiple allocation, activities of quack surveyors etc.), worn-out record sheets, tedious manual recording and retrieval of information, poor remuneration and service conditions of staff and poor records keeping by traditional land owners. These challenges are extensively reported in existing literature and appear to be similar in many countries across Africa (Cobbinah and Darkwah, 2016; Fuseini and Kemp, 2015; Siiba et al., 2018; Amoateng et al., 2013; Awuah and Hammond, 2014). With these perceived challenges, it is justifiable to argue that sustainable land use planning in Kumasi would remain a mirage unless urgent interventions are initiated to correct these urban pathologies which largely lie in land ownership

and administration procedures.

4.3. Influence of customary land ownership and administration on land use planning in Kumasi

Land use planning, as a spatial activity, is subject to tenurial rules and arrangements which regulate access to land, security of tenure and mode of land disposition (UN-HABITAT, 2009). Importantly, conditions of land alienation in the form of easements and covenants, which shape the exercise of usufructural rights are rooted in the prevailing land ownership systems in Kumasi; hence a relationship between land ownership, administration and use. In this research, one official from the Regional Lands Commission expressed these sentiments:

“In Ghana, one condition which is often built into lease agreements is that lessees are obliged to complete the development of the proposed property within two years after the execution of the lease agreement. Failure to comply with this condition often provides grounds for the grantor to re-enter and repossess the subject parcel of land. Such arrangements undoubtedly have implications for the behaviour of prospective developers, regarding how land is utilised.”

The document review suggests that land use planning in Ghanaian cities, including Kumasi, is mainly a state-led activity, which is concerned about harmonising competing land uses in order to achieve sustainable and orderly human settlement development. These are achieved through a combination of several tools, namely, zoning ordinances, density requirements and occupancy ratio, among others. In effect, both land ownership and administration as well as land use planning have the central aim of regulating how land is utilised. Section 45 of Ghana's Land Use and Spatial Planning Act (2016) designates the territory of Ghana as “defined under the Constitution of the Republic of Ghana including the land mass, air, space, sub-terrain territory, marine space and reclaimed lands, to be a planning area and subject to the planning system provided under this Act and other relevant laws” (Republic of Ghana, 2016). Hence, relevant statutory agencies are mandated to formulate, implement and enforce land use plans to guide the growth of human settlements. When plans are adopted and approved, they become legally enforceable documents for administering land. All development rights occurring within the planning area are accordingly rationalised and vested in the respective planning authority. These rights are subsequently granted to prospective developers through the issuance of planning and development permits by the designated planning authority, despite traditional authorities remaining customary owners. Therefore, the government land management agencies formulate land use planning schemes with the intention of implementing them on largely customary lands.

Interview findings from this research however showed that these arrangements have been ‘altered’ or ‘weakened’ in recent times, where traditional authorities are now the principal beneficiaries of funds which accrue from community resources, such as the sale of lands. This, of course, is not to say that traditional authorities should not generate financial returns from their land as owners. However, this situation has become the driving force for redefining the ‘doctrine of trusteeship’. Allocation of land for the implementation of plans is thus purely market-driven from the perspective of the customary landholders (see also Yeboah, 2012), contributing to the neglect of land use planning regulations and exclusion of important land uses (e.g., playgrounds, open spaces, green spaces). According to customary landholders, the increase in demand for land due to urban growth and rapid urbanisation has led to the alteration of existing land use plans by converting less economically profitable uses into more rewarding ones. These practices of subdividing and allocating plots for other land uses are not carried out through legitimate statutory processes, such as re-zoning. Rather, traditional leaders often go beyond their role as owners to carry out this administrative practice unilaterally, usually with the assistance of

‘self-styled’ surveyors contributing to haphazard developments. In fact, all officials interviewed generally stated that this practice has become widespread and contributed considerably to the inefficiencies in urban land use planning delivery in the city. For instance, one of the Physical Planning Department officials noted that:

“Land allocated for building new schools are now being converted to develop shops ... Areas which have been allocated for building new hospitals and clinics are being converted to private housing development, If you go to Tafo, Pankrono, and Breman, you will have to count yourself lucky if you find any new development which conforms with the existing planning framework, for which almost every plot is sold for residential purpose without having other activities to enhance the growth of these towns, the chiefs have sold almost every piece of land ... Developments in these areas never reflect what the plan [land use schemes] contains”

It was revealed that some customary landholders lease land for purposes which are different from the uses outlined in planning schemes. There is, therefore, no guarantee that the content of a planning scheme can be realised in practice. To the customary landholder, an approved plan is only a proposal by the district and not definitive binding document for customary landowners (see Larbi, 1996; Kasanga et al., 1996; Ubink, 2008). Even though in theory, a permit is required before one can acquire land for a particular development, findings from this research show that in practice, the allocation and determination of use of most lands in the city is done without reference to planning schemes. As a result, development does not proceed according to land use planning requirements. In this situation, it is perhaps understandable that officials of the Asantehene's Lands Secretariat emphasised that existing land use plans have been considerably altered by the activities of some caretaker or divisional chiefs, leading to instances where planning schemes bear no resemblance with spatial development. One of the Physical Planning Department officials remarked that:

“Most traditional leaders get surveyors to do the land demarcations even before schemes are prepared. Most chiefs do not want to pay their statutory fees to get a scheme done by the planning office. The outcome is development in unauthorized areas in the city”.

Interview findings revealed that traditional authorities in some instances do not only alter land use plans prepared by authorised planning institutions, rather, they liaise with ‘self-styled planners and surveyors’ to unilaterally prepare ‘improvised plans’ in anticipation of the expansion of their areas of jurisdictions. According to one of the Physical Planning Department officials, such plans are prepared to solely facilitate the allocation of parcels of land to prospective developers and therefore lacked the basic guiding principles of effective land use planning. This practice however contradicts the Local Governance Act (Act 936), 2016 and the Land Use and Spatial Planning Act (Act 925) 2016, which designate district, municipal and metropolitan authorities as the local planning authorities. The official further stated that:

“In most cases, we go to communities where plans are to be prepared only to be confronted with already growing settlement which in most cases have no access roads, no parks and no hospital, nothing, I mean no other activity even sometimes no community market! This is what our chiefs contract people to do ... So clearly it becomes more difficult to make plan because you have to correct the existing errors by the so called surveyors”

Such developments further underline how key players within the customary land administration sector impede the planning process, resulting in unplanned urban developments. All customary land owners interviewed affirmed that activities of some chiefs over the years, have been detrimental to land use planning practice in Ghana. On this, an official of the Asantehene's Lands Secretariat indicated that:

“It will be wrong on my part to state that some chiefs are not impeding the urban land use planning practices. Otumfour (the overlord of Kumasi and the Ashanti Kingdom) has however pledged to destool all those who engage in such practices.”

Further, the one official from the Regional Lands Commission stated that:

“Land use planning in Kumasi and Ghana as a whole, has not been very effective. One cannot however blame urban planners alone because of the customary land ownership system in the city. Chiefs largely determine who to sell lands to and the purpose of such lands, which ideally should not be the case”.

Although ‘urban planners’ are mostly blamed for their failure to ensure effective urban planning, the study has shown that urban planning agencies are confronted with several challenges due to current customary land owners’ administrative practices which impede land use planning activities in the city.

4.4. Marrying customary land ownership and administration in land use planning in Kumasi

Several models were reported to have contributed to land use planning in the city. An example is the Customary Land Secretariat introduced by the Asantehene’s Lands Secretariat to administer customary land. The activities of the Secretariat are aimed at addressing issues of illegal land allocation to multiple developers by land owners and poor land recordkeeping habits, noted to be major contributory factors of land conflicts in Kumasi (see [Kasanga and Kotey, 2001](#); [Wehrmann, 2008](#)). All respondents indicated that the Customary Land Secretariat’s model of land administration has instilled some degree of ‘sanity’ in land acquisition, land use planning and record keeping amongst chiefs/traditional authorities.

Officials reported on emerging form of partnership between customary land owners and private real estate developers shaping the delivery of (better) planned and well serviced settlements outside formal land use planning schemes. Under this arrangement, large tracts of land, especially on the periphery of Kumasi, are leased out by chiefs to commercial property developers. Most of the ultra - modern and gated communities such as the Prabon Gated community, Paraku Estate and Asenso Gated community in Kumasi, were revealed to be the outcomes of such partnerships. An adverse consequence, according to officials of the Land Sector Agencies is that most peri - urban dwellers, who are mainly farmers, are rendered landless, without alternative source of livelihood – a situation which further impoverishes their living conditions making their survival difficult and uncertain. The Physical Planning Department and Regional Lands Commission officials however stated that if proceeds from the sale of lands could be equitably distributed, this partnership could facilitate the growth of settlements in a more systematic, planned and efficient manner.

However, interview findings revealed several hindrances to customary land administration in sustainable land use planning in Kumasi. As earlier indicated, the practice of unilaterally altering existing land use plans clearly contradicts provisions made by the Local Governance Act, 2016 and therefore, renders it illegal. Section 103(2) of the Act provides that:

“A landowner shall not sub-divide or allocate land for use, development or occupation in a town, city or the suburb of a town or city or in an area where there is an approved planning scheme except in consultation with the District Planning Authority or a sub-district acting on behalf of the District Planning Authority.”

Section 103(3) of the same legislation outlines that whoever contravenes section 103(2)

“commits an offence and is liable on summary conviction to a fine... or to a term of imprisonment of not less than three months and not more than six months or to both the fine and term of imprisonment”.

In the above cases, customary land owners who engage services of ‘unofficial urban planners’ to prepare or alter existing land use plans should be sanctioned or convicted. A relevant question which however remains is: why do customary landowners and property developers often side - step the government land administration agencies? All agency officials, in response to this question, remarked that existing institutional arrangement for land use planning in Ghana is weak, in terms of human resource shortages and low awareness, funding inadequacies and logistical constraint processes, as well as an ineffective legislative basis for planning delivery. As a result, designated state agencies are not well equipped to effectively enforce or implement land use plans and monitor urban developments.

The repetitive nature of land administration and cumbersome process of acquiring permits either for land or building development were also reported to deter developers from seeking permits from government land management agencies. The processes involved in land use planning, according to land management agencies comprise preparing base maps, community engagement and plan formulation, implementation of the content of the plan, enforcement and subsequent evaluation of the implemented plan. Each activity however requires some degree of funding for execution. This situation provides a conduit for developers to rely on traditional authorities to develop planning schemes, resulting in frequent haphazard developments and encroachment on public and ecologically sensitive areas in the city. According to the Asantehene’s Lands Secretariat official:

“Some chiefs deem it unnecessary to make urban planning authorities design layouts to guide development of their communities and they also think it is too expensive to produce planning schemes. These perceptions toward planning are major obstacle to sustainable land use planning. Developers find more confidence in the customary land owners or traditional authorities as planning bodies than the official planning authority”.

Finally, the unresponsive nature of existing legislative frameworks and planning laws to the changing socio - cultural and economic context of (customary) land ownership and administration, over the years, were reported to have resulted in unsustainable and ineffective land use planning. For instance, the 1925 Town Planning Act, and 1932 Town and Country Planning Act, 1972 Town and Country Planning Act (which were prepared by the British), 1978 and 1982 Town and Public Health Ordinances, 1925 Town Planning Ordinance and the 1945 Town and Country Planning Ordinance (CAP 84) were all prepared to generally guide planning of human settlements in Ghana. The CAP 84 was the core legislation which guided planning practice in Ghana until the Local Government Law of 1988 (PNDCL 207) was introduced to establish the District Assembly as the planning authority at the local level. The (land use) plans prepared by virtue of these guidelines were however inconsistent with customary land ownership practices and how they influence land use planning activities, as they lacked innovation in suggesting strategies in ensuring effective integration. Plans rather facilitated social control through exploitation of natural resources and expropriation of large tracts of fertile lands for the colonial authorities, spatial segregation and haphazard developments (see [Adarkwa, 2012](#)).

Currently, the Land Use and Spatial Planning Act 2016, Act 925 has been developed

“to revise and consolidate the laws made on land use and spatial planning, as well as provide for sustainable development of land and human settlements through a decentralised planning system”.

The Act specifies that in the preparation of (spatial) plans at the local, regional and national levels, guidelines prepared by the Land Use and Spatial Planning Authority mandate planning professionals to strictly

follow land use processes. This planning approach is expected to reflect the principles of the new urbanism theory, touted as the new planning paradigm to promote sustainable and resilient city development. Section 37(k) states that a District Spatial Planning Committee should comprise

“one representative from the traditional council of the district and in districts where there are more than one traditional council, the person elected by the traditional councils within the district to represent them on a rotating basis”.

Also, in preparing local plans, Section 72(6) stipulates that

“each estate developer, owner of land of a size specified by the Authority or a traditional ruler who owns that land shall submit to the District Assembly local plans in respect of estate schemes or schemes to develop the land for sale in the district” (Republic of Ghana, 2016).

These provisions, according to the Asantehene’s Land Secretariat and Land Sector Agency officials are to streamline customary land administration in land use planning activities in the country. Yet, there were reports among officials that customary land owners’ administration practices adversely alter and greatly impact on urban land use planning scheme of the city, as there is occurrence of non-conformity to land use plans largely as a result of customary land administration issues.

A planning and administration framework informed by a clear understanding of customary land ownership is expected to clearly define and clarify the roles and responsibilities of each stakeholder - customary landowners and government land sector agencies – in land management, administration and land use planning in Kumasi and Ghana as a whole. Although existing legislation have these roles defined, it is expected that addressing the challenge of weak coordination and collaboration between customary landowners and land sector agencies would bridge the gap between ownership, land management and administration and their influence on plan design, implementation and enforcement. Issues of conflicts and unguided developments which occur outside the legal land use planning framework would be minimised should coordination and collaboration between customary landowners and state land management agencies, involving customary landowners (in) directly in plan design, implementation and enforcement be strengthened. Understanding differential positionality of customary land ownership and land administration in land use planning in Kumasi is still useful as an overarching framework for evaluating how well cities, particularly those in Ghana are progressing towards achieving a socio-culturally inclusive city.

5. Concluding remarks

Urban land use planning remains a central focus towards achieving sustainable development in African cities. It has the fundamental aim of protecting, restoring and promoting sustainable use of land. This study supports the frequent criticism that the extent of relationship between customary land ownership and administration in land use planning practice in many African cities is limited, weak, lacks policy assurance, and, perhaps, may not serve as a powerful ground for urban development. However, considering this relationship in land use planning can be very pertinent to present day city planning and management.

Findings from this study indicate that government land management agencies and customary landholders in Ghanaian cities, particularly Kumasi, have considerable understanding of the importance of sustainable land use planning, but have challenges differentiating customary land ownership and administration in land use planning practice. Similarly, existing planning documents do not provide a comprehensive approach and consistent balance to effectively understand the difference between customary land ownership and administration in land use planning, which is largely a state-led activity. Hence, despite the numerous plans and policies aimed at promoting effective

land use and sustainable management, this study shows marginal success as they fail to differentiate and emphasise the different positionalities of customary land ownership and administration in urban land use planning.

Issues such as repetitive nature of land administration, cumbersome process of acquiring land, indeterminate boundaries, weak consultation with land owners, logistics and weak institutional capacity (Amoateng et al., 2013; Awuah and Hammond, 2014; Cobbinah and Korah, 2015; Fuseini and Kemp, 2015) were revealed to have constrained effective land use planning in Kumasi. Although several studies frequently blame ‘urban planners’ for failure to enforce and promote effective urban land use planning, this paper has shown that the relationship between urban planning agencies and customary land holders in terms of land ownership and administration practices do considerably affect land use planning activities in the city.

This study first recommends training and education of city land use planning and management authorities. As earlier discussed, officials interviewed have an understanding of the significance of land use planning, yet find it difficult to enforce customary land ownership and administration requirements in land use planning practice. This paper advocates that relevant land management agencies and customary institutions be educated via workshops, seminars and training sessions on the importance of management and administration roles to help shape sustainable land use planning.

Second, this study calls for local capacity building to ensure that the adoption of foreign concepts and programmes, and the international organisations’ activities have local content and are consistent with local culture. This is deemed important to improve upon customary land ownership, administration and land use planning efforts. With this, activities of international organisations can be developed to respond to Ghanaian urban land management challenges, and improve the likelihood of policy acceptance, and planning ownership by stakeholders. The study concludes that understanding differential positionality of customary land ownership and land administration in land use planning is useful as an overarching framework for evaluating how well cities are progressing towards achieving a socio-culturally inclusive future state.

Declaration of Competing Interest

The authors report no declarations of interest.

Appendix A. Supplementary data

Supplementary material related to this article can be found, in the online version, at doi:<https://doi.org/10.1016/j.landusepol.2020.105054>.

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