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Autochthonous, Conquest and Overlordship Rights in Land: Constructing Allodial Rights in the Kpandai Area in Northern Ghana in the Pre-Colonial Times

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Abstract

In 1991-92, a conflict over the allodial title to lands in the Kpandai area broke out between the Nawuri and the Gonja, prompting the necessity to interrogate the concept of allodial rights. In Northern Ghana in general, allodial rights in land are ethnicized – the right of absolute ownership of land resided in an ethnic group. Nonetheless, the modes of acquisition of allodial rights in land differ from place to place, though generally they are embedded in the historical traditions of societies. By and large, the modes of acquisition of allodial rights in land by an ethnic group are determined by variables such as autochthonous and conquest rights, lease and gift. This study interrogates the ownership of Kpandai in the pre-colonial period, using, as determinants, tools such as autochthony, conquest, and overlordship. It argues that allodial rights in lands in the Kpandai in the pre-colonial period resided in the Nawuri by virtue of rights of autochthony and autonomy.

Key words and phrases: Alfai, allodial rights, autochthonous, conquest, Gonja, Kpandai area, Nawuri, Nawuri territory, Northern Ghana, overlordship.

Introduction

For many years northern Ghana has been in a state of turmoil and atrophy due to intermittent violent conflicts over a broad layer of issues. In 1991 and 1992, the Kpandai area in present-day Kpandai District/Kpandai Constituency in northern Ghana was enmeshed in armed confrontations between Gonja and Nawuri over allodial rights. Prior to the outbreak of violence, many but unsuccessful pre-emptive policies were pursued to de-escalate tension. Government's attempts to use the security to contain the communal violence were equally a pathetic failure due to the laxity and questionable nature of the security arrangements. Similarly, attempts through dialogue, enquiry and mediation to resolve the differences between Nawuri and Gonja during and after communal violence failed woefully due largely to the unresolved nature of the question of allodial rights to lands in the Kpandai area. The attempts to resolve the question of allodial rights to lands in the Kpandai area triggered arguments of ownership by the Nawuri and the Gonja which were rooted in pre-colonial claims. These pre-colonial

claims were woven around three main variables – autochthonous, conquest and overlordship rights in land. This paper interrogates the concept of allodial rights in Nawuri territory in the pre-colonial period and assesses the extent to which it was measured by variables such as autochthony/first settlers, conquest and overlordship.

Theoretical Framework

Scholars have used a number of variables to interrogate absolute or allodial rights in land in Ghana.¹ Sarbah has identified variables such as the occupation of uninhabited land, conquest, and alienation through gift, sale and succession as the criteria for a community or an ethnic group's acquisition of allodial rights in land.² This view is supported by Danquah. He asserts that the acquisition of land by a community, Stool or Skin is determined by three factors. These are "conquest, settlement, and purchase or gift."³ Ollennu also gives a perspective on the variables that determine allodial rights. According to him, generally, ownership of land is acquired by birthrights (traceable to the first settlers), conquest, gift and lease.⁴ Ollennu established that:

There are four principal ways by which a stool acquires land. They are conquest and subsequent settlement thereon and cultivation of the subjects of the stool; discovery, by hunters or pioneers of the stool, of unoccupied land and subsequent settlement thereon and use thereof by the stool and its subjects; gift to the stool; purchase by the stool.⁵

This study builds on the works of earlier scholars. It uses variables such as first settler or autochthonous rights, conquest and overlordship to interrogate allodial rights in the Kpandai area in the pre-colonial period. In fact, these variables resonated in all the arguments of the Nawuri and the Gonja in the dispute over allodial rights. In the words of the Ampiah Committee Report:

The land tenure system among the Nawuris ... is closely related to the sequence of arrival of the various ethnic groups which now

¹ The term *allodial rights* is conceptualized in this study to mean the ownership rights or entitlement of a person or groups of people in land.

² As quoted in N.A. Ollennu, *Ollennu's Principles of Customary Land Law in Ghana* (Birmingham: Carl Press, 1985), p. 15.

³ *Ibid.*

⁴ *Ibid.*, p. 17.

⁵ *Ibid.*

occupy that part of the East Gonja District east of the Daka River and claims of suzerainty by their Gonja overlords.⁶

The Study Area and Pre-colonial Situation

The Kpandai area or Nawuri territory in the Kpandai District known in most records as Alfai, is located in the eastern corridor of the Northern Region of Ghana.⁷ The territory borders the northern part of Volta Region, and shares common boundaries with the Achode/Chanla to the east, Nchumuru to the west, Nanumba to the north, and Kete-Krachi to the south. Kpandai and surrounding communities were the scene of a destructive communal violence between the Nawuri (autochthones) and the Gonja (immigrants and historical overlords since 1932) in 1991 and 1992. The Nawuri claim autochthonous origins and trace their origins to Afram plain and Larteh Akuapem in southern Ghana. The Gonja, on the other hand, who claimed descent from Ndwura Jakpa and his invading founders of the Gonja kingdom, traced their origins to Mande in present-day Mali. Oral history is the repository of the pre-colonial history of the Nawuri territory and the relations between the Nawuri and the Gonja. Oral accounts suggest that the Gonja peacefully entered into the Nawuri territory as immigrants but not as invaders, in seventeenth century, and that prior to their arrival the territory was long inhabited by the Nawuri. The accounts further suggest that the Gonja neither conquered the Nawuri nor did the two groups fight each other in the pre-colonial period. The two ethnic groups co-existed as political allies.⁸ In its report, the Ampiah Committee explained that the Nawuri:

were an indigenous people in Alfai area who had complete autonomy and lived in friendly association with the Krachis and Nchumurus ... Nowhere in the evidence had it been stated that the Nawuris were at any time conquered by the Gonjas. The evidence

⁶ Justice Ampiah, *Report of the Committee of Inquiry into the Gonjas, Nawuris and Nanjuro Dispute*, Part I (Accra: Government of Ghana, 1991), p. 39.

⁷ Etymologically, Alfai is derived from the Nawuri words *alfa* and *ai* which mean 'Muslim' and 'home' respectively. Historically, Alfai was initially used to refer to the home of the first Muslim settler in Nawuriland. It was the colonial authorities who later broadened its usage to refer to all the Nawuri settlements in present-day Northern Region. Archival documents show a preponderate use of the name Alfai to refer to Nawuriland. In this study, I use the cognate names the *Kpandai area* and *Nawuri territory* interchangeably to refer to the area of study.

⁸ A.K. Awedoba, *An Ethnographic Study of Northern Ghanaian Conflicts: Towards a Sustainable Peace* (Accra: Sub-Saharan Publishers, 2009), p. 169; C.K. Mbowura, "Nawuri-Gonja Relations, 1913-1992 (University of Ghana: M.Phil thesis, 2002), pp. 26-29.

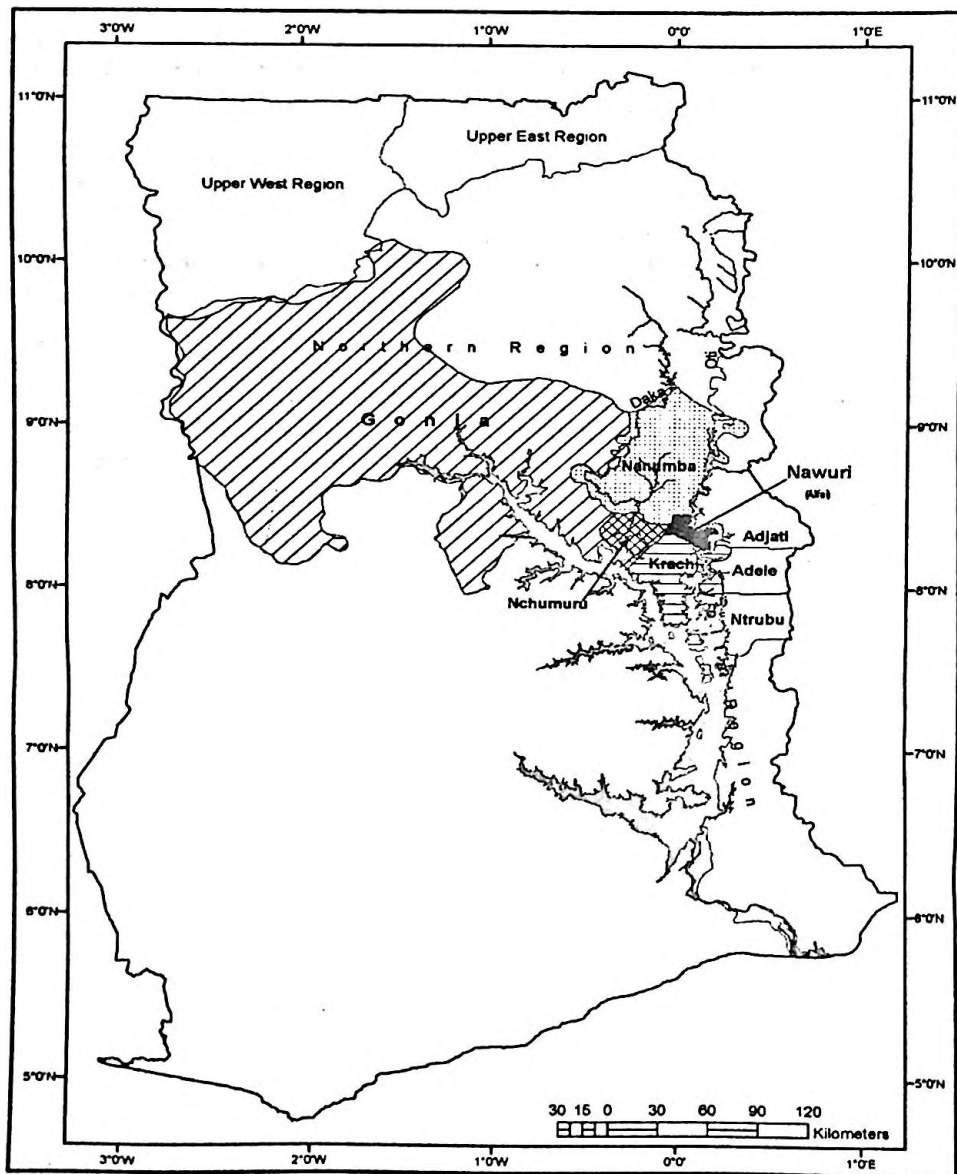
holds that the Nawuris and the Gonjas were allies and fought together during the Asante invasion of the Area ...the ...ethnic groups existed as a loose association since they met in the now Eastern Gonja Area for common purposes; fighting the common enemies like Asantes and others and protecting their lands.⁹

In about 1922, a small band of the Konkomba and Bassari arrived in Nawuri territory, and they were followed by waves of immigrants of different ethnicity. Prior to the outbreak of communal violence between the Nawuri and the Gonja in 1991, Nawuri territory was mainly inhabited by the Nawuri, Konkomba, Bassari, and Gonja, but there were also small populations of ethnic groups such as Chakosi, Dagomba, Ewe, Akan, Senya, Adangbe, Frafra, among others.¹⁰ The last national census before the outbreak of the Nawuri-Gonja conflict was held in 1984. The census showed that there were 5252 people living in 505 houses in Kpandai alone. Out of this number, 700 were ethnic Gonja and were evacuated to Kpembe in the wake of the war. The rest were mainly Nawuri in ethnic identity.¹¹

⁹ Ampiah, *Report of the Committee of Inquiry*, Part I, pp. 61-62.

¹⁰ The Konkomba and Bassari immigrants migrated from modern Togo. The Chakosi, Dagomba and Frafra came from other parts of Northern Ghana while the Akan, Ewe and Adangbe came from Southern Ghana.

¹¹ *Ibid.*, Part II, p. 215.



Source: Lands Department, Accra, (n.d.), map of Alfi [Nawuri territory] adapted.

Interrogating the Allodial Rights to Lands in the Kpandai Area in the Pre-colonial Period

Who owned lands in the Kpandai area in the pre-colonial period?¹² How does settlement of territory confer allodial rights – by conquest, lease or overlordship? Answers to these questions necessarily have to define the criteria of allodial rights in land in Ghana. Before interrogating the issue of allodial rights in lands in the Kpandai area in the pre-colonial period, it is important that it is preceded by modes of acquisition of allodial rights in land. In 1911 and in the 1920s, attempts were made by the British colonial authorities to understand the land tenure system and allodial rights to lands in the Northern Territories.¹³ Based on research, scores of data on the roles of *Tendanas*, the methods of allocation of land and the identity of allodial owners of lands in the various parts of the Northern Territories were established.¹⁴ For example, in the Konkomba territory of Eastern Dagbon, it was established that:

... the Na of Yendi is Lord Paramount of all the land by virtue of the title obtained by his ancestors by right of conquest. All people

¹² The term *pre-colonial period* is conceptualized in this study to refer to the era prior to the colonization of the area by the Germans in 1899. It should be noted that in 1877 when the joint Anglo-German Boundary Commission fixed the boundary between German and British spheres of Togo and the Gold Coast, Kpandai and its environs came under the territory designated as the "Neutral Zone". The partition of the Neutral Zone between Germany and Britain in 1899 brought Kpandai and its environs under German rule.

¹³ PRAAD ADM 56/1/3375 Land Tenure: "Answers to Questionnaire to Chief Commissioner Northern Territories"; PRAAD 56/1/113 Land Tenure in Northern Province (Case No. 8/1911).

¹⁴ The *Tendana* were the priests of the earth-gods. They made sacrifices to the earth-gods for fertility and prosperity. Until the arrival of the state-builders of Gonja, Dagbon, Nanum, Mamprugu and Wala, most societies in northern Ghana were said to be uncentralized – that is they did not live in organized centralized states nor did they have chieftaincy institutions. Prior to the arrival of the state-builders, the system of government in the uncentralized societies was patriarchal in nature; legal institutions were not only unknown, but also there were no political leaders solely performing secular roles. The *tendana* was the owner of the *Tenge* (the earth goddess), and thus the custodian of the land and the principal mediator between the people, the Tenge and the ancestral spirits of his area. He "controlled the people under his immediate care by threats of punishment which the spirits of their ancestors would inflict upon them if they continued in their evil ways." He was the nexus of political authority, wielding both religious and political authority. See PRAAD (Tamale) NRG 8/3/53 Annual Report on the Northern Territories, 1935-1936, p. 5.

know and realize this. The wild Konkomba living away in the bush, clad only in skins knows that the Na of Yendi owns the land.”¹⁵

Conclusions about allodial rights in the Kete-Krachi District, to which Nawuri territory was a part at that time, were unclear. The indications were that allodial rights resided in the indigenous peoples; that temporal and spiritual powers were either combined in the office of the *Tendanas* or separated; that the right of allocation of land was exercised by the *Tendanas*; and that the Government could make anyone a chief, but no such appointed chiefs would ever be recognized to the same extent as the *Tendana* with powers to allocate land, though the subjects might verbally acquiesce.¹⁶

In Northern Ghana “the basic group owning allodial rights in land is a kinship group,” and that the kinship group “may be a maximal lineage or clan.”¹⁷ In 1955, Pogucki drew attention to the fact that in various parts of Northern Ghana such as South Mamprugu, Dagbon, Nanum, and partly also Gonja, allodial rights in lands were “ethnicized”, that is, the ethnic group was seen as the basic group owning allodial rights. In these societies, allodial rights in land resided in the paramount chief; that the sub-chiefs only represented the paramount chief in connection with the land; and that they did not hold any rights of their own.¹⁸

The notion of ethnic ownership of land is not a peculiar feature of absolute land ownership in Mamprugu, Dagbon, Nanum and Gonja states; it is a general customary land practice in most parts of Ghana. For example, in most Akan states, particularly Asante and Akyem, allodial rights in land resided in the ethnic group and are held in trust by the Paramount Stool.¹⁹ On the whole, in Ghana, the Stool or Skin is regarded as the embodiment of the soul and spirit of a family, an ethnic group or a nation. It is also regarded as the embodiment of the collective authority of a people or community. As such, the Stool or Skin is said to be the absolute owner of the land of a people or community.

According to Pogucki, ‘tribal’ rights in land in Northern Ghana are derived largely from conquest.²⁰ Nonetheless, the subject groups, and occasionally some members of the ruling families, usually assert that

¹⁵ PRAAD ADM 56/1/3375 Land Tenure: “Answers to Questionnaire to Chief Commissioner Northern Territories”, p. 29.

¹⁶ *Ibid.*, pp. 44-45.

¹⁷ R.J.H. Pogucki, *Gold Coast Land Tenure: A Survey of Land Tenure in Customary Law of the Protectorate of the Northern Territories* Vol. 1 (Accra: Gold Coast Lands Department, 1955), p. 19.

¹⁸ *Ibid.*

¹⁹ Ollennu, *Ollennu's Principles of Customary Land Law*, p. 8.

²⁰ Pogucki, *Gold Coast Land Tenure*, p. 19.

allodial ownership of land resided in the subjects, the indigenes of the land. This naturally gave rise to rival claims of land ownership by the "rulers" and "ruled" despite the general assertion in Northern Ghana that absolute rights in lands are exercised by chiefs, irrespective of the influence the *tendanas* exerted in the utilization of land.²¹

Autochthony/First Settlers

According to Pogucki, the occupation of land, whether hitherto inhabited or uninhabited, by settlers forms the underlying principle on which the concept of ownership of allodial rights in land is based.²² Who were the first settlers in the Kpandai area? On the question of "first-comership" or autochthony the traditions of origins of the Nawuri assert that the Nawuri were the first to settle in the area, and that the area was uninhabited at the time they arrived. The traditions of the Gonja, however, insist that the Nawuri met the Konkomba inhabitants and drove them out. The clearest statement that the Nawuri were the first settlers in the Kpandai area was made by the Ampiah Committee of Enquiry of 1991. The Committee established that the:

Gonjas met a sizeable number of the Nawuris where the latter ethnic group now live. Although the Gonjas claimed that the Nawuris are subject to them it has not been clearly indicated how the overlordship was established.²³

The Gonja do not dispute the Nawuri claim of "first-comership" or autochthony. However, there are suggestions that the Nawuri conquered the area for the Gonja from the autochthonous Konkomba inhabitants. In the view of Dixon, "the Nawuri had already accepted the overlordship of the Gonja before arriving in the area (Kpandai and its environs) and had gone ahead of the main Gonja invasion (army) to drive out the Konkomba inhabitants of what must have been very sparsely inhabited."²⁴ The

²¹ Ollennu, *Ollennu's Principles of Customary Land Law*, p. 8.

²² Pogucki, *Gold Coast Land Tenure*, p. 21.

²³ Ampiah, *Report of the Committee of Inquiry*, Part 1, 39. The Committee consisted of Justice A.K.B Ampiah, Chairman, Togbe Tepe Hodo III (Paramount chief of Afoega), Member, Professor R. B. Bening, member, and E.K. Musah Esq., secretary. It is popularly named Ampiah Committee after its chairman. The Committee was established by an Executive Instrument (E.I.) 23 by the Provisional National Defence Council (PNDC) to investigate the causes of the armed conflict between the Nawuri, Gonja and Nchumuru in 1991.

²⁴ J. Dixon, *Report of Mr. J. Dixon, Administrative Officer Class I, on the Representations Made to the Trusteeship Council of the United Nations Organisation, Concerning the Status of the Nawuris and Nanjuros within the*

argument is speculative and lacks concreteness of detail.²⁵ Dixon claims that his argument is the most reasonable explanation of the absence of war between the Nawuri and the Gonja when the latter arrived in the Nawuri territory. However, he failed to give concrete historical evidence to support his argument. There is evidence to suggest that Nawuri territory was neither inhabited by Konkomba nor any other ethnic group prior to the arrival of Nawuri.²⁶ Nawuri traditions do not make reference to their encounter with Konkomba or any other ethnic group when they arrived in the Kpandai area. Besides, archaeological studies to confirm the view that Konkomba inhabited the territory prior to Nawuri arrival are non-existent. Furthermore, if the Nawuri were not the first settlers of the Kpandai area how does one explain the fact that names of all settlements in the area are in Nawuri language? Names of settlements such as Kpandai, Balai, Dodoai, Bladjai, among others, end with the suffix *ai*, a Nawuri word which means 'home'. Others such as Nchanchina, Mmofokayin, Buya, Kabonwule, Beyim, Kitare, are etymologically derived from Nawuri words. Furthermore, the names of streams in the Kpandai area are all in Nawuri language.²⁷

Finally, all the deities in Kpandai and its environs such as *Nanjulo*, *Boala*, *Kachilenten*, *Nana Esuwele*, *Kankpe*, *Buiya* are owned by the Nawuri. In times of impending disaster, the Nawuri propitiated and pacified these deities to avert danger. Again, when a problem arose about strayed animals, which were generally regarded as earth-shrine property, the Gonja turned to the Nawuri for solution. The Gonja did not attempt to handle these problems because they feared they would risk severe punishment by the earth-god. The Gonja assert that the Nawuri were their *tendanas* whose sole responsibility was the discharge of religious duties in the area. The Gonja claim is questionable because it is inconsistent with the practice all over Northern Ghana. Historically, except in some cases in present-day Upper East and Upper West Regions, the state-builders of Northern Ghana succeeded in absorbing the *tendana* families into their ethnic categories and transferred the *tendanas*' power and control over land rights to their secular authority.²⁸ They did not seek to destroy the priestly roles of the *tendanas*,

Togoland Area of the Gonja District (Accra: Government of the Gold Coast, 1955), p. 4.

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ Some of the names of the streams are *Kuwa*, *Kudja*, *Wassawasa*, *Wullinbun*, *Dobun*, *Bunkpa*, *Bula*, *Kpassa*, and *Buya*.

²⁸ M.S. Abudulai, "Land Tenure Among the Dagomba of Northern Ghana: Empirical Evidence", in *Cambridge Anthropology*, Vol., II, Issue 3 (1986), pp. 72-103.

but accorded them a place in their system of government to operate.²⁹ This was not the case in Nawuri territory. The Nawuri lived as a separate ethnic group from the Gonja. The *tendanas* and Nawuri chiefs continued to exercise power and control over land in Nawuri territory. It was after 1932 when the area was amalgamated with the Gonja kingdom that the Gonja chiefly class arrogated such rights.

There is also the hint that the Nawuri and the Gonja shared a common origin. This hint is contained in a Gonja Memorandum of 1994, which emphasized that "most of the people who now call themselves as Nawuris ... arrived at the Alfai area [the Kpandai area] with Ndewura Jakpa as part of the Gonja invading army."³⁰ Historically, culturally and, to some extent, linguistically, the common origin thesis is questionable. The common origin thesis as an explanation of Gonja presence in Alfai is too tenuous to be accepted. In the first place, it is known that the "ruling classes in Mamprusi, Dagomba, Gonja and Wala are not of the same origin as the [indigenous] people. They are said to have come from the Mandingo country."³¹ In the light of this evidence, the ruling Gonja class and their Nawuri subjects in Alfai could not have had a common tradition of origin. If the Nawuri were a subgroup of the Gonja ethnicity, their culture would naturally be expected to bear some affinity to those of the Gonja. On the contrary, in every particular of culture, deportment and custom, the gap between the Nawuri and the Gonja is pronounced. The work of Keith Snider has shown that the Nawuri language is more related to Achode than to Gonja.³² In addition, the Nawuri do not share such Gonja cultural traits as three long marks running downwards on either side of the cheek, a peculiar tattoo round the navel, and the use of the skin as a symbol of political authority.³³ Furthermore, in Gonja, chiefs are enskined, and have the Skin as

²⁹ PRAAD (Tamale) NRG8/3/53 Annual Report on the Northern Territories, 1935-36, p. 4.

³⁰ Memorandum Submitted by the Gonjas on the Peace Negotiations in the Northern Conflict, September 1994, p. 5.

³¹ PRAAD (Tamale) NRG8/3/53 Annual Report of the Northern Territories, 1935-36, p. 4.

³² K.L. Snider, *North Guang Comparative Wordlist: Chumurung, Krachi, Nawuri, Gichode, Gonja* (Legon: Institute of African Studies, 1989). Of many of the words compared, Nawuri and Gichode shared many more common words than any of the other dialects. For example, both Nawuri and Achode refer to 'arm', 'eye', 'head', 'brains', 'nose', 'tooth' and 'shoulder' as *giba*, *gumu*, *m-pɔ*, *ɔɲaŋ*, *giji* and *gi-bakpaŋ* respectively. The Gonja equivalents for these words are *ka-bri*, *ɲfyira*, *ka-ɲmona*, *ka-nɔ*, *ki-ɲi* and *ki-batumo* respectively.

³³ In the words of Ferguson, "the Gonja people have generally three long marks drawn downwards on either side of the cheek and a peculiar tattoo round the navel." For details, see: Kwame Arhin, *The Papers of Geroge Ekem Ferguson: A Fanti Official of the Government of the Gold Coast, 1890-1897* (Leiden, Afrika-

the symbol of authority. The chiefly classes are also enrobed in smocks over loose trousers or pantaloons and wear a cap. By contrast, Nawuri chiefs are enstooled, and use the Stool as a symbol of their political authority. They also wear cloth and a crown.³⁴ This view was supported by the Ampiah Committee when it said in its report that:

... evidence shows that the Gonja Ruling Class, as was established by the Gonja history, were and are mostly Moslems; they wear balloon trousers and smocks, with a towel on the shoulder, (that is the Chiefs). Their symbols of Chiefly power and authority are the Skins and Horses. The Nawuris ... have [different] ... characteristics and culture: (a) they use black stools as symbols of their Chiefly power. (b) They sit on Chairs whilst the Gonjas sit cross-legged on Skins.³⁵

In short, these differences do not only provide clues to the northern and southern background of the Gonja and the Nawuri respectively; they also show that the two ethnic groups are unlikely to share a common tradition of origin.

Conquest

Throughout history, there have been accounts of military campaigns, conquests and annexations of territories. Since antiquity, war has been a major means of territorial aggrandizement by states all over the world. In Africa, the ancient Sudanese empires of Ghana, Mali and Songhai

Studiecentrum, 1974), p. 71. This observation was supported by H. Klose, who, though concluded that there were different marks, pointed out that the common marks found on the Gonja were the three parallel marks on either cheek. For details, see: M. Johnson, *Salaga Papers* (acc. no. SAL/17/10.) The traditions of Gonja claim that they shared a common origin with the Kalendi, Kabelma and Chakosi. This claim is supported by cultural evidence. Like the Gonja, the Kalendi, Kabelma and Chakosi have three long marks running downwards on either side of the cheek, a peculiar tattoo round the navel, and the use of the skin as a symbol of political authority. It is true that cultural practices can be borrowed, but this supports, rather than discounts, the fact that the Nawuri did not share a common tradition with the Gonja. If the practices were borrowed, it meant that they were traditional cultural traits of one of the ethnic groups – Gonja, Kalende and Chakosi – and that as a result of common origin and social interactions of the Gonja, Kalende and Chakosi, these traits were borrowed.

³⁴ C.S. Maasole, *The Konkomba and their Neighbours from the Pre-European Period to 1914: A Study in Inter-Ethnic Relations in Northern Ghana* (Accra: Ghana Universities Press, 2006), p. 56.

³⁵ Ampiah, *Report of the Committee of Inquiry*, Part I, p. 61.

expanded territorially through conquest and annexation.³⁶ Similarly, West African traditional states such as Denkyira, Akwamu, Dahomey, Oyo and Asante grew into great empires between the 1500 and 1800 by means of conquests and annexations.

Between 1600 and 1800 Northern Ghana suffered conquests by the so-called invaders or state-builders of Gonja, Mamprugu, Dagbon, Wala and Nanum, who went on to occupy and found kingdoms.³⁷ Besides, the colonial policy of amalgamation in Northern Ghana (1932) introduced a new notion of conquests.³⁸ The purpose of the amalgamation policy, which was to create larger states to facilitate administration created the opportunity for the reinvention of history by the centralized states. They did so by representing the so-called non-centralized states subsumed under their states as territories conquered by them prior to the British contact. This laid the basis for their claim to allodial rights in those territories.

The use of conquest as a basis of claims to allodial rights in land in Northern Ghana requires a general understanding of its application and legitimacy in traditional Ghanaian context. According to Ollennu, conquest is an accepted mode of measuring allodial rights in lands in Ghana. However, he states that conquest by itself alone does not necessarily guarantee absolute rights in land by the conqueror. Instead, absolute rights in land are based on the extent of the conquered lands that the conquerors are able to effectively bring under their occupation and political control.³⁹

In the view of Pogucki, the acquisition of absolute rights in land by means of conquest is of two types. The first is the arrival of a small kinship group in a particular area of land, which, through force, succeeded in driving away the previous inhabitants and occupied the land. Pogucki explains that the instances of the first type of conquest may be probably found in many

³⁶ For details of the conquests and territorial annexations of ancient Ghana, Mali and Songhai, see: Albert Adu Boahen, *Topics in West African History*, (London, Longman, 1986); Basil Davidson, *A History of West Africa, 1000-1800*, New Edition (London, Longman, 1977); Kevin Shillington, *History of Africa*, Revised Edition (London: Macmillan, 2005).

³⁷ For details, see: N.J.K. Brukum, "The Northern Territories of the Gold Coast under British Colonial Rule, 1897-1956: A Study in Political Change" (University of Toronto, PhD Thesis, 1996); N.J.K. Brukum, *The Guinea-Fowl, Mango and Pito Wars: Episodes in the History of Northern Ghana, 1980-1991* (Accra, Ghana Universities Press, 2001); Martin Staniland, *The Lions of Dagbon: Political Change in Northern Ghana* (London, Cambridge University Press, 1975); Benedict G. Der, *The Slave Trade in Northern Ghana* (Accra, Woeli Publishing Services, 1998).

³⁸ With the introduction of indirect rule, unassimilated ethnicities such as the Nawuri and the Nchumuru were amalgamated with the Gonja. Similarly, the Konkomba and the Chakosi were amalgamated with Dagbon while the Kusal-Kusasi were amalgamated with Mamprugu.

³⁹ Ollennu, *Ollennu's Principles of Customary Land Law*, p. 17.

areas of the Northern Territories. The second is the conquest of vast areas by invaders, which resulted in the formation of an overriding political authority in the form of a state. The Mamprugu, Dagbon, Nanum and M'Gbanya (Gonja) conquests are of this second group.⁴⁰ Pogucki elaborates by saying that Gonja claims to land in Northern Ghana stemmed:

Purely from the fact of conquest of the subject tribes, and that as subject tribes "belong" to the Yabumwura, the land owned by kinship groups of the subject tribes must of course in consequence also be his property. Though this quasi-feudal conception is expressed by many M'Gbanya (Gonjas), usually senior chiefs, and although local chiefs do always admit that they do not possess rights of their own, but that they act simply as representatives of the paramount chief, nevertheless one finds often even a Kagbannya (a Gonja) who will admit that the land in fact belongs to a kinship group of the first settlers, whether they be M'Niamase (members of subject tribes) or of Gbanya (Gonja) origin⁴¹

In other words, even though the Yabumwura makes such claims without being contradicted openly, M'Gbanya chiefs are by no means unanimous on the validity of their claims. Some Gonja chiefs often admit to the claims of autochthonous kinship groups in the so-called conquered areas to ownership as first settlers.

Did the Gonja conquer and annex Nawuri territory? Stories about the so-called Gonja conquest and annexation of the area are of two types. One of the stories of Gonja conquest of Nawuri territory told by Dixon maintains that the Nawuri were overrun by the Gonja.⁴² Dixon's view contains historical inaccuracies and lacks basis in fact. It is a contradiction of his own admission that the Gonja neither conquered the Nawuri nor fought them when they arrived in Nawuri territory in about the 17th century.⁴³

Furthermore, it is uncertain whether Ndewura Jakpa carried his military expeditions across the Daka River into the Nawuri and Nchumur countries lying to the east of it.⁴⁴ In fact, Dixon was not oblivious to this fact as implied by his acknowledgement that there is a lack of evidence to show that Jakpa and his invading Gonja army ever reached Nawuri territory. In his own words, there was no conclusive proof that Ndewura Jakpa "reache Balai, which is a little west of Kpandai, the headquarter town of the Alfi

⁴⁰ Pogucki, *Gold Coast Land Tenure*, p. 23.

⁴¹ *Ibid.*, p. 21.

⁴² Dixon, *Report of Mr. J. Dixon*, p. 4.

⁴³ *Ibid.*

⁴⁴ *Ibid.*

area [Nawuri territory], or whether he was still further west with some of his people scouting ahead."⁴⁵ One wonders then the basis of Dixon's conclusion that the Nawuri were overrun by the Gonja in the light of his own acknowledgement that there is lack of evidence to show that Jakpa and his invading Gonja army reached Nawuri territory.

Another version of the so-called Gonja conquest of the Nawuri maintains that the Nawuri were originally of a Konkomba stock. The story gained currency in the works of Cardinall and Tamakloe.⁴⁶ In the words of Cardinall, Jakpa raided:

The Bo, Tashi, and the Bassari people who took refuge in their mountain passes but had to leave great herds of cattle for the raider to carry off. The Kpamkpamba (Konkomba) were then attacked; the fighting was very furious indeed, but the tactics of the Ngbanye (Gonja) were superior to those of the savages, who were routed and taken prisoners, with thousands of oxen, sheep, and goats. Jakpa then returned to Salaga by the same route. He planted the captives taken from Kpamkpamba, between Nchumuru, Salaga, and Nanumba, to cultivate the soil, and to supply the Kpembe-wura with food-stuff. They multiplied greatly, and built many towns such as: Kpandai, Bayim, Baladjai, Kotiko, Nkatchina, Balai, and Katiegeli.⁴⁷

In short, the story asserts that the Nawuri were originally of a Konkomba stock living in the Konkomba country; that Jakpa invaded the country and took with him some Konkomba captives and war booties; that Jakpa resettled the captives in the Kpandai area; and that in the course of time the captives multiplied and founded present-day settlements in Kpandai area. The account is fictional, to say the least. In the first place, Nawuri territory was not a settlement of Gonja foundation. Its foundation pre-dated Gonja arrival and its founders were the Nawuri. Second, it raises a number of interesting questions. If the Nawuri were originally of Konkomba stock, how, when and why did these Gur-Konkomba 'transplants' metamorphose into Nawuri? Is it conceivable for the Konkomba 'transplants' to have lost their former language and culture and to have become assimilated to the Kwa linguistic group in the Alfai area within a space of two centuries? The account failed to explain how, when and why the Konkomba transplants

⁴⁵ *Ibid.* Balai is the first Nawuri settlement from the direction of Salaga or east of Dakar River.

⁴⁶ See A.W. Cardinall, *Tales Told in Togoland* (London: Oxford University Press), pp. 260-261; E.F. Tamakloe, *A Brief History of the Dagbamba People* (Accra: Ghana Publishing Corporation, 1931), p. iii.

⁴⁷ Cardinal, *Tales Told in Togoland*, pp. 260-261.

later acquired the ethnic identity name of “Nawuri”. If the captives that Jakpa was said to have resettled in Nawuri territory were genetically Konkomba, one would have expected to see a genetic relationship between the Konkomba language of the captives and that of the parent Konkomba stock. Linguistically, it is inconceivable and impossible for the captives to have abandoned the original Konkomba language entirely to evolve a new one, Nawuri. Therefore, the Cardinall version is too simplistic and improbable on linguistic grounds.⁴⁸

In addition, granted that some Konkomba captives were settled in the Kpandai area by Ndewura Jakpa, it is impossible for them to have acquired an entirely new language (Nawuri) if that language was not already in use in the vicinity. In other words, for the Konkomba captives to have picked up the Nawuri language, its original speakers must have been living in the vicinity prior to the resettlement of the Konkomba captives in the area. Only in that situation could the Nawuri language and culture have been available to the resettled Konkomba captives to adopt. Alternatively, if, as Cardinall suggests, Ndewura Jakpa placed the Konkomba captives under the suzerainty of the Gonja settled in the Kpandai area, one would expect them to have been assimilated to Gonja culture instead of Nawuri culture. Regrettably, none of these conditions was the case, and that casts doubt on the validity of Cardinall’s thesis.

Furthermore, Jakpa was said to have invaded the Konkomba country in modern-day Togo from Eastern Gonja after marching through the territories of Nanum and Dagbon states. For Jakpa to have penetrated into the Konkomba area in Togo, he would unavoidably have to engage the Dagomba and the Nanumba in a number of battles. It is doubtful if Ndewura Jakpa’s military expeditions penetrated into territories in modern-day Republic of Togo. There is no historical evidence to that effect. Gonja traditions maintain that the invading Gonja army sought permission or, probably, struck a truce with the Dagomba, for example, to gain free passage through Dagbon territory to the Konkomba country. There is no hint of any such agreement, nor of its contents, terms and execution in available documents.

Besides, the pattern of Gonja political control in Nawuri territory does not provide any clues to a Gonja conquest. Generally, Gonja – [like the Mole-Dagbon and Wala invaders] – effectively occupied the conquered areas, established their own political institutions and imposed their rule over the indigenous people. By this the Gonja succeeded in completely transferring the power and control over land rights from the indigenous *Tendana* to their secular authority. In addition, they appropriated the atiotic

⁴⁸ George Akaling-Pare, lecturer of Linguistics Department, University of Ghana^a, Legon [personal communication], November 18, 2011.

or land deity of the indigenes, assimilated or attempted to assimilate the *Tendana* family into the aristocratic class of Gonja and worshipped their land deity.⁴⁹ This was not the case in Nawuri territory. No attempts were made by Gonja to establish this pattern of political control. The *Tendana* family remained characteristically Nawuri while the rituals and ceremonies connected with the earth deities remained exclusively in Nawuri hands. More importantly, Nawuri *Tendanas* continued to exercise their traditional powers as custodians of the lands and the embodiments of power and control over land rights of their respective settlements. The fact that the pattern of Gonja political control in Nawuri territory was different from the general pattern of political control that the Gonja imposed on conquered territories elsewhere shows that the Gonja intrusion into, and political control of, the area was not based on conquest.

Finally, the evidence brought before the Ampiah Committee which investigated the Nawuri-Gonja conflict in 1991 made no reference of Gonja conquest of the Nawuri. On the contrary, the evidence showed that in the pre-colonial period, the Gonja and the Nawuri were allies and that they fought together against the Asante invasion of Eastern Gonja in 1744-5.⁵⁰ Existing historical record shows that a combined army of the Gonja, the Nawuri and other ethnic groups (possibly the Nchumuru and the Krachi) fought against the Asante when they invaded Eastern Gonja in 1744-5. According to the document, when the Asante arrived, they:

met the sultan of Kunbi [Kpembe] with his troops ... and the sultan of Alfāyi with his troops, the Nācūri [Nawuri] ... They all fought against Asay [Asante] until the people of Asay [Asante] overcame them and they ran away.⁵¹

Another point that illustrates the fact that the Nawuri and the Gonja were allies in the pre-colonial period was that the Nawuri assisted the Gonja of Lepo Gate in the Kpembe civil war of 1892-3.⁵² According to Braimah and Goody, in the Latinkpa battle of the civil war, for example, "about 500 Nawura [Nawuri] lost their lives on the battlefield" as they fought as allies of the Gonja of the Lepo Gate.⁵³

⁴⁹ Abdulai, "Land Tenure Among the Dagomba of Northern Ghana", p. 75.

⁵⁰ Ampiah, *Report of the Committee of Inquiry*, Part I, p. 61.

⁵¹ Ivor Wilks, Nehemia Levtzion and Bruce M. Haight, *Chronicles from Gonja: A Tradition of West African Muslim Historiography* (Cambridge: CUP, 1996), p. 197.

⁵² The bulk of the Gonja in Alfai were members of the Lepo Gate. There are three Gates in Kpembe which ascend to the Kpembe Skin on the basis of rotation. These were the Lepo, Singbung and Kanyase.

⁵³ J.A. Braimah and J.R. Goody, *Salaga: The Struggle for Power* (London: Longman, 1967), p. 31.

In conclusion, it should be emphasized that there was no hint of Gonja conquest of the Nawuri since “neither the Gonja nor the Nawuri claim that fighting took place between them” in the pre-colonial times.⁵⁴ Conquest could only be used as a legitimate mode of determining allodial rights if the conqueror succeeds in annexing and imposing a political control over the conquered territory. Since no war between the Nawuri and the Gonja occurred when the latter arrive in Nawuri territory, there could not have been any Gonja conquest and annexation of Nawuri territory.⁵⁵

Overlordship

Related to the Nawuri-Gonja dispute over ownership of lands in the Kpandai area is the controversy about political hegemony. There is a paucity of documentation on the pre-colonial relations between the Nawuri and the Gonja. Nonetheless, available evidence suggests that the Nawuri were an unassimilated people with an autonomous political community, and that the two ethnic groups were political allies in the pre-colonial period. In its report, the Ampiah Committee explained that the Nawuri were an indigenous people in Alfai area who had complete autonomy and lived in friendly association with the Krachi, Gonja and Nchumuru, and that there was no evidence of Gonja rule over the Nawuri in the pre-colonial period.⁵⁶

Each Nawuri settlement was ruled by an *eblisaa* or chief with the *Wurabu* exercising jurisdictional powers over the entire Alfai area.⁵⁷ There was also evidence of the existence of the office of the Kanankulaiwura (head chief of the Gonja in Nawuri territory) in the pre-colonial period, but its origin is obscure.⁵⁸ The Kanankulaiwura exercised authority over the

⁵⁴ Ampiah, *Report of the Committee of Inquiry*, Part 1, p. 4.

⁵⁵ *Ibid.*, p. 47.

⁵⁶ *Ibid.*, pp. 61–62.

⁵⁷ *Eblisaa* is the Nawuri word for elder. The *ablisaa* of each Nawuri community exercised political powers. The title *Wurabu* is etymologically derived from two Nawuri words, *wura*, which means ‘master’, ‘chief’ or ‘lord’, and *bu*, which means ‘estate’ or ‘state’. *Wurabu* literally means the lord or paramount chief of Nawuri territory. The title appeared in colonial records as *Wurubon* (see: Annual Report on British Sphere of Togoland for 1926, p. 10). In the 1950s, the title of the paramount chief of the Nawuri was changed from *Wurabu* to *Nawuriwura* to give it an ethnic identity as in the case of the Krachi – Krachiwura. The title *Nawuriwura* was first used in a Nawuri petition of November 3, 1951.

⁵⁸ The earliest reference to the office of the Kanankulaiwura in recorded sources was in 1751. In that year, it was reported that civil disturbances occurred at Kpembe following the dispute over succession after the death of Kpembewura Morukpe. Then under Asante, Kpembe was occupied by Asante forces and it was reported that the “Kpembewura [Nakpo] and two subordinate skin holders – the Kulupiwura and probably Kanankulaiwura – were arrested, and sent to either Kumase or Mampon.”

zongo (settler community) but there was no hint of him having exercised political jurisdiction over the predominant Nawuri population in the Kpandai area in the pre-colonial period. As concluded by the Ampiah Committee, there is no record or hint of Nawuri political leaders swearing oaths to Gonja chiefs.⁵⁹ Neither is there any evidence to support claims of voluntary Nawuri submission to the Gonja through the swearing of an oath. Historically, "it is only the swearing of oath by one chief to another that binds the two chiefs traditionally."⁶⁰ This political matrix in the Kpandai area in the pre-colonial period changed when the area came under German colonial administration in 1899. The political policies of the Germans established Gonja rule over the Nawuri for the first time. German colonial authorities reconfigured the traditional political structure in Nawuri territory, first, by placing the area under the Kete-Krachi District, a district which comprised six major traditional areas – Krachi, Nanumba, Nawuri, Nchumuru, Achode and Adele. Second, in an effort to rationalize authority in Nawuri territory, traditional norms and patterns of traditional observance were set aside. In their place, the Germans used the "warrant" system as a basis of investing traditional rulers with paramount power. By this policy, an immigrant Gonja, rather than an indigenous Nawuri, was made the paramount ruler in Nawuri territory. In 1913 the Germans issued a warrant to Kanankulaiwura Mahama Karatu, a Gonja, making him the overlord of Nawuri territory for the sake of political expediency. A document of his investiture reads:

with the authority of Kaiserlichen station Kete-Krachi, the Native Mahama-Kratu of Kpandai is today to become Head Chief (of Nawuriland) ... These villages are placed under him: (1) Kpandai, (2) Katiageli, (3) Balae, (4) Beyim, (5) Nkantschena, (6) Dodope, (7) Kabuwele, (8) Kotiko, (9) Abrionko, (10) Suruku [emphasis mine].⁶¹

In the estimation of the Germans, the Nawuri and their chiefs were unenlightened as they considered them primitive poor and unintelligent.⁶² By contrast, they considered Mahama Karatu who was literate in Arabic as enlightened and experienced due to his numerous travels as a trader.⁶³ This

See I. Wilks, *Asante in the Nineteenth Century: The Structure and Evolution of a Political Order* (London: Cambridge University Press, 1975), pp. 265 and 275.

⁵⁹ Ampiah, *Report of the Committee of Inquiry*, Part I, p. 49.

⁶⁰ *Ibid.*

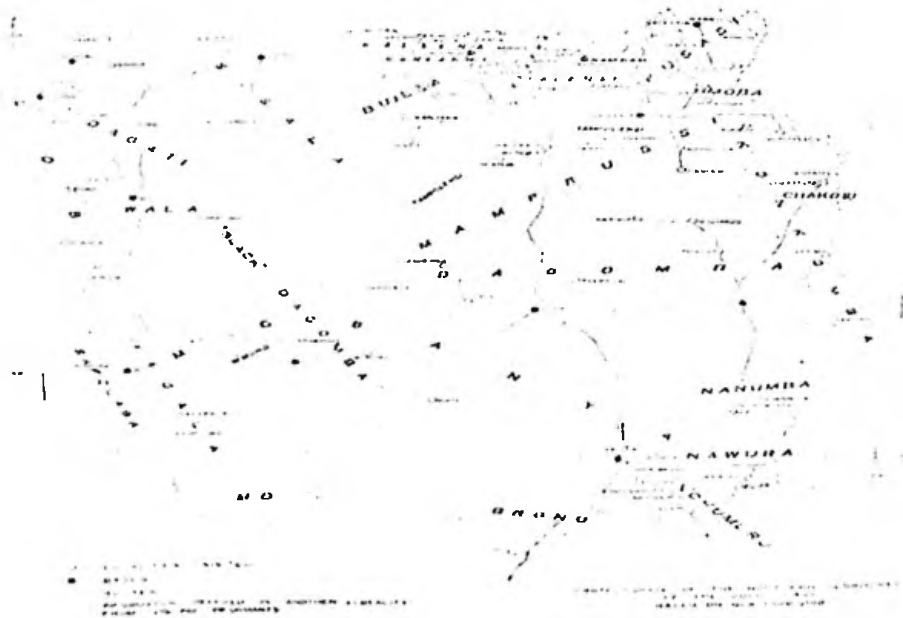
⁶¹ Dixon, *Report of Mr. J. Dixon*, p. 8; Braimah and Goody, *Salaga*, p. 70.

⁶² PRAAD (Accra) ADM 111/1621 Extract from Report of Enquiry on the Sphere of British Occupation of Togoland, pp. 18–19.

⁶³ Braimah and Goody, *Salaga*, p. 70.

established Gonja control over the Nawuri for the first time in the history of the two ethnic groups. This German political policy of the super-imposition of the Gonja on the Nawuri was continued by the British when Nawuri territory came under their control in 1919 following the dismembering of German Togo after the end of World War One. The British colonial authorities made Gonja rule over the Nawuri irreversible following the introduction of indirect rule in Northern Ghana in 1932. As a consequence of the policy of indirect rule, Nawuri territory was integrated into the Gonja state. The Gonja exploited their overlordship authority in the Nawuri territory by arrogating to themselves the right to allocate parcels of land. Overtime, the Gonja claimed allodial rights to lands in the territory.

A map showing ethnic groups with allodial rights to lands in the Northern Territories



Source: R.J.H. Pogucki, *Gold Coast Land Tenure: A Survey of Land Tenure in Customary Law of the Protectorate of the Northern Territories*, Vol. I (Accra: Gold Coast Lands Department, 1955), 1955.

Conclusion

The study has shown that allodial rights in lands in Nawuri territory in the pre-colonial times resided in the Nawuri by reason of the fact that they were the first to settle in the area; they were unassimilated and did not forfeit their allodial rights to lands in their territory to the Gonja through conquest and suzerainty. Therefore, by right of autochthony, allodial rights in lands in Nawuri territory in the pre-colonial times resided in the Nawuri. Historical evidence of Gonja conquest of the Nawuri or war between them in the pre-colonial times does not exist; neither is there any linguistic evidence to support Gonja claim of the transition of the language of their so-called Konkomba captives settled in the Kpandai area to Nawuri. Rather, the pointers are that the Nawuri were unconquered, unassimilated, and existed as an autonomous people, who were political allies of the Gonja in the pre-colonial times. Gonja claims of allodial rights in the Kpandai area based on overlordship is dismissed entirely as it is not grounded in facts of conquest or voluntary Nawuri submission to them through the swearing of an oath. Gonja sovereignty over the Nawuri was purely a function of colonial policy rather than any historical evidence.

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