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Article

State-Customary Interactions and Agrarian Change in Ghana. The Case of Nkoranza Traditional Area

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Abstract: While agrarian change has been a recurrent theme in Ghana's endeavor for economic development, questions on how land resources should be managed to ensure prompt attainment of economic growth remain unanswered. In Ghana, land is controlled by customary actors, while the state is the custodian of agricultural policies. The need for interaction between the two actors to ensure that the envisioned economic gains from agriculture are attained is paramount. This paper asks questions on how land tenure issues are conceptualized in relation to agricultural policies and the interactions between state and customary actors on land management for agricultural development. The paper uses qualitative research methods comprising 17 key informant interviews and document analysis. Concepts of modernized property rights, ideal and new customary tenure served as the theoretical lens for analysis. The findings indicated that state actors vilify customary tenure by considering it inimical to economic development and requiring it to be replaced. Furthermore, new characteristics of commodification, privatization and professionalization within the new customary system are different from the ideal type customary tenure. The paper argues that a new customary tenure taking shape in the Nkoranza traditional area can be harnessed to bring together two seemingly opposing views on tenure management.

Keywords: land; customary tenure; tenure security; chiefs; state; agricultural policy; land reform; Ghana

1. Introduction

Land and the social relations of its use and access are fundamental to agricultural production in Africa. Previous studies have shown that without land access and an assurance of tenure security, agricultural productivity may decline, with the poor being disproportionately affected [1,2]. The arguments in favor of focusing on security of land tenure are prominent among property rights theorists; however, little consensus exists on an all-encompassing characterization of tenure security and how it can be achieved. For example, De Soto [3] and Atwood [4] relate tenure security to statutory processes of privatization, individualization and exclusion rights that are alien to African customary tenure. Meanwhile, Kasanga [5] and Lawry et al. [6] underscore the adequacy of local tenure mechanisms through communitarian and egalitarian principles to ensure tenure security. Both positions are based on fundamental assumptions that prove inadequate for defining the total spectrum of social relations that define land ownership and use in Africa today. While statutory registration may diminish the inherent rights of secondary use groups, customary land trustees have been accused of shedding their moral obligation and treating communal land as personal property [7,8]. The unpredictability of trustees to either uphold customary values or abuse the same for personal benefits poses some risks to state strategies that rely on smallholders in catalyzing agrarian change. Most smallholders in Ghana are indigenous to the area of cultivation. They usually hold usufructuary land rights that

are obtained freely. Some smallholders are migrants who typically hold land through gifting, rentals, share cropping or occupational license agreements with land owners.

Following recent changes in customary land tenure and its responses to market tendencies, Platteau [9] posed the question of whether Africa needs a reform of its customary land tenure system for agrarian change to be realized. After observing its institutions and social structures, Platteau [9] concluded that it would be difficult to replace customary tenure with inelastic statutory processes that cannot explain the range of land rights that exist in customary tenure. Instead, a full-scale evolution from customary to statutory tenure catalyzed by population growth, urbanism and stimulated by active land markets is expected over time [10–12]. Theoretically, such natural evolution is predicted to gradually change the normative nature of customary land administration to a more prescriptive one with tenure individualization characteristics [10]. Chimhowu [13] provided a longitudinal account of a quiet paradigm shift in the social relations and institutional mechanisms of customary tenure management over the past 30 years. He observed that the changes in mandate of trustees and their consequent impact on changing the landscape of customary tenure are influenced by tenets of neoliberalism, typically privatization, deregulation and commodification. Accordingly, Chimhowu [13] concluded that these changes are catalyzing a “new African customary tenure” which is laced with market tendencies and operates within a fluid mix of monetary considerations, power imbalances and elitism. Much of the market-oriented modifications in African customary tenure, as signaled, for example, by the rise in vernacular land markets, are occurring regardless of statutory processes and legislations [9]. NB. Vernacular land markets arise from market-based land transfers that occur within customary tenure.

In Ghana, agriculture has been touted as central to the attainment of food self-sufficiency and economic development since independence. Successive governments introduced different policy initiatives in an attempt to harness the latent productivity and economic gains of the country’s agricultural sector. Meanwhile, the efficient implementation of agricultural policies relies on secure land access mediated primarily by customary authorities [14]. The consequent tensions created between the state’s attempts to modernize tenure relations and local level customary authorities is evident in the recent upsurge in rural land grabbing, land reform projects and customary tenure changes. This paper contrasts the modernization narratives of the state with the emergence of hybrid forms of land tenure relations at the local level, and analyzes the strength, adaptability and consequences of customary tenure regimes. It uses the case of Nkoranza Traditional Area, which forms a large part of Ghana’s food and cash crop production zone. The tug-of-war between the central state and local customary authorities is explored through three key research questions:

- a. How are land tenure issues conceptualized by state actors with respect to agricultural development?
- b. How are customary land tenure relationships evolving in the Nkoranza traditional area?
- c. Why do customary land tenure actors continue to exercise influence, and how does this affect land tenure modernization?

The paper acknowledges the body of literature and criticisms around emerging forms of tenure and land reforms [15–19]. While these empirical studies have shown that land reform and consequent individualization and privatization encourages the polarization of land assets and social and economic differentiation, it is not the purpose of this paper to evaluate these aspects. The paper contributes to the literature on Ghana’s agricultural development and highlights the centrality of coherent land tenure management to sustained agrarian change. It highlights the factors that explain the continued dominance of customary tenure despite tenure modernization attempts by the state. The remainder of the paper is divided into five sections. The next section reviews the colonial antecedents of land tenure and highlights the centrality of agriculture to Ghana’s development trajectory. The following section comprises concepts of the ideal and new customary tenure that serve as the theoretical lens of the paper. The Section 3 describes the qualitative methodologies used, while section four reviews

and analyzes narratives from key informants and state documents. Finally, the concluding section summarizes the findings and draws conclusions.

2. Background

2.1. Colonial Antecedents of Land Tenure

In Ghana, there is an almost imperceptible power struggle between the modern state and traditional authorities, with land tenure issues being central to these contentions. Traditionally, customary land custodians are tasked with performing caretaker duties in honor of forebearers and for the benefit of posterity [20]. Meanwhile, modern state institutions require statutorily incontestable land titles and clear cadastral delineation of land boundaries for the implementation of agricultural policies. The historical origins of present-day interactions between both traditional and state actors are marked by interventions by the erstwhile colonial government in the Gold Coast and Ashanti colonies of Ghana (see Figure 1). NB. During the colonial period, Ghana consisted of three geographical regions, namely, the Gold Coast colony, the Ashanti Colony and the Northern Territories, all of which were ruled by the British, yet each was administered separately.

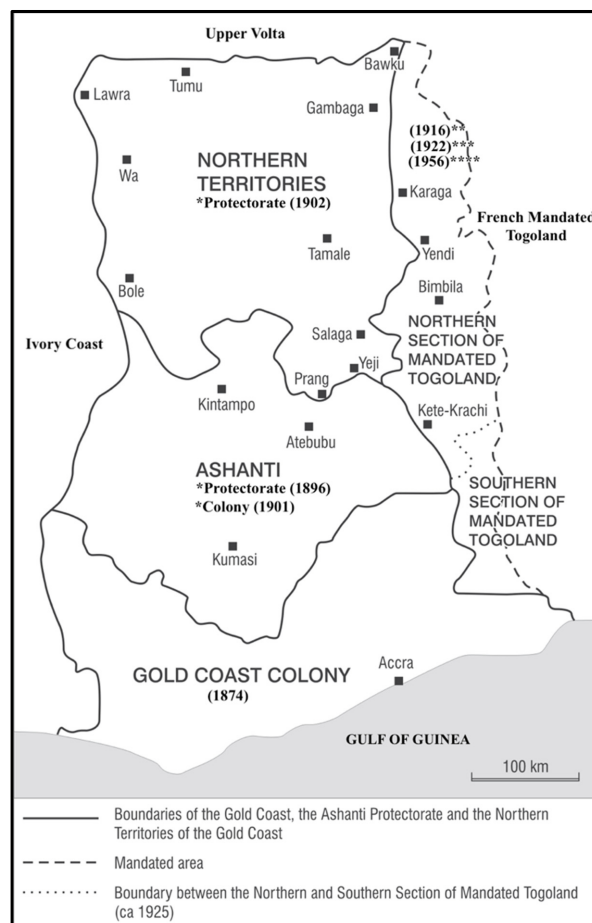


Figure 1. Colonial Map of Ghana Showing the Various Administrative Regions. Adapted based on Weiss [21] and Martin [22]. * Declaration of Ashanti protectorate in 1896. Officially recognized as a colony under British administration in 1901. ** Occupation in 1916 and consequent division of German Togoland protectorate into British and French administrative zones after Germans gave up sovereignty of their African colonies in 1919. *** Formal creation of British Togoland, constituting a transfer from German to British rule, under the league of nations class B mandate. **** Plebiscite in 1956 officially recognized the region as a part of newly independent Ghana.

In the Gold Coast and Ashanti colonies, the state considered introducing the Crown Lands Bill (1894) and consequent amendment bill in 1897. The bill was described by Kimble [23] (p. 342) as an attempt at harmonizing land management by depriving traditional land owners of the power to make land grants, instead vesting power over all “waste” lands in the British crown. Waste land comprised unoccupied and uncultivated native lands. Land nationalization was thus viewed by the colonial government as the panacea to controlling the country’s mineral and forest resources. Reactions to the bill were negative among educated elites, politicians and chiefs. Politicians and educated elites viewed the bill as a despotic measure aimed at annexing and exerting ownership over the territorial area of the Gold Coast and Ashanti colony. Meanwhile, chiefs viewed the bill as one that could potentially usurp their powers by ousting them from the land and erasing their religious, ancestral and socio-cultural heritage [24]. The suspicions among chiefs was premised on the belief that their political authority and legitimacy emanated from the numbers of their subjects and the territorial extent of communally held land [25]. As noted by Allott [26] (p. 140–141) “*if one removed the land rights of the chiefs, [among the Akans] the basis on which they held their office and exercised jurisdiction over their subjects would be destroyed*”. Thus, traditional land custodians were pioneers in the resistance against the Crown Lands Bill (1894) and amendment bill (1897). Eventually, the colonial secretary of state approved the dismissal of both bills and ruled that “*native law would remain and prevail with regard to devolution of land*” [24] (p. 12). This decision set in motion a long tradition of noninterference with customary land custodians in their duty of managing customary land. Omosini [27] described the decision as the “*magna carta*” of native land rights which shaped the future of the British Crown’s land relations throughout West Africa. The British policy of indirect rule reinforced the land ownership claims of traditional authorities, creating what Capps [8] defines as rentier forms of chieftaincy and landlordism. This gave chiefs the power to commoditize land rights. Eventually, land became an object from which traditional leaders derived both political and economic power.

2.2. Land Tenure Today

Land tenure in contemporary Ghana is shaped by a mix of customary and statutory processes. While most land negotiations still occur within customary tenure, the state has shunned the colonial approach of land nationalization and used various legislations to push forth an agenda of land rights formalization. Beyond legislation, the state has encouraged land rights formalization through land reform programs, including the Land Administration Project (LAP-since 2003). Land reform programs are hinged on an assumption of a linear process where security of tenure gained through statutory land registration processes attracts private sector investment into agriculture and serves as a catalyst for rural transformation. While these perceptions have been challenged as contextually dependent [28], many authors maintain the view that land reform and statutory formalization are prerequisites for the attainment of agro-industrial development [3,29,30]. Though the agenda of land rights formalization is aimed at reducing adverse claims and contentions over land, it also encourages an overhaul of communal land ownership in favor of the individualization and privatization of land. Statutory tenure registration processes are characterized by record keeping, the use of professional services, land rights documentation, cadastral mapping and land titling. They also give assurances of tenure security through the *mirror*, *curtain* and *insurance* principles of land titling [31]. While the mirror principle suggests that the land title reflects all significant details pertaining to the land, the curtain principle assumes a complete land register barring the need for any further checks of tenure. Meanwhile, the insurance principle pertains to a form of statutory indemnity including reimbursement or reinstatement when adverse claims brought against duly registered lands are upheld.

A major outcome of land reform has been the development of hybrid institutions that aim at creating linkages between customary and statutory processes of land management. In the case of Ghana, customary land secretariats were created to bring traditional and modern state institutions under one joint custodianship in a bid to regulate and formalize land tenure. These hybrid institutions have been instrumental in the management of urban and peri-urban areas; however, their reach in

managing rural areas where agriculture land use is dominant remains low. In some cases, the focus on land rights formalization has encouraged the resurgence of chiefly authority over land. Thus, instead of land reform serving to diminish chiefly power, Berry [32] observes that it has instead reinforced their hold on land and their political relevance to the state.

3. Theoretical Perspectives

Communal tenure denotes recognition of the collective rights of a land-holding community to exert exclusive ownership, management and use rights over land and its allied resources [12,33]. The practice is grounded in the principles of social embeddedness, and epitomizes land as a resource held by indigenous communities whose rights to the land are inalienable and defined by ancestral heritage [34]. Tenure is usually managed in accordance with the traditions, rules and customs of the land holding group. Thus, the mechanisms of tenure are varied, unique to the socio-political organization of the land-holding community and developed along kinship, settlement and farming patterns [35]. Schlager and Ostrom [36] note that communal tenure comprises a bundle of land rights including access, withdrawal, management, exclusion and alienation rights. Though De Soto [3] considers customary tenure incapable of providing secure tenure, Chimhowu [13] found that its nature has changed over the past decades. He evaluated the concept of an ideal type customary tenure that is devoid of neoliberal influences and introduces the idea of a New African customary tenure that is receptive to market forces. These perspectives are valuable as a framework for studying the case at hand, since the interactions between customary and statutory tenure systems are creating hybrid forms of customary tenure, signaling a gradual merger of historically distinct practices.

3.1. Ideal Type Customary Tenure

Though customary practices vary across Africa, Chimhowu and Woodhouse [37], Alden Wily [38] and Meinzen-Dick, et al. [39] identified some distinct characteristics of communal land tenure. The authors argue that under ideal type customary tenure, rights to communal property are vested in the stool, skin, clan, family or other symbols of traditional authority, and by extension, the occupants or leaders of these institutions. Thus, chiefs, clan, lineage and family heads hold the allodial and suballodial title. NB. The allodial title is the highest attainable interest in land primarily held by fiduciaries on behalf of the land-owning group; the interest is nontransferable and exists in perpetuity within the community. Their fiduciary role is to administer land in a manner that improves the status of the stool/skin and the lives of its general citizenry. Beyond the allodial title, members of the community, through lineage entitlements, can hold usufructuary rights over land. With an inalienable right to land use, usufructuary land rights are the mechanism through which the community's mutual sense of belonging and ancestry are expressed. Furthermore, the stool, clan or lineage reserves reversionary rights to land. Excluding instances where land is sold and divested from the community, all communally held lands ultimately revert to the communal pool. It is nonmarket based and devoid of monetary influences. Land access may also be determined by nonmarket agreements with strangers, typically persons who are not part of the land-holding community. Such nonlineage access to land occurs through customary gifts, occupational licenses and cash/share cropping. It is allowed for purposes of fostering relationships, protecting land from annexation by other groups and as a reward to strangers for acts of valor, kindness or servitude. While tenure is characterized by a hierarchy of rights, it also recognizes that different enforceable land rights can subsist simultaneously on the same land parcel. With a communal sharing mentality, customary tenure adheres to tenets of egalitarianism and advocates for resource redistribution in a manner that prevents individuals from monopolizing communal property for sole benefit. This protects the use rights of poorer and vulnerable members of the community.

3.2. Modernized Property Rights

Favoring the rights of the community as opposed to the individualization and privatization of land tenure is considered detrimental to agricultural productivity by mainstream property rights scholars including Demsetz [10] and Libecap [40]. The authors introduce modernized perspectives of tenure exclusivity that depict an absence of overlapping rights and communal sharing expectations. Contrary to communal tenure, their views are set within precepts of statutory land rights registration and the creation of formalized land titles. With assurances of tenure security, statutory land titles are lauded as a sure mechanism for clarifying ownership rights, delineating property boundaries and solving the challenges arising from land rights contestations. Land rights formalization also allows for the easy commodification of land [3,41]. Modernized property rights emphasize collateralization which leverages on land assets for financial security. De Soto [3] (p. 5) observed that without statutory registration and the consequent ability to borrow against land assets, societies adherent to customary tenure will remain poor and unable to tap the latent potential of “dead capital” (De Soto, H. *The mystery of capital: why capitalism triumphs in the West and fails everywhere else*; Basic Books: New York, 2000. describes dead capital as any form of real estate or land that cannot be securitized.). The position which extols statutory land registration is dominant among institutional development actors, including the World Bank [29], and has been the basis for many land reform interventions across the African continent [41–43]. Some authors have found that the statutory mechanism of recognizing land rights does not interphase directly with customary systems. For example, Joireman’s [44] study in Uganda noted that institutional change from customary to statutory has been slow, often riddled with corruption and facing staffing and funding challenges. The effect of changes to customary tenure motivated from the political center has been resistance and the continued persistence of customary systems [44,45]. Both ideal type customary tenure and modernized property rights are contrasting poles of the spectrum of property rights management. They are important for depicting the contradictory positions that state and customary tenure authorities hold and the reasons why consequent contentions between the two actors on tenure issues remain unresolved.

3.3. The New African Customary Tenure

Individualization, Privatization, Commodification and Professionalization

Chimhowu (2019) argues that a hybrid form of land tenure, the New African Customary Tenure, is emerging in many African countries. The individualization of land rights and consequent privatization is perhaps the most definitive characteristic of the new African customary tenure. In the ideal customary tenure system described above, individualization occurs during cultivation; hence, land oscillates constantly between individual tenure during the planting season and communal tenure, when no cultivation rights are asserted [46]. With individualized land rights terminable at the close of the harvest season, all usufructs are permitted to cultivate lands recategorized as part of the communal pool. This idea of customary land individualization as a cyclical activity is changing towards year-long individualized claims [13]. Changes in tenure individualization constitute acts of enclosure of customary land by usufructs. The rise in year-long individualized claims on communal land, coupled with monetary incentives, has encouraged land commodification. The customary system itself is no longer averse to market principles; instead, the critical literature shows the emergence of what is known as vernacular land markets [47] that are used as a mechanism for short-term land grants through cash and share tenancies. However, vernacular land markets have more recently evolved to also include land sales, leases, rentals and other mechanisms of land transfers for the purposes of eliciting pecuniary gains or other benefits. With such profit motives, land markets, rather than upholding egalitarian values, encourage the transfer of secure land rights to the most productive users [48]. Thus, outright sales are becoming common, and the consequent offerings of private and exclusive rights over customary land has encouraged the formation of active land markets. With an upsurge in the commodification and privatization of customary land rights, the use of professionals in

tenure administration is becoming common. The professionalization of land tenure involves the use of technological tools, land surveyors, lawyers and property valuers for the documentation of land rights, rather than relying on oral tradition. The use of professionals is targeted at making customary rights easily relatable for outsiders and improving efficiency in property rights recognition [49]. Thus, the dependence on oral or institutional memory has changed significantly to written agreements and records.

The theoretical perspectives proposed by Chimhowu [13] are relevant as a framework for the case at hand, since they show the changes that customary tenure is undergoing to make it suitable for meeting present needs. Stylistically, this framework is used in this paper to depict and theorize what is happening on the ground.

4. Materials and Methods

4.1. Research Design and Study Site Description

The study uses an exploratory research approach and adopts qualitative data collection tools to show the contrasting narratives on land tenure management. It is explicit in narratives and uses an interpretivist lens for analysis [50]. Data was collected through key informant interviews with representatives of the modern state, traditional authorities and other nonstate actors. The paper uses a multiple case study approach; hence, data was collected from two study communities, namely Nkwabeng and Dromankese, both in the Nkoranza traditional area. The two study communities were purposively selected based on differentials in land availability, as land scarcity was theorized to affect tenure relations [51,52]. The Nkoranza traditional area is located in the Bono-East region and constitutes a major part of Ghana's food production zone. The traditional area comprises four statutorily defined administrative regions: Nkoranza South municipality, Nkoranza North district, Kintampo North and Kintampo South districts [53]. The present study concerns the Nkoranza South municipality and Nkoranza North district. The vegetation of the area is variegated, comprising the forest transition zone, the moist, semideciduous forest zone and the Guinea savannah. It has a double-maxima rainfall regime (1200–1500 mm), implying the propensity for year-round cropping during major and minor seasons [53,54]. The land tenure system is organized around a mix of public state management interests through the forestry commission and customary ownership by chiefs and families. Major food crops cultivated in the area include maize, yam, cassava and tomatoes. Nkwabeng is located in the north-western part of the Nkoranza South municipality (see Figure 2) with a population of 7453 inhabitants and a population density of 109 persons/km² [53,55]. Meanwhile, Dromankese, is located in the south-western part of the Nkoranza North district and has a population of 9226 and a population density of 30.6 persons/km² [53,55]. The majority of the workforce in both study communities are employed in agriculture. Nkwabeng has average farmland holdings of one hectare due to land scarcity, while Dromankese has relatively abundant land with farms averaging two hectares [55,56].

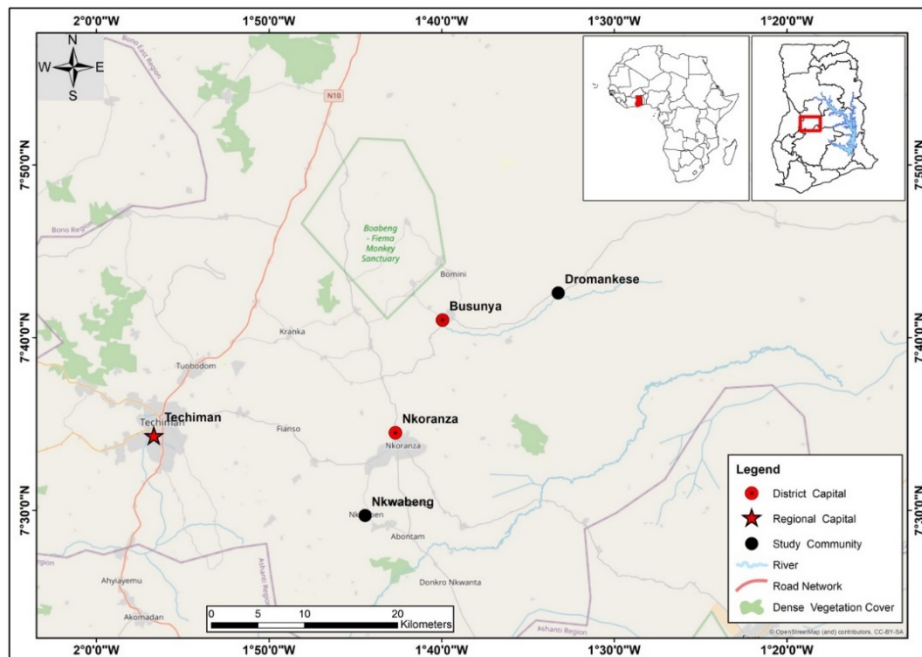


Figure 2. Map of Study Communities. Author's Construction using ESRI's ArcGis Pro (2020).

4.2. Selection of Key Informants

Key informants were purposively selected by considering the positions they occupy and their knowledge of agricultural and land tenure issues. The selection was conducted after careful consideration of representatives of customary authorities and state agencies that deal with land management issues in the Nkoranza traditional area. A preliminary list of key informants was generated and sorted to remove persons who were not readily available to be interviewed due to death or travel. Furthermore, representatives of state authorities with similar mandates were sorted to reduce potential repetition of narratives, while specialized land management agencies that do not work directly with the research theme were excluded. Key informants representing traditional authorities included one paramount chief (Akyeamehene; due to the demise of the paramount chief of the Nkoranza Traditional Area), the chief linguist, locally called the "Akyeamehene", who is a key member of the Nkoranza traditional council, was interviewed) of the Nkoranza traditional area, one divisional chief and four subchiefs of Nkwabeng and one paramount chief and two subchiefs of Dromankese. The chiefs herein listed are differentiated by hierarchy and scale of territorial control. While the paramount chief has oversight responsibilities over a defined traditional land area and its inhabitants, a divisional chief serves the paramountcy and has oversight responsibilities over a smaller area. Subchiefs administer much smaller land areas and are lower in hierarchy than divisional chiefs. Furthermore, one representative each of selected state agencies and NGOs were interviewed. The state agencies interviewed included the National Development Planning Commission, Ministry of Lands and Natural Resources, Ministry of Food and Agriculture (MoFA), the National House of Chiefs and the Peasant Farmer's Association of Ghana. Heads of farmer cooperatives in Dromankese and Nkwabeng were also interviewed. A total of nine representatives of traditional authorities, four representatives of the modern state, one nongovernmental organization representing smallholders and three representatives of farmer cooperatives were chosen (see Table 1).

Table 1. Table Showing Details of Interview Participants. (Source: Author’s construction based on Field Data (2020)).

Actor	Description	Number of Representatives
Traditional authority	(1) One Paramount chief (Akyeam ehene) of the Nkoranza traditional area	9
	(2) One Paramount chief of Dromankese	
	(3) Two subchiefs of Drom ankese	
	(4) One divisional chief of Nkwabeng	
	(5) Four subchiefs of Nkwabeng	
Modern state	(1) National Development Planning Commission	4
	(2) Ministry of Land and National Resources	
	(3) Ministry of Food and Agriculture	
	(4) National House of Chiefs	
Non-governmental Organizations (NGO’s)	(1) Peasant Famer’s Association of Ghana	1
Farmer Cooperatives	(1) One leader of Dromankese Farmer cooperative	3
	(2) One leader each of two Farmer Cooperatives in Nkwabeng	

4.3. Data Collection and Analysis

Data were collected between March and August 2020, firstly through face-to-face interviews, and supplemented with telephone interviews, using a semistructured interview guide. All interviews were conducted by the researcher in English or the local language (Twi). Given the historically sensitive nature of interactions between the modern state and traditional authorities, interview questions were carefully worded. All interviews were moderated in a manner that kept the major themes of the research in focus. Iterative and adaptive methodologies which included further probes and the rephrasing of questions to ensure data triangulation and information verification were adopted to reduce inconsistencies within and between narratives. Due to the unique nature of traditional norms, the researcher engaged some chiefs in follow-up telephone interviews to clarify contentions that arose in the process of data analysis. All interviews were recorded, transcribed and supplemented with notes from field notebooks. NVivo data analysis tools were employed to analyze the qualitative data with the aim of revealing trends and patterns therein [57]. NVivo analysis was conducted in two stages. First, descriptive coding was conducted to label peculiar characteristics found in the text. The descriptive codes were analyzed in a second stage using NVivo queries tools to find patterns within the data. Based on the patterns, results were organized into themes. Findings are presented to show points of convergence and divergence from theory, and to elicit new meanings. Ethically, all interviewees consented to the interview after the researcher’s explanation of the purpose of the research and assurances of confidentiality and anonymity. The researcher employed a daily reflection process to deal with personal biases that arose when collecting and interpreting data. Though chiefs and their counts of the customs surrounding customary land were a key source of information in the production of this article, the interpretations herein are the author’s, informed by literature and existing theories. The study is qualitative in nature and may be limited by communication challenges, including misinterpretations. However, the author used further probes, iterative questioning and contextual interpretation tools to reduce communication challenges and the likelihood of misinterpretation.

4.4. Document Analysis

The paper analyzes three categories of documents comprising development plans, agricultural policy documents and land policy/legislation documents to complement primary data (See Table 2).

Documents are a rich source of information, and they are advantageous in reducing the reactivity bias often associated with changes in interviewee conduct [58]. The documents were chosen using a two-stage filtering process. A simple online search of government portals, including the National Development Planning Commission, Ministry of Food and Agriculture, Ministry of Lands and Natural Resources, and supplemented with searches from academic portals and library databases, generated the first set of documents. This was followed by an exclusionary form of document selection [59] using the period of 1957–2020 (postindependence) and five key words: development, development plan, land, land tenure and agriculture. The researcher also chose to purposively add some documents that were relevant but not produced by the online searches. A total of twenty documents comprising six development plans, four coordinated programs for economic and social development, four land tenure policy documents and six agricultural policy documents were analyzed. The study follows Bowen's [58] three steps of document analysis and starts with a superficial first-pass examination involving reading and note taking for the purpose of becoming familiar with the documents. It also notes occurrences of particular words and phrases such as land, tenure and land tenure, as used in relation to agrarian change [59,60]. The first-pass analysis was followed by a thorough examination and thematic coding of document transcripts using NVivo in order to identify recurrent themes and patterns. The themes were further interpreted and presented through narratives. Data was triangulated methodologically through the use of different categories of documents and a process involving back and forth linkages between text, theory, themes and results.

Table 2. Summary of Documents. (Source: Author (2020)).

National Development Plan	Coordinated Programme	Agricultural Policy	Land Policy/Legislation
Ghana seven-year development plan 1963/64 to 1969/70	The coordinated programme for economic and social development of Ghana (2007–2015)	Medium – term agricultural development strategy	National Land Policy (1999)
Ghana Vision 2020 (the first step: 1996–2000)	The coordinated programme for economic and social development policies (2010–2016)	Accelerated Agricultural Growth and Development Strategy	Land administration programme document
Ghana poverty reduction strategy (2003–2005)	The coordinated programme for economic and social development policies (2014–2020)	Food and Agriculture Sector Development Policy I	Administration of lands Act, 1962 (Act 123)
Growth and poverty reduction strategy (2000–2009)	The coordinated programme for economic and social development policies (2017–2024)	Food and Agriculture Sector Development Policy II	Land Bill (2019)
Ghana shared growth and development agenda (2010–2013)		Medium – term agricultural Sector Investment Plan	
Ghana shared growth and development agenda II (2010–2013)		Planting for food and Jobs policy	

5. Results and Discussions

5.1. State Narratives around Land Tenure Reform

Evidence gathered from documents suggested a common state narrative that customary land tenure is detrimental to economic growth due to its nonmarket nature. While little has been done to retrofit the traditional mechanisms of land management to suit state agricultural development

objectives, it has been blamed for lapses in agricultural development, and is commonly cited as unfriendly to outsider and private sector interests. These views are captured in the Ghana Poverty Reduction Strategy, which notes that *“Pivotal to the process of change in the rural environment is the reform of traditional land administration systems. Under present conditions land as an asset is excluded from the national economy and its value denied to the farmer”* [61] (p. 40). Similar views were expressed in the Vision 2020 development plan, which recorded that *“the traditional system of land tenure, despite its beneficial effects with regard to equity, may also act as a constraint on agricultural modernization by preventing farmers from using land as collateral and discouraging long-term [private sector] investment. If not rectified, these constraints will prevent the necessary restructuring of the economy”* [62] (p. 41). These narratives are aligned with the modernization precepts of property rights recognition, featuring the characteristics of the privatization, individualization and absence of overlapping rights on land. It further reinforces a dialogue of collateralization towards creating a property rights domain similar to those described by Demsetz [10] and uncovering the latent potential of what De Soto [3] describes as “dead capital”. Though the concept of collateralization as a basis for investment has been criticized for its simplicity and disregard of the structural aspects of deprivation [41,63], it remains a dominant consideration among state actors. In doing so, the state’s narrative vilifies the customary land tenure system and assumes that its nature is inimical to agricultural transformation. It is unclear whether this position is the outcome of evidence-based analysis of traditional tenure domains or merely a mirror of mainstream concepts of property rights. As shown by Chimhowu [13], the customary tenure system has changed significantly, and is receptive to private sector interests. Nonetheless, in the case of Ghana, presumptions of its nonmarket nature continue to be used as justification that customary tenure inhibits economic growth.

Given the narrative on the inability of traditional tenure regimes to encourage private sector investment and economic growth, many governments have stressed the need for land reform *“to bring land into the national economy and its value made accessible to the farmers”* [61] (p. 86). The Ghana Poverty Reduction Strategy notes that *“legal title to landis an essential prerequisite to attracting entrepreneurship into farming and the promotion of agricultural industry. Without legal title to land there can be no transformation”* [61] (p. 40). The narratives point to an assumption of a linear process where security of tenure gained through statutory land registration processes transforms agriculture from subsistence to entrepreneurial production and serves as a catalyst for rural transformation. These perceptions of a linear relationship between tenure security, investment and economic growth have, however, been challenged as contextually dependent [12,64]. The Akyeamehene of Nkoranza traditional area equated land reform with an attempt by the state to appropriate customary land. He posited that *“We will not allow government to have any control over our lands At the regional house of chiefs, all traditional rulers agree on this issue. We will come together with all other chiefs in the country to fight against any such act”*. Thus, land reform is difficult to attain because its formalization objectives do not conform with traditional authorities’ understanding of rightful land ownership. This disconnect on the understanding of land reform was attributed to the inadequate engagement of chiefs. A member of the National House of Chiefs explained that *“chiefs were not extensively engaged and that is why land reform continues to fail engaging some members of the National House of Chiefs who are government sympathizers is not enough. The National House of Chiefs itself is a very minuscule percentage of the chieftaincy institution. It is not representative enough”* (Member of National House of Chiefs, 2020). Nonetheless, an official at the Ministry of Lands and Natural Resources argued that land reform does not suggest a total overhaul of traditional land management. Instead, it aims at working with land custodians to harmonize statutory land formalization processes with customary law.

5.2. Praxis of Vernacular Land Markets

Even though tenure reform is far from being attained in the manner envisaged by the state, the central ideology of making land a tradeable asset has gained traction among chiefs and land owners. Chiefs recounted instances where they leased lands to private actors in exchange for money. These land commodification transactions occur within vernacular land markets that are central to the

new customary tenure. Land purchasers are allowed to exert individualized and absolute ownership rights by erecting physical barriers and fences (Dromankese Cooperative Leader, 2020). The payment of monetary compensation, therefore, becomes a license for the adoption of full-scale individualization and privatization, barring any form of communal use. Traditional authorities argued that gaining chiefly support and community approval constituted good security for onward uninterrupted land use. They considered community approval as an aspect of tenure security that automatically emanates from chiefly approval. The leader of a farmers’ cooperative in Nkwabeng disagreed and requested that community approval should emanate from the people. He suggested that a previous system that involved an independent village committee managing lands in conjunction with chiefs be reinstated to reduce land contestations and abuse. Though chiefs were not opposed to statutory registration, they considered it an added layer of tenure security to be implemented upon completion of the customary processes of land allocation. They noted that statutory registration need not be immediate, but can be done long after the agreed land use has started. These thoughts are in line with findings by Platteau [12], who concluded that tenure security can be ensured by indigenous land tenure systems, regardless of statutory registration. The data revealed that the assurance of nearly incontestable tenure security depends on one and often a merger of relationships between these three primary factors: community acceptance, statutory recognition and customary approval (see Figure 3).

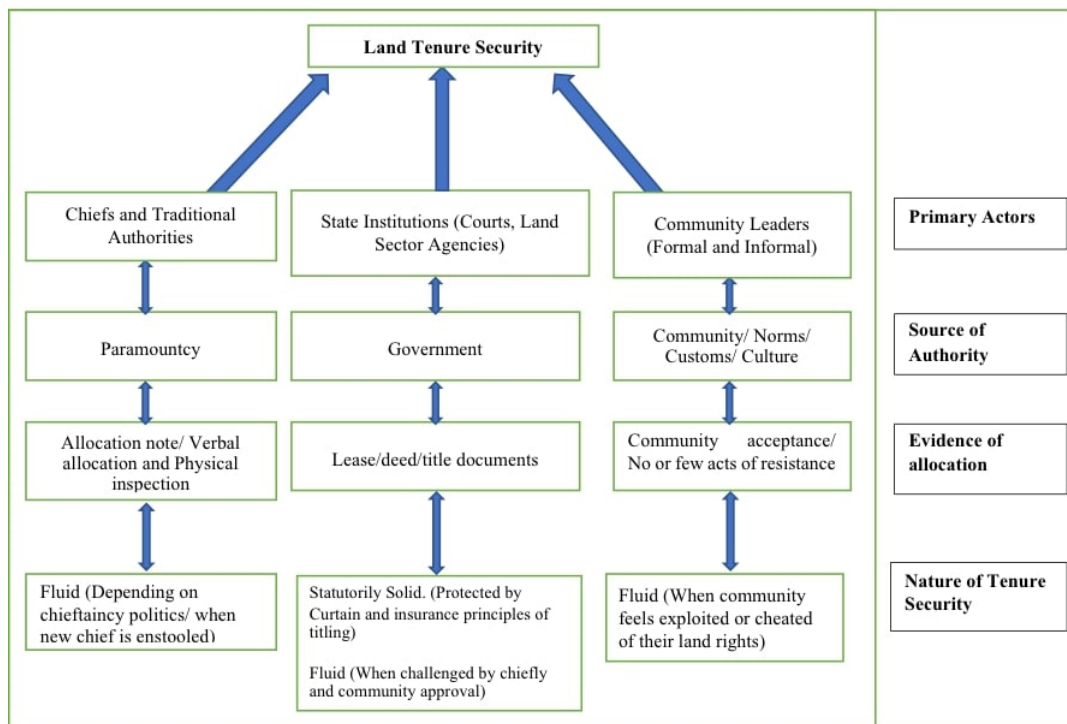


Figure 3. Three Primary Actors in Tenure Administration. Source: Author’s Construction based on Alden Wily [42], Alden Wily [65] Kasanga [46] and Field Data (2020).

The diagram shows that chiefs allocate land through physical inspection processes, supported with allocation notes. NB. An allocation note is a form of occupancy certificate granted by the stool/skin/land owners as proof of allocation of a land parcel to an individual, group or corporate entity. They often bear the totem of the allocating authority and include date of allocation, terms, land description, signature of transacting parties and, in some cases, a site plan. Chiefs noted that allocation notes developed with the help of lawyers and land surveyors was enough evidence of ownership. This development signals a move away from prior principles of verbal allocation that existed in the ideal customary tenure towards the use of professionals and documentary evidence to first depict the sale of land and as proof of ownership. Most usufructs do not require documents as proof of ownership, and only

do so when they plan to sell family land. Hence, allocation notes are almost exclusively held by non-usufructs who have agricultural investment motives. However, tenure security presently gained from chieftaincy institutions is fluid, and may be limited by the nature of local chieftaincy politics. The fluidity of tenure assurance is especially common *“when a new chief is enstooled and the chief refuses to uphold the grant agreements made by predecessors”* (Member of National House of Chiefs, 2020). This supports the view of state actors that chiefly approval does not secure land rights barring any adverse claims. Meanwhile, mirroring land tenure after statutory systems or chiefly approval or both, without community acceptance cannot catalyze any real transformation [66]. Without community acceptance, private agricultural enterprises may encounter some resistance. The paramount chief of Dromankese recounted instances where private enterprises, regardless of statutory registration and chiefly approval, made complaints about community members intentionally setting fires to farms as reprisals against loss of land. Therefore, the assurance of tenure security should not be viewed as attainable only through legal registration processes as assumed by state processes of land reform.

Though data was collected from two study communities with different land endowments, land scarcity or abundance was not considered as central to the development of a new customary tenure with documentation and professionalization characteristics. Both communities have land markets which allow for commodification. The discernible difference is the purchase price and rental value of land, with Nkwabeng showing higher land values and a more active land rental market than Dromankese. The differences in the land rental markets are explained by two factors. Firstly, Nkwabeng is closer to the district capital (Nkoranza), has a higher population and less land, encouraging competition for the resource. Secondly customary license agreements involving the free use of land by immigrants still exists in the savannah grassland areas of Dromankese, hence, most land rentals are limited to the more fertile forest areas (Paramount Chief of Dromankese, 2020).

5.3. How and Why Local Traditional Authorities Uphold Their Influence

Land tenure has been historically viewed as an untouchable subject due to its sensitivity. The historic victory of chiefs over the colonial government on the ownership of lands set in motion precedents of noninterference and evolution of the chieftaincy institution's near-absolute hold over customary land [8,27]. Given the intricate linkages between customary tenure, religion, culture and rural societal organization, land reform is difficult to implement. A policy analyst at the National Development Planning Commission acknowledged that *“government has been cautious with land reform due to its sensitive nature. It has economic, social and even religious linkages. So, we tend to deal with the soft issues around land rather than the hard issues If we are getting mangoes today, let's keep quiet and enjoy it and not try to touch the land system”*. Chiefs further supported the notion of noninterference by maintaining that the state has no legal role in land issues. A subchief in Nkwabeng asserted that *“no no . . . the government? The government has no role in land issues There is no law like that. They have to ask us if they need land”*. Arhin [67] attributed this perception of state noninterference in land tenure issues to statutory provisions in Article 270 (clause 2b) of the Constitution of the Republic of Ghana [68]. The clause finds that *“parliament shall have no power to enact any law which (b) in any way detracts or derogates from the honour and dignity of the institution of chieftaincy”*. Nonetheless, a member of the National House of Chiefs opined that the constitutional provision does not provide adequate grounds for noninterference. He explained that governments are simply not interested in dealing with the complexities of chieftaincy matters, most of which revolve around land issues.

Chiefs and traditional authorities noted that most of their traditional mandate has been lost to the state, leading to reduction in significance of their institutions. They also alleged that the state has done little with the once chiefly power of exclusively leading development. Hence, traditional authorities do not trust states enough to grant them authority over the land (Member of National House of Chiefs, 2020). For them, giving up their customary duty as custodians of the land will be the last act that ultimately renders traditional institutions redundant. The response of chiefs to dealing with the threat of losing land and redundancy has been the consolidation of their hold over customary

land. Interviews in Dromankese and Nkwabeng revealed that consolidation of chiefly power over land brought in its wake informal prescriptions that explain their near-absolute rights over all land-related issues. For example, it is common for chiefs to give ultimatums on when land purchasers should use land for the agreed purpose, or else run the risk of the same land reverting to the communal pool. Another informal prescription is that chiefs cannot be prosecuted on issues related to customary tenure. Hence, being the final arbiter on land issues and related customary interpretations, chiefs are thought to enjoy some form of diplomatic immunity. Even though this perception is not legal [69], it is rare to find civil and criminal cases on land issues brought and won against chiefs.

With power over land, chiefs continue to be recognized as local monarchs, revered by their constituents. Accordingly, governments have employed tact in dealing with land tenure issues that form the core of the mandates of traditional authorities. In Ghana, many chiefs hold considerable power in enabling political swing, hence, there exists an underlying fear of loss of political capital or gain of the same, depending on how a government treats them. This situation is compounded by the country's current operation of a governance by political manifesto and short-term plans, rather than strategic long-term plans that transcend governments. Thus, a government that attempts to tackle a contentious issue such as land tenure reform, in a manner that is viewed by chiefs as a challenge to their authority over land, risks allowing opponents to gain political capital from chiefs and their constituents. A member of the National House of Chiefs asserted that *"No government can implement land reform without chief's support. They are cautious of the political cost of a backlash from chiefs"*. Furthermore, land tenure issues have been absent in agricultural policy implementation because the agricultural policies themselves emanate from political promises rather than empirical evidence and stakeholder consultations (Executive member of the Peasant Farmer's Association of Ghana, 2020). With the promise of quick delivery and the hope of securing political leverage for reelection, land tenure issues that are viewed as being too complex or inconsequential to the fulfillment of the promised agricultural policies are ignored.

Additionally, chiefs often express the sentiments of ordinary constituents by making statements to question the logic of government's actions (Member of the National House of Chiefs, 2020). This chiefly stance in the Nkoranza traditional area has served to further consolidate their hold on the people by promoting an image of better representation than agents of the central state. With such new developments, a member of the National House of Chiefs, while citing reasons of competition for control over the people, observed the tense interactions between governments and the chieftaincy institution. He found that *"governments are in competition with chiefs over the power to control the might of the people politicians see the chiefs as their opponents [Instead of partners in development], chiefs are treated as an extension of the tourism industry, they go to festivals, meetings and decorate, that's it"*. Thus, chiefs feel ignored by the state in their role as development actors. Instead, they are viewed as present-day reminders of an earlier civilization and encouraged to perform cultural and ambassadorial functions.

In some cases, chiefs and the state have negotiated agreements for land to support agricultural production. Chiefs and land owners, while proposing the option of land negotiation, questioned the relevance of land tenure reform. The Akyeamehene of Nkoranza traditional area remarked that *"If the government needs land, they should contact us and we will negotiate with them and give them land We gave them land in 2009 for the block farming scheme So why do they [the government] have to undertake land reform before bringing investment to the rural area?"* Though, the tendency of fiduciaries to favor the transfer of lands to wealthy corporations instead of smallholders is well known [7,70], they are also open to land negotiations with state actors. Chiefs and state actors agree that the use of negotiated deals as a mechanism for creating a system of land banks and specialized agribusiness zones to support agricultural production is a viable alternative that needs to be further explored. The adoption of negotiation strategies confirms Lavers' [71] observation that the state may use its soft power and negotiation strategies to encourage traditional authorities to make land available for economic development purposes. A policy officer at the National Development Planning Commission

explained that the option of negotiating land deals with chiefs is not often explored, because of the notion that states should not be involved in private business transactions.

These explanations of the continued dominance of customary actors are not exhaustive. Elsewhere, Lawry et al. [6] found that the dominance of customary tenure is attributable to its ability to ensure tenure security and acute resource constraints among rural farmers. Meanwhile, another study by Reinikka and Svensson [72] considered it a problem of poor public capital and attributed lapses in reform in Africa to patchy implementation processes characterized by poor infrastructure and weak public services. The authors observed that reforms were not accompanied in a timely manner by complementary investments, making it difficult to encourage private investments or offer holistic alternatives to all segments of the population.

5.4. Modernity within Tradition: The Case of Customary Land Tenure

Land has historically been a tradable asset in societies adherent to customary tenure, albeit not in a manner envisaged by mainstream property rights theorists. Vernacular land markets are the mechanism for marketing customary land [37]. Growth in vernacular markets results from parallel increases in land commodification. The narratives from chiefs indicated that commodification is an enduring characteristic of the new African customary tenure in the Nkoranza traditional area. The effect of commodification has been an increase in the individualization and privatization of tenure. With increased commodification and individualization comes increased professionalization. The chiefs in the Nkoranza traditional area often use surveying services for demarcating and creating master cadastral plans of the entire land area they supervise. Purchasers are also granted documents detailing the perimeters of the land and with the signatures of transacting parties. These observations are consistent with Chimhowu's [13] conceptualization of the characteristics of the new African customary tenure.

Meanwhile, chiefs find that most usufructs do not require documents as proof of ownership, and only do so on rare occasions when they plan to sell customary land. For usufructs, land rights are still administered in accordance with principles of the ideal type customary tenure, which depends on institutional memory for land allocation and does not use professionals. While the introduction of documentation and professionals may reduce land contestations, making it attractive to purchasers, it may further embolden unscrupulous customary actors to lease land at the expense of usufructs who do not hold nor require documentary claims to assert their land use rights. Modernization within customary tenure primarily occurs in line with market-based transactions on land. The effect is the privatization of land rights, evidenced by the use of various mechanisms for asserting exclusive land use rights. Meanwhile, usufructs who are not required to pay for land use or access are incapable of making privatization and long-term exclusive land use claims. Instead, they are expected to follow community norms of making land periodically available for utilitarian use by other community members.

In Ghana, formal land titling processes are complex, expensive and out of reach for many rural communities. Currently, land sector agencies entrusted with statutory formalization and land titling responsibilities have low geographical coverage and are limited to urban areas. The effect has been a continuous dependence on the traditional mechanisms of land management in many rural communities. In the absence of mandated land sector agencies, individuals have used local government offices and courts to give a semblance of statutory formalization to the customary land allocation documents provided by chiefs. In many cases, such statutory recognition is not conclusive evidence of land ownership; instead, it paves way for other processes, such as applications for building permits. While the findings support those of Joireman [44] and show the persistence of customary tenure regardless of reform, it also shows the development of hybrid forms of customs that mirror aspects of statutory formalization. This indicates that customary tenure is in transition, and is increasingly aligned with the state interests of modernized property rights.

Land tenure reform and the manner in which the state hopes to achieve it represent an important interface between tradition and modernity in Ghana. The polarized positions evidenced by the state's

desire to reform customary tenure systems and traditional authority's resistance to such reform is indicative of contentions between the two actors. These contentions are explained by the different ways both actors view customary land. While the Ghanaian state gives higher consideration to eliciting economic gains from land, it disregards the intricate layers of cultural, political and social interests that are vital to traditional institutions. A pertinent question to ask is whether land reform in its current form should remain a central part of the development conversation in Ghana. Since land tenure is often defined by social relations, land reform and the associated formalization of property rights need to be conducted with recourse to the culture and norms that guide customary land management [45]. An absence of such considerations risks conflicts between state ambitions and local-level practices of tenure. Given the increase in documentation, professionalization, commodification and privatization, future reform policies could leverage on the advantages of the new customary tenure. A policy officer of the National Development Planning Commission gave the example of the Asantehene's—i.e., the king of the Ashanti kingdom in Ghana—customary land secretariat, and described how it has created customary formalization processes that interphase with state requirements. He suggested that such agencies that are managed by chiefs and do not present any threat to their control over land can be replicated across the country. NB. The nature of customary land secretariats herein described allows for exclusive management by chiefs. They are an extension of the chieftaincy institution and not the product of current land reform which seeks to create hybrid land secretariats that are jointly managed by chiefs and the state.

Thus, instead of advocating for replacement, reforms should consider focusing on developing the capacities of customary actors to deal with challenges of abuse, disputes and tenure insecurity. Practically, the new customary tenure can be improved with institutional appendages including land information systems which involves creating a rural cadastre that brings together local knowledge of land rights and technical expertise for due registration of rural parcels. Other institutional appendages may include community land trusts, linkages with professional bodies and dispute resolution institutions to encourage the harmonization of land rights between customary formalization and statutory registration. Nonetheless, the state may find it difficult to support such reform, since it may ultimately render some state land management agencies redundant (Member of the National House of Chiefs, 2020). A recent study by Alden Wily [73] presented new suggestions of collective or group-based land titling by states including Ghana as a mechanism for dealing with land administration challenges and securing the rights of poorer groups [74] (p. 99–100). While the idea is laudable, it may encourage the *de facto* concentration of land in the hands of local and educated elites who wield political and economic power. Collective registration safeguarded by statutory tenure further risks encouraging interference with culture and redefining the social relations of land access and ownership that native communities use to determine property rights.

6. Conclusions

This paper questions how the state conceptualizes land tenure in relation to agricultural development and the existence of synergies between traditional authorities and the state on tenure issues. The narratives from state actors and documents point to a general vilification of customary tenure as a system that is opposed to agri-based economic development and a disincentive to private sector investment. The paper challenges this narrative by showing the role that vernacular land markets play to make customary land tradeable and receptive to private investment. Currently, land tenure issues are treated as though they were separate and have no bearing on agricultural policies. The nature of engagements between chiefs and the state on land tenure issues affects state's ideology of tenure modernization and presents risks to the implementation of agricultural policies. The findings reveal motives of political expediency, noninterference, fear of redundancy, the resurgence of the chieftaincy institution and avenues for negotiated agreements as reasons for the persistence of customary tenure. The paper admonishes national governments to consider engaging chiefs and land owners in developing an agricultural land use policy that serves as the basis for agricultural policy

implementation in Ghana. This will allow the state to protect its most fertile agricultural lands from other, competing uses, encourage the development of specialized agricultural production zones and create strong back-and-forth linkages between agricultural production and land tenure. However, such agricultural land use policy should be developed based on the characteristics of customary nature in its new form, rather than assumptions of its former nature.

Theoretically, the findings show that the state's narrative on customary tenure are aligned with modernization concepts of property rights. Also, while some characteristics of the ideal type of customary tenure persist, they are often exercised in relation to usufructuary land rights. For non-usufructuary and market-based land access, the findings contradict the ideal type customary tenure and its characteristics of non-marketability and dependence on institutional memory for land allocation. Instead, it supports the existence of a new customary tenure characterized by commodification, professionalization, documentation and privatization of customary land rights. With characteristics that mirror statutory tenure security processes, there is ample room for reconsideration of the new customary tenure as a basis for land reform programs and the formulation of agricultural land use policies. This will require governments to revise the stance of vilifying customary tenure, towards considering leveraging on its existing capacities to solve developmental challenges. Nonetheless, questions on the practicalities of doing so are empirical and should be the subject of further studies. The study is limited by the scale of application of results. The findings herein are contextual and specific to the study communities, and hence, cannot be used as a basis for generalizations. Nonetheless, the results are relevant for depicting the nature of state-customary interactions and why they need to be improved to ensure that Ghana efficiently harnesses the gains of its land endowments for sustained agri-based economic development.

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