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Article

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Abstract: Development practice over recent years in much of Africa prioritized formalization of land policies deemed to enhance better handling and use of land as an asset for social development. Following this trend, land reform policy in Ghana was based on a pluralistic legal system in which both the customary land tenure system and the statutory system of land ownership and control co-exist by law. The primary research question for this study was the following: What implications emerge when customary land tenure system and the statutory system of land ownership and control co-exist in law? The study discussed the prospects and challenges of land title registration and the meaning of the new organizing concept in land ownership and administration among the people of Dagbon in the northern region of Ghana. The principal aim of the study was to assess the challenges of the implementation of a modern land registration system over a deeply traditional one. A qualitative research methodology was used and included qualitative descriptive analysis. This descriptive-analytical study was carried out to investigate opinions on the implications of the merger and preferred options for redress of any systemic challenges. It employed Focused Group Discussions (FGDs) to supplement in-depth interviews. Interviews were conducted among 40 key participants within formal and informal institutions including officials from both the Land Commission and Town and Country Planning Departments. Purposeful sampling was employed, and an interview guide was developed and used for collecting the data. Data were analyzed using a thematic approach. The results showed that in this structural reform, the 'allodial title' holder was much more trusted for tenure security because of the traditional legitimacy of the King as the sole owner and controller of land. The title registration system therefore principally served the secondary purpose as additional security. The findings indicate that in the circumstance where the law was seen as pliable, the policy engendered blurred and confusing effects that deepened the sense of ambiguity and outcomes were sometimes contradictory. We argued that the crossroads presented challenges that were novel and engendered innovative thinking for more appropriate solutions. The study revealed that policy reforms must be tailor-made to the physical, social, cultural and economic settings.

Keywords: customary land tenure; land tenure security; land titles; Northern Ghana

1. Introduction

Over the years, the introduction of land titling and registration in Africa, especially in sub-Saharan Africa, has come under criticism [1,2]. One critical effect of the exercise has been the failure of both market-oriented and state-imposed tenure reforms in sub-Saharan Africa to protect land holdings of the poor and vulnerable from exploitation by elites [3,4]. In a study on indigenous tenure systems, [5,6] observes that tenure reform programs in customary contexts are often ineffective and usually expensive.

Systematic titling programs are also accused of usually overlooking customary norms and practices valid under African customary law. In addition, little is done to understand the customary system as a background for designing aligned cadastral system developments. With respect to policy implications [5,6] noted that more attention should be given to "community-based solutions to tenure insecurity and a 'state-facilitated' evolution of indigenous land tenure systems". In this respect, Community-Based Land Adjudication and Registration (CBLAR) aims at improving household land tenure security in post-conflict settings at the point when it is implemented in the proper setting and with suitable help from the state and international donors [7].

The basic rationale behind land reforms as a means of improving tenure security, improving land productivity, promoting investment for growth, regulating customary tenure and reducing poverty [8] has been challenged, however. These researchers [9–11] argue that; "Land titling is a questionable means of securing tenure and is thus not necessarily appropriate as a way to increase investment in land". Singirankabo and Ertsen [10] were of the opinion that before one can validly assert whether land registration will enhance investment and productivity, a more careful definition is needed of the concept of 'tenure security' itself. Deininger and Jin [11] also stress the relevance of identifying factors besides land titles that bear on such security.

The link between land registration/titling and equity in land access has equally been questioned since land market operations after implementing these land reforms might discriminate against women, the poor or some minority segment in the society [12,13]. These researchers [14–16] have therefore argued that historically evolved social relations and conditions must remain pertinent to the system and assessment of titling projects [14–16]. However, concern has also been equally expressed in the field of social policy that customary practices and norms are not fair enough to ensure equity to all land right holders [15,16]. In this context, therefore, a judiciary and enforcement system is put in place to guarantee private property rights to land.

In selected African societies, research has shown that land registration may be considered not simply a technical matter, but rather a complex social intervention [10]. This is especially the case in societies like Ghana where land reform policy is based on a pluralistic legal system in which both the customary land tenure system and the statutory system of land ownership and control co-exist by law. Customary law allows that usufruct title can be acquired by subgroups or individuals within their 'traditional area', typically by being the first to cultivate that land, through inheritance, or through allocation by a chief or traditional head. Essentially, only a fraction of individual landholdings is formally registered. This is especially true for land typically located in peri-urban areas or where Customary Land Secretariats (CLS) have been established. A study noted that land owned under statutory law and documented under the deed registry system are primarily an urban phenomenon, accounting for only two percent of land in Ghana [17].

Traditional Councils, referred to in Ghana as the 'allodial title' holders, hold the ultimate right to retract user rights and reallocate and alienate land. The Traditional Council therefore holds the sole authority to negotiate with project developers over leasehold terms. The Ghanaian Constitution of 1992 clearly provides the legal framework and stipulates terms under which land is to be administered [18,19].

Another dimension of this complex is the issue of statutory land in Ghana. The law allows the government to allocate land for public purposes or reserve land for future use by the government, as well as land held in trust on behalf of the wider public [19,20]. Essentially, the law makes provision of rules to guide, to forbid the disposal of statutory lands as long as they are required for public use. Hitherto, public concerns are raised when excess land or underutilization of acquired land exists, since it indicates poor management [21]. In spite of numerous attempts to integrate all forms of tenure into single statutory and common law framework since 1986, much of the land tenure in Ghana is still mostly regulated by customary institutions [22], and therefore its associated ambivalence is also gradually becoming the norm.

The "dual economy" paradigm that informs land management in Ghana implies complex relationships with an inadvertent split; on the one hand, more private property ownership of land and

a comparatively more vibrant economy against the traditional system with communal ownership of land, compound lineage houses and the absence of private property rights on land. The profoundly diverse normative structures, groups and sectors therefore maintain fluidity of movement between varied social concepts as well as geographical environments. Given the differential effect of rapid social change on these ethnic groups, the negotiations within a society over land tenure is, as to be expected, happening at a pace determined largely by the peculiarities of the various ethnic constituencies. In effect, this enables different discourses to be situated differently on the subject of land reform, drawing legitimacy from varied sources including; history, culture, and the law.

In line with the caution noted by Bruce [5] that land redistribution and tenure reform may only see positive impacts when communal support and an enabling market environment are in existence, the need to critically appraise various traditional tenure systems becomes crucial. Ghana as a country has diverse ethnic groups with diverse traditional systems of land tenure that operate under the land tenure reform program. In this respect, the differential effect of the complex phenomenon of land reform on various ethnic groups in Ghana can only be gauged through critical appraisal of the social structure of specific groups. Studies have suggested that well-crafted and implemented land policy that takes traditional context into consideration has implications for growth and economic development, especially in developing countries [23,24].

Review of the literature shows that since the colonial administration and also after independence, various governments initiated several projects for improving land administration systems (LAS) in Ghana [25]. Such improvements are meant to yield benefits for land rights-holders. Admittedly, meeting the specific needs and understanding the context and worldviews of the people become important for avoiding negative latent functions stemming from challenges posed by the new system to the local context [26–29].

Even though several scholarly works have been done on land reforms in Ghana, the reviewed literature suggests that these studies are quite limited because of their general tendency to merge broad spectrums of diverse normative structures of different ethnic groups. Because these groups have varied social concepts pertaining to land as well as geographical environments, boxing them together into one unit for analysis tends to inadvertently exclude the peculiarities that make traditional land management, and therefore the effect of land reform, different in many respects.

Despite the history of research on land reform in Ghana, the literature shows a deficiency of knowledge on specific ethnic leverages. However, the fact remains that if the value and meaning of land to land rights-holders is context-specific [30], then a system of land administration that reflects land values and meanings should also be context-specific. This study therefore seeks to fill in the gap in knowledge in relation exclusively to the implications of land reform policy in Dagbon land management.

The underlying assumptions in this study are, firstly, that land tenure security is appropriate for facilitating proof of land ownership and reducing transaction risks in land sales [31,32]. This in turn may reduce the risk of land transaction, which simplifies the formal negotiation process for sale or mortgage, facilitating a large incidence of these transaction contracts. The confidence gained by landholders from the security of tenure could increase incentives to invest or further encourage expansion of their entrepreneurial activities. Security of tenure enables the landholder to use secure land rights to facilitate the use of land as collateral for loans in promotion of investment [33,34].

A common consensus is that in most developing countries, the urban population living under informal tenure, who are identified with insecure land rights, do value and pursue activities that help to achieve permanent ownership [33,35]. The reason being that the traditional land administration systems might not provide the perceived benefits of tenure security such as increased investment incentives, legal protection against involuntary removal from land and transfer of land, which altogether facilitate land market operations and ultimately improve access to credit from the banks. These benefits of secured tenure are recognized as proficient in strengthening land market operations, and it is believed they would indirectly result in higher overall investments in the land.

Research has established that privatization of land, land titling, and land registration that might result from land reform ultimately aims at promoting tenure security on the part of landholders and economic development. With regards to impacts on the market, privatization is also expected to have the added advantage of paving a way for government to mobilize revenue through taxation of land and property from title holders [35].

Anecdotal evidence suggests, however, that the introduction of any innovation as demanding as land reform within an overbearing traditional social context like Dagbon, may have implications for transaction costs at the heart of the New Institutional Economics [36]. This school of thought widens the extent of operation costs to incorporate costs incurred in characterizing, setting up, keeping up and transferring property rights [37,38]. Characterizing and upholding land property rights, for example, requires different 'transaction-cost-generating activities' including executing surveys, preparing and lodging titles registry forms and creating the critically needed legal and bureaucratic infrastructure [38,39].

In other words, transaction costs here suggest all costs apart from the cost of physical production [38]. In this sense, transaction costs are characterized by a wide range of transactions whether in markets, or public planning and development. Coase [40] explicitly alludes to this in his discussion of legal and administrative costs related to finding significant parties to a market transaction, setting up the correct terms for the transaction, directing required negotiations, drawing contracts, undertaking inspections important to monitor compliance with the terms of ownership agreements and whatever else that induces friction into an economic transaction.

The fundamental idea of transaction cost economics is that markets, as a coordinating institution, are adjusted to economize on transaction costs. The evolution of appropriate governance structure for institutional adaptations becomes critical. Transaction cost economics construes governance as organizing transactions principally to economize on transaction costs [37,38]. Coase [40] argues that if property rights are obviously characterized, the affected parties will embrace policies to internalize the externality. In other words, if property rights and liability are appropriately characterized and there are no transaction costs, at that point, individuals can be considered answerable for any negative externalities they force on others and market transactions will yield an effective result.

How this applies in the case of the overbearing traditional social context is the focus of this study. In this sense, the perspective of Transaction Cost Economics will consider the devoir of the traditional overlord of Dagbon in the context of land security practices as a transaction cost whose role is expected to peter out with the advent of land title registration. Anecdotal evidence, however, suggests that the introduction of an innovation as demanding as land reform may be prone to some latent functions. The work of Guttmann in Sudan for example illustrates the critical role of social context in the diffusion of land title registration [41]. Research conducted by Musembi [42] and Goodhart [43] further questioned the underlying social evolutionist bias of transition in which teleological accounts were given of a progression from 'tradition to modernity' and from customary to 'formal markets' as the principal trajectory to be followed. These studies demonstrate how formalization can result in both security and insecurity and that social contexts affect the effectiveness of policies. Contrary to the unilinear narratives, therefore, culturally relative and idealist perspectives argue for accommodating geographical, indigenous and historical diversity, and the process of social change through practicality and flexibility in an all-inclusive context.

Indeed, despite the fact that studies have been done on land reforms in a number of African countries, the co-existence of land title registration and traditional land tenure systems in northern Ghana has hardly been explored. This study therefore covers new ground in investigating the implications of that coexistence for the New Institutional Economics (NIE) approach to land management in Ghana.

Against this backdrop, this study seeks to investigate three unanswered questions in this merger: (1) What implications emerge when customary land tenure system and the statutory system of land ownership and control co-exist by law? (2) What barriers to tenure security emerge in this structural reform within a social system that is incipient and expressly caught between the traditional and modern

systems? and (3) What are the preferred avenues for redress? We argue that the crossroads present such challenges which are novel, and which engender innovative thinking for more appropriate solutions. This paper discusses the prospects and challenges of land title registration and the meaning of the new organizing concept in land ownership and administration among the people of Dagbon in Northern Ghana. This study assesses the challenges of the implementation of a modern land registration system over a deeply traditional one.

The central argument of this paper is that the effects of reforms in land management may be influenced by the traditional social context onto which the innovation is grafted. Ghana as a country has diverse ethnic groups with diverse traditional systems of land tenure that still operate within the land tenure reform system. In this respect, the differential effect of the complex phenomenon of land reform on various ethnic groups in Ghana can only be gauged through critical appraisal of the social structure of specific groups. We therefore seek in this paper to understand the meaning of land reform to the people of Dagbon, a traditional society that has, over the centuries, continued to consider the King as the absolute owner of the land even with the introduction of the land reform program.

The current study is based on qualitative research methodology from the social sciences [44]. Traditionally, the central objective of qualitative approach has been to understand and analyze the social world from the point of view of the people that are studied [45]. Data collection from respondents involves face-to-face interviews in order to improve the reliability of the data; because such methods safeguard reliability in the approach employed for data gathering [44]. The study employs Focused Group Discussions (FGDs) to supplement in-depth interviews. In addition, the research method also involves the use of already existing data or secondary data collection. The study obtains existing data from project documents, peer-reviewed journal articles, published reports, textbooks and statistics, which provide baseline information for study. Information derived from secondary data are matched to opinions and perspectives gathered from the various informants.

Theoretical Framework

Land reform theories serve for understanding and interrogating land reform programs within social contexts. A study by Manji [46] defines land reform as a process with associated actions of enactment, enforcement, and evaluation of land policies and pieces of legislation by which land right relations between people are restructured or reorganized for enhancing outcomes for social development. In line with this, Coldham [47] observes that land reform programs aim at land tenure reorganization, restitution, and redistribution of property rights and access to land, and the creation of land markets for social development. As a process, land reform initiatives go beyond emphasis on legislation intended and likely to directly redistribute ownership of, claims on, or rights to land [48]. We understand land reform programs as attempts at liberalizing land tenure and facilitating the creation of markets in land.

In this paper, land reform shall include the related process of land tenure reform, land administration reform, land restitution and redistribution of property rights and access to land, as well as the creation of land markets for social and economic development. We consider land reform to be a process that uses neo-liberal assumptions, and over time seeks to make land tenure more open in order to facilitate the creation of markets in land.

The introduction of an innovation may have ramifications on the social structure. Our task in this paper is therefore to explore the meaning of land reform to a traditional system like Dagbon with a monarchy that consolidates its overarching traditional control over land within the modern system. The Dagbon case study therefore promises to offer the opportunity for a critical appraisal of the implications of land reform policy in Ghana imbedded into a pluralistic legal system in which both the customary land tenure system and the statutory system of land ownership co-exist in the same social field. It raises the issue of the relationship between change and persistence in the underlying values that drive behavior and choices. Such a discussion demands a theoretical lens that interrogates the critical juncture of intersection of human agency and the social structure.

The theoretical groundwork for our analysis in this paper considers three principal theories in land reform [49–51]. Replacement Theorists would rather that there is complete replacement of customary land rights structures with formal land titles that push land administration into the hands of bureaucrats and have legal backing for tenure security. Such a system suggests a complete overthrow of the traditional system to be substituted in totality by formal land titles in the spirit of democracy and fairness. The Conservative theorists on the other hand advocate for conserving much of the customary status-quo and strengthening the power over land by land-holder families and elders over the landless [49,52]. Conservative theorists therefore see formal titling as introducing complexities that reduce tenure security. We draw our theoretical perspective from the third group of theorists that these scholars [5,6,49,51] refer to as the "renovating" customary tenure system or the Adaptation Theorists. This theory supports the idea that living customary tenure systems is mandated and empowered to continue functioning while land policy critically focuses on identifying and reducing "defects" in the system "by a certain amount of creative tinkering and fine-tuning, rather than more dramatic reforms" [5,52]. Adaptation Theorists therefore advocate incremental changes to the land tenure system, or the adoption of hybrid tenure systems to accommodate local and changing needs [49]. Theorists in this domain maintain that uncodified, living customary tenure systems could provide sufficient tenure security and that titling may rather reduce tenure security. This perspective promises to turn the critical lens for analysis towards how formalization of property rights is organized under the dual legal system, and the exploration of the meaning of this reform to resource owners and the common person seeking land as property.

Unlike the Replacement Theorists therefore, using the Adaptation Theoretical perspective enables us to explore the interrelationship between innovation and the extent to which it is integrated into the values and expectations of the society it serves. The policy per se may not determine any social action if it fails to attract supporting elements within the social system. As expected, to fit in something new where order already exists creates new dynamics that may demand changes within the social structure. From the Adaptation Theoretical perspective, therefore, what is considered of fundamental importance for our analysis is the examination of how land reform institutions function, the institutional changes such a policy provokes and the challenges in implementation of the policy. Thus, the nature of the relationship between the social structure and the implementation of the policy becomes the focus of our analysis.

This theoretical perspective also enables a critical assessment of land issues over time. The records show that successive governments in Ghana variously introduced policies of land reform. This is premised on the assumptions underlying the New Institutional Economics (NIE) approach that the performance of an economy depends on institutions. It engenders the belief that strengthening the institutions supporting land and making the sector efficient through land tenure security enhances productivity. The approach considers how institutions and property rights emerge and function [53–55].

An institutional clarification considers transaction costs to form a significant component of institutional economics and analysis. This understanding widens the extent of operation costs to incorporate costs incurred in characterizing, setting up, keeping up and transferring property rights [36,37]. Characterizing and upholding land property rights, for example, requires different 'transaction-cost-generating activities' for example, executing surveys, preparing and lodging title registry forms and creating the critically needed legal and bureaucratic infrastructure. The foregoing highlights the institutional interpretation of transaction costs [36,37].

Land policies in much of Africa are a result of the political choices made concerning the distribution of power over land between the traditional system of land control, the state and citizens. In this interchange, assuring land rights may be a question of having institutions in which the people have confidence and not just merely a question of the formal legal nature of the rights themselves. The focus is therefore on the interrelations between individuals as citizens acquiring land property on the one hand, and how the co-existing discourse between the traditional and modern land social institutions intersect in influencing economic behavior and outcomes on the other [56,57].

In line with this, Bruce et al. [58] advocates a paradigm shift from systematic titling programs towards more incremental approaches that systematically address contextual needs as the critical option. This means a move away from a 'replacement paradigm' towards an 'adaptation paradigm'. Critical in this discourse for Ghana is exploring how combining formal and informal/customary tenure rules and institutions contributes to ensuring legitimacy, equity and economic efficiency. Such an approach looks to adapt local norms, practices, official laws, and policies to achieve a better fit and greater tenure security [26].

Seen through the Adaptation Theoretical lens, land reform consolidates customary land allocation. In our case study where the monarchy remains the prime landowner, we expect the approach to reaffirm the absolute control of the king, his traditional chiefs and the principles of customary land law. In such a system, the question revolves around whether the dual legal system has produced effective institutions with legitimacy to enforce rules and how it combines with formal legal nature of the rights. Acceptably in this context, both the public (government) and customary authority legitimate rights through the confirmation. The Adaptation Theory therefore implies support to the traditional control mechanism and the legal system in Ghana working in concert.

Using the Adaptation Theory as the perspective implies the caveat of differential meanings of the land reform policy across different traditional groups in Ghana. This is mainly because there are as many variations in customary land tenure systems as there are ethnic groups in Ghana. Acceptably, in some ethnic groups, the traditional tenure systems may provide adequate security of tenure, recognition of transactions and conflict resolution. However, as Fitzpatrick [59] observes, in several other societies, "customary systems may well be deficient, and yet regulatory interventions will simply serve to dispossess vulnerable groups and enhance uncertainty by creating parallel systems".

Following these conflicting observations, we expect that the fact that there are many ethnic groups and traditional tenure systems in Ghana presupposes diverse implications of the policy. As noted by Lund [60] formalization in some circles could become an instrument for opportunism and, ultimately, inequality where existing customary rules and customary authorities are unable to provide adequate security to its members. In such situations, formalization and recognition of existing rights may be insufficient to provide security and certainty of tenure. Obviously, there are different institutional representations developed in different traditional contexts for land management. Acceptably, while formalization of land rights through land titling may be a solution in some traditional contexts, such an approach may be a challenge in other places.

However, Toulmin and Quan [61] justify land reform policies in Africa by contesting that second-best solutions become necessary in seeking a balance between building on traditional structures while rendering them more representative through avoiding the concentration of powers in a single structure but also in preventing too wide a dispersion of powers and responsibilities amongst bodies. Toulmin and Quan [61] recommend that because conflicts of interests, disgruntlement with some decisions and questioning of the legitimacy of the authorities abound in these matters, there is need for a more open system that avoids the concentration of powers in a single structure. Therefore, formalization of property rights is necessary in ensuring transparency and the protection of the rights of individuals over land they acquired from traditional authority. Among other advantages, formalization of property rights is believed to bring about reallocation of lands from idle holders to efficient users as well as the freeing of property from the constraints of communalism, ensuring security and enhancing investments [62,63]. Despite these advantages, studies have shown the process is equally fraught with inherent latent functions [42,43]. In this study therefore, we seek to investigate the implications of the formalization of property rights in Dagbon.

2. Materials and Methods

2.1. Study Area Description

The Tamale Metropolitan Assembly (TMA) is located in the center of the Northern Region of Ghana and is the capital city of the northern Region of Ghana (Figure 1). The TMA occupies approximately 750 km sq., which is 1% of the total area of the Northern Region and is comprised of 35 communities. The built up area (urban Tamale) is approximately 12% of the metropolitan area, and the proportion of the population living in urban localities (80.8%) is higher than that living in rural localities (19.1%) of the metropolis [19,64,65]; the settlement pattern depicts a densely built up core and dispersed settlements in the outlying areas. Provision of infrastructure services to these dispersed peri-urban settlements is a challenge for TMA.

Figure 1. Map of Ghana showing Dagbon and the geographical scope of the research area (Source: Survey Department of Ghana, Accra, 2019).

History and Cultural Context of Land Reform Programme in Dagbon

Since the colonial period, there have been various attempts at land reform policies with the view to improving land tenure security and especially increasing investment in agriculture. However, the history of land reform in Ghana suggests that two major approaches, namely radical reform and incrementalism (related to the Adaptation Theory), have variously been used by governments over the years [49–51]. The radical approach for example has strong colonial backgrounds. It perceives customary land tenure systems as ineffective and advocates for total state control [52]. After independence, various legislations were enacted in the attempt to fundamentally reform the land sector to consolidate state control over customary land so as to increase accessibility to land and to secure land rights. Unfortunately, because the various ethnic groups continue to regard the land as part of their ethnic identity, implementation of such policies became difficult. Social forces that seek redistribution of land are therefore generally seen as a threat to the wellbeing of the ethnic group to whom the land historically belongs [52].

The critical image of land as the fundamental essence of identity of the people of Dagbon was demonstrated even in recent times (1994) when Dagbon went to battle against perceived Kokomba infiltrators [66]. The very fact of going to battle may suggest much more confidence in the traditional approach, drawing on the feudal system rather than the modern courts. The victory of the Overlord of Dagbon therefore evoked heightened consciousness in indigenes, encouraging more vigilance in policing the land, reinforcing the boundaries of Dagbon and upholding the legitimacy of customary control over land (not the state apparatus) above any considerations even in the modern era. Clearly the ability of the people to band together under the king against the external aggressor reinforces allegiance and the victory that follows is a vote of confidence in strong loyalty to the traditional political authority as ultimate control over the land [66–68]. Thus, any changes to land remain intimately connected with the decision of the King and the traditional ruling elites [66]. In Dagbon therefore,

not much has changed in terms of the traditional practice of land being vested in the hierarchy of chiefs with Ya-Na (the King) as the ultimate authority. Unlike many acephalous ethnic groups in the zone, the traditional political system of Dagbon continues to be organized around a hereditary, gerontocratic and hierarchical structure [68].

This background analysis shows the cultural context into which the land reform program is embedded. It is critical to note that the land reform policy of the government was long in operation before the recent battle. By law, land is regulated within a legal pluralistic framework involving customary and statutory (constitutional provisions and judicial decisions) systems. Both formal and informal routes to accessing land exist side by side. Land reform activities in Ghana, including the most recent (Land Administration Program (LAP) in Ghana since 2003), seek to restructure the mechanisms of customary land administration to enhance land tenure security and revenue mobilization from customary land.

The very fact that formalization of property rights in Ghana is grafted onto the customary status-quo presupposes an innovation in the traditional system of land administration. The concept of social change implies that when a new idea impinges upon the social structure, it affects patterns of social interrelationships in several ways. Employing the framework of the Adaptation Theorists [49,51], we interrogate land reform in terms of the strengths, weaknesses, opportunities and threats that formalization of property rights may introduce into Dagbon as the host system. It is interesting to note that despite the implementation of various land reform policies in Ghana over the years, the vast majority (80%) of land ownership remains largely in the hands of customary authorities (private lands) with limited state ownership (public land) of about 20%. Among other things, this raises issues about the meaning of property rights and land tenure security to beneficiaries [45,69].

The review of literature therefore raises several questions that need considering. Why do people generally seem to prefer the traditional land security system to the land registration system in Ghana? What factors militate against the smooth running of land registration in Ghana? What are the perceptions of the people in relation to land security? What challenges can be highlighted in the experiences and outcomes of the exercise of land formalization so far?

2.2. Methodology

The methods of the study were based on qualitative research methodology (QRM) from the social sciences [45,70–72]. Traditionally, the central objective of the qualitative approach has been to understand and analyze the social world from the point of view of the people that are studied [45,70]. The QRM involved the use of both primary and secondary data collection methods.

Primary data collection consisted of a qualitative survey design and, in this study, in-depth interviews were used in gathering data. "Survey research (also called descriptive research) uses instruments such as interview items and interviews to gather information from groups of subjects" [70]. In addition, qualitative data was gathered through focused group discussion.

The primary data collection method involved formal and informal interviews with stakeholders purposefully selected within formal and informal institutions.

2.2.1. Sampling Technique

A total of 40 interviews were conducted with a diverse cross-section of stakeholders including developers and officials from Town and Country Planning unit of the Lands Commission, the secretary to the Paramount/Traditional Chief/Council of Dagbon, title holders and construction workers, officials from the Land Commission, and house owners in Tamale Metropolis in the Northern region of Ghana (Table 1). The purpose was to uncover the barriers to securing tenure security. In-depth interviews were conducted from May to July 2016 and September 2019. Each interview lasted not more than 60–90 minutes.

Table 1. The breakdown of people interviewed in the survey and their titles/roles.

Interviewees and Titles	No.
Secretary to the Paramount/Traditional Chief/Council of Dagbon	1
Individual purchaser or Developer	5
Officials from Town and Country Planning unit of the Lands Commission	5
Title holders	15
Construction workers	5
Officials from the Land Commission	3
House owners in Tamale Metropolis	6
Total number of interviewees	**40**

The respondents of this study were selected by means of purposive and convenience sampling techniques for the study [72]. Purposive (purposeful) sampling is also known as "judgement sampling" [45,73]. An accessible population [74] was selected for the study and samples were drawn from the accessible population. According to Ary and his colleagues, since a representative sample could be obtained from the accessible population, findings from the sample could be generalized to that population [45].

The procedure involved handpicking the cases (respondents or sample elements) included in study sample by the research team together with officials from Town and Country Planning unit of the Lands Commission and the secretary to the Paramount/Traditional Chief/Council of Dagbon based on the research team's judgement of the respondents' typicality [70,75]. This was a criterion-based selection, which assumed that the research team aimed at discovering, understanding and gaining further insight, and therefore selected a sample based on the qualifications and characteristics respondents possessed, related to the study. Key informants were selected with the following criteria: They represented different locations within the study area; they were familiar with land-use systems; they represented people with diverse experiences of issues related to land and they formed a cross section of the community (see Table 1).

2.2.2. How Potential Participants/Interviewees Were Approached

The research scope meant reaching out to diverse stakeholders spread across the metropolis. In order to bring some order, purposeful sampling was used for the identification and selection of information-rich cases related to land use and administration. Individual participants selected were assumed to be "representative" of the various agencies and organizations involved in the statewide systems of land administration. The groups were identified and selected based on the assumption that they possess knowledge and experience with land administration and/or are stakeholders in land and therefore will be able to provide detailed information on the subject [45].

The process of selecting units was carried out in multiple stages using small and further smaller sampling units at each stage. Multi-stage sampling was considered to be the most suitable sampling method for exploring and obtaining depth of understanding. First, a sample of primary units (stakeholders) were identified and then a sample of secondary units was selected within each of the primary units. At the first stage, the research team, together with officials from Town and Country Planning unit of the Lands Commission and the secretary to the Paramount/Traditional Chief/Council of Dagbon, made suggestions that informed the compilation of the list of primary units. At the second stage, the Town and Country Planning unit of the Lands Commission office assisted in selecting a sample of secondary units within each primary unit. At the third stage a master list was developed (see Table 1). The primary data collection method involved formal and informal in-depth interviews with the purposefully selected stakeholders within target formal and informal institutions.

In this interview, a written checklist of questions was prepared (see Table A1 in the Appendix A). The questions were related to such issues as the ownership title; transfer of the ownership right over

land; customary tenure systems and laws; process of leasing land under customary land tenure system to (i) the indigenous community (ii) people from outside the community; effects of land lease for urbanization under the customary land tenure system and its effects on the customary laws; sale of land for urbanization and its effects on the customary land tenure system; problems or conflicts with the community in the management of the communal lands; land registration; security of tenure of land sold out from your community and disputes and issues relating to sale and purchase of land in the area.

To preserve anonymity, pseudonyms are used where necessary for reporting on the various participants. All interviews, except those for traditional chiefs who were illiterate, were conducted in English. Interviews with Chiefs and stakeholders who could not speak English were done in the local language, with the help of a research assistant (a local interviewer with at least a decade experience in research activities and interviews), taped and later transcribed by the research assistant who is a native speaker and conversant with the language. Permission was sought from the informant before electronic recordings were conducted.

Focused Group Discussions (FGDs) were used to supplement in-depth interviews. FGDs involved discussions based on critical issues of land registration, and barriers encountered by local people. [76].

2.2.3. Focused Group Discussion

Apart from the in-depth interview, focused group discussions (FGD) [76] were employed for a cross section of participants to ascertain factors responsible for barriers to tenure security that emerge in this structural reform within a social system in Ghana that is incipient and expressly trapped between the traditional and modern systems.

FGD were held with a male group of participants and a group of female participants to get more knowledge on their overall impressions about the research. FGD is significant for filling in the meanings and sentiments behind a portion of the statistics introduced [45]. Focused group discussion enabled detailed discussion of specific themes among a small gathering of individuals completely mindful of, or worried about, the topic. The point was to start the social participation, to test for in-depth details, validate, decide further actions, decide and focus ideas on aggregate information at the community level for the study area.

As Flick [75] pointed out, people tend to feel more comfortable expressing their views on a topic of mutual interest within a focus group than when they are confronted alone by a researcher whom they may think has power or authority over them or who may have unique perspectives or interests or some earlier assumptions with which they do not completely concur. The usage of FGD in association with an in-depth interview helped to further explain essential issues that could not have been elucidated using only interviews.

Secondary Data Collection Method

Since the literature on procedures that exist for accessing tenure security, challenges and prospects in securing title to land in Tamale Metropolitan Area is relatively small, the study involved secondary data collection. Secondary data was collected through a review of published materials related to land tenure reform and cadastral systems development. A review of existing research on the customary land tenure system, and more specifically on land title registration and access to land, was very useful in identifying key issues explored in the fieldwork. Publications used were mainly from books, reports, and journal articles. Information from secondary data was matched to opinions collected from the varied participants, stakeholders or interviewees.

2.3. Data Analysis

The current study employed the method of thematic content analysis considering its quality to portray the content of the primary data gathered by identifying common patterns and themes in the text being analyzed. The process started by playing the tape that was used in the research field to

record the interview. The information gathered during the interview was carefully written down on a paper. Themes were patterns cutting across data sets that were important to the description of a phenomenon and were linked to a certain research question. This procedure enabled the researchers to make comparisons between each respondent's interviews [77]. This approach helped in understanding and acquiring further insight of the dynamics emanating from the traditional and modern systems in land registration operating concurrently.

The data obtained from the interviews were transcribed [77,78]. The interview transcripts, field notes, and relevant literature were analyzed based on themes of interrelationships among responses that addressed the aims of the study. Generally, the methods of the study were based on qualitative research methodology from the social sciences [45,78]. Traditionally, the central objective of qualitative approach has been to understand and analyze the social world from the point of view of the people that are studied [71,79]. The identified theme consists of relevant items which could be useful in answering the research question.

2.4. Limitations of the Study

Time constraints were the major limitation in this study because of the pressure associated with the fieldwork, traveling to Ghana and organizing. In northern Ghana, a major problem for research has always been the fact that there are so many tribes with different languages. The fact that we do not understand Dagbane and Gonja was a limitation to smooth interaction with the people. We had to rely mainly on interpreters. In-depth interviews, however, were easier especially because most of those interviewed could speak some English or Twi which is a common local language spoken in the southern side of Ghana. Despite these limitations, the quality of data presented has not been affected at all by the situation.

3. Results

3.1. Procedure, Opportunities and Constraints of Land Registration in Tamale Metropolitan Area

Findings from FGDs suggest that land administration in Dagbon, after the policy on formalization of the property of land rights, demands that actors follow the basic procedures which irrevocably start from the customary tenure regime. Therefore, the King of Dagbon as the 'allodial title' holder, still wields the ultimate right to retract user rights and reallocate and alienate land. The fundamental trajectory for acquiring land in Dagbon therefore remains; first, the traditional authority must be sought after and asked to 'give out' the land (customary fee payment done), then the formal procedure for the registration of the land could be done. However, the traditional system of informal rights still exists and is practiced alongside. In the perception of participants and various parties involved, the process may either stop with the customary tenure regime or, in other cases, extend further to formalization of the property of land rights. This presupposes a 'dual structure' with the traditional structure and the modern system coexisting. One FGD participant noted the procedure as follows:

In the rural areas of Dagbon in particular, people could occupy land after consulting the chief or Tendana of the area and permission has been granted through presentation of a token. Yet, after this initial step, then the official process of acquiring plot of land could follow as the applicant has to verify from the Town and Country Planning Unit if the plot of land of interest is vacant and who owns that property. The Chief or Tendana who allocates the land charges a fee, he/she does not issue any formal receipt in exchange for the payment. This is due to the fact that in the traditional concept, land is never sold. The Chief or Tendana would however provide three copies of the allocation paper/letters with his/her signature appended. Next, the applicant or property seeker has to take the three letters of allocation or papers to the Divisional Chief who stamps as witness for a fee. The Divisional Chief keeps one of the copies filed. At the next level, the two endorsed copies are sent to the Lands Commission to facilitate the application for lease.

The 'dual economy' paradigm therefore shapes the definition of land ownership in Dagbon. On the one hand, the cultural tenet of Dagbon holds the supposition that land is not sold but is "given out for use" on the request of individuals. Informal negotiation for land is basic and even though this attracts 'fees', it is not considered traditionally as 'purchasing' land. FGD participants however agreed that there is only a thin line between formal acquisition of land and the informal notion of access. One elder of the palace observes as follows:

> *Before the law prescribing formal registration of land, issues of land were closely guarded by the traditional system. Trading in land or even paying for land was unknown in the history of Dagbon even though Tamale has over the centuries served as a trade route and market center. Rapid social change, modernity and the adopted program to register land rights and to convert customary rights into private ownership has introduced some drastic changes. For example, there are those who now invest in buying land and reselling later when the price is better. This was ridiculous some years ago but with rapid urbanization, individual property ownership has become critical. People break away from compound family premises and seek to have their own small family (nuclei family) homes. They have the right to accumulate private land property and to dispose-off that property at will.*

The policy on formal registration of land has, among other things, engendered the emergence of a class of literates as middlemen, land speculators and brokers ostensibly helping the predominantly illiterate traditional landholders. This also meant breaking away from the traditional mode of 'giving out land' and the introduction of clear demarcation of plots for individuals able to afford. Individual ownership of land has thus gradually become the norm as individuals begin to appreciate neo-local residence for nuclei families rather than extended family compound houses and many see financial prospects in land speculation. The more this drive and demand takes over the society, the more critical the role and challenges brought by middlemen, speculators and brokers into land issues.

Participants observed, however, that until the parcel of land is demarcated and sold out, the customary principle that the first to be granted permission to occupy a parcel of land acquired the exclusive private rights to agricultural and residential use still exists. Participants or various parties involved noted, however, that the rapid expansion of the city engenders re-demarcations and the rationalization of farmlands, especially around urban areas. Chiefs now introduce the innovation of inviting the formal surveyor and demarcation of farmlands into smaller units in the periphery of urban areas and documenting the 'sale' to prospective buyers.

The right to land is enforceable only when the parcel is deemed to be acquired through the procedure-legitimated by customary rights. This study sought, among other things, to explore the procedure for legitimate acquisition of land in Dagbon. One informant explains the formal procedure as follows:

> *the property seeker has to pass through/approach the traditional landowners and make payment for a fee demanded per plot of land* (traditionally supposed to be paid in kola-nuts but money is accepted now). *The property seeker will then be issued an allocation letter in exchange of the payment made. No receipts of payments are given but the allocation letter is treated as acknowledgement of the transaction. Thus, the allocation letter issued indicates that a given parcel of land (whether already demarcated through the Survey Department or not) is allocated on request to a particular property seeker. Traditionally, this letter of allocation guarantees a property seeker's recognized rights to tenure security enforced through custom. The property seeker then submits the allocation letter duly endorsed by the traditional authority as part of his application for land use (site) plan to the Town and Country Planning unit. Thereafter, the property seeker has to contact the Survey department of Land Commission for cadastral plan, which consist of detailed information about the site such as the location, dimension, the angle and the coordinates.*

As noted, land administration in Dagbon requires actors to follow the basic procedures which irrevocably starts from the customary tenure regime. In the perception of participants, or various parties

involved, the process may either stop with the customary tenure regime or, in many cases, extend further to formalization of land rights. Formalization has been promoted as a crucial protection component, especially when claims can be enforced through law. Such a component allows a person's recognized rights to be protected against the acts of others. Formalization of land involves a more complex procedure which includes different stakeholders and gatekeepers: land surveying, land registry, regional planning office and land valuation and taxation, as well as the court system. Although customary tenure is recognized in Ghana, linkages between these gatekeepers and other bodies in land administration create complex relationships. One informant from the Planning Office explains the trajectory:

> *There is the emerging market that is fostering competitive use of land in much of Dagbon. Tamale is said to be the fastest growing city in West Africa. As modern infrastructure starts setting in, the environment has seen tremendous rapid social change. The establishment of such huge public investments including the expansion of the airport, the roads, two public University campuses and now three, other tertiary institutions, hospitals and private commercial ventures continually bring Tamale to the forefront as the destination for a new crop of entrepreneurs. This is unprecedented and it draws a level of confusion in land management especially with multiple rights emerging over the same parcel of land.*

The transition from communal ownership of land to private ownership has also encouraged the concept of "a bundle of rights". In the traditional communal ownership system, the first person allowed by the authorities to occupy a piece of land is granted the right of use. As noted by the informant however, rapid social change in Tamale has created "a level of confusion in land management especially with multiple rights emerging over the same parcel of land." In some cases, overlapping interests such as the right to farm the land but not the right to sell the land and the right to use the land through a lease or given transfer rights and therefore to become the proprietor of land purchased all exist concurrently. Private property in land now means that people could acquire the right to sell or mortgage the land and to reallocate use and control rights. Even though the customary land tenure relationships may be well-defined and legal or could be enforced through customary structures in a community, sometimes such rights are poorly defined and such ambiguities make the situation open to exploitation, especially by middlemen and land speculators. The formal property right is therefore generally regarded as complementary after acquiring land through customary structures.

In practice, even though the farmer who originally settled on the land is given the opportunity during re-demarcations to 'purchase', the challenge has been that even when given the privileged choice, most peasant farmers cannot afford the land and therefore must vacate for the higher bidder. However, even though farmers may readily vacate the land for the higher bidder, the traditional de facto control over trees on the land remains the right of the original occupier as many years as those trees live. The worst part is that the new owner cannot just decide to fell particular trees on his legally acquired plot without the consent and approval of the first occupier of the land. Thus, the farmer's traditional bid becomes "extra-legal" in most cases. Conflicts therefore emerge sometimes between de jure and de facto rights to land. Discrepancies between formal and customary versions of tenure holdings create ambiguities that middlemen exploit.

One informant gave a scenario as follows:

> *It is usual in Dagbon to wake up and find strangers on your formally legally acquired property harvesting fruits including mango, pawpaw, dawadawa, and sheanut. Fuelwood for outdooring ceremonies and funerals and silk-cotton trees in your property are never yours even when the land is registered. The previous owner may enter your property to fell the trees at their own discretion without prior notice. The situation is quite challenging where formal registration of the property does not give that security over the land completely.*

A number of our participants buying land properties in the region, especially those other than Dagombas, experienced culture shock and frustration about the concept of de facto rights over trees

like mango, pawpaw, neem, dawadawa, silk-cotton and sheanut on their respective properties. In the context of Dagbon therefore, formal acquisition may not necessarily debar entry by local people who claim de facto rights on the land. Indeed, 'extra-legal' situations emerge where those holding informal rights appeal to "informal proofs" of rights, which may not be legal. The situation creates opacities especially where customary rights on the one hand and "formally recognized rights" on the other hand often clash. Perceptual ambiguities therefore exist because of the co-existence of the two systems, especially in cases where in the customary context, some so-called informal rights are highly recognized in practice as legitimate and could inflame radicalism.

Another important constraint for land management in the customary tenure relates to vague delimitation of boundaries of parcels of traditional land. The fact that demarcations and boundaries are not well documented traditionally in most cases create challenges between different families. Oral tradition and physical landmarks used may fade eventually. With time, the collective memory and the use of witnesses tend to create vagueness about boundaries. Diffused traditional boundaries between sub-chiefs therefore generate territorial disputes.

One informant from the Land Commission noted:

Territorial disputes among sub-chiefs emerge where one sub-chief alleges that part of the territory of another belongs to him. These disputes have arisen due to over reliance on oral history. Also, the situation stem from the fact that the traditional system suffers from poor demarcation and record keeping. However, in Dagbon, the traditional authority, which consists of the King and his Divisional Chiefs function as the supreme overlord. Their authority remains highly respected, and on top of affairs in matters of land disputes. This serves as a strong and formidable traditional mode of conflict resolution.

The informant noted, however, that even though land disputes arise in Dagbon from competing claims, traditional institutions of conflict resolution are decisive in resolving such issues alongside the courts. The traditional authority as the supreme overlord in customary land tenure and as the repository of history is critical in resolving disputes. Various parties interviewed were of the view that security in land is only possible where traditional authorization merges with the protections provided through land registration and cadastral systems.

The cross-fertilization of the two systems is more viable within a near traditional autocracy as the basis for any considerations in the arbitration of boundary disputes. Thus, even though porous boundaries continue to pose conflict between sub-chiefs, the sovereignty of the King and his traditional council of elders as the 'owner' of the land remains unshaken as the reference point and also the boundary marker. The traditional principle that individual sub-chief/Tindana in practice only holds land in respective localities as representatives of the overlord remains the bedrock of all decisions about land. Any challenges must be resolved through the hierarchical traditional order that recognizes the King as the primary holder of the land. Registering land becomes an added advantage in such a system rather than being seen as 'the security' in itself.

On the other hand, however, the introduction of a new perspective into the traditional system comes with its own prospects and challenges. Much as Participants are aware of the added advantage of securing land acquired through the formal registration, they are agitated by the bottlenecks in the bureaucratic system that negatively affect the smooth implementation of land reforms and the effective mutual working of these two institutions. The secretary to the chief observed that:

Customary process of acquiring land is usually a direct, uncomplicated arrangement and speedily approved once the elders reach a consensus. However, the challenge has always largely been with formal registration of the land. Notably, conditions such as repeated paperwork creates ideal avenue for corrupt officials of Land Commission to manipulate the situation. The process is mainly manual have not been digitized; in addition, human factors like kickbacks altogether contribute to the delay as some officials of Land Commission would want cash to exchange hands.

The pace of registration at the Land Commission is reportedly slow. In the perception of the ordinary person on the street, the situation is attributable to the manual processing of documents,

missing files, red-tape in public administration and the exploitative stance of corrupt officials. Participants from the Land Commission agreed that the system is slow but attributed the situation to a number of other challenges:

> *It is noticeable that the institution faces lots of issues including logistical challenges such as worn-out cadastral maps and also extremely limited number of staff. Normally, the process takes almost twelve weeks to finish the registration of title to land. But this mostly vary according to the ability of the property seeker to submit all the supporting vital documents. The main issue is that most property seekers do well to start the registration process alright, however, their inability to submit all the requisite supporting documents render their application incomplete. Essentially, the speed of registration is largely determined by the ability of the property seeker to ensure timely submission of all the requisite documents.*

It is acknowledged that there are delays in the registration of land due to the procedures and challenges faced by the formal land administration agencies. Another critical challenge expressed by the informant is public ignorance about the process involved in the formal registration of land. The challenge of ignorance of the public about the procedures creates the perception that formalization of the administration of land rights is a complicated process. One female informant explains:

> *The process of registration is a bit hostile, notably for a female property seeker acquiring title to land. For instance, bureaucratic hassles such as prolonged procedure of trying to get update on progress of registration altogether impedes efforts to complete registration. Quite a number of fellow property seekers who begun the process with eagerness were frustrated and had to stop as it became increasingly challenging and costly to see clearly where and how far to go. Presumably, opportunists have emerged to fill-in the gap. Notably, these are usually the cronies of corrupt officials in higher authourities. Their activities invariably inflate the "costs" associated with land registration and eventually discourages the formalization of land property.*

A caveat is here introduced into the debate by hinting at gender discrimination as worsening the already bad situation, especially when dealing with corrupt officials. This assertion is quite surprising especially because the challenge is associated rather with the attitude of some government officials and not the traditional gatekeepers. The informant maintains that it is relatively easier negotiating and dealing with the traditional system for land purchase irrespective of gender because in any case, even though it is the individual purchasing the land whose name is registered with the chief, the procedure demands that some elderly person, family member/acquaintance led the request.

Male or female individuals could purchase land, and the elders who led the way became witnesses. Once the traditional negotiation is completed, the allocation letter will bear the name of the individual purchasing the land, irrespective of sex. Even though the Dagomba traditional system is patriarchal, it is perceived as relatively open to (male/female) property ownership. The general perception gleaned from the interviews is that the traditional system offers a comparatively stable land tenure regime and its procedures for acquiring land are relatively easy and free from exploitation by office holders and from being fraught with gender discrimination against female ownership.

Contrary to this however, the informant reiterates the cumbersome nature of the process for formal land registration. Different offices handle different aspects of the process including: the land registry, country planning office, Survey Department, land valuation and taxation, as well as the court system. It was generally noted that the diverse administrative steps, affordability and time required to register land discourages many from pursuing this course. One major complaint relates to the fact that scattered offices dealing with fragments of land registration makes the system very sluggish, cumbersome, expensive and intimidating.

The long bureaucratic channel is also blamed for deliberately creating opportunities for exploitation. A common complaint is related to administrative corruption which fosters bribery and corrupt practices especially in registering land and acquiring official documents. Participants further noted that the

deliberate slow pace is responsible for the emergence of a class of brokers in the value chain which worsens the situation by making the process even more expensive and often non-transparent. These challenges delay transactions and are often associated with fraudulent deals and exploitation by a class emerging as local dealers. Thus, even though formal registration is generally accepted as critical to tenure security, administrative bottlenecks make it difficult to facilitate a land market that could engender a transition toward effective land administration.

Closely related to the above is the complaint from participants related to perceived poor capacity of some land administration agencies to implement the procedures efficiently. One informant for example points to the challenges associated with land surveyors in the region:

> *I must admit that sections of the registration process is so clumsy that I hardly understand who exactly is the licensed surveyor at the survey office and what exactly the mandate really is as a public service employee. Although these surveyors are paid from the public funds as any other civil servants, it appears these licensed surveyors utilize their offices mostly for their private survey business. It does not matter whether the surveyors are engaged officially or not, it reverts only to private practice. They might negotiate payments for their services as personal entities. Occasionally, they negotiate for payment in-kind by demanding plots of land as fees for service rendered. It is disturbing to note that these surveyors receive salary as such, and at the same time negotiate for payment for their services in-kind instead of officially approved fees. How come that the system seems to condone this exploitative stance? I also observe a group of young people hanging in the survey office who apparently have been trained as surveyors but do not hold the professional certificate to practice. These group of young people allege that it is very challenging to secure professional survey certification until one is advanced in age. Why that? As a result, the number of professional surveyors who could prepare quality cadastral maps are extremely inadequate. In several instances, the few certified Surveyors are relatively aged and sitting at home for young fieldworkers and amateurs to consult him for formal endorsement of their survey report for a fee. Obviously, such costs are transferred to the end user who must bear the high cost of land.*

The informant admits that he is no expert in land survey. However, his observation was repeated by several others interviewed about the unclear nature of the engagement of these professionals. The ambiguity in institutional functions create opportunities for administrative corruption involving illegal payments made to officials and their cronies. Another challenge pointed out by this informant is the fact that finding Licensed Surveyors to work on cadastral plans is generally difficult. As a result, imposters and individuals not licensed to practice cadastral surveying have consolidated their hold on clients. Because of the shady deals associated with dealing with these cronies, the procedure for land registration is increasingly cumbersome, making it difficult to register land property.

In line with the expressed concerns, efforts were made to find out the formal procedure for land registration and the issue a Land Title Certificate (LTC). The effort is intended to explore the perceptions of participants as to the weaker areas of the chain that is prone to exploitation. In-depth interviews at the Regional Office revealed the following:

> *After acquiring (paying for) the parcel of land from the traditional landowner, the client is given three allocation letters signed by the chief of the area. The client proceeds to collect an application form from The Land Title Registration (LTR) office in Tamale using the allocation letter. After returning the filled form to the LTR office, the client is then issued an acknowledgement form and a request for parcel plan letter. One allocation form is retained by the LTR office and the second one is retained by the office of Traditional Lands. The client submits the parcel plan letter to the Survey Department for the preparation of the cadastral plan. The parcel plan is then sent to the Lands Commission with a letter from the LTR office formally introducing the client and requesting for an official search. Once the search confirms the property ownership, the lease letter becomes authenticated only after the representative of the King of Dagbon appends his signature. Notably, the Lands Commission prepares the lease for the King's representative to append his signature. After this, publication in the daily*

News Paper is done. After twenty-one (21) days from the day of publication, if the LTR office does not
receive any objections, then the client is granted the Land Title Certificate after it is recorded on the
sectional plans.

As to be appreciated, Land registration in Ghana relies on the certified and/or cadastral plans
submitted by licensed surveyors for land conveyance. In that case, the role of a licensed surveyor
cannot be overemphasized as it is mandatory to submit the boundaries of the parcel of land. Certified
Surveyors being very limited presupposes the intrusion of cronies making the process a difficult one.
Participants observe that phony characters emerge in this market charging illegal fees for cadastral
plans and maps. In many cases, therefore, a lot of anomalies and inaccurate plans are created in which
especially illiterate landowners are dubbed for their land and poor small land holders are pushed out
of their holdings. One informant recounts his own unfortunate experience:

I was informed by the Chief about the size of the plot of land I paid for to be 100 by 100 meters square.
The site-plan given to me indicated exactly this measurement. But, when I caused it to be measured
on the ground as marked out, I realize it was short on all sides: 80 by 80 meters only. I complained
to the surveyor, but he was rude. He insisted that if I do not like the parcel of land, I could take my
money back and stop pestering. I was in dire need of the piece of land such that I had to accept my fate.
My neighbor however had his own connections and could afford a certified surveyor who came in to
re-demarcate for him. Unfortunately, that re-demarcation exercise created a ripple effect of land loss
downstream with many poor people stretching to the limit and being squeezed losing the greater part
of their land. It is a power game, a dog-eat-dog situation.

The informant paints the picture of a cumbersome and disorganized system commonly perceived
to contain splintered institutional roles that create inefficiencies and high costs to individual landholders
and land authorities. The informant aptly describes it as a "power game, a dog-eat-dog situation".
This sense of disgust was on the lips of every informant as a major factor precipitating boundary and
territorial disputes. The calculated actions of these imposters meant that by shifting and squeezing the
measurements on the ground, space is created from respective pieces of land to feed into the needs of
officials and their cronies who distort measurements to their advantage. At the end, shifted boundaries
accumulate into huge illicit land space as a dividend to survey personnel. Participants noted that this
remains a major source of conflict for neighbors fighting over authenticity of boundaries. Even though
unsatisfactory plans have been rejected by the registrar on submission, little or no efforts are in place to
educate lay people and to provide the needed services to clients. Participants therefore noted that
cadastral plans and maps for land conveyance remain one of the major sources of corrupt practices
involving officials and their cronies for acquiring official documents and approving building permits.
This has resulted in the unwillingness of many to venture into registering lands already acquired
through the traditional system. Another informant alleges that some staff of the Land Commission are
culpable in these deals:

Some staff fabricate documents just to extort money from applicants. Sometimes architectural plans
submitted for processing may not even be in conformity with the land use plan for the area. Anything
at all could be done for money. Manipulation by some Chiefs and Politicians also interfere with the
role of the Statutory Planning Committee.

The findings further show that the symbiotic relationship that has evolved between land holding
family heads/chiefs, the emerging class of land dealers/brokers and surveyors over land registration
is a mutually beneficial one. Most land holders are illiterate and rely heavily on the other class in
the chain to 'sell' land. In many cases, the landowner/Chief also relies excessively on land brokers
for pre-funding preparatory land documents, including survey activities. Thus, brokers bearing
the cost of the survey and preparation of the plans showing the boundaries of the land eventually
grow to wield much more power and influence over decisions at every level of the formalization of

the property. The circumstances surrounding land registration mean that new layers of powerful intermediaries emerge with a huge stake in the process. The effect of this is that, for the sake of maximizing economic gains for these powerful intermediaries, procedures may become distorted. Unfortunately, the landowner/Chief who relies excessively on land brokers for pre-funding preparatory land documents becomes pliable for manipulation.

3.2. Perceived Benefits of Land Registration

Respondents' perceptions of the expected benefits of land registration varies considerably across the stakeholder groups. Diverse views have been expressed as to what the benefits for title registration actually entail. One informant explains as follows:

> *I am not an indigene in this part of the country. Even though I know, the Chiefs as owners of the land here, have supreme control, no one can predict what happens tomorrow when all the land is sold out and the generations to come may rise against nonnatives over land matters. Land registration for me is very important because of the security of the property. I do not want anyone to forcefully take the land from my children when I am no longer there. Land is for generations and to register it is to secure it for years to come. Formal registration is also important as collateral for some banks against loans for the expansion of business, building projects or purchasing goods and services.*

For some, particularly titleholders who are non-natives, seeking to formalize land transactions offers security of tenure over their land for generations to come. For others, it is a way of developing private property through the formalization of previously informal rights. Land registration is seen as offering security. Formalization is also important for easier and safer bequeath of property to dependents, protection of land against fraud and encroachment and resistance to the fraudulent activities of some natives over the land. The results of the interviews also showed that land registration safeguards against the title deeds getting lost, stolen, damaged or destroyed and '*it could be used as collateral to access credit from the bank.*'

4. Discussion

The findings show that in Dagbon, the customary land acquisition process persists and continues to follow the customary trajectory. As noted by Bruce et al. [58], environments with strong customary tenure systems or the existence of socially cohesive institutions provide a strong support system for land security. The findings show that even though many see the customary system as secure, they would add formal registration as complementary especially for 'non-indigenes' who think formal registration provides more comprehensive coverage. There are others who seek formal registration as collateral to the banks as well as brokers who need the legal certificate to transfer the property after selling to a third party. Our findings fit neatly into the Hybrid adaptation theory as opposed to the top-down approach of the replacement theorists. According to Royston et al. [80], this approach allows for adoptability, innovation and low-cost tools to record land tenure information. It leads to a tenure system that reflects "what happens frequently in practice; that tenure is often established through a combination of statutory law, custom or informal arrangements, rather than a single one" [80]. In this approach, extra-legal as well as off-register tenure practices also get recognized by policy rather than replaced [9]. The local land tenure system in Dagbon thus continues to draw its legitimacy from traditional practices and reflexively absorbs modern (colonial and post-colonial) influences without undue conflicts between the two systems.

Our findings agree with the observation of Royston [81] that government intervention into the communal context may lead to a situation of hybridized tenure in which some aspects of the process become formalized (e.g., communal land rights change to leasehold) while others remain unchanged (e.g., local management practices and social legitimacy).

Although cadastres are usually associated with surveyed land parcels and registered land rights [82], the situation under investigation suggests that all customary land interests and tenure

arrangements could be captured within the new system. This situation is also observed by [63,82] in South Africa "where what is referred to as customary law is a mixture of 'tradition' and colonial and apartheid legislation".

Furthermore, our findings agree with the assertion of Silva and Stubkjaer [83] that in these situations, the definition of cadastre as parcel-based is extendable to accommodate the inclusion of cultural means of spatial identification. Thus, there is no single land policy or strategy that can tackle land tenure issues for women, the poor, migrants and other minority segments of the people in the country. Policy reforms and some other intercessions must be tailor-made to the physical, social, cultural and economic settings. The challenge is to find suitable land reforms or interventions that focus on concerns over economic factors, issues of equity and less tangible concerns; for example, the social. cultural or religious beliefs that individuals attach to land.

Among other advantages, the findings suggest that the coexistence of the traditional and the modern systems in land management is drawn from the fact that the linkages in the modern system (spatial component, legal component as well as off-register land-based interests) further consolidate the role of the traditional authority as critical in defining land tenure. Among other considerations, the approach evokes the use of diverse spatial units in identifying land rather than as a geometric figure using just Point-based cadastres [83]. In this sense, the linkages in the modern system (spatial component, legal component as well as off-register land-based interests) allows the expansion of identifiers including text, lines, points, polygons or polyhedrons.

The common assumption is that formal registration of land "secures" it better than the traditional support system [84]. Furthermore, formal registering of land is regarded as protecting landowners and curbing the incidence of land encroachment and multiple land sales [85]. Contrary to the theory, our findings lead us to agree with the observation of Obeng-Odoom [86] that in Ghana, land policies have not generally been able to guarantee secure tenure of land as expected because of both external and internal factors working against the system.

Our findings further support the assertion of Hackman-Antwi et al. [87] that marriage of the traditional and the modern systems could benefit from the accommodation of different expressions of land and therefore could take care of the challenges posed by fluid boundaries. Thus, even though our findings show that conflicts emanating from fluid traditional boundaries feature prominently as a major concern among sub-chiefs in the research setting, stakeholders agree that the challenge is readily resolved among sub-chiefs by appealing to the King as the sole consultant. The caveat, however, is that land properties in the domain of middlemen, land speculators and second level dealers/holders may not benefit from direct traditional interventions. Findings therefore suggest that this cohort appeals largely to the formal legal system for redress rather than the Chief's court. This finding also agrees with the observation that in sub-Saharan Africa, the existence of socially cohesive institutions provides a strong support system for land security [1].

Our findings register ambiguities in providing maps and surveys of parcels of land for registration. Even though this is completely new to the customary procedure, Section 15 of The Land Registration Law makes it mandatory to include in an instrument for registration "a plan of the land which has been approved and duly signed by the Director of Surveys" [88]. The land registration office demands cadastral maps as a mandatory requirement from landholders. In land law this engenders a mismatch between official customary law and living customary law that may inadvertently generate space for exploitation [88].

Findings show that, consequently, this created a booming market controlled by middlemen and Surveyors (licensed and unlicensed). The fees paid to these middlemen contribute towards inflating the cost of land. The Licensed Surveyors Association of Ghana (LISAGH) observes that the challenge may be traced to the provisions in the law itself [88]. Even though the law specifies the provision of maps and surveys of parcels of land for registration, the law is silent on who bears the cost of the survey and preparation of the plans showing the boundaries of the lands in a district. In addition, as observed by LISAGH [88] the law does not permit a claim for indemnity in respect of any error

in a survey or in the registry map until after a period of six months from the date of registration of the instrument under which the proprietor acquired the land. Section 127 specifically protects the government against any claim for indemnity on account of any inaccuracy in the registry map or in a survey. In practice therefore, the law seems to accidentally encourage protracted land litigations which go a long way to make the system difficult to work. Our findings support the observation of Royston [81] that the new legal intrusion into the communal context may lead to situations of hybridized tenure with some aspects being formalized (e.g., communal land rights change to leasehold) while others remain unchanged (e.g., local management practices and social legitimacy).

Our research has implications for transaction costs {at the heart of the New Institutional Economics} which indirectly outline how preference for land title registration differs among people. Thus, people with power, who are usually the cronies of officials in higher authorities, can influence access to urban land and most often their transaction costs in land title registration may be minimal.

For vulnerable people with virtually no power to influence decisions on access to land, transaction cost in land title registration may exacerbate their difficulties to accessing urban land. Practically, the vulnerable people will have to spend huge amount of resources and time to secure titles to their parcels of land. Thus, the transaction cost of land reforms may be high for vulnerable people accessing urban land. It is worth mentioning that the reform program could meaningfully transform local institutional structures and increase transaction costs of land title registration. This is the case in Dagbon [38].

Our investigation has recognized that transaction costs affect the efficiency and equity of land title registration programs: Planners may conclude that the effectiveness and efficiency of the policy instrument is conditioned by the magnitude and distribution of these costs. As mentioned earlier, factors such as bureaucratic hassles e.g. prolonged procedure of trying to get update on progress of registration; bribery and corrupt practices in land registration, and poor capacity of some land administration agencies might discourage landowners from participating in land title registration, thus the effectiveness and efficiency of the land reform policy to promote land tenure security might be reduced [39].

5. Conclusions

The case study demonstrates that the 'allodial title' holder may be much more trusted for tenure security because of the traditional role of the King as the sole owner of land. In our research setting therefore, the traditional tenure security system remains trusted and respected even in the face of the policy on formalization of properties. Even though the increasing complexity of overlapping systems evokes conflicts over oral traditions related to boundaries, the authority of the King as the supreme overlord in matters of land in the research setting offers a big opportunity in resolving emerging issues.

However, for some, even though the Land Registration policy has introduced some challenges, its relevance is felt in supplementing and complementing the traditional security system. Among other things, it is perceived as offering the additional guarantee of the transactions regarding the property rights being legally valid; being able to be used especially as collateral for loans; being used as a tool for brokers who engage in land speculation and subsequent sale of land; serving as reference document for generations to come as well as protecting the rights of especially non-natives who feel insecure and need more security. In practice, we found little difference between the confidence held in the documents recorded in title registration systems and the security provided through the cultural system. Findings demonstrate that in this structural reform, the 'allodial title' holder may be much more trusted for tenure security because of the traditional role of the King as the sole owner of land. Most would regard the title registration system only as additional security.

Customary land tenure system and the statutory system of land ownership and control coinciding in a similar social field may accordingly be said to fit conveniently into the Hybrid adaptation theory rather than the top-down approach of the replacement theorists. This tenure approach brings about a tenure system that reflects what happens every now and again practically speaking; that tenure is

frequently established through an amalgamation of statutory law, custom or informal arrangements, instead of one. In this approach, extra-legal, just as off-register tenure practices also acquire recognition by policy as opposed to replacement. The local land tenure system in the research setting keeps drawing legitimacy from traditional practices and reflexively absorbs modern (colonial and post-colonial) influences without undue conflicts between the two systems.

However, our results register uncertainties in providing maps and surveys of parcels of land for registration. In land law this produces a disparity between official customary law and living customary law that may incidentally generate space for exploitation. Practically speaking, in this manner, the law appears to inadvertently empower protracted land cases which make the framework hard to work. The proviso is that land properties in the domain of middlemen, land speculators and second level dealers/holders may not profit by direct traditional interventions. Findings of the study suggest that this cohort appeals largely to the formal legal system for redress rather than the Chief's court.

The contribution of this study to the literature is in its demonstration that to a large extent, the success of property rights reforms projects may depend on the prevailing traditional political system onto which the reform is grafted. In our research setting, the peculiarity of near traditional autocracy over land as property of the King means that the traditional land tenure system prevails under one overlord. In such a cultural context, property rights reform projects, at best, only act as appendices in formalizing cultural property rights that already provided tenure security. In our research setting therefore, the change from customary title to formal registration of land may make very little difference especially in the case of property rights-holders who acquired land directly from the traditional land holder. In these circumstances where the law is seen as pliable, the policy seems to engender blurred and confusing effects that deepen the sense of ambiguity and sometimes outcomes become contradictory.

6. Recommendation

National land policies in Ghana may have to consider strategies for improving land use and security generally. This requires facilitated endeavors across various sectors of government and administrative levels to create effective, decentralized decision-making processes. "One-size-fits-all" land use recommendations are not achievable, because they do not justify the widespread heterogeneity that often exists in regions. Improved land-use data frameworks would be useful for prompting more informed guidelines for various sub-regions in Ghana.

Tenure security in customary areas can be improved through the formalization of customary tenure. Governments should empower and enable this process through stakeholder engagement, improved governance, transparency, decentralization of land administration and management, as well as empowering the people. In addressing land rights or tenure insecurity among vulnerable groups like women and migrants, it is of paramount importance to harmonize reform efforts across customary and statutory law, regulations and access to judicial systems.

The government may need to endorse security of land tenure as a commonly recognized public good by giving the legitimate and institutional capacity required for just, equitable and efficient land administration and, where required, interceding in the land market to make reforms more connected to land distribution.

7. Suggestions for Future Research

This investigation has not just recognized the difficulties in accomplishing social equity concerning access to urban land but may also help the Government of Ghana to roll out strategic interventions for improved land administration. A similar study should be carried out on the land registration processes in other parts of Ghana because of the diversity in cultural systems of land management. This would open avenues for the implementation of a Land Information System for the country.

Author Contributions: D.A.E. initiated the idea of the study; D.A.E. and E.K.G. (Evam Kofi Glover) designed the research methodology; D.A.E. took the lead in collecting the data, analyzing and drafting the paper; E.K.G.

(Evam Kofi Glover) contributed to the interpretation of the results; E.K.G. (Edinam K. Glover) verified the analytical method, commented and edited the paper; E.K.G. (Evam Kofi Glover) supervised the fieldwork. All authors provided invaluable comments that helped shape the research, analysis and manuscript. All authors have read and agreed to the published version of the manuscript.

Conflicts of Interest: The authors declare no conflict of interest.

Appendix A

Table A1. Fieldwork planning guide and checklist.

Interviewees and Titles	No.	Sample Interview Guide for the Field Work

Secretary to the Paramount/Traditional Chief/Council of Dagbon	1	1. Who are the owners of the land in this community and who has the use right over the land in this community?
		2. Do you have a title for the ownership?
		3. How do you transfer use or ownership right?
		4. Can you tell me the system of customary land tenure in your community? (i.e. the history, the decision making, who are the members of the community, is the membership in the community heritage?)
		5. (a) Is it possible to lease your land? (i) Yes (ii) No (b) If yes, what is the process of leasing land under customary land tenure system to;
		   (i) the indigenous community
		   (ii) people from outside the community?
		6. Is it possible to transfer ownership right to outsiders?
		7. How do you extend use right to outsiders or renters?
		8. Is it possible to sell your land?
		9. What are the conditions under which land is sold to people from outside the community?
		10. Are some modifications of the customary land tenure laws needed to facilitate the sale of land?
		11. (a) Does the leasing of land for urbanization under the customary land tenure system affect the customary laws? (i) Yes (ii) No (b) What about the sale of land for urbanization? (i) Yes (ii) No
		12. If yes, how does it affect the customary land tenure system?
		13. How much land has been sold in this community?
		14. (a) Do you keep records of such land sales? (b) If no, why?
		15. (a) To whom have land been sold? (b) For what purpose was the land bought?
		16. How do you come into contact with your users or developers of land?
		17. Do you use the service of any professional when you sell/ lease your land and why?
		18. (a) Do you have problems or conflicts with the community in the way you manage the communal lands? (b) If yes, what are the problems?
		19. (a) Is your land being surveyed? (b) If yes, how do you get such surveyors?
		20. (a) Is your land registered? (b) If yes, in which department is it registered?
		21. Which government land administration department do you negotiate with in the management of your land?
		22. Do you provide security of tenure of land sold/leased out from your community? If yes, what kind of security?
		23. Who provides land for the development of services and infrastructure in this community?
		24. (a) Were there problems in the sale of land in this area (b) If yes, how are you helping to solve these problems?
		25. How do your client/customers make use of the land?

Table A1. *Cont.*

Interviewees and Titles	No.	Sample Interview Guide for the Field Work
Individual purchaser or Developer	5	1. (a) Do you own this land/property? (b) If yes, what rights or interest do you own in this land/property? 2. (a) From whom did you acquire this land? (b) How did you come into contact with the landowner? 3. How do you acquire the right to use/own the land? 4. Do you own other lands elsewhere in the city? (a) Have you secured your rights to your land? (i) Yes (ii) No. (b) If yes, how? 5. In which department did you process your land documents? 6. (a) Did you have problems in processing your documents? (b) If yes, what were the problems? 7. (a) Why did you choose this community? 8. (a) Do you face any problem with the community/chief/family in the development of your land? (b) If yes, what problem(s)?
Officials from Town and Country Planning unit of the Lands Commission	5	1. What factors contribute to urban expansion in Tamale? 2. (a) Do you think the expansion of peri-urban Tamale displaced some people off their farmlands? (b) If yes, how? 3. (a) Has the state intervened in improving the livelihood conditions of those who lose their farmlands to urban use? (b) If yes, in what ways does the state support them? 4. What major challenges do people normally face in this community in formalisation of security of land rights? 5. How do you address these challenges? 6. What is the process of the state allocating use right to developers? 7. How do you want the Chiefs/ Local Authorities/ Family Heads to manage urban lands?

Table A2 indicates some examples of presented questions to the participants holding title to land.

Table A2. Some examples of presented questions to participants holding title to land.

Interviewees and Titles	Examples of the Questions Asked
Title holders	1. (a) Do you own this land/property? (b) If yes, what rights or interest do you own in this land/property? 2. (a) From whom did you acquire this land? (b) How did you come into contact with the landowner? 3. How do you acquire the right to use/own the land? 4. (a) Have you secured your rights to your land? (i) Yes (ii) No. (b) If yes, how? 5. In which department did you process your land documents? 6. (a) Did you have problems in processing your documents? (b) If yes, what were the problems? (c) Were the problems based on your gender/ gender sensitive?

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