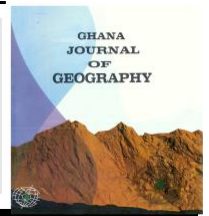


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Opinion Piece on Land Reforms in Ghana

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abstract

In this piece, Professor Raymond Bagulo Bening reflects on the role of a Study Group in promoting land reforms in Ghana. Critically, this reflective piece highlights the vital role of academic advocacy for national reforms. Land is critical to Ghana's development and has played an essential role in the nature and trajectory of the country's development. Beyond the economic value of land and its role in agriculture, many Ghanaian societies view land as an extension of who they are. Land is deeply embedded in the cultural values of societies. Historically, land is owned by stools/skins, clans and families. However, colonialism, in many ways, transformed land access and tenure in Ghana and altered the overall structure of the land ownership and use in the Ghanaian society. Thus, this reflective piece brings to light a critical event in land reforms in Ghana that is often not the focus of research.

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The Study Group on Northern Ghana and advocacy for the divestiture of Northern lands in 1979

In 1957, Ghana inherited two colonial land laws where lands in the North were vested in the Government and in the South the people retained their ancestral lands. A uniform land policy was adopted in 1979 following the advocacy by the Study Group on Northern Ghana in 1975. When Ghana attained political independence in 1957, there were significant disparities in development between the North and the South of the country because of colonial discriminatory policies in education, socio-economic development, land ownership and administration.¹ Colonial legislation vested all the lands of Northern Ghana in the Governor of the Gold Coast. That was not the case in the South.

Initially, the colonial government acknowledged that the chiefs and the inhabitants of Northern Ghana owned their ancestral lands, and their rights should be respected. *The Mineral Rights Ordinance* of 1904 recognized the rights of the local people². However, in 1927 Governor F. G. Guggisberg passed the *Land and Native Rights Ordinance* which declared all the lands in the Northern Territories, whether occupied or not, as public lands³. The Governor hoped that under the law, he would not pay compensation for the land required for the extension of the railway line from Kumasi to the northern boundary of the Gold Coast. However, the Colonial Office did not support the project.

The editor of the *Gold Coast Leader* condemned the Ordinance and called on the people of the Gold Coast Colony to rise up and safeguard the interests of the inhabitants of the Protectorate⁴. J. E. Casely Hayford, a Member of the Legislative Council, declared that the law was "a confiscatory measure"⁵ and did not differ materially from the Lands Bill of 1897 which was strongly opposed by the inhabitants of the Gold Coast Colony. However, the issue could not be debated in the Legislature as the Northern Territories did not come within the purview of the Legislative Council.

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Demands for the divestiture of Northern lands 1953-1972

The Protectorate of the Northern Territories was united with Ashanti and the Gold Coast Colony in 1951. In 1953, S. D. Dombo, Duori Naa and Member of the Legislative Assembly requested the Government to divest the lands in the Protectorate before the attainment of independence. He expressed the fear that "by the time we shall lay hands on our land there shall be nothing for us to live on".⁶ In January 1954, the Government accepted the proposal to divest the lands of the Protectorate and the British Government approved the decision in May 1954.⁷ A Bill was drafted to effect the change but there were serious disagreements between the Northern Territories Council and the Chiefs as to whom the lands should be vested in.

The Bill to vest the lands in the Northern Territories Council was introduced by the Government in the Legislative Assembly on 28 March, 1955, but the debate was deferred owing to the lack of consensus among the people. The Bill was subsequently withdrawn on 2 November 1955. When Kofi Baako, the Ministerial Secretary to the Prime Minister, was pressed for an explanation, he declared that: "I should like the Honourable Members opposite to note that they cannot compel the Government to do their wishes. The Government is the Government, and it has every liberty to withdraw it when it deems it expedient"⁸. When Ghana became a Republic in 1960, the lands of Northern Ghana were vested in the President.⁹

Although Article 164 of the 1969 Constitution of Ghana established the principle of a unified land law and vested stool and skin lands in the appropriate landowners, there was no specific provision relating to land in Northern Ghana. In June 1970 James Ben Kaba, Member of Parliament in the Second Republic, tabled a motion calling for the repeal of the discriminatory legislation to conform with the spirit of the constitution. As Article 162 of the Constitution vested public lands in the President, there was no skin land in Northern Ghana.¹⁰

During the debate on the motion, the Speaker, Justice Nii Armah Ollenu, intervened and stressed that "technically in the law as it exists, there are no lands in the Upper and Northern Regions which can be called skin or stool lands"¹¹. Parliament accepted that "the principles underlying land legislation in the country should at all times be uniform and in conformity with the Constitution"¹². The Government indicated that it was the practice in the administration of land that was discriminatory and not the laws themselves.¹³ The amendment of the land legislation was not implemented before the military overthrew the Busia government on 13 January, 1972.

In 1974, I initiated the formation of the Study Group on Northern Ghana at Legon to advocate for the divestiture of Northern lands and deliberate on issues of concern to the people. The members of the Group were Dr Hilla Limann (Chairman), Dr. R. B. Bening, Dr. J. S. Nabila, Alhaji Mahama Iddrisu and J. B. Kubayanda (Secretary). We met at the residence of the chairman in Assylum Down in Accra on the first Saturday of every month at 4p.m.

The Northern and Upper Regional Houses of Chiefs organised a seminar on land policy in Northern Ghana at Bolgatanga on 15 May, 1975. I drove alone up north and read the paper at the meeting. There was complete silence in the hall. No questions were asked. In his closing remarks, Justice George Lantei Lamptey stated: "I am a lawyer and a high court judge, and I do not know any of the things the young doctor has said. If what he has said is correct, the lands in the North must be divested tomorrow. This should have been done long ago". A similar presentation was made at the National House of Chiefs in Kumasi. The Traditional Rulers were shocked and angry. No questions were asked, as all the discriminatory laws were cited in the speech. There was a report on the meeting in *The Ghanaian Times*.

The final advocacy was at the Military Advisory Council (MAC) meeting at Burma Camp in Accra in May 1975. Immediately after I finished reading my speech, one officer commented: "When we were told that Dr Bening will speak to us about land problems in the country, most of us were expecting an old man. When you were introduced as Dr Bening, we were surprised". I responded: "I have seen several people in this hall who are within my age group". There was a burst of laughter. No questions were asked. Indeed, I knew three northern members of the MAC: the President, Rear Admiral K. E. Dzang, Maj Gen J. M. Hamidu and Alhaji Maj Essah.

When Col. I. K. Acheampong, the Head of State and Chairman of the National Redemption Council (NRC), disbanded the NRC on 9 October, 1975 and formed the Supreme Military Council (SMC), the Study Group petitioned the SMC on the lack of northern representation in the government. Rear Admiral Dzang was made Ambassador to Japan, and Maj Gen Hamidu was appointed High Commissioner to Zambia. Dr. Limann indicated he could not sign the letter as a civil servant. J. B. Kubayanda made a similar plea as Rear Admiral Dzang was his maternal uncle. Alhaji Mahama Iddrisu, the Area Manager of Ghana Commercial Bank at Ho in the Volta Region, appended his signature to the letter.

The immediate reaction of the military regime was an order to arrest the members of the Study Group. All the security agencies alerted the junta that the Chiefs and people of Northern Ghana gave the Study Group their unflinching support, and the National House of Chiefs was solidly behind the Group. The Military Advisory Council also intimated that the Study Group

was working to enhance national unity. Consequently, the SMC invited Dr Limann, Alhaji Mahama Iddrisu and Dr Bening to accompany a government delegation to Northern Ghana without any explanation and no questions were asked. Durbars of Chiefs were held at Tamale, Bolgatanga and Wa, and we were conspicuously and silently displayed on the stage at each venue.

When Gen I. K. Acheampong was overthrown on 5 July 1978, Lt Gen F.W.K. Akuffo became the Head of State and Chairman of the SMC, Lt Gen Hamidu became the Chief of Defence Staff and a member of the SMC. Alhaji Mahama Iddrisu was appointed Commissioner of Local Government. Several credible sources later informed me that after extensive consultations, "everyone said Dr. Bening should be the Commissioner of Lands and Mineral Resources". However, Gen Akuffo's emissary informed Professor George Benneh to see the Head of State in his office due to a mix-up of names as we were in the same Department. That was not an isolated incident.

In 1974, I submitted an article on colonial development policy in northern Ghana to the editor of a journal based in the Department of Economics, University of Ghana. A few weeks later, an elated Dr. Benneh informed me that he met the editor on campus and he told him that his article had been accepted for publication. He responded that "the author is my colleague in the Department". As the usual acceptance letter was not forthcoming, I wrote to enquire whether a decision had been taken on my article. Professor J. C. de Graft-Johnson wrote to inform me that "the article is very strong on policy and weak in statistics". I retrieved the manuscript and it was published in 1975 in the *Bulletin of the Ghana Geographical Association*, which has now been redesignated as the *Ghana Journal of Geography*.

The divestiture of Northern lands was implemented in the 1979 Constitution on the restoration of civilian rule on 24 September 1979 when Dr. Hilla Limann, the first Northerner, unexpectedly assumed office as the President of Ghana¹⁴. The relevant provisions of the 1979 Constitution were retained in the 1992 Constitution. Article 257 of the 1992 Constitution states that:

"(3) For the avoidance of doubt, it is hereby declared that all lands in the Northern, Upper East and Upper West Regions of Ghana, which immediately before the coming into force of this Constitution were vested in the Government of Ghana, are not public lands within the meaning of clauses (1) and (2) of this article.

(4) subject to the provisions of this Constitution, all lands referred to in clause (3) of this article shall vest in any person who was the owner of the land before the vesting or in the appropriate skin without further assurance than this clause".

The 1979 Constitution reinforced the unitary status of Ghana. The outcome of the presidential and general elections on 18 June 1979 dramatically impacted the country's political administration and further enhanced national integration. Indeed, the seeds of the Study Group on Northern Ghana triggered one of the most radical land reforms in post-independent Ghana.

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