



NAVIGATING LAND RIGHTS INSTITUTIONS IN THE GREATER ACCRA REGION OF SOUTHERN GHANA: AN ACTOR NETWORK THEORY APPROACH

Erin Andrews
Under the Supervision of Dr. Deborah Sick

Thesis submitted to the Faculty of Graduate and Postdoctoral Studies in partial fulfillment of the requirements for the Masters of Arts in International Development and Globalization Studies

School of International Development and Globalization Studies

Faculty of Social Sciences, University of Ottawa
August 2017



© Erin Andrews, Ottawa, Canada, 2017

Abstract

Especially since the publication of Hernando De Soto's book *The Mystery of Capital* in 2000, there has been a great deal of scholarship on the relationship between property rights and economic growth. There is fairly broad consensus among policy makers and many academics that secure property rights have a wide range of benefits but significantly less agreement on what impedes secure property rights in developing countries, what types of rights work best and under what circumstances, or how to improve the situation in developing countries. Through a case study of land institutions and reform in the Greater Accra Region of Southern Ghana this thesis examines the complexities of overlapping and often contradictory land tenure regimes. Actor Network Theory is used to analyze the role of the various actors, including humans, organizations, and material actors, like documents. I argue that although the system of land rights institutions in Ghana is extremely complex, one of the main challenges is a relatively simple one: the materiality of the documents, and the related costs of producing, storing, managing, and maintaining them. Despite attempts by the state, with the support of the World Bank, to codify existing land relations, transaction costs have not been dramatically reduced. The result is a complicated environment of institutional pluralism, in which the documents involved in registration have taken on a life of their own, where users must recruit these material actors to support their land claims if they wish to have their rights protected. This process of producing and collecting documents to support their land claims can be costly for landholders, in terms of both time and money. In this way, the centrality of documents can be burdensome for landholders, but also creates interesting opportunities for landholders to mobilize land documents in unconventional ways in order to support their claims and seek protection for their rights to land.

Table of Contents

Abstract	1
Table of Contents	2
List of Tables and Figures	3
List of Acronyms	3
1.0 Introduction	4
2.0 Literature	7
2.1 Property Rights as Institutions	7
2.2 Actor Network Theory as a Method	13
3.0 Introduction to Land Regimes in Ghana	15
4.0 Methodology	21
4.1 State Providers – Accra	22
4.2 State Users – Accra	23
4.3 State Providers and Users – Tema	24
4.4 Customary Providers and Users	25
4.5 NGO	25
5.0 Actors	27
5.1 Providers	27
5.1.1 Lands Commission	27
5.1.2 Stools and Family Heads	30
5.1.3 CLSs Organization	32
5.2 Users	35
5.2.1 Purchase	35
5.2.2 Sale, Inheritance, or Encroachment	38
5.3 Agents	40
5.4 Material Actors	41
5.4.1 Indentures, Oaths, and Affidavits	42
5.4.2 Receipts and the Yellow Card	42
5.4.3 Publications of Intent	43
5.4.4 Plans	44
5.4.5 Injunctions, and Judgements	45
5.4.6 Registration Certificates and Allodial Titles	45
6.0 Follow the File: How Land Gets Registered	47
7.0 Dispute Resolution	52
7.1 Courts	52
7.2 Mediation by Customary Authority	56
7.3 Bureaucratic Entrepreneurs	57
7.4 Land Guards	58
8.0 Discussion	60
8.1 State and Custom	60
8.2 Getting Users to Subscribe	62
8.3 Managing Records	65
9.0 Conclusions	69
10.0 References	75
11.0 Participant Interviews	81
Appendices	82

List of Tables and Figures

Table 4.0: Breakdown of Interviewees – pg.

Table 5.1: Breakdown of Provider Participants by Job Position – pg.

Table 5.2: Breakdown of User Participants by Location – pg.

Figure 5.1.1: Lands Commission Organizational Structure – pg.

Figure 5.1.3: CLS as Link between State and Customary Law – pg.

List of Acronyms

ANT – Actor Network Theory

CSAU – Client Services Access Unit

CLS – Customary Land Secretariat

LRD – Land Registration Division

LVD – Land Valuation Division

NGO – Non-Government Organization

OASL – Office of the Administration of Stool Lands

PVLMD – Public and Vested Lands Management Division

SMD – Surveying and Mapping Division

TDC – Tema Development Corporation

1.0 Introduction

Especially since the publication of Hernando De Soto's book *The Mystery of Capital* in 2000, there has been a great deal of scholarship on the relationship between property rights and economic growth. De Soto argued that secure rights allow assets to be traded over distance, used as collateral, protected through state enforcement mechanisms, and to "unlock" the dead capital of the poor so that it can be economically productive (De Soto, 2000, p. 7). He argues that much of the untitled land in developing countries remains this way because of the prohibitive transaction costs associated with formalization, and that widespread titling projects will help circumvent these costs for the poor, and allow them access to the benefits of formalization and state enforcement of property rights (De Soto, 2000, p. 162). He sees the process of formalization as absolutely necessary; claiming, "The only real choice for governments of these nations is whether they are going to integrate [extralegal] resources into an orderly and coherent framework or continue to live in anarchy" (De Soto, 2000, p. 27).

There is fairly broad consensus among policy makers and many academics that secure property rights have a wide range of benefits, including increased agricultural productivity (Bellemare, 2013), commercial investment (Leblang, 1996), personal investment (Calderon, 2003), labour market participation (Field, 2007), feelings of empowerment (Field, 2005), and political participation (Glavin, Stokke, & Wiig, 2013), but significantly less agreement on what impedes secure property rights in developing countries, what types of rights work best and under what circumstances, or how to improve the situation (Carter & Olinto, 2003; Field, 2005; Musembi, 2007).

Property institutions in the developing world pose problems for development practitioners, largely because of the legacy of colonialism. Colonial governments reinterpreted or redefined indigenous property rights to varying degrees, invariably transforming land relations to some extent. In many cases, existing systems were deliberately ignored or eradicated by colonial rule. In the post-colonial era, new governments repurposed or restructured existing property institutions. Within this context of restructured and overlapping property regimes, technological constraints on record keeping, and the related excessive bureaucracy that De Soto criticizes so adamantly, property rights institutions in developing countries face a number of challenges that

are distinctly different from what is seen in the global North. In countries such as Ghana, where both traditional and post-colonial land tenures regimes are given legitimacy, and initiatives to formalize land rights are under way, my research aimed at understanding the procedures involved for those wishing to secure their rights to land in this region and the role of the various actors within this evolving system. In the context of overlapping property regimes in Ghana, how are rights defined, reflected and enacted by material actors, and circulated throughout the system? What costs, in terms of time and money are involved in obtaining the documents needed to secure property rights? What costs are involved for organizations involved in producing, managing, and maintaining property documents? Ultimately, are transaction costs being reduced through this new initiative?

Through a case study of land institutions and reform in the Greater Accra Region of Southern Ghana this thesis examines the complexities of overlapping and often contradictory land tenure regimes. It examines different organizations involved in property rights definition and enforcement, the documents that are produced and utilized to represent and enact social relations around land, and the barriers to effective, efficient, equitable, and accessible definition and enforcement of land rights perceived by both providers and users. This thesis seeks to provide a thick description of this system and the way it operates. My research focuses on the role of material actors, specifically documents, in the system as a whole, and how their circulation relates to the transaction costs of registration, which De Soto argues perpetuate informality (De Soto, 2000, p. 23).

Contrary to much of the institutions' literature which tends to focus on the impact of institutional forms on the sustainability of the resource in question (Agrawal, 2002), in this thesis I focus on the strategies that individuals use to pursue their interests in a context of institutional pluralism. The whole of the competing and overlapping institutions in question – the “system” or “assemblage” – is analyzed as a single network, acting as a channel for the physical and symbolic circulation of goods over space (Larkin, 2008). Actor Network Theory is used to analyze the role of the various actors, including humans; organizations; and material actors, like documents. The use of this framework reveals the importance of the documents which are created by and circulated among actors in this system in both the definition and enforcement of land rights. I argue that within the complex system of land rights institutions, recent titling initiatives in Ghana

have not significantly reduced the transaction costs of obtaining secure title to property. Material actors (documents), in fact, drive the system. The time and financial costs of obtaining documents remains significant, not to mention the related costs of producing, storing, managing, and maintaining them. I suggest that the materiality of the documents themselves is often overlooked in developed countries where most records are digitized, or at least have digital backups, but in most developing countries the problem of dealing with material documents itself can be a barrier to securing property rights.

De Soto and others have argued that the best way to establish secure property rights is to through formalization projects, especially land titling. This approach has been accepted by the World Bank, and by the Government of Ghana, and has resulted in the Land Reform Projects of the last decade. But the expected benefits from land formalization have largely not been realized because of the costs to those seeking to obtain titles, as well as the organizational time, money, and manpower required to complete the task of producing land titles for all of Ghana. Not only are these costs (time and money) large, but neither the state nor the customary authorities are willing to bear these costs entirely. Thus, costs are offloaded onto those seeking titles to their land, and thus much of the land remains untitled. Without a complete – or mostly complete – land registry, and corresponding land titles, the State and its enforcement mechanisms cannot act effectively, efficiently, or equitably. And, while much of the burden of seeking and financing land registration remains on the landholder, people's access to formal title and the associated enforcement mechanisms remains limited.

2.0 Literature

2.1 Property Rights as Institutions

The study of property and different types of property regimes is not new. There is growing literature on the characteristics and contexts of types of property, which are typically categorized into private, common, or government property regimes (Dietz, Dolsak, Ostrom, & Stern, 2002, p. 21). These institutions, which North refers to as “the rules of the game,” (1990) include not only codified rules and their mechanisms of enforcement, but also an extensive system of norms and values around the type of relationship between people and objects that we understand as “property rights” (Levine, 2005, p. 62). Following the seminal work of De Soto (1989; 2000) on the informal economy and the undocumented assets of the poor, some academics, as well as governments and development agencies, have become increasingly interested in establishing secure property rights regimes and increasing tenure security in the hopes of stimulating economic growth and alleviating poverty (Gravois, 2005; Musembi, 2007).

The recommendation that De Soto made was to conduct large scale titling projects, which would provide landholders with title deeds and update corresponding registry documents (DeSoto, 2000, p. 198-9). This aim of poverty reduction, without substantive redistribution, is part of what makes titling projects so popular with international institutions, as well as foreign and domestic interest groups who may benefit from the status quo (Bunting, 2000). This makes them an easy sell, politically speaking. Initiatives to formally recognize what people already have are generally less risky than initiatives of real redistribution of wealth or property (Bourbeau, 2001; Fay & James, 2009).

Titling projects are generally based on the notion that the state is the lowest cost enforcer of property rights, and that the provision of titles effectively extends the reach of state power (Joireman, 2011, p. 5). The objective is to provide formal recognition of the relations which are already there, in order to incorporate them into the formal sector (DeSoto, 1989, p. 184). This stance is based on a legalist approach to informality, which argues that hostilities or inefficiencies within the legal systems make it unattractive for businesses and individuals to operate within the formal sector (Chen, 2012, p. 5). Inclusion in the formal sector is expected to bring a range of benefits, including access to enforcement mechanisms like the police apparatus, access to conflict resolution mechanisms like courts, and increased tenure security from the

threat of these institutions, even when they are not actually invoked (Joireman, 2011). In most of the cases in the literature, attempts to implement De Soto's policy prescriptions have failed to improve conditions of poverty in any meaningful way. The mechanism for poverty reduction that De Soto focused on – that the poor might use their titled land as collateral for loans with which to start small businesses – has proven particularly ineffective. Studies performed in Kenya, Uganda, and Tanzania all found that after formal titling projects, very small percentages of titles had been used to secure loans (Musembi, 2007, p. 1466). Government studies on titling projects in Peru also suggest that there is not a significant relationship between awarded land titles and access to credit, and that any meaningful relationship between the two was only present in Government provided loans, not from the private banks to whom these titles were meant to represent potential collateral (Gravois, 2005). Similar cases have been noted in Turkey, Mexico, South Africa, Columbia, and other parts of Latin America; it has been concluded that “property titles seem to have brought neither a healthy housing market nor a regular supply of formal credit.” (Gravois, 2005). In situations where the value of the collateral is low, or low in relation to the size of loan requested, and the “transaction costs associated with collateral processing, foreclosure and resale” are high, the presence of a formal title may make little difference to its owner's access to credit (Woodruff, 2001, p. 1219; Field & Torero, 2008, p. 1). This is usually the case when the assets that are meant to be “unlocked” are the small parcels of land held by the poor for residence or small enterprises; they are usually more trouble than they are worth to the banks to liquidate, and therefore ineffective as collateral.

But access to credit is not the only boon associated with titling projects. For example, Erica Field has done extensive research on the impacts of titling programs in urban Peru. A survey of 2,750 households identified a 68% increase in home renovation within four years of receiving a title (Field, 2005, p. 282). Many residents of this area relied on household labour to protect their land, literally having family members stand guard to ensure that no one trespassed. After households in the area were assigned formal titles, Field found that labour market participation increased as a result of the increased tenure security (Field, 2007). Carter and Olinto's study in Paraguay revealed more moderate, but still positive, results from land titling projects, as larger farmers (with holdings greater than 15 hectares) demonstrated investment increases, and smaller farmers had a change in quality, if not quantity of investments (Carter & Olinto, 2003). This study found that while larger farmers would benefit more from land titling,

the shifts in investment from movable to attached capital in smaller farms reflected an increase in tenure security, and they argued that these could have production benefits in the long run (Carter & Olinto, 2003, p. 184). Additionally, in regions of the Brazilian Amazon where pre-existing institutions for land rights definitions and enforcement were absent, titling projects were found to both increase productivity and reduce the speed of deforestation (Alston, Libecap, & Schneider, 1996).

A key aim of titling projects is to reduce the transaction costs of formalization, which De Soto argues are a key contributor to the high levels of informality in the developing world (De Soto, 2000, p. 18). Titling projects aim to extend the benefits associated with legality, as discussed above, to landholders who would otherwise be excluded by the high costs of formalization. Indeed, a major motivation for the World Bank's Land Administration Project (LAP) was to reduce the time and money costs for landholders seeking land titles (The World Bank, 2011, p. viii). The goal is to make it easy and inexpensive enough for landholders to register their land, that a critical mass will choose to do so, and the national registry in Ghana can be completed. The effectiveness of this strategy will be discussed in section 8.

An argument against titling projects in the literature stems from the widespread disjuncture between Western institutions imposed during the colonial era (namely, reduction to private or commons land regimes and structures of centralized land administration) and indigenous land tenure regimes across the world. In many cases, conflict and confusion arise because customary relationships around land involve bundles of rights held by different types of users which are not easily translated into strictly private, common or government "ownership" (Morphy, 2008). For instance, as Meinzen-Dick and Mwangi explain:

...a farmer may have the right to plant a crop on a piece of land, but anyone can cross that land to get water; pastoralists may have the right to graze their herds on that land in the fallow season; family elders may have the right to allocate or reallocate that land; and the state may claim ultimate "ownership" of the resource. (Meinzen-Dick & Mwangi, 2009, p. 36).

In cases like these, the assignment of individual titles may result in the enactment of new rights, as title deeds embody and circulate bundles of rights through enforcement institutions. Marginalized groups including ethnic minorities and women may find their customary use rights

restricted when individual titles are distributed (Joireman, 2011; Musembi, 2007). The attempted translation of alternative land relations into forms which are legible to a Western style legal system can misrepresent and effectively transform land relations (Scott, 1998).

Furthermore, titling projects have also been criticized for exacerbating existing inequalities, rather than empowering poor landholders. Titling efforts may result in the ultimate dispossession of the poor from the very assets that they were meant to make economically productive. For instance, attempts to provide poor slum dwellers in Cambodia with formal title for their land were thwarted by the time and money costs, which were too high for the poor to follow through on getting titles. Furthermore, local elites knew about the upcoming titling project, through social connections in the government, and predicted that the land to be titled – in the downtown core – would increase in value after formalization. As a result, the program actually provided the local elites with an opportunity to purchase the land from the poor at going rates on the informal market, before the poor could acquire legal titles (Gravois, 2005). It was the elites, then, who participated in and benefitted from the titling projects, as the value of the properties more than trebled upon formalization. In this case the poor were dispossessed of their land before they could make use of the value added by formal title; and perhaps worst of all, they were forced out of their homes, which were located in the city center, close to important products and services. As entire slums were appropriated, bulldozed, and gentrified, the poor were driven out, forced to find other accommodations, and incur the costs of transportation associated with their displacement away from the city center (Gravois, 2005).

The provision of title may also lead to a market-led dispossession, as those holding registered titles may be required to pay property taxes or other related fees (Akram-Lodhi, 2007). By establishing a new formal relationship with the state, where rents or taxes must be paid in cash rather than in kind, the property title may be more effective as a mechanism for monetization of rural economies, than for poverty reduction (Selwyn, 2011). Titling projects may extend the reach of market imperatives and create “conditions that make possession dependent on success in the market, which for many people ultimately leads to dispossession” (Wood, 2009, p. 4). Farmers who are already better off, and hold larger parcels of land, may benefit greatly from titling projects, and may even use their newfound credit to purchase land from their less fortunate neighbours (Akram-Lodhi, 2007). Titling projects may therefore be seen as

successful, as De Soto argued, in expanding markets for land and facilitating long-distance trade. However, relatively high transaction costs in terms of both time and money, as well as the nature of market forces may make this expansion detrimental to the poor, and may lead to their ultimate dispossession.

Much of the contemporary literature on property institutions focuses on common property, or the effects of different types of property regimes on common-pool resources. While it was once believed that common property was a relic of the past, destined to be privatized as societies modernized, most scholars now recognize the continued relevance of common property institutions (Agrawal, 2002; Dietz et al., 2002). Contrary to Hardin's (1968) infamous argument, many cases have been found in which common property or co-management are more successful in managing common-pool resources than simple private or state ownership (See Sick, 2008 for summary). Furthermore, the narrative of the "tragedy of the commons," the infamous thought experiment of Thomas Hardin (1968) arguing that common property regimes necessarily lead to overexploitation and depletion of the common held resources, and therefore must be privatized or nationalized, neglects inherent problems in private property regimes. These may be problematic in terms of inheritance, as plots of land must be subdivided among heirs to a point where they are no longer useful, or potential heirs must be somehow excluded from inheritance rights (Bromley, 1992). Most scholars now recognize that there are strengths and weaknesses to different types of property regimes, depending on their contexts.

The mechanisms for definition and enforcement, not just the rules surrounding property and use rights, are also important to consider. For example, in Joireman's study of property rights institutions in Ghana, Uganda, and Kenya, property regimes and mechanisms for enforcement were evaluated. This was done based on their predictability, accessibility, equity, effectiveness, and restraint in comparison with the state (2011, p. 15). Challenging the belief that "non-state institutions exist until the state replaces them," she argued that customary law in these contexts is generally more predictable and accessible than the state, though not necessarily more equitable, since the enforcement of customary law by non-state actors tends to favour community insiders over migrants or ethnic minorities, and men over women (Joireman, 2011, pp. 15, 46). She ultimately concludes that even though state management of property is preferable at a macro level, because of its superior efficiency and effectiveness, other factors including restraint,

equity, and accessibility may be more important on a micro level. Her findings also support the claim that, where the state is unable or unwilling to enforce property rights, alternative institutions will emerge, and persist (Ellickson, 1991; Greif, 2006).

While there has been considerable research comparing types of property regimes, in particular their sustainability (see e.g. Agrawal, 2002; Bromley, 1992; Sick, 2008), little has been done to examine how individuals maneuver their way through overlapping and often conflicting property regimes. In this thesis, I focus on the forms of the different institutions involved, namely the state and customary law, in order to better understand the processes involved in securing land titles and the strategies that various “users” employ to pursue their interests. Assigning titles is meant to allow landholders access to the enforcement mechanisms discussed above by allowing their land relations to be represented and circulated among actors in the system (i.e. to the courts, to the police, to the banks, to potential buyers). It is ultimately this circulation of material titles as representation of users’ land rights which confers the benefits associated with formalization. In the context of overlapping property regimes in Ghana, it is essential to understand the way that rights are defined, reflected and enacted by material actors, and circulated throughout the system, in order to better understand the processes involved in securing and enforcing property rights and the costs involved for both property holders and organizations alike

This framing allows the different organizational and individual actors involved to be analyzed as part of a (somewhat dysfunctional) whole, which only comes into being when it is enacted by its component parts. This approach is based on Matthew Hull’s work with documents and their function in producing not only their referents, but also the subjects which produce them (2012a, 2012b, p. 147). In his analysis of the state, he explains, “Rather than trying to define an institution and a terrain of operations, I describe the heterogeneous relations that come into being through the use and circulation of the artifacts that mediate almost all bureaucratic activities” (Hull, 2012b, p. 27). In similar fashion, the object of my study is an assemblage of institutions (as in rules and norms of behaviour), organizations which define and enforce these rules, individuals who compose these organizations or enact these institutions through habits and behaviours, and the documents which circulate within and between these organizations and individuals, and whose circulation “creates forms of sociality, structures of relations among

people that often differ from organizational relations and draw people outside the bureaucracy into bureaucratic practices” (Hull, 2012b, p. 23). In this way, the system under investigation is more than the rules of the game, it is a complex social system (Sick 2008) which, when enacted, allows the transfer and circulation of rights to land, as represented and produced by physical titles, among users of the system.

2.2 Actor Network Theory (ANT) as a Method

ANT is an approach to complex networks that rejects a priori distinctions between humans and non-humans, focusing on the functions that each actor performs in order to better understand the distribution of tasks and the relationships between heterogeneous elements. ANT is often used to analyze sociotechnical systems like transportation systems and physical infrastructure (Akrich, 1992; Latour, 1996), but there is a scarcity of literature utilizing ANT in the realm of international development. This may be partly due to the aggressive rejection of assumptions of structure adopted by ANT, as in Latour’s analysis of the death of ARAMIS, which initially seems to be at odds with the historical structuralism of so much development theory (1996). ANT turns out to be quite compatible with development theory, however, when one considers the ways in which structured relations may be enacted and reproduced within a network – that in a Foucauldian manner, structures do not exist as things to be examined, but that they are enacted continuously by actors on all levels of interaction, as relations of power “exist only in action” (Foucault, 1980, p. 90).

This approach was helpful because of the variety of institutions, individuals, and technologies which can perform tasks related to the definition and enforcement of property rights. For example, a fence, a private guard, a police officer, a title deed, a legal statute, a Chief’s decree, or an informal sanction may all enforce an individual’s right to exclude others from accessing their land. Each of these would perform the task in different ways, and may be more accessible, or preferable, for different types of users in different circumstances. In my work, I use this approach to highlight the agency of the documents which mediate and enact property relations. A number of documents are produced by various branches of the state and customary authority to represent existing or intended relationships, and which are used to both define and enforce land relations. One example is the title deed or “certificate” which is issued by the Lands Commission upon successful completion of land registration. The title deed not

only represents a piece of land and its owners, but it creates the subject of “land owner” – a status which includes certain entitlements and constructs specific relationships with these institutions and other actors.

In this way, it is the document that defines the relationship that an individual may have with the police or court system in the event of conflict over land rights. The document both represents and constitutes the individual’s rights to exclusion and access to state institutions of enforcement, as these institutions could not be invoked without the title. The document is not just a piece of paper, it is in fact “constitutive of bureaucratic rules, ideologies, knowledge, practices, subjectivities, objects, outcomes, and even the organizations themselves” (Hull, 2012, p. 253). Thus, the physical provision of a title is a key element in the extension of formality. Approaching land rights institutions from an ANT perspective therefore highlights the institutional rules and human relationships that are mediated by documents as the World Bank and the State attempt to extend formal title to all landholders in Ghana, and as landholders seek protection for their rights. In this context, the documents take on a life of their own as they are circulated through the overlapping institutions of the state, customary authority, and informal agreements between landholders and claimants. The question remains: what are the costs of obtaining and moving those documents throughout the system? Are such costs easily borne by those seeking to secure their rights?

3.0 Introduction to Land Regimes in Ghana

Ghana is a middle-income country in West Africa whose official language is English. The most widely spoken language in Ghana is Asante, which has a number of dialects, and is the mother tongue of the most prevalent ethnic group, the Akan. Twi, a dialect of Asante, is the most widely spoken language in the capital city of Accra, which is home to roughly 2.2 million people. The country has ten administrative regions, and each of these regions is further divided into districts. Every district has a local governing body called the District Assembly which acts as a bridge between the state and customary governance structures. The District Assembly is a non-partisan group of representatives from each electoral area meant to work in tandem with local Chiefs (Ubink & Quan, 2008). Two thirds of the assemblypersons are democratically elected and one third are appointed by the state. They are not generally involved in land issues, so they were largely excluded from this research, but the District Assembly represents a point of intersection for the state and customary authority which is worthy of note.

The country is divided based on Chieftaincy structures into the North (composed of the Northern, Upper East, and Upper West regions) and the South (comprising the remaining seven administrative regions). Inheritance and succession is patrilineal in the North and matrilineal in the South, but property is still typically inherited by male relatives through the female line, which is to say property is passed from a man to his sister's sons (Gedzi, 2012). Traditional governance across Ghana is monarchical and hierarchical. The primogeniture that exists in many Western monarchies does not apply; no man is "born" a Chief. In the South, candidates for the Chieftaincy are nominated by the highest ranking woman in the political system: the Queen Mother, and then elected and officially installed by the council of elders (Addo-Fening, 2012).

In the South, different clan groups rule each village, and the Chief is tied to his village of origin. In the South, it is technically possible for women to become Chiefs, but this is very rare, and not permitted at all in the North (Addo-Fening, 2008). In the North, the Chieftaincy structure is more centralized, with each of the village Chiefs hailing from the same royal family, and having opportunities for rotation or upward mobility (Odotei & Awedobu, 2006). The Northern and Southern Chieftaincy institutions are separate, as they have different cultural histories and origins, but they have been unified at the national level. There is a National House of Chiefs consisting of five representatives from each of the ten Regional Houses of Chiefs. Each Regional

House of Chiefs consists of the Paramount Chiefs from that region, as well as their Traditional Councils (Chieftaincy, Governance and Development Project, 2016). The Paramount Chiefs rule over Divisional Chiefs and their Divisional Councils, as well as Sub-Divisional Chiefs and “Adikrofo” or Village Chiefs, who typically also have Councils of Elders (Addo-Fening, 2012; Chieftaincy, Governance and Development Project, 2016).

Unlike in the North, Southern Ghana has a number of royal families from which the Chiefs might hail. The Greater Accra Region encompasses a number of kingdoms or Chieftaincies. Most of these are ethnically Ga, but each has their own royal family from which the Chief would be elected. These families are reckoned to be smaller than “clans,” but still quite large, such that each royal family might be divided into several branches, or “gates.” Each of these gates would have an internally elected “Head,” or ruler, who represents the gate on the Chief’s council. Ghana’s colonial legacy of indirect rule afforded the survival of some indigenous institutions in parallel with colonial constructions, up to and after independence from Britain in 1957 (Agyeman-Duah, 2008). Prior to European contact, land relations among the Akan, who occupied most of Southern Ghana, reflected a distribution of use rights based on membership to social groups, rather than property per se (Addo-Fening, 2012). In this time, customary land relations in Southern Ghana reflected a combination of common and private holdings. Villages would have areas of communal pastoral land, as well as agricultural land with private usufruct rights distributed and enforced by the Chief (Ubink & Quan, 2008, p. 203). Among the Akan, land is stewarded by the Chiefs, and access was traditionally distributed by the Chief based on membership in the community, in royal or noble families, or payment to the Chief (in the case of migrants to the community). While my research was conducted in Ga land, rather than Akan land, Akan migrants constitute the majority of the population of Accra. Furthermore, even families who have lived in Accra for several generations are considered to be “migrants.” For example, my research assistant told me that she was “from the North,” even though she, and her parents, were born in Accra. This is because she belongs to an ethnic group that hails from and has land in the North, and some of her family still lives there.

The colonial period complicated land matters, as The Gold Coast (as Ghana was then called) encompassed a number of discrete kingdoms and ethnic groups, many of whom had ongoing border disputes. In the late nineteenth century, “attempts to vest lands in the colonial

state” were successfully resisted by the local elites (Amanor, 2010, p. 105). Instead, Paramount Chiefs became the only group with the legal authority to transact land, making it lucrative for local elites to cooperate with colonial rule, as is typical of British indirect rule. It is not clear to what extent this codification of Chiefly stewardship transformed customary land relations (Amanor, 2010, p. 121; Joireman, 2011, p. 29), however most Ghanaians seem to consider this arrangement, and its post-independence legacy, to be “traditional.” Nonetheless, scholars have argued that this awarding of allodial title to the Paramount Chiefs led to elite capture and alienation of common lands in some cases, and ongoing contention about the legitimacy of land sales (Amanor, 2010; Anaafo, 2014; Boone & Duku, 2012).

Today, jurisdiction over land administration is constitutionally vested in the agents of customary law. Under this authority, lands are not “owned” so much as stewarded, as the lands are considered to belong to all members of the community: past, present, and future (Agyeman-Duah, 2008; Shaw, 2013). In most of Ghana, the agents of customary law are the Chiefs, supported by their councils. In some areas of Southern Ghana – including the Ga Kingdoms on which Accra is built – royal families may also have customary lands vested in them. Lands that are vested in the Chief are referred to as “Stool Lands,” named after the customary seat of the Chief’s rule (like the “throne” in Western parlance). Customary lands vested in royal families are simply called “Family Lands,” and the “Family Head,” who is elected internally, has final authority on its transactions. Portions of Family Lands may be portioned off for other members of the Family (at the behest of the Family Head), for their own use, or so that the profits generated from leasing this land accrues to other members of the family. Approval from the Family Head is still needed for the creation of a lease.

Additionally, in Ga tradition it is not the Chief himself who makes decisions on land matters, but the council of elders. This council is made up of respected members of the royal family, including the Heads of each of the gates, all of whom would be potential candidates for Chieftaincy. While some lands have been sold (mostly in the colonial era) to foreign or domestic migrants who now hold individual titles, many indigenes argue that, regardless of state acts, the Chief or the council may not alienate land which belongs to the community – indeed, alienation of ancestral land is traditionally acknowledged grounds for destoolment (i.e. impeachment) in the South (Addo-Fening, 2008; Boone & Duku, 2012).

In some cases, this conflict was avoided (or at least the Chiefs have circumvented criticism) through leases or sharecropping arrangements, rather than outright sales – such that control might return to the community for the next generation. However, these too have been contentious as the terms of these leases, and their difference from outright sales, have not always been well recorded (Anafo, 2014; Schoneveld, 2014). Sharecropping arrangements between individuals with customary landholdings and those outside the ethnic community were common through the colonial and post-independence eras, and have also been used to disguise land sales, especially in regions where cocoa farming was prevalent (Amanor, 2010; Boone & Duku, 2012). Even in cases where leases were intended and understood by both parties in a transaction, complications may arise at the end of the lease period if the land has been developed by the leaseholder. This issue continues today, as leases to Ghanaians may last as long as 99 years. When the lease comes up for renewal, conflict may arise as generations of tenants have built homes or businesses, investing in lands to which their access must be renegotiated.

It is generally not possible to truly sell or purchase land in Ghana, today. Legally, all lands are either held under allodial title by a customary authority, owned by the state, or jointly owned by the state and the customary authority (Appiah, 2011). These lands can be leased by Ghanaians for up to 99 years, and by aliens for up to 50 years; however, these transactions are still referred to by most people as “sales.” Although the leaseholder forfeits claims to the land at the end of the lease, the extent of their claims to the structures built on the land, or returns to other investments in it, remain controversial. For this reason, and that of recent increases in agricultural investment in Ghana, there have been increasing levels of stress put on this customary structure of land stewardship. If leaseholders retain claims to the land after the termination of the lease, the practical difference between sales and leases becomes unclear. This has led some to question the enforceability of common ownership in the face of Chieftaincy corruption and multinational corporation strong-arming (Schoneveld, 2014; Shaw, 2013).

Furthermore, as land in Ghana becomes increasingly scarce, especially in peri-urban areas, there is growing conflict between the personal interests of the Chiefs or Family Heads in monetary revenues from the lease or sale of customary lands, and the fiduciary duty of the Chiefs towards the people over whom they rule, many of whom are farmers (Ubink & Quan, 2008, p. 199). Although the Greater Accra Region, where I conducted my research, is largely urban and

continues to urbanize, farmland is a popular form of social security. Participating in subsistence agriculture on land made available by one's indigenous community is a safety-net for wage labourers – especially those who migrate to urban centers. For the Ga people, on whose indigenous land most of Accra is built, this system is complicated by the prevalence of domestic migrants. While the capital city and its environs are built primarily on Ga land, the majority of their inhabitants are Akans. In this case, the actual community of residents is incongruent with the imagined community of the land's indigenes to whom the faithful stewardship of the land is owed. The influx of migrants drives up the demand for land further, as they require places to reside and conduct business. In light of these economic and cultural shifts, many scholars call for customary land laws to be abandoned in favour of modernization and rationalization (Aryeetey & Udry, 2010; Blocher, 2006; Domeher, 2012).

In recent years, the World Bank has attempted to reconcile the economic incentive to modernize and privatize land with the cultural and political incentives to preserve customary law. They have done this by implementing a complex multi-stage Land Administration Project (LAP) in Ghana. Initiated in 2003, and currently in its second phase, the LAP and LAP-2 seek to rationalize customary land relations in Ghana and increase the efficiency of state land offices (The World Bank, 2011). One mechanism for this has been the establishment of Customary Land Secretariats (CLSs). Before the LAP, individual Chieftaincies and Families managed their own affairs with regards to land, and there was no official channel for cooperation between customary authorities and the state on land matters at a regional or a local level. By providing training and some (limited) funding for customary authorities to establish record keeping offices, LAP aimed to facilitate cooperation between the state and customary authority on land matters, in a similar fashion to the District Assemblies for legislative matters. The intended function of a CLS was essentially to record the knowledge of customary authorities about allodial boundaries, and past and present land holdings in a way that is compatible with state land bureaucracies.

CLSs straddle the space between customary authority and the state. In the first phase of the LAP, they were created from a “supply-led” approach, meaning that the state identified customary authorities whose poor records hindered the registration of lands leased from their areas. These customary authorities were offered some financial support and training to set up an office which would update and manage records of both allodial titles and indentures issued for

individual holdings. The World Bank's monitoring and evaluation of the LAP led them to adopt a "demand-led" approach to CLS creation in the second phase of the project. Starting in 2010, customary authorities were invited to apply for funding and training to start a CLS, and would only be awarded this support if they achieved certain objectives, including securing office space and hiring their own staff. As will be discussed in section five, this has been implemented with varying levels of success across the Greater Accra Region, and Ghana more broadly.

In addition to the complex relationships between the state and customary land regimes, non-government actors have become involved in the enforcement of property rights (Joireman, 2011). Some of these activities complement statutory or customary law, and some of them occur in opposition to them. Literature on the state and development suggests that this encroachment of alternative institutions is especially prevalent in peripheral areas where state power is comparatively weak (Boone, 2003; Herbst, 2000). Furthermore, individuals within the state's own institutions may act outside of their official jurisdiction as "entrepreneurial bureaucrats" to engage in the informal definition and enforcement of property rights (Joireman, 2011, p. 55). That is, in situations where jurisdiction is unclear, or the official authorities are not easily accessible, agents of the state may use the power and influence accrued by affiliation with the state to adjudicate land disputes that are legally outside their jurisdiction.

4.0 Methodology

In order to understand the way that different actors in Ghana try to define and enforce the rules around land, and how these overlapping and competing systems impact people's experiences of trying to use the system (i.e. eventually be recognized as legitimate rights' holders, and have those rights enforced as desired). Starting on September 12th and finishing on November 9th of 2016, I conducted a two-month field study of the various human and non-human components of the property systems in Southern Ghana. The study was performed in the Greater Accra Region of Ghana, with focus on peri-urban areas, where recent urban sprawl has increased demand for residential and commercial land. This region was chosen for its peri-urban characteristics, as well as its accessibility from my intended place of residence in the Adenta district of Greater Accra.

Actors were grouped into "providers" and "users" based on the relative positions of participants in the network. Pseudonyms are used for all participants, as well as the NGO, whose small size would otherwise jeopardize participants' anonymity.

Interviewees from this group of providers included representatives from the state, customary authority, and non-government arbitrators, who try to define and enforce rules about land relations. The state bureaucracy concerned with land rights in Accra is called the Lands Commission, and has two locations in the Greater Accra Region – one in the city of Accra and one in the neighboring city of Tema. Customary authorities included representatives of the ruling (and land-owning) families in the region, as well as workers at the two CLSs that I was able to visit. Users were mostly individuals, but also representatives of businesses, trying to make transactions or obtain formal title for their land (i.e. registration, sale, purchase, inheritance, use as collateral, etc.) and navigate overlapping property regimes. I also interviewed the Director from a NGO working in land rights in Ghana, which I will refer to as LandDev. Table 4.0 illustrates the number of participants recruited from each location and their relative position in the network.

Table 4.0: Breakdown of Interviewees

	State – Accra	State – Tema	Customary	NGO	Total
Users	10	3	3	0	16
Providers	9	5	4	1	19
Total	19	8	7	1	35

Over the course of my investigation, I interviewed 16 participants who could be classified as users. As previously discussed, this means individuals who are not involved in the definition and enforcement of property rights, but rather rights claimants. There was far more activity at the Lands Commission in Accra than at Tema, or at the CLSs, hence the greater representation of users from that location. Due to the low traffic, both CLSs were analyzed together, to represent the customary authority of the area.

4.1 State Providers – Accra

In the first phase of the field study, I arrived in Ghana and recruited a research assistant who accompanied me on my site visits and interviews, translated when necessary, aided in scheduling interviews, and provided invaluable insights based on her own past experiences with land registration in Ghana. I then began making contact with potential participants from the provider side of the system. I began with the main branch of the state involved in land rights in Ghana: The Lands Commission in Accra. I was able to set up interviews with representatives from each of the four branches of the Lands Commission in Accra: The Public and Vested Lands Management Division (PVLMD), the Land Registration Division, the Land Valuation Division, and the Surveying and Mapping Division, as well as from the Client Services Access Unit (CSAU) in Accra in order to better understand how each office works on the ground, and the nature of the paper infrastructure of land transactions. Through these interviews, aimed to assess the ways in which the bureaucracies function, and the interests of the individuals within them, I asked about the types of documents that are used and produced in each case, and the functions that those documents perform. Interviews were scheduled for a mutually convenient time, and although I left the choice of location up to the participants, all chose to be interviewed in their

offices. Here I interviewed nine representatives. The interviews were semi-structured, and lasted approximately one hour each.

4.2 State Users - Accra

During this phase, I asked permission to stand in the Lands Commission court yard, outside the CSAU, to recruit participants from the user side. Participants were selected using a combination of systematic and judgmental sampling strategy. I began recruiting when the CSAU opened for business at 8am, and spoke to every fifth person who left the CSAU and invited them to participate in my research. I continued this strategy until I reached saturation, after five days. I recruited 10 participants, but was only able to complete interviews with eight, due to scheduling difficulties. I was, however, able to conduct initial interviews with all 10 participants.

During this first meeting, I asked whether they were pursuing lands services for themselves or for someone else, as might be the case with a lawyer or other representative. In the latter case, I asked if they would be willing to pass on my contact information to the person they were representing to see if they would be willing to be interviewed, though this never resulted in an interview. Some of the lawyers, land “agents,” and employees from estate management companies did, however, agree to speak with me. After assuring them that participation is strictly voluntary, I provided my contact information in order to schedule an interview at a mutually convenient time and place.

Many preferred to conduct the interview immediately on some benches in the Lands Commission Courtyard. In these cases, I was not able to keep track of people leaving while I was conducting interviews, so my sampling method was impeded. I was able to recruit individuals pursuing the clarification of a variety of forms of property rights: those with individual claims to land, those with collective claims, and those acting on behalf of a company or corporation, rather than for their own use. For example, I interviewed one person who worked for a group who had founded a university. He was trying to purchase and register a piece of land on which to build the campus.

I conducted interviews aiming to better understand the interests and experiences of users, and the strategies that they use to navigate conflicting, complementary, and overlapping property regimes. Most who did not wish to be interviewed at the Lands Commission when we first met

preferred that I come to their places of work to interview them in their offices. A few asked me to meet them in public spaces near their homes or work. In the interviews, I asked about the nature of their business at the property office in question, what type of property is involved; what their interest is in clarifying rights (personal, collective, business); where the property is located; how long they have been engaged in pursuing their interests through this office, if they have attempted other channels, and if so how long they pursued those channels. On initial contact, I attempted to gauge the nature of the problem being pursued and how long the participants have been engaged in the process through a short informal interview. A second, more in-depth semi-structured interview, lasting approximately one hour, was conducted with seven participants who seemed to best represent the range of interests that I was interested in studying. This interview was used to probe the challenges and roadblocks faced by participants, as well as the strategies that they used to navigate the system of land rights. I also asked about the documents and evidence that they have used, plan to use, or have been advised to use to support their claims and pursue their interests.

Current users were also asked if they would allow me to accompany them through the next stage of their process – i.e. the next time they go to speak to the Chief, NGO, or Land Administration Officer. Unfortunately, I was ultimately unable to arrange this due to low participation. Only two participants were willing to have me accompany them, but one did not intend to return to the offices until after I left the country, and one forgot to contact me to let me know that they were going, and succeeded in completing their errand.

4.3 State Providers and Users – Tema

In this stage, I visited the Lands Commission offices at the Tema Development Corporation (TDC). In the Greater Accra Region, most of the functions of the Lands Commission are centralized at the Accra Office. The Tema office, located in the satellite city of Tema, still in the Greater Accra Region, predates the creation of the National Lands Commission. It was once a separate titling office, but has now become a district outpost of the National Lands Commission. At the time of my research, no other districts had Lands Commission Offices, so all users outside the Tema region would have to go to the office in Accra. One of the officers at Tema told me that more district offices may be established in the future to help reduce congestion at the Accra office (Ebo T, 2016), while another told me that the Tema office would eventually be phased out

in favour of greater centralization (Amma B, 2016). I conducted interviews with representatives from each of the bodies mentioned above, for a total of five participants.

I also began recruiting users by standing in the TDC courtyard and asking every third person if they would be willing to participate. This was reduced from every fifth person in Accra due to the smaller size of the offices and resulting lower numbers of clients visiting the offices. I was able to recruit and interview only three users. Similar to those recruited in Accra, two of these participants wished to be interviewed at once, and the other preferred that I come to their office to conduct the interview.

4.4 Customary Providers and Users – Accra & Tema

In the fourth phase, I visited the Customary Land Secretariats. I made an effort to contact the CLSs located at Kwabenya, Haacho, and Gbawe, Jamestown, and La; however, I was only able to visit two, which shall be referred to as Red and Blue to protect the identities of their staff and clients. I was able to interview a representative from each of these offices, as well as at least one user from each; unlike the Lands Commission offices, the CLSs did not have much foot traffic. The offices were very small, with only one or two workers, plus a receptionist. At Red, I conducted one interview, with two representatives participating, and one with the council of elders for the landowning family in Red after their meeting – however, they did not allow me to record that interview or take notes, and most of it was conducted in Ga, translated by one of the participants, so much of the information was lost. At Blue, I conducted one interview with the director and one with a member of the council of elders for the family represented there. All of these participants wished to be interviewed at the CLS itself.

I approached every user on the days that I visited the CLSs, since the maximum I saw on any day was three. I was able to recruit and interview two users from Red and one from Blue. The users that I recruited all wished to be interviewed at the CLS as well.

4.5 NGO

During this final phase, I was also able to conduct an interview with a representative from a land development NGO, which I will call LandDev. LandDev works in all regions of Ghana, but has its head office in Accra. They were selected through purposive sampling because of their focus on facilitating registration and otherwise securing land rights for disadvantaged groups, as

well as their convenient location. I had initially hoped to interview two or three representatives in the first few weeks of my fieldwork, but the employees' busy schedules made this impossible. Ultimately, I was only able to interview the NGO's director on my final day in Ghana. I asked about the role of LandDev and other NGOs or civil service organizations in land rights, and the challenges and opportunities presented by the system in place. This interview was conducted in the participant's office.

5.0 Actors

5.1 Providers

This section will introduce the key actors involved in providing services related to land rights in Ghana. These actors may also be conceptualized as the duty bearers with regards to land rights, or those who provide the services of land administration.

Table 5.1: Breakdown of Provider Participants by Job Position

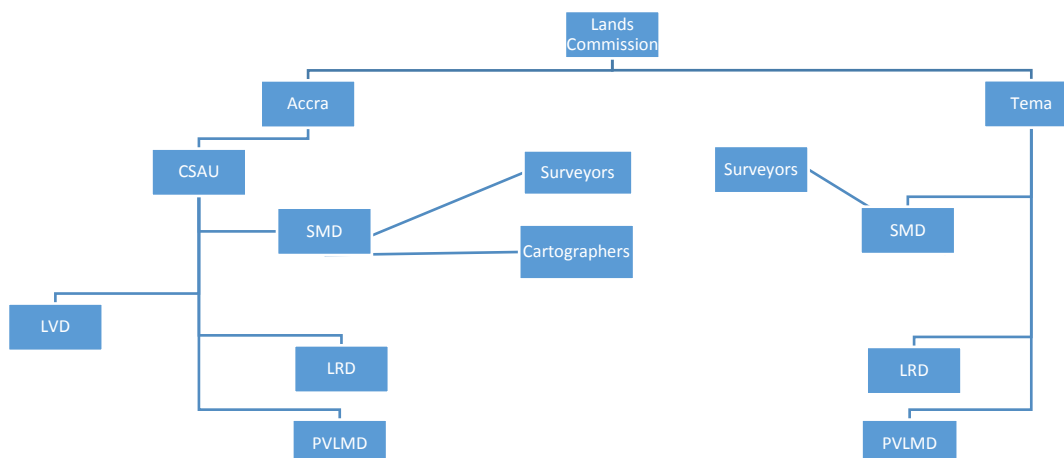
State	Accra	CSAU	- Isaac H: Client Services Officer	
		LVD	- Adamfo V: Land Valuation Officer	
		LRD	- Effia Iota: Assistant Registrar	
		PVLMD	- Akosua C: Land Administration Officer - Amma B: Revenue Mobilization Officer - Kofi L: Land Administration Officer - Kwame O: Stool Lands Administration Officer	
		SMD	- Rockson M: Surveying and Mapping Administrator and Cartographer - Wilhelm Eta: Surveyor	
	Tema	LRD	- Ebo T: Assistant Land Administration Officer	
		SMD	- Adjwo N: Surveying Administrator	
		PVLMD	- Akwasi R: Ground Rents Collection Officer	
		Legal Branch	- Kabelah Epsilon: Bailiff - Felix Theta: Commissioner for Oaths	
	Customary	CLS	Blue	- Katwe Beta: Manager
			Red	- Moses W: Director
		Family Heads	- Representatives from Red CLS - Yeboah A: Customary Spokesman, Tema	
	NGO			- Barbara J: LandDev Director

Source: Author's study. Note: all names are pseudonyms.

5.1.1 Lands Commission

The Lands Commission is a body of government which is made up of four main branches, plus the Client Services Access Unit (CSAU), which serves as a reception area and help desk for the entire commission. Its regional office is located in the capital city of Accra, near the transportation hub “37,” named for the nearby 37 Military Hospital. The lands commission also has a district office in the other major city in the region, Tema, at the TDC.

Figure 5.1.1: Lands Commission Organizational Structure



The CSAU in Accra was established in 2015 as the primary point of contact for the public to the four divisions of the Lands Commission. It was intended to reduce confusion for users concerning which branch, and worker within that branch, should be approached for registration issues. It also had the aim of reducing interactions between the public and the “back office” of the Lands Commission to keep distractions, and opportunities for petty corruption, to a minimum. Isaac from the CSAU, and other providers from Accra, believed that while the CSAU had reduced the amount of traffic in the back offices -- and thus reduce the opportunities for bribery -- it had not eliminated it entirely. Some believed that this was simply a matter of time -- that all users would eventually adapt to approaching the CSAU rather than the back offices, that people had to get used to the new way of doing things. (Fredrick K, 2016b). They believed that, as time passed, most people would accept the changes, and eventually those who would not accept them would quit or retire. This view was associated with the perception that the “old guard” of office workers were corrupt, and that corruption would decrease as they are slowly replaced by new staff who had not yet grown accustomed to accepting bribes. It was believed that new workers would not become corrupt, because of the reduced opportunities for bribery built into the new system. There is no CSAU in Tema – only in Accra.

The Surveying and Mapping Division (SMD) of the Lands Commission creates, maintains, and manages documents that represent physical and social qualities of land in Ghana. This division is made up of two groups of workers, both of whom are deeply connected to land

registration and administration. These groups are the surveyors themselves, who actually go to various locations across the region to collect survey data for site plans and cadastral plans, and the cartographers who prepare and maintain the cadastral maps. There are surveyors based in both Tema and Accra, but most of the cartographers are based in Accra. All cadastral maps are produced and stored in Accra.

The Land Registration Division (LRD) is the body that ultimately issues land certificates. This division used to be called Land Titles, and was separate from the Lands Commission, which was at that time primarily concerned with government lands. As the past and current names suggest, this division is concerned with registration of title to land, which “simply means an entry or entries in record books established for that purpose of various interests in land which a person may be entitled” (Agbosu, 1990, p. 104). They are the records keepers for the land rights known to the state. They have offices in Accra and Tema.

The Land Valuation Division (LVD) is not always directly involved in registration. This office assesses the value of pieces of land, and the property on that land, for other departments. Usually, land valuation needs to be done when the land in question is being seized by the government, and as a result, compensation needs to be paid to interest holders. Sometimes land needs to be valued for other reasons, such as for assessing the amount of ground rent to be collected by a Stool or Family Head for use of the land. The LVD only becomes involved when ground rents need to be collected, or when compensation is claimed of the state for acquisition or damages. The LVD office is in Accra only.

The Private and Vested Lands Management Division (PVLMD) is the branch of the Lands Commission which handles government lands and Stool Lands. The Office of the Administration of Stool Lands (OASL) is a division of PVLMD which is involved with the collection of ground rent and liaising with CLSs. The OASL collects ground rent for the Stools, and families who choose to work with them, for a 10% administration fee (Ministry of Lands and Forestry, Ghana, 2003). PVLMD is represented in both Tema and Accra; there is an OASL office in Tema, but it is mostly concerned with the collection of ground rents for Stool Lands, and sometimes Family Lands (Akwasi R, 2016). This is rent that is collected annually by the landowners in addition to the price of the sale or leasehold, and varies based on the size and

location of the land in question. As the name suggests, the OASL was created to manage Stool Lands and their revenues. As Kwame, an officer at the OASL explained:

we are mandated to mobilize and disburse Stool Land revenue, and the largest beneficiary of the fee, is the local authorities, so the metropolitan, municipal, or district assembly. We are mandated by the constitution to give them fifty five percent of whatever we collect. After that we have taken ten percent to take care of our administrative expenses. So on a daily basis we need to meet with them. And then the feedback we are getting on the ground, to the fact that the local authorities aren't planning the funds they receive from us to poverty alleviation projects. The whole idea for establishing this office is to put in place a mechanism to ensure the equitable enjoyment of revenue from Stool Lands.

The OASL collects the rent for all Stool Lands, and for those families which have come to a voluntary agreement with the OASL. They also participate in ensuring that revenues from Stool Lands are utilized – at least in part – for the betterment of the community governed by the Stool. When Kwame says “equitable,” here, he means that the revenues are not simply held by the elites, but invested in a common good, or redistributed to impoverished community members. This reflects a popular interpretation of the role of common land, or its legacy in the Customary Law of Ghana today. In a context where communal pasturelands, for example, are no longer desired, the proceeds from the Stool Lands that might have been used as such are expected to be used for community development or poverty alleviation. As will be discussed in the next section, although Family Lands are similar to Stool Lands in many respects, Family Lands are exempt from some of the laws governing Stool Lands. When the rent on Stool or Family Land exceeds 2000 cedis, or for matters other than rent collection, cases must be referred to the Accra office (Kwame O, 2016).

5.1.2 Stools and Family Heads

In the Greater Accra Region, most of the customary land is classified as Family Land rather than Stool Land. This means that rather than being stewarded by a singular Chief, whose power is symbolized by the Stool from which he reigns, it is stewarded by a group of elders from the royal family of the area. This seemingly small difference has a number of legal and practical consequences.

There is Stool Land in the Greater Accra Region, but it makes up a relatively small percentage of the area (Akwasí R, 2016). Unlike Stool Land, which is recognized and regulated by the constitution of Ghana, the communal significance of Family Land is somewhat ambiguous. According to the constitution, “All Stool Lands in Ghana shall vest in the appropriate Stool on behalf of, and in trust for the subjects of the Stool in accordance with customary law and usage,” and the revenues from Stool Lands are divided among the Stool itself, the “traditional authority,” referring to the council of elders, the District Assembly, and the OASL (Ghana, 1992, p. 267). The embeddedness of Stool Lands in communal welfare, and the fiduciary duty of the Chief to steward those lands and ensure that welfare, is therefore guaranteed by the state. The same cannot be said for Family Lands however, as, “Family Lands, implicitly inferred by the 1992 Constitution as private property, are devoid of extensive government regulatory mechanisms compared to Stool or skin lands” (Ministry of Lands and Forestry, Ghana, 2003, p. 13). This means that Family Heads enjoy a great deal more freedom than Chiefs in in how they wish to allocate or dispose of their lands and the proceeds from said allocation or disposal.

Despite the claim that “the head of the clan /family is in no less a fiduciary position,” the state is not obligated to enforce that fiduciary duty, so adherence to it varies greatly in practice (Ministry of Lands and Forestry, Ghana, 2003, p. 13). The way that this additional freedom affects the relationship between ruling families and the state will be explored further in Chapter 7. However, it is arguable that the fiduciary duty of the Family Head is just as strong as that of the Stool, but that the duty is to the family itself, rather than the broader community. The different forms of beneficiary seem to influence the degree of privatization – and parcellation – of Stool Lands as compared with Family Lands.

That is, the bulk of the land will belong to the Family or Stool as a whole, and be managed by the Family Head or Chief. This will include some lands which must not be alienated, so that family members retain the option to farm some of that land as a kind of social safety net. It is important to note that this portion of inalienable land, which most resembles common holdings, is generally not involved in the registration process. It is expected for Families and Stools to reserve a portion of their land for this purpose, but the monetary pressures discussed in Chapter 3 have made these portions smaller, or nonexistent, in the Greater Accra

Region. Where these communal holdings still exist, use rights are distributed entirely informally and at the behest of the Chief or Family Head who is the landowner. These lands are only involved in the registration process for those Stools or Families seeking allodial title for yet unregistered Stool Land or Family Land. This land is regarded as a customary welfare plan, and its beneficiaries are regarded as temporary. While titles may end up being sought for the physical plots of land earmarked for this purpose (due to encroachment, border disputes, etc.), conceptually users of this land do not seek title for it. That is to say, the users of this land do not seek title for it, because it is a safety net which must be made available for other users when they no longer need it. These lands would be included in the allodial titles held by Stools or Family Heads (if the Stool or Family Head in question had registered for allodial title) but not in any individual titles issued for leasehold interests. The Chiefs, for instance, do not seek individual title for these parcels of land, probably for reasons that will be explored in chapter 8.

But sections of Family Land may also be portioned off generationally as a kind of inheritance for family members. Family Lands may be divided and individual title may be sought by family members, with the written consent of the Family Head. The alienated sections may then be leased so that the revenues accrue to the inheriting members of the Family, rather than the Family Head, and the rights would revert to that family member at the end of any lease. These family members, however, are still not entitled to truly “sell” their sections of land, such that rents would accrue to another, or such that the rights would no longer revert to the family at the end of the leasehold. While leaseholds to Stool Lands might also be sectioned off, the rents would still accrue to the Stool (less the dues paid to the OASL) and rights to the land would (at least, theoretically) revert to the Stool at the end of the lease.

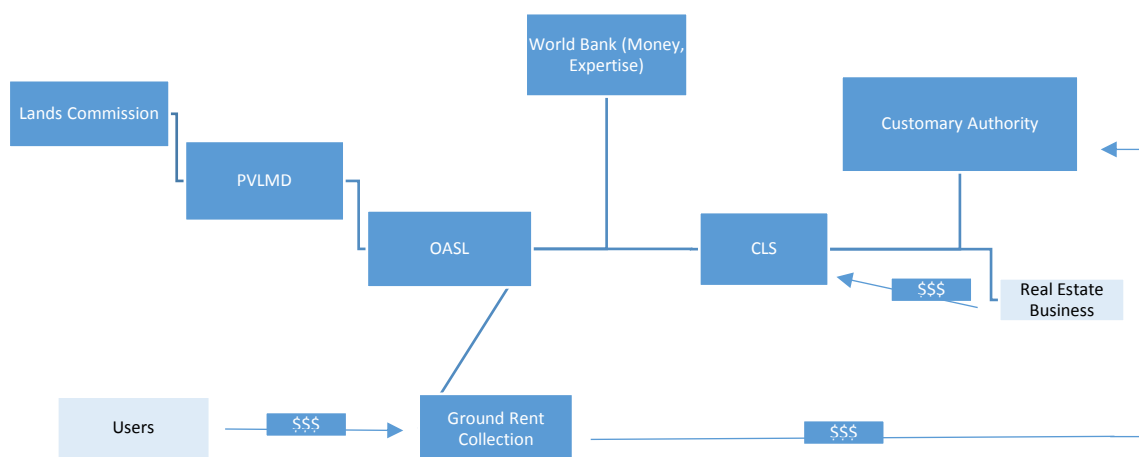
5.1.3 CLSs Organization

The new CLSs were established, according to the second phase of the World Bank’s Land Administration Project (LAP-2), “for recording land documents prior to their registration and for coordinating with district authorities and land use planning authorities” (The World Bank, 2011, p. 13). Essentially, they were intended to help integrate existing knowledge about customary land holdings into state bureaucracies.

The primary practical challenge of formalization of customary land rights is establishing a complete record of existing landholdings. Even if there were no ownership or boundary

disputes to resolve, assessing and documenting existing demarcations and their owners is an enormous task, which is compounded by the need to record ongoing transactions and transfers of interests. The creation of the CLSs therefore aimed to achieve two goals: the first was for the state to outsource the production of records of landholdings, and the second was to recognize customary authority over land, and redefine the role of customary authority in relation to state bureaucracy. The CLSs were intended not as, “an extension of government departments, but to strengthen land administration at the customary level,” and to address the absence of records of transactions overseen by customary authority (Kwame O, 2016).

Figure 5.1.3: CLS as Link Between State and Customary Law



The “ownership” of Customary Land Secretariats is somewhat complex. As previously mentioned, they were invented by the World Bank as part of the LAP, and some resources from the LAP were earmarked for their creation (The World Bank, 2011). These resources were disbursed by the State, through the OASL. However, the onus for staffing, covering maintenance and operational costs, as well as providing the information whose recording is the *raison d’être* of the CLSs (to whichever body is responsible for recording it), falls on customary authorities. Outsourcing to customary authority could be considered more culturally appropriate than hiring an independent business, and some ruling families in the Greater Accra Region have been able to take advantage of the business opportunities presented by the CLS initiative.

The success level of CLSs varied greatly at the time of my research. In one of my first provider interviews, with a high ranking official in the OASL, I was told that there had been

several CLSs established in the Greater Accra Region, but that some of them were no longer functioning (Kwame O, 2016). The CLS with which Blue had ongoing boundary disputes was given as a primary example of the failure of the supply-led approach to CLSs, which was taken in the first phase of the LAP. In this phase, the state identified areas where records of current landholdings were poor or needed updating, and provided office space and training for the establishment of CLSs (Kwame O, 2016; The World Bank, 2011). Support in the form of funds and materials was not intended to continue beyond the initial establishment of the offices, however, and many CLSs failed due to financial difficulty (Barbara J, 2016; Kwame O, 2016). There are some that continue to face financial difficulties, including one in the Greater Accra Region that I did not visit, which the director of LandDev expected would ultimately fail in the coming year (Barbara J, 2016). Those that managed to succeed generally did so by incorporating elements of estate management into their practices. That is to say that, in addition to creating and maintaining records of land sales, CLSs took on the roles of advertising for and brokering land sales for the Customary Authorities with which they were associated. The profits from this brokerage allowed them to sustain the offices and their official CLS duties. Finally, CLSs could also be kept afloat by relying on funding from another enterprise owned and managed by the ruling family in charge of the CLS (Barbara J, 2016; Katwe Beta, 2016).

CLSs were created with the purpose of filling the gap of land documentation at the local level, but they have struggled to achieve this purpose. Funding has been a major concern, as neither the state nor customary leaders seem to want to pay for the CLSs upkeep (Barbara J, 2016). As a result, many CLSs have either failed, or changed their purposes in order to become financially sustainable.

Finally, some of the original efforts to build a CLS have failed, but the offices have continued to run in a fraudulent manner. I was warned by staff at Red CLS that a neighboring CLS had closed down in 2015, but had quietly been replaced by less-powerful branches of the ruling family. This CLS continued to host potential buyers, acting as a land broker in the same fashion as the Red CLS, but apparently attempting to broker the sale of land that legally belonged to other members of the family. Due to time constraints, I was unable to visit this office to interview them, but the director of LandDev also believed this to be the case.

5.2 Users

In this section, I will discuss only personal users who were acting in pursuit of their own interests, rather than agents representing the interests of a client, friend, or family member. Those representatives, here referred to as agents, will be discussed in section 5.3. As can be seen in Table 5.2, there were more personal users than agents at the Accra office, and more agents than personal users at the Tema office; there were no agents present at the CLSs. The lower number of participants at Tema may be because of the location of the office – at least an hour’s drive from the capital of Accra. Many agents working at and around the Accra office were current or past employees of the Lands Commission, so this office would likely be more convenient for them. Also, most of the lands in the Greater Accra region were under the jurisdiction of the Accra Office; only those in a smaller geographical area around Tema itself were meant to be handled by the Tema office (Ebo T, 2016). The one personal user that I met at Tema told me that he had gone to the Accra office initially, but had been sent to Tema because of the location of the parcel of land he was trying to register (Jojo Delta, 2016).

Table 5.2: Breakdown of User Participants by Location

	Accra	Tema	CLS	Total
Personal Users	5	1	3	9
Agents	4	2	0	6
Total	9	3	3	15

5.2.1 Purchase

Most of the personal users I interviewed had recently purchased land, or were in the process of purchasing land. Six of the nine users in my study -- including four from Accra, the only one from Tema, and one from the Red CLS -- were seeking services related to land they had recently purchased, or intended to purchase.

Purchasing land in Ghana can be a complicated affair. In Canada, the first step might be to look for a piece of land that one might want to buy. In Ghana, the first step is generally to find a prospective seller, or a real estate agency, representing the land. For example, Moses W from the Red CLS explained how they handled prospective buyers:

Right, what we do is... for instance, if you happen to be a purchaser, and you come and so you need a land, you tell us the location if there's any available or not, fine. Then you pick a form, we have a form that you have to fill - we call it form one, okay. You have to put in your details, the purpose for which you are buying the land, the number of land you are buying, and then you provide us with two passport pictures. When the land has been shown to you and you are interested, then the surveyor has to go and pick with the DBS machine, and before the surveyor will go, we have to give him an authority note. And you have to sign the note that he should go and pay this number of plots at this particular area. And after he has done that, he too will have to fill - there is a column you have to fill and sign it and bring it to us (Moses W, 2016).

While land is typically divided into “plots” of varying sizes and sold as a unit, it is difficult to find advertisements or publications of the units themselves being put up for sale. Rather, sellers advertise themselves as landholders or their representatives with unspecified plots of land for sale and invite prospective buyers to contact them for more information (Yaw Y, 2016b). These advertisements might include the areas in which the sellers hold land, size ranges and price ranges of the units available, but they will typically not include specific details for any single unit (Yaw Y, 2016a). It is nearly impossible for users to find the specifications for the specific plot that they are interested in leasing. This is like an apartment building advertising the availability of 1-4-bedroom units, ranging from 1000-4,000 dollars per month, not giving the specifications of any single unit, and not allowing prospective tenants to visit the units before beginning the transactions. This can leave prospective buyers vulnerable to “bait and switch” scams, whereby the land which actually changes ownership is not that which the buyer wished to acquire. This is one reason for the extent of documentation that Moses explained at the CLS (Moses W, 2016).

The vagueness of advertisements also makes it very easy to fraudulently advertise available land, so a certain amount of detective work may be necessary to determine who has the legal right to sell the advertised land. Some buyers might simply contact the alleged sellers, negotiate prices and make the purchase. More wary buyers, however, would go to the Lands Commission with the specifics of the land, and pay to have a search conducted, like a title search that is done in Canada. For a small fee, the Lands Commission will search its own records and provide a report of any issued certificates, pending applications, or known disputes over the land

in question. The purpose of running the search is to verify that the seller has legal and undisputed claim to the land, so that the buyer can feel confident of high tenure security once they take possession. The official cost of the search was, at the time of my investigation, 30 Ghanaian cedis (\$10 CAD), but as Fredrick K explained to me, “let’s say, 100 Ghana [cedis] will do it.” Fredrick K is an agent that I met in Accra, but users representing themselves also noted that “adding small money,” or paying bribes to officials could speed up searches, or other functions at the Lands Commission (Jojo Delta, 2016). A site plan, which maps the size and location of the land in question, as well as the name of the current owner or leaseholder, is required to run the search. As will be discussed in section 4.4.7, the site plan is usually required to document any sale or lease.

If the search reveals that the proposed sale is legitimate, and that there are no competing claims on the land, the wary buyer would then make the purchase. However, there are still potential pitfalls. The search would reveal any prior registered claims to the land, but it would not reveal if the land had been sold to another party who had not yet started the application process. For this reason, and in case the land might subsequently be sold to another party by the original owner, the wary buyer would immediately begin the process of registration. This would ensure that the transfer of ownership was registered, so that a subsequent wary buyer would learn of the sale when they conducted their own search. Also, as will be discussed in Chapter 6, if disputes over land go to court, the party who first registered an interest in the land (i.e. began the registration process) is given priority.

Two of my participants who had purchased land had already completed their land registration and received their certificates; so, despite the difficulties that they faced through that process, they felt some security for having completed it. These two, Frank D and Kobby U, were both recruited in Accra. In another case, Yaw Y, also recruited from Accra, represented a newly founded university and was waiting for the results of a search on land for the first campus when I met him the first time. During the follow up interview, he told me that the search had revealed the seller to be fraudulent, so he continued to look for land elsewhere. Although he felt he was being cautious, he still expressed anxieties about the difficulty of finding a legitimate seller and making a secure purchase of land, especially in higher-end neighbourhoods where he and his associates would prefer to build their school (Yaw Y, 2016b).

For these users, registration (and the paperwork that goes along) was viewed as an insurance mechanism. Checking the records of land that was to be purchased provided assurance that the seller was not defrauding them, and registering their own claims to the land immediately following purchase provided some assurance of tenure security.

5.2.2 Sale, Inheritance, or Encroachment

Those users who were not seeking services for recent or prospective land purchases were registering land in anticipation of sale, transferring land rights from inheritance, or seeking enforcement of their land rights following encroachment. One user from Red, and one user from Blue identified encroachment on their land as their reason for seeking land titles, and one user from Accra identified inheritance. The user from Red CLS, however, ultimately intended to sell her land, and wished to resolve the encroachment issue so that the sale would go more smoothly.

Only one of the users I encountered was seeking administration related to inheritance. I had expected that this would be quite common, but my sample size was too small to draw definitive conclusions about the relative frequency of inheritance cases at the Lands Commission or CLSs. It is interesting to note, however, that Ekow, who came to the Accra office to process the inheritance, expressed higher satisfaction with his experience than many of the others I interviewed. The land in question had already been registered, so what he actually needed was a “certificate transfer,” to change the official leaseholder from his late brother to his sister-in-law and nephew (his brother’s widow and son), who would have joint claim to the land. He told me that he only had to visit the Lands Commission twice, and that he felt both visits had been successful (Ekow S, 2016). Unlike others I interviewed, he did not experience unexpected fees, unexplained delays, or unclear explanations of what needed to be done. There is not enough data to generalize, but it may be that inheritance is an easier process for users than initial registration. It may be that I encountered so few users seeking administration for inheritance because they do not need to return to the Lands Commission as frequently. It may also be that this user had personal connections that he did not divulge to someone working at the office, which made his experience easier.

Although most of the users I met were trying to register land after purchase, it is considered beneficial for land that is intended to be sold to be registered as well. As an agent that

I met in Tema explained to me, “In Ghana, if you don’t register your land... you can’t sell it” (Abeiku Q, 2016). This makes sense, when we consider the search that a wary buyer might conduct prior to purchasing a piece of land – ideally, if the land is unregistered, the search will yield no information, which could lead potential buyers to doubt the legitimacy of the sale. Certainly, this would be the case in North America, for example.

As elsewhere, landholders in Ghana might also wish to register land that they intended to sell to protect against encroachment. Encroachment is a frequent occurrence in Ghana, especially on “undeveloped land,” or land with nothing built on it. Perhaps because of the limited existence and enforceability of building codes, many people in Ghana prefer to buy undeveloped land and build their own structures on it, rather than buying completed homes and businesses as is popular in Canada. Once encroachers have built structures on the land, disputes become more complicated because of the perception that encroachers retain some claim to the structures themselves, and because of the reduced value of the now-developed land.

Sometimes encroachment occurs deliberately, as a kind of theft, as the perpetrator simply builds on land to which they know they have no legal claim. These practices, or the perception that others are encroaching in this manner, are the source of many boundary disputes. In this case, the perpetrator may ultimately take de facto ownership of the land in question, if those with legal claims to the land are not interested in spending the time and money required to evict encroachers. The user from Red, Akua Z, experienced a problem like this, as neighbours began building on her land, which had been purchased a decade prior, while she was living abroad. Upon her return, she sought arbitration through the CLS, who offered her other vacant lands as a substitute. She felt that this was an easier solution than trying to get the state or the CLS to evict the encroachers on her behalf, although she then had to register the new land in her name (Akua Z, 2016). This registration process was what brought her to the CLS on the day that I met her.

Similarly, Samuel Alpha, the user from Blue, faced problems with encroachment and was in the midst of a litigation over two plots of land that had been ongoing for almost one year. Samuel felt secure, however, that this case would be resolved in his favour because of the records kept at the CLS. Both Samuel, and the provider interviewed from the Blue CLS, Katwe Beta, felt that the records kept at Blue were superior to those of other families in the area, and that these records would ensure that no judge would ever rule to take their lands from them

(Katwe Beta, 2016; Samuel Alpha, 2016). As Samuel explained, “We don’t lose cases. Sometimes there are injunctions... sometimes it takes some time... but we don’t lose” (Samuel Alpha, 2016). The boundaries claimed by the ruling families at Blue are evidenced by a map made on a skin that has been passed down for generations. This evidence, which Katwe told me would be used to obtain an allodial title deed for all of the family’s lands, was believed to be irrefutable (Katwe Beta, 2016). So even though Samuel had difficulties with encroachment on his land, and the family faced ongoing boundary disputes with another CLS to the West, neither felt anxious about their tenure security. They were certain that they had legitimate claims to the land which, once formally recognized through due process, would be guaranteed and enforced by the state.

Although registering land is perceived as a means of increasing tenure security, it is not sufficient in all cases to prevent encroachment. For this reason, Akua was determined to build a fence around her property before she left the country again (Akua Z, 2016). It remains to be seen whether the state will evict those who encroached on Samuel’s land once the litigation is concluded.

5.3 Agents

Due to the perceived time cost and difficulty of the land registration process, it is possible for users to hire agents or middle men to facilitate land registration. They serve as liaisons between users and providers. Agents ostensibly work in the interest of the user; but at times it seems more apt to group them with the providers, depending on whose interests they serve.

Some agents are current or former employees of the Lands Commission, working as agents to supplement their income. They use their professional understanding of the system, as well as personal networks of current or past colleagues, to facilitate the registration processes on which they work. They may be interested in correcting applications from personal users who do not understand the registration process well; they may be interested in helping users who are unable or unwilling to devote the time to understanding and pursuing the process of land registration; or they may be interested in extracting fees from unsuspecting users for little to no actual work. Some agents are actually employees of real estate agencies, estate developers, or even law firms, which offer registration facilitation as a related service for an additional fee. Some CLSs, especially those engaging as estate developers or real estate agents for the lands of

the families they represent, also offer land registration services for a fee (Moses W, 2016). Some agents are simply people – usually well-educated people – who had positive experiences registering their own land and agree to go through the process for a friend or family member. In cases where landholders have a personal connection with the Agent, they may or may not be paid for their services. Finally, some agents began as any of the above, identified a business opportunity, and started their own enterprise in land registration services.

Opinions about agents varied greatly among my participants. Obviously, many of my participants were agents, and therefore viewed them positively. They were lauded for their ability to navigate unnecessarily complicated bureaucracies, and to save time for busy clients, both by taking on the work themselves, and by using personal and professional networks to reduce the time needed to do the work. Other participants – both personal users and providers from the state – argued that agents were generally predatory in nature, and might invent delays or fees that were not caused by the Lands Commission in order to charge their clients more. For example, Ebo T, a provider from Tema had a very negative opinion of the agents that worked in Tema. He told me:

If you have been in this country for long, you may have heard that Lands Commission does not have a good image... and it's all due to the agents. Because they do a lot of bad things in the name of the Lands Commission. Sometimes, it is difficult even to tell who is an agent and who is the staff. Some of them, they go around and portray themselves as the staff (Ebo T, 2016).

Ebo felt that agents are predatory, seeking to take advantage of clients, and so found it troubling that they might fraudulently portray themselves as Lands Commission staff. However, the propensity for past or present staff members of the Lands Commission to work as agents on the side also contributes to the difficulty of distinguishing agents from staff – one person may be both.

5.4 Material Actors

Here, let us explore the key documents involved in representing, mediating, and enacting social relationships around land in Ghana. This section will introduce the ways, and by whom, these material actors are produced and circulated through the system.

5.4.1 Indentures, Oaths, Affidavits

Indentures are the documents produced by Chiefs or Family Heads to indicate their willingness to provide use rights of land to others. This is usually the first document produced in a land transaction. Since most of the land in Ghana is Stool Land or Family Land, customary land institutions are implicated at the very beginning of the registration process for most land, and therefore most users. In order to be considered valid, indentures must include some information about the land in question, but they do not need to be exact because they are usually accompanied by a site plan and sometimes a boundary plan to provide additional information about the land itself. The distinguishing features of the indenture, rather, are the signature or thumbprint of the land-owning parties – that is the Chief or the Family Head – and that of a witness.

When original documentation is not available – for example when the original indenture has been destroyed or lost, and the grantor (of the land) who produced it is no longer living, Oaths of Proof or affidavits may be produced by the applicant and used in their place. There was a Commissioner for Oaths at the TDC, responsible for stamping forms for registration for authentication, though the practical function of this step was unclear. He told me that he stamped forms to “make them authentic,” such as declaration forms for registration, but he also said that, “If someone submitted an affidavit – some forgery – if it occurred, it occurred, it would not come to my notice. I wouldn’t know” (Felix Theta, 2016). So, although this step seems to be intended to reduce fraud, there seems to be no real mechanism for detecting or preventing it.

5.4.2 Receipts and the Yellow Card

Elsewhere, recording the actions of bureaucrats through the production of extensive files and receipts has been used to try to combat, or at least limit, corruption in government bureaucracies (Hull, 2012b). In Ghana, numerous receipts may be created to provide proof of transactions in the land purchase and registration process. The interesting thing about receipts in land transactions in Ghana is not so much what they represent, as the circumstances under which they are and are not produced. At each point in the process where funds are collected from the applicant, receipts are supposed to be produced and surrendered to the applicant. I learned that there are key junctures where this is not the case – especially with respect to surveying, which will be explored further in Chapter 7.

Yellow cards are interesting artefacts because, like receipts, they are issued to applicants upon payment of registration fees, but they also have additional functions. They index the application held by the Lands Commission, proving that the application has been submitted, and helping bureaucrats to subsequently locate and identify it. Isaac explained to Joyce and me that it is not only an acknowledgment of the receipt of documents, but also an instruction to the SMD to perform the inspection and site plan, which is the next step in the process.

What is also very interesting is that yellow cards have ostensibly been rendered obsolete. In this interview, Isaac went on to explain that since the inception of the CSAU, yellow cards have no longer been used. He told me, “But under this new system, all systems in Accra, we are no more doing a yellow card. Under Tema cases, we are no longer doing a yellow card” (Isaac H, 2016). According to him, the yellow cards were relics of the old system – explored further in Chapter 6 – in which applicants were required to “chase” their files through the back offices of the Lands Commission to ensure that each step in the registration process was completed. Instead, the applicant is supposed to be issued a receipt only, so that any “chasing” of the files must be done internally. Applicants are no longer supposed to have a possession of this representation of where their file is in the system – presumably so that they can no longer know which bureaucrats they should bribe or influence to expedite the movement of their files through the system. Contrarily, however, recent users including Ekow and Fredrick showed me the yellow cards that had been issued to them upon submission of their applications. Evidently, there is not universal understanding among Lands Commission staff of the appropriate documents to be used under the new registration system. The trials of changing procedures were identified as a major challenge by all the providers I interviewed in Accra, as well as Michael G, one of the providers from Tema, and Moses from Red CLS.

5.4.3 Publications of Intent

Since an up-to-date list of all the existing landholdings in Ghana does not exist, registrants are required to publicize their intentions to register land, so that anyone else with interest in that land might have the chance to object formally before registration is finalized. The law is not very specific, however, on where these intentions must be publicized. They must be publicized “widely,” and for fourteen consecutive days, but this leaves quite a bit of room for interpretation, as there are many daily newspapers available in Accra. Participants mentioned

publications in “the dailies,” suggesting newspapers rather than less widely accessible electronic media.

These documents are unique in that they are required in all cases to register a parcel of land, yet they are produced exclusively by the private sector, rather than by state or customary authorities. While the publication of an applicant’s intent to register land invites any member of the public to file an objection or a caveat, it is not always effective in identifying other claim holders. This will be discussed further in Chapters 6 and 7.

5.4.4 Plans

Original boundary plans are generally held by Chiefs or Family Heads, although the boundary plans for the Blue area were held at the CLS itself. These are large maps of the lands that are controlled by the Stools or families. They do not always have individual plots demarcated (within the broader parcel of land which would be demarcated for the allodial titles), as their primary purpose is to illustrate the boundaries between domains, not individual landholdings within those domains. One major source of disputes over land is that not all Family Heads and Stools possess allodial titles for their landholdings. The task of registering customary land, even at the level of domains rather than individual leaseholder, has not been completed. The possession of allodial titles, or undisputed boundary plans, can increase the tenure security of families using these lands and, by extension, those who purchase or lease Family Land.

For lands within the state system, cadastral plans are produced and held by the SMD in Accra. These are large maps which visually represent information including the ownership, tenure, and precise location of all registered landholdings in the country. This includes those Stool and Family Lands whose allodial titles have been registered. As registration continues, cadastral maps are updated, with the end goal of maintaining a record of all current landholdings. Site plans are smaller scale maps created from survey data of individual landholdings, and they are a crucial part of the registration application. The difference between the plan types lies less in their content than their circumstances of production. Ebo explained that cadastral plans are usually requested because the site plans which are submitted in the initial applications are not up to date. Additional surveying is therefore required to ensure that the site plan in the application (which will eventually be reflected in the certificate, if the process is successful) matches the cadastral maps held in Accra. Because cadastral plans reflect the information represented by the

“master” cadastral maps in Accra, they carry more authority and are considered more difficult to counterfeit than site plans. Furthermore, the process of updating the plan can reveal the existence of competing claims to the land, as they surveyors’ activities signal a registration application in progress.

5.4.5 Injunctions, Judgements

Injunctions are also documents produced by the courts, but these may be issued before a ruling has been made. They are usually meant to declare the occupation of, or building on, a certain parcel of land to be unlawful for a defined period. Michael, an agent from Tema, explained that some of his clients sought injunctions when they found people encroaching on their land. This was meant to prevent the encroachers from continuing to build, and – as discussed in section 4.1 – solidify their claims to that land.

Judgements are the documents produced by land courts to represent the decision that has been taken on a land dispute once it is settled. These must be signed by the judge, and may include a variety of information regarding the decision. The one that I examined pertained to a boundary dispute that had been resolved. The judgement included a letter outlining the claims by both parties (the dimensions and location of the parcel of land that they both claimed to own) and two site plans (one for each claimant) reflecting what the judge had deemed the lawful division of the land. The document bore the signature and stamp of the judge who had made the ruling.

5.4.6 Registration Certificates and Allodial Titles

Certificates are documents produced by the Lands Commission and issued to successful applicants as proof of registration. Even these certificates can come under dispute, but they represent and enact greater security of tenure than any other land document. Obtaining the certificate marks the end of the registration process, and is the proximate goal of those seeking registration.

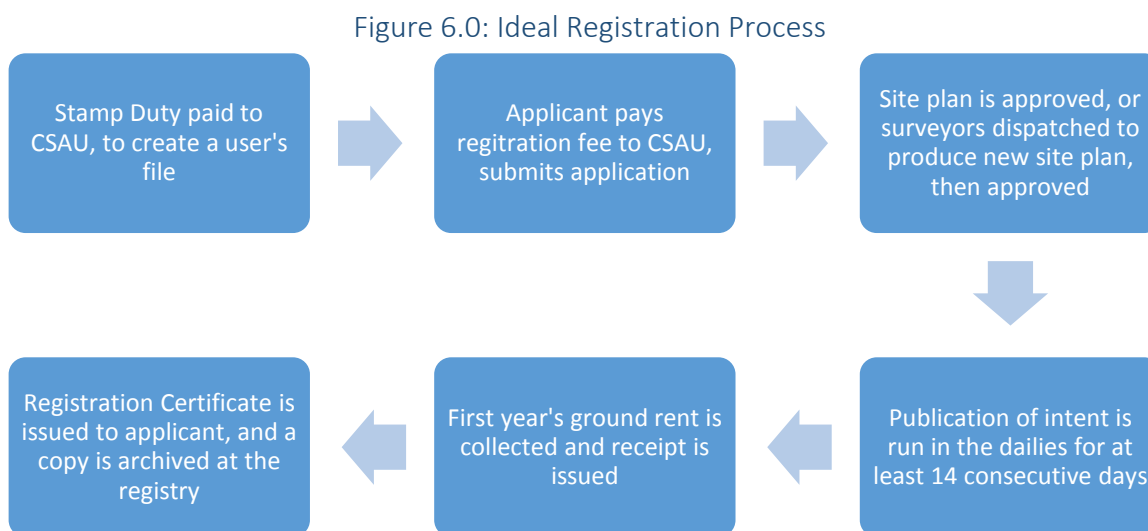
Allodial titles are those held by Chiefs or Family Heads for their entire domain. Contrary to the individual title certificates which users typically seek, which are for leasehold interests, allodial titles reflect the stewardship position of the customary authorities. This land cannot be sold, truly, but it can be leased. As a result, this form of title is spoken of as a kind of umbrella title for a large piece of land, from which smaller pieces may be titled individually. Although this seems misled from a legal standpoint, in practice this is fairly accurate. The customary holdings

of customary authorities are titled under the broad allodial title, while portions of this land are sectioned off and individually titled, but unless this sectioning off is for the inheritance of other family members (of Family Land only, as discussed in section 5.1.2) the rights to the individually titled land will revert back to the Stool or the Family Head at the end of the lease. Allodial titles of the Stools or Family Heads are, of course, held in perpetuity.

6.0 Follow the File: How Land Gets Registered

Despite my interest in the current proceedings in the offices I visited, many of my informants from provider side, in Tema and Accra, at the Lands Commission and the CLSs, felt it important to explain the “old” process of getting land registered. This process, which I will now explain, to some extent reflects what still happens behind the scenes at the Lands Commission, but also what continues to occur irrespective of the new CSAU.

The most concise explanation of the land registration process that I heard was given by Isaac H, who worked at the CSAU, where the process is frequently explained to members of the public. His explanation is represented in Figure 6.0 below. It is interesting to note here that the process is mostly described in terms of the documents which are required for each step. Though Isaac does not explain the contents of the initial application packet, he discusses the stamp, the yellow card, the cadastral plan, the report from the search, and the certificate – all tangible products of the Lands Commission, which the applicant will receive – to explain the different steps.



Other participants recounted the process in a similar manner – generally not explaining the actions performed at any given step, beyond *the actions of producing documents*. For example, when the land is “inspected and plotted,” none of my participants – not even those from the surveying and mapping department – chose to elaborate on what kind of information was collected, what they were inspecting for, or how long the data collection might take. Rather than telling me how many hours or days he might spend surveying a given site, the surveyor I interviewed told me how many days or weeks one might wait for the master plan to be completed. Perhaps because of the need to visit a series of different offices, the documents created by each office, and contributed to the application at each step, came to represent the steps of the land registration process themselves.

The first step in the registration process is the “stamp duty,” where the applicant pays a fee for the creation of their file. This is not the beginning of a registration application, but simply the creation of a file – so this must also be done for a transfer of ownership where the land is already registered, or other land administration that is not just registration. In the new system, this is done at a designated counter in the CSAU; in the old system, it was done at the Land Valuation Division, because the amount to be collected in duties depends on the size and location of the land, falling under LVD jurisdiction.

Next, the applicant pays the registration fee, submits their application, and receives a yellow card. The initial application generally includes the indenture at least, and may also include other documents such as the site plan, “oaths of proof,” or affidavits to support the applicants’ claims to the lands in question (Lands Commission of Ghana, 2015). In the new system, the CSAU collects all the required documents from the applicant, as well as the total registration fee, at this first step (Akosua C, 2016). Other fees might need to be collected to address unforeseen problems, but the goal is to have a “one-stop-shop,” for registration, so if the application is not complete, or if the fees are not all paid, the application is not accepted (Akosua C, 2016; Isaac H, 2016). Before the CSAU, partial applications were accepted; in practice today even after its creation applications may be accepted with registration fees only partially paid (Akosua C, 2016). At this point, the plan submitted must be “approved” by the Lands Commission. SMD reviews the site plan provided and decides whether it can be accepted, or whether it needs to be updated.

If the site plan is not approved, then the land must be surveyed to create a new site plan, and to update SMD's master plans. The surveying portion of the process was a source of anxiety for many users and that I interviewed, as well as for the surveyors themselves. Sometimes, if the site plan is up to date, there is no need for surveyors to visit the land in question in order to register land. More often, however, more information is needed to update the cadastral maps than is included on the site plan provided in the application. If this is the case, surveyors from the Lands Commission must visit the site and survey it, and submit their report to the cartographers in order for registration to continue. This is an opportunity for subversion by competing claimants and the surveyors themselves.

Surveyors may demand cash bribes, or may expect other benefits to be provided by applicants. Any licensed surveyor may produce the reports needed for registration, but a number are employed by the Lands Commission (whose Accra office is incidentally adjacent to the Ghana School of Surveying and Mapping), and the signature of the Director of the SMD is required for plans to be approved. Furthermore, the application fee paid to the Lands Commission includes the cost of surveying, so most users do not hire private surveyors. The surveyor and officers from SMD confirmed that the applicants were only responsible for paying the appropriate fees to the Lands Commission itself, and for transporting the surveyors (with their equipment) from the Lands Commission to the site and back again (Adjwo N, 2016; Rockson M, 2016; Wilhelm Eta, 2016). In spite of this, participants cited other responsibilities including providing food, water, soft drinks, or beer for the surveyors. One applicant argued that the cost of "ferrying" surveyors should be included in the application fees (Mefia Gamma, 2016).

The presence of land guards ("specialists in violence" (Joireman, 2011, p. 14) usually hired by customary authorities, to be discussed further in Chapter 7) may put surveyors, and their equipment, at risk. Wilhelm Eta, the surveyor I met in Accra, told me that land guards can be a big problem for surveyors themselves, not just the applicants. He told me that land guards sometimes "beat [surveyors]," and "seize the machines," so when they encounter land guards, "you [surveyors] have to stop and pay them" (Wilhelm Eta, 2016). Similarly, Fredrick explained that "sometimes, you need to go to the site, but there are land guards. Then they question you, and you have to humble yourself. Don't challenge them, just humble yourself and pay them" (Fredrick K, 2016a). He told me that paying the land guards was usually the best option, because

this would prevent violence, and because reporting the incident to the police “doesn’t yield anything” (Fredrick K, 2016a). He believed that the police are usually complicit with the land guards’ actions, because they are bribed by, or otherwise loyal to, the traditional rulers of the area who hired the land guards. At this point, the applicants are generally told by surveyors that they must settle the matter with the opposing parties somehow – usually by seeking arbitration, or by abandoning claims to the land and seeking out another property (Adjwo N, 2016; Fredrick K, 2016a). Options for arbitration will be explored in Chapter 7. This is a juncture where many registration applications are extensively delayed, or ultimately fail.

If the pitfalls of surveying can be avoided or overcome and a new survey conducted, the registration process can move forward. Once the required information about the land is available – either from the original site plan, or following the surveying – a search can be performed. As discussed in section 5.1.1, the search report identifies all registered claims to the land in question. This junction is also a source of delays, as searching all of the archives for interests in a given parcel of land can be time consuming. Furthermore, the records of other interests are vulnerable to loss, misplacement, or destruction (willful or accidental). When original records are misplaced or destroyed (but their existence is indexed somehow, such as by another file or ledger) retrieving the relevant information can be very time consuming. As Akosua explained, this can lead users to suspect corruption – if only those who paid just the official fees experience long delays (Akosua C, 2016). Similarly, the prevalence of delays may open the door for corruption, as social obligations, monetary bribes, or even “simple compassion for someone who is in a hurry,” may lead officers to prioritize certain files (Adjwo N, 2016). Sometimes it is unclear what the source of corruption is. For example, even though the official price for a search is 30 cedis, Yaw told me that he paid 60 cedis for a search (Yaw Y, 2016a). I do not know whether he knew the official price, but chose to pay extra to speed up the process, whether he knew the official price, but a bribe was demanded by the officer receiving his application, or whether he did not know the price and the officer opportunistically cited a higher price in order to extract an unwitting bribe. If the search finds other interests, it officially becomes a matter for the courts, but some applicants choose to try to resolve their disputes in other ways. Sometimes an agreement can be reached between claimants, or with the help of the seller; this will be discussed further in Chapter 7.

As noted in above, a publication of the applicant's intent to register the land must also be made, though there is some flexibility regarding when this must be done, relative to other steps in the process. Applicants must prove that the intent to register land has been publicized for at least 14 days before the application can be approved. Isaac from the CSAU recommended that this be done concurrently with running the search, because both steps may take some time (Isaac H, 2016). The publication requires the information about the land that is included in the updated site plan, so it can begin at any time once this information is collected. If someone sees this publication and has an objection to the applicant completing registration, it is their responsibility to report this objection to the Lands Commission. If this occurs, it officially becomes a matter for the courts to resolve, but again, this route is not always chosen by the claimants. If there are no objections following the publication, the registration may continue.

Finally, if the land to be registered is Stool Land, or Family Land whose family contracts the OASL to collect their ground rent, the first year's ground rent must be paid. The OASL collects ground rent for the Stools, and families who choose to work with them, for a 10% administration fee (Ministry of Lands and Forestry, Ghana, 2003). I was told that the first year's ground rent is collected before the land is registered because of the difficulty in enforcing ground rent collection. Registration provides one juncture where it can be enforced by withholding the certificate until it is paid (Akwası R, 2016). If the land is Family Land which is not managed by the OASL the ground rent is still supposed to be paid to the families, but this does not need to be done as a prerequisite for registration. The amount of ground rent due is dependent on the size of the parcel and its location, and is determined by the LVD (Akwası R, 2016). If the land is neither Family Land nor Stool Land, or when all this is completed, the registration is complete. At this point, as long as all of the required fees have been paid, the certificate is issued to the applicant, and a copy is taken by the Registration Division and archived.

7.0 Dispute Resolution

It is now clear that there are many opportunities for conflict to emerge in the process of land registration. The most common conflict is among users. These, and conflicts between providers and users will be the focus of the analysis. Conflicts among providers also exist, but few were actually encountered in this research. This unexpected concordance will be explored further in Chapter 8. Agents, who defy classification into users and providers, are also involved in conflicts which will be explored here. The role of land guards, a group of actors who only become involved in cases of conflicts, will also be discussed in this section. Included in the institutions of land rights in Southern Ghana are the mechanisms for dispute resolution. There are three main avenues available for dispute resolution: Courts, Customary Arbitration, and Bureaucratic Entrepreneurship. Each of these processes involves the use of various documents to represent land relations to other actors. They vary, however, in the degree of necessity of these documents, especially land titles (i.e. whether one can achieve a favourable outcome, with desired land rights enacted or enforced). It shall be seen that the way various documents – the material actors in Ghanaian land regimes – can be produced and circulated shapes the ways in which dispute resolution occurs.

7.1 Courts

State land courts represent the official avenue for resolving disputes over all types of land in Ghana. However, they were not a popular choice among my participants because of the time and money costs of going to court. Going to court is extremely time consuming, largely because of the enormous backlog of land cases that exist. In developing the LAP, the World Bank identified a baseline backlog of 7,122 land cases at the Supreme Court in 2003 (The World Bank, 2011, p. x). Although this indicator showed marked improvement after the LAP, the courts are still widely perceived to be expensive and inefficient (Amoako & Lyon, 2014). One of my participants, Moses, cited a court case that Red CLS was involved in that had been ongoing for five years as a noteworthy, but not atypical, example (Moses W, 2016). This kind of backlog in the legal mechanism for dispute resolution was identified by De Soto as a key barrier to legality, since disputes often arise as competing claimants seek title for the same parcel, or overlapping parcels of land (De Soto, 2000, p. 134).

It seems that there has not been much improvement in the several years since Joireman's study, which also found that Ghanaian land courts were extremely inefficient, and often cost prohibitive (2011). Despite this unpopularity, many cases still go to court; this is seen as a last resort when a resolution cannot be reached through other means. Adjudication through the courts relies on a number of material actors, whose roles have impacts on the effectiveness and efficiency of the courts. Since the courts themselves are meant to interpret and apply the rules of the state with regards to land, they draw largely on the documents produced by the state and its apparatuses to represent land claims. That is to say that land title certificates, which are issued after registration, are the most effective representatives of land claims. Other material actors, including indentures (Kabelah Epsilon, 2016), oaths (Felix Theta, 2016), receipts (Akwasi R, 2016), and judgements (George I, 2016) may also be used as evidence of one user's claims to land rights, with varying degrees of effectiveness. For example, indentures can be effective evidence in individual land claims, as they attest to the identities of the alleged buyers and sellers. This can also help resolve internal disputes over Family Land, as the indentures show "which one [of the family members] did the selling, and then you can see if they did or if they did not have the right" (Amma B, 2016). Similarly, in resolving disputes between, rather than within, Families, "Usually it is their boundary plans [that are used as evidence]" (Ebo T, 2016). Ebo further explained that:

some [families] have also gone to the extent of doing statutory declarations, declaring a certain land as theirs. So those are the documents they use to prove ownership. In situations whereby they have ever gone to court, they will use the judgements, the judgment plans to also support their claim.

I asked all of the providers that I interviewed about the types evidence that might be presented by users to support their land claims. Mostly I received answers like the one Ebo gave – that boundary plans, site plans, and indentures could be used. Affidavits from the grantor – that is, from the customary authority who issued the lease – were also mentioned, as well as photographs (i.e. of where a fence, tree, or other marker once stood) in rare cases (Adamfo V, 2016; Felix Theta, 2016). Yeboah A, the Family Head that I interviewed in Tema gave me a unique response, however. After some probing, he told me that he had seen trees, which had been planted on the borderline of two family members' lands, used as evidence more than twenty years later when the boundary came into dispute (Yeboah A, 2016). Although this is quite common in the

developing world more broadly, Yeboah judged this type of evidence to be very unusual, and no other participants offered similar examples. It is interesting to note that in some cases, evidence other than documents may be used successfully to support a land claim. These alternative material actors can also play a role in representing and mediating social relations around land.

In this way, the material actors that are available to different rights claimants can affect their strategies for securing their claims and seeking enforcement of their land rights in the event of a dispute. The role of these actors – in this case emissaries for their holders – becomes clear at this juncture. In the context of court mediation, rights claims become actualized rights based on the effectiveness of the material actors representing those claims. As such, the relationships defined by registration certificates, for example, are also enacted by them. However, as was discussed in Chapter 6, the process for obtaining the documents which enact these rights can be long, arduous, and expensive. Compounding this with the perceived inefficiency and expense of actually *going* to court, this option for arbitration is not very accessible. Furthermore, users do not tend to choose this option, even if they can afford it, unless they already have a team of material actors to support their claims.

Only one of the individual users whom I interviewed utilized the courts to resolve his disputes. This was Kwaku X from the Red CLS. Because he came to the CLS to enquire about a personal land matter, I classified him as a user rather than an agent, but he also told me about a client of his construction company who was preparing to go to court over a tract of land that had allegedly also been sold to an estate developer (Kwaku X, 2016). None of my other participants offered direct experiences with going to court, but all of them shared the perception that court proceedings were long and expensive. Thirteen users explicitly stated that going to court was undesirable, or that another method of dispute resolution was preferable.

As mentioned earlier, Akua consulted the CLS from which she bought the land when she experienced encroachment, and ultimately decided to abandon her original plot of land and accept another parcel in its place, rather than pursue legal action against the encroachers (Akua Z, 2016). It is likely that this results from the inefficiencies and high costs of court arbitrations that Joireman identified in her investigation (2011). She indicated that this was the easiest option – and would perhaps be cheaper in the long run, although she did end up having to pay the difference in price between her original plot of land and its replacement. The land in question

was Family Land, managed by the CLS, and it is important to consider social factors that may have influenced this decision. Akua did not divulge whether she knew the encroachers (either personally, or as neighbours, or other members of the landowning family), but if they were members of the Family, the encroachment could have been quite political, so abandoning the land could have been more beneficial both economically and socially.

The perceived susceptibility of all government workers to bribery and corruption may also be a contributing factor, and was expressed by three of my participants (Ebo T, 2016; Fredrick K, 2016b; Kabelah Epsilon, 2016). Those Family Heads, CLS workers, and agents who had experience with court proceedings lamented the time and costs required to reach a solution (Abeiku Q, 2016; Fredrick K, 2016b; George I, 2016; Moses W, 2016; Red Representatives Zeta, 2016; Yeboah A, 2016). The only other court proceedings any of my participants had been involved in regarded large tracts of Family Land, rather than individual holdings.

Large scale disputes such as boundary disputes between families tend to go to court. To reiterate, land courts are the official method of adjudication for all land matters. None of the Chiefs, Family Heads, nor CLSs have legal jurisdiction over land matters per se. The ambiguity of the constitution, recognizing customary authority over land access and ownership, does not empower the Chieftaincy to circumvent the courts. Confusingly, however, if a case is “heard” by a Chief and a ruling is passed, and that case subsequently goes to court, the previous ruling of the Chief can be used as evidence to support a user’s claim. Still, large scale boundary disputes tend to go *directly* to court. Sometimes this is because the cost of adjudication is smaller, in these cases, relative to the value of the lands in question. But in customary boundary disputes, it is also because the primary arbiters other than the courts – the customary authorities – are the ones engaged in the dispute. Boundary disputes of this kind are very common. This is unfortunate because disputes over boundaries between landowners – that is, those who grant leases and collect revenues from the land – can have profound effects on individual users, or leaseholders on the boundary. As Ebo explained:

E: In a case, if I can use your same sort of example, if family A has given the land to someone and family B has also given the land to someone, but the land in question, is on a boundary and they're having a boundary dispute between the lands of family A and family B, how do they resolve that one?

T: That is the commonest thing; that always happens. For the families - the families would never agree. So usually those ones end up in court. (Ebo T, 2016).

In this case, the outcome of the court case between the families would have direct consequences on other land claimants.

In conclusion, the courts are time consuming and expensive, so disputes between private individuals tend to be resolved by other means. However, when stakes are higher, or when the dispute is between those who might serve as alternative arbiters, the courts are still utilized. The inefficiency of court arbitration is exacerbated by the ineffective communication between state bureaucracies, namely the land courts and the Lands Commission.

7.2 Mediation by Customary Authority

Another option for resolving disputes is mediation by customary authority – Family Heads or Chiefs in case of Stool Lands. My research supports the literature suggesting that this is the generally preferred option, even though the courts are legally responsible for resolving disputes over land.

One reason that arbitration through customary authority is preferred is that the landowners may have knowledge or records of the transactions that led to the dispute, and may therefore be able to draw on that knowledge to reach a more just solution than might be reached with only the material evidence held by claimants and presented in a court of law. Additionally, as one participant explained, the customary authorities, as landowners, may be able to provide some kind of compensation to the losers of the dispute, where the courts would only pass judgement on the land in contention. This capacity to provide alternative land options may be seen as a more complete solution to the conflict than a judgement from the courts.

Similarly, customary authority may be preferred to arbitrate land matters because of their role as stewards of the land. Although the responsibility to the community borne by Family Heads may be less rigid and clearly defined than that of Chiefs, they still bear the duty of stewardship. Mediating conflict between their own landowning members is part of that duty. Ebo, the land officer from Tema, felt that this duty extended to mediating conflicts among buyers and leasers of their land as well, though it is unclear how widely held this opinion is.

Customary authority may also present a more efficient and accessible option for arbitration of land disputes. As discussed in the previous section, going to court is considered an unfavorable option because of the time and money costs, as well as perceived corruption in the courts. These complaints were not expressed to me about customary authority. None of my participants mentioned either fees or waiting times associated with seeking arbitration from customary authorities. However, some users also perceive the customary authorities to be corrupt. No “fees” were mentioned in relation to the Chiefs or Family Heads, but it was suggested to me that the person who makes the greatest “contribution” to the Chief would be the one who received the favorable judgement (Mefia Gamma, 2016).

7.3 Bureaucratic Entrepreneurs

Entrepreneurial bureaucrats are agents of the state who use the authority conferred by their positions to pass judgements as arbiters outside their legal jurisdiction (Joireman, 2011). As Joireman (ibid) found in her study, I also found that the users I encountered who chose arbitration by bureaucratic entrepreneurs were involved in disputes over lands of relatively small size and value (2011). Similarly, I only found evidence of bureaucratic entrepreneurs interjecting their judgements when invited to do so by the users. Land officers may be approached by claimants involved in a dispute to serve as a mediator, in the interests of reaching an agreement without having to go to court (Ebo T, 2016). Ebo, a land officer working in Tema admitted that, “per the laws we are working with, I am actually not supposed to be dealing with disputes...” and recounted instances where he had facilitated discussions between claimants trying to reach an agreement, rather than acting with authority to pass any kind of judgment (Ebo T, 2016).

I encountered some evidence of the assumption of authority which Joireman referred to as “bureaucratic entrepreneurship,” (2011, p. 55) but not in the way that I expected. I had anticipated state representatives drawing on the authority conferred by their official positions, passing judgement on small scale land disputes, but this was not my experience. Instead, Chiefs or other members of the traditional authority were described as passing judgments outside their official jurisdiction as a less time consuming, and sometimes less costly, alternative to adjudication in the courts. In fact, as discussed in the previous section, Ebo and others working in the Lands Commission itself recommend arbitration from Chiefs in the event of a dispute – even when the land in question was not part of that Chief’s domain.

Any type of arbitration or mediation outside the courts is, by definition, extra-legal, but the extent to which it is perceived as “corrupt” varies. Parties involved in a dispute may or may not be aware that the land officer attempting to mediate their case has no legal jurisdiction over the issue. Land officers might be as susceptible to bribes as anyone else, but their lack of enforcement power makes it seem less likely that they would be the target of bribes from users seeking favourable judgements. Although Ebo led me to believe that, in his case at least, all parties would be made aware that the land officers had no real jurisdiction, I did not interview any users who had experienced this, so it is not possible to draw meaningful conclusions to that end. My interviews with users, and the perceptions of providers about the users, suggests that most would be aware that such activities are outside the legal jurisdiction of land officers. These officers might still be the targets of bribery – even if they were only acting as mediators. Facilitating an informal discussion between claimants, they might be able to persuade the other party to drop their case, and so having the support of the mediator would definitely be beneficial. None of my participants expressed any knowledge or suspicion of this kind of activity, however, so the type of bureaucratic *entrepreneurship* as Joireman (2011) describes – in which bureaucrats receive some type of payment – was not, to my knowledge, encountered in my study.

7.4 Land Guards

“Land Guards,” as discussed identified by Joireman in Ghanaian land institutions literature, are not simply security guards hired by private individuals to discourage trespassing on their land. While they may serve a similar function, their notoriety comes from the threat, or use, of violence to prevent trespassing, even from state workers with legal entitlement to visit the land, or from individuals with legal claims to the land in question.

They are perceived to be associated with customary authority, acting on behalf of members of the ruling families in the area. According to Kabelah Epsilon, a worker at the land court in Tema, land guards are perceived to be primarily involved with intra-family disputes, hired by individual members of the family, or acting out of a sense of loyalty or duty to them. Katwe Beta, a worker at Blue CLS, also reported that land guards act in inter-family or inter-Stool disputes, being, “employed by the Chiefs... and both may have land guards who trouble you [clients]” (Katwe Beta, 2016). It is interesting to note that while participants spoke of “employing” or “hiring” land guards, no private, unconnected individual was ever accused of

hiring land guards, only families, or family members. Furthermore, land guards are described as “boys from the street” or the like, suggesting a sense of family or neighborhood loyalty may be part of their recruitment (Wilhelm Eta, 2016).

Accounts of what actually happens when agents, buyers, or surveyors meet land guards are varied. Some participants perceived land guards as “an annoyance, not a real issue,” because they tend to abandon their posts after being paid a small bribe (Wilhelm Eta, 2016). However, some perceived them to be extremely violent and dangerous. One participant even said that a friend of his had been shot by land guards and died (Adjwo N, 2016). Fredrick K, an agent from Accra, reported that land guards had beaten surveyors, as well as applicants, and destroyed surveying equipment. He said that avoiding, or appeasing, land guards is the best course of action for anyone who is confronted with them, “because at the end of the day, you have saved your life” (Fredrick K, 2016a). The goals of the land guards in these cases also seems to vary. Sometimes they are pacified by receiving a bribe, but it seems that sometimes they seek to stop or impede the registration process, so they seize or destroy survey equipment or documents (Wilhelm Eta, 2016)

The way that land guards were talked about at the CLSs is also interesting to discuss. At Blue CLS, land guards were mentioned, but Katwe said that they were not needed in this area because of the excellent documentation of their boundaries (Katwe Beta, 2016). Similarly, at Red CLS, land guards were mentioned as an unpleasantness that is, “of course, not present in this area” (Moses W, 2016). The use of land guards seems to be associated with notions of backwardness, cronyism, and corruption, so provider participants wished to distance themselves from these practices. Nevertheless, a group of six men entered the Red CLS on one of the days I observed. Joyce, my research assistant, asked the receptionist if they were clients, and whether it would be alright for us to approach them for an interview. We were told not to approach them. When I asked if they were staff, the receptionist surreptitiously told Joyce that they were land guards so we should not talk to them. Evidently, although representatives of the CLSs did not wish to admit to employing land guards, at least the Red CLS still used them to enforce their land claims.

8.0 Discussion

8.1 State and Custom

One of the main points emerging from my interviews on the provider side is that there is considerably less conflict between the interests of the state and customary law than I had anticipated. Perhaps because of my own background in Canada, I was predisposed to view the state as a legacy of colonialism, with interests at odds with those of indigenous rulers. This interpretation was influenced by researchers such as Yaro (2010, p. 205), who considers the state in Ghana to be too deeply rooted in colonial history to overcome its predatory and extractive nature and service to powerful foreign interests. Drawing on Nuijten and Lorenzo's work in Peru (2009), I also had envisioned the stewards of the land as a kind of managing committee, distributing use rights to land as a mechanism of social control. In this case, the customary authority restricts the use rights of community members whose behaviour is deemed immoral or undesirable – such persons may also be excluded from participation in customary government – and so the power to distribute use rights is desirable for the customary authorities as it allows the customary authority to enforce rules of conduct (Braaten, 2014). My sample was far too small to speak definitively, but I encountered no evidence of this type of activity. My study revealed very little conflict between the state and customary institutions.

This concordance is more understandable when we reconsider the relative positions of the state and customary authorities with regards to land. In the Greater Accra Region of Ghana, however, the allocation of use rights to Family Lands and Stool Lands has become much more monetized and market oriented. Rights to distribute land still provide Family Heads and Chiefs with a great deal of power. But rather than power over social behaviour, here, the power to distribute use rights to land is considered desirable for Stools and families because of the land's saleability and the monetary gains to be had. Although the land itself cannot be sold, and ownership remains with the family, the "leasehold interests" which are distributed are still colloquially referred to as "sales." While some communal land is reserved for familial obligations (such as farm lands for family members who become impoverished) this land is typically not part of the registration process. As one informant noted, "registration for land that is not to be sold... that mainly does not happen" (Yeboah A, 2016). The relative prevalence of Family Lands in the Greater Accra Region, as compared to Stool Lands, may also contribute to

this phenomenon. As discussed in section 4.3.2, Family Lands are less rigidly tied to communal welfare. As reflected by the constitution's neglect of Family Lands per se, Family Lands – and their proceeds – are not considered to be owed to future generations of the community in the same way as Stool Lands. At best, they may be owed to future generations of the family to which they belong, but even that is contentious, and there may be a great deal of intra-family conflict over lands and their proceeds. Since Families are more able to profit from land sales personally, they may have greater interest in selling, and registering, land, so in a context where Stool lands were more prevalent, it is possible that registration of land that was *not* intended for sale would be less unusual.

So, rather than a person or a committee of people seeking to define and enforce land rights as a means of social control, Family Heads, or the landowning families as a whole, seek the commercial benefits of distributing use rights. As such, many customary authorities seem content to relinquish the role of definition and enforcement of use rights to the state, insofar as their monetary interests continue to be served. That is, the laws concerning land relations that have been created by the state mostly seem to match those imagined and desired by the customary authorities, so there is no need to compete with the state for the position of “rule maker.” Furthermore, similar to the findings of Boone and Duku (2012) in Western Ghana that the state reinforces ethnic privilege in the land domain, in the Greater Accra Region this arrangement allows customary authorities to use the legitimacy provided by the State to both maintain their position as traditional stewards of the land, and to leverage that position for commercial gain. In the given peri-urban economy, the rules made by the State allows Family Heads to take advantage of market opportunities, as rising demand and land scarcity make leasing more financially attractive than giving land to family members to farm. Rather than disrupting private commercial interests, the relationship of customary authorities to their communities with regards to land, in the case of the Greater Accra Region, seems to align those interests. The state receives revenue, collected by the OASL, as a portion of all ground rents accruing to Stools and those Family Heads who have chosen to let the OASL manage their collection activities.

This alignment of interest does not mean that interactions between the state and customary law are without difficulty. Both sets of institutions are part of an evolving effort to create and maintain a singular network of land rights, and they seem to agree on the rules to be established

and enforced, but the logistics of building such a network remain problematic. Perhaps the greatest singular problem facing the actors involved in efforts to secure land rights in Ghana is the enormous backlog of land that has never been registered, or in a more practical sense, the time and money required to address that backlog, and neither the state nor the customary authorities want to shoulder the cost.

Approximately 80% of all the land in Ghana is customary – either Family Land or Stool Land – so it follows that much of the land that remains to be registered, also, is customary.

T: The disputes, the boundary disputes, it's a big challenge to us. So you may find one piece of land, but it falls within three different families boundaries, so each of them owns it. It's a big challenge to us. It's about time we administrated some of those things. Settle all of those boundary disputes so we can make the registration smoother.

The creation of the CLSs may suggest that the state, and the World Bank behind it, is interested in outsourcing some of the document production and management involved in land rights enforcement to the customary authorities in order to offload costs. In a less cynical light, drawing on existing institutions is both culturally appropriate and practical, given that 80% of these lands are customary lands. The creation of the CLSs may suggest that the state is interested in mobilizing the records that may already exist in some form under customary law, and integrating them into their own registry – in a sense, patching what used to be two disparate systems together. As discussed in Chapter 4, however, this has not been entirely successful because record keeping on its own does not generate any income (in fact is costly), and neither the state nor the customary authority in most cases, was interested in funding the CLSs activities in the long term.

8.2 Getting Users to Subscribe

One barrier to documenting the backlog of unregistered land in Ghana is users' lack of interest in registration under most circumstances. Creating a complete cadastre and land register for the nation, as the state is interested in doing, requires a great deal of user participation. As seen in sections 5.2 and 6.0, the process of land registration may be very time consuming and expensive for users, and ultimately requires users to take interest in its achievement. This issue is highlighted by De Soto, who argues that the immense transaction costs associated with

obtaining property rights in the developed world is a key factor in keeping the capital locked inside that property (2000). What follows is a challenge for both state and customary land institutions in getting users to “subscribe” to the notion of registration, or to become interested in its prescribed use. As Akrich notes, with respect to the “technology transfer” of French photoelectric lighting kits to Senegal, and integrating foreign technology in the developing world more generally:

The technical realization of the innovator’s beliefs about the relationships between an object and its surrounding actors is thus an attempt to predetermine the settings that users are asked to imagine for a particular piece of technology and the pre-scriptions (notices, contracts, advice, etc.) that accompany it. (Akrich, 1992, p. 208).

By examining the reasons that users do register their land, the limitations of registration for increasing tenure security, and other strategies used to increase tenure security, we can identify the paradox of registration for rights enforcement: that many factors which discourage registration stem from the absence of a completed registry.

First, let us consider why some users do subscribe to registration. Registration certificates are viewed as one of the best assurances that recently purchased land has not also been sold to another party, or if it has, that one’s own interests will take precedence and be guaranteed by the state. Many prospective sellers and recent buyers seek registration for this reason. Even without actually going to court, the certificate may be used as a bargaining tool, since the holder might threaten that if the dispute *does* end up in court, that they would be victorious. With this in mind, parties may sometimes come to their own agreement and avoid the expenses associated with arbitration through the courts.

So it appears that users do register their land with the goal of increasing tenure security, but only at specific junctures. Customary law is prevalent in most of Sub-Saharan Africa, not just Ghana, and remains the land rights definition and enforcement regime for the majority of the continent (Augustinus, 2003). Although competing and overlapping institutions may cause confusion and conflict over jurisdiction, in areas where state power is weak alternatives emerge to meet the demand for property rights enforcement. This corroborates the findings that the relationship between customary institutions and the state may be complementary rather than

competitive, and that each emerges to meet the demand for predictability, accessibility, equity, effectiveness, or restraint of its users (Joireman, 2011). In these contexts, where non-state institutions impart a certain level of tenure security through well understood and respected rules, titling projects may be essentially useless (Jacoby & Minten, 2007). This seems to be the perception of most users who are not trying to change the distribution of rights to be enforced (i.e. who have access to land, are not trying to buy, sell, or inherit, and believe that their access is relatively secure). As mentioned earlier, “registration for land that is not to be sold... that mainly does not happen”(Yeboah A, 2016). In fact, other participants who were asked about registration of land not intended for sale – for instance, (customary) land that they lived on – seemed confused by the question. None of the users that I interviewed had much interest in obtaining certification for their land unless it was to validate a transfer or resolve a dispute.

Customary users seem content to leave their land unregistered otherwise. This may be because of the difficulty of invoking state enforcement mechanisms for land rights. It may be because the provision of title does not actually bring the increases in tenure security associated with formality. This could happen, as in Kenya, because it is the arbitration procedures, not the registration process, which make informality more attractive to landholders (Joireman, 2011, p. 151). Here, even those with formal titles were found to prefer using ethnic gangs to enforce property rights, because of the time and money costs of using the formal courts and tribunals to resolve land conflicts (Joireman, 2011, p. 150). Thus, many feel it is not worth getting certification because if they are challenged they will not really use their registration certificates to try to invoke the State to defend their rights, but rather will turn to customary arbitration or other means. Lack of registration may also result from users’ lack of confidence in the state’s neutrality. As discussed in Chapter 6, fears of corruption on the part of judges, police officers, and other state officials, may lead users to avoid state arbitration, and therefore reduce the demand for land titles. If the state is not trusted to enforce land claims, there is no motivation to seek registration, since it is not expected to increase tenure security. Furthermore, local users may feel that they have more influence at the local level with Family Heads or Chiefs than with the state.

What is expected to increase tenure security, however, is some type of development of the land. This is perceived to offer protection which is less complete (i.e. some interest in the

land is protected, but maybe not continued leasehold rights in the entire parcel of land) but more reliable (i.e. having a lower chance of losing all rights to the land or compensation). As Fredrick explained to me, “Most don’t understand registration as a way to increase tenure [security]—building is the answer for that” (Fredrick K, 2016b). Building on the land offers tangible protection; a fence can physically keep encroachers off the land. Beyond that, even if the enforcement mechanisms of the state are invoked and one is found to have no legal claim to the land, the builders are still considered to have some claim to the structures that they have built on the land. In this case, the court might require the legal landholder to compensate the encroacher for the structures. The legal landholder may also decide, as Akua did, that the litigation is not worth the effort and surrender the land to the encroacher – at least the portion which had been built upon. In this way, building may not protect the whole parcel of land, but it may increase the chances of retaining the land in the event of a dispute, and essentially guarantees some form of compensation if the land is lost.

Thus, registration and the accompanying state guarantee of land rights are not viewed as the only way, or even the best way, to protect one’s interests in land. In this context, it is difficult to achieve a complete registry, but paradoxically the consequences of an incomplete registry are the major factors dissuading landholders from seeking registration. Furthermore, as discussed in section 5.4, while registration certificates are considered the best documents for protecting land rights, they are far from the only ones. And, as discussed in section 7, indentures, which reflect the initial willingness of the customary authority to lease out land to an individual, site plans, and even ground rent receipts, can be used as evidence of land claims in all mechanisms of dispute resolution, to varying degrees of success. And, there are still a number of landholders seeking registration – especially foreign or domestic migrants who feel that their interests may not be protected by the local customary authorities in the event of a dispute.

8.3 Managing Records

Although many people, for reasons discussed above, do not even bother with attempting to register and receive titles for their land, for those that do, the production and circulation of documents within and between state and customary systems is key. Approaching land rights from an ANT perspective means that we must pay attention to the material affordances and obduracies of the actors involved, including the non-human material actors. Nowhere is that

more obvious than when we consider the documents, which we have seen are crucial for users to represent their land claims to the state and customary authorities, and for providers to enforce the rights which are claimed. And, as De Soto argued, “Capital is born by representing in writing – in a title, a security, a contract and other such records – the most economically and socially useful qualities *about* the asset” (De Soto, 2000, p. 48). It is important to remember that Ghana, as elsewhere, is truly a “Government of Paper” – meaning that these documents which are so crucial in representing and enacting social relations about land are almost exclusively in paper form (Hull, 2012b). Furthermore, moving away from physical documents is a time consuming and expensive process, which has only just begun. Although the state and customary authorities of Ghana may wish to digitize, this presents its own challenges as well.

Physical documents pose challenges to the functioning of institutions even after they are produced, as they must be organized, stored, and protected. This includes the final registration certificates, as well as the files that lead to their creation, whose contents we have seen can also be used in their own right to try to protect land claims. It is important to consider the simple fact that all these paper documents are vulnerable to water, fire, rodents, shrinkage, and decay over time – and they may also be compromised by simply being lost or misplaced. The archive spaces, and the offices themselves, of the Lands Commission were vulnerable to these dangers – a leaky roof or a fire could be a catastrophe. A number of redundancies are used when handling physical documents, because of these vulnerabilities:

L: There are instances where misfiling and those things - we do experience them. And over time, too, you know they are paper things, and they get destroyed easily.

E: How do you handle that? When something is lost or damaged? Like, what do you do when someone comes and is asking about their application and the file is lost?

L: ...We keep some here, in files like this. And we have - we do extract of the document and record it in big legers. We also have a map that we write index on, and we also have folders where we take the copies... if you can give us photocopies - bring us photocopies, we would create a temporary jacket and work with it and give you whatever you want.

The perishability of paper documents necessitates these redundancies, and may lead to errors, as this story suggests. The loss or misplacement of documents is a key factor in users’

dissatisfaction with the registration process – and is cited as a major cause of delays by both users and providers. Furthermore, these perishable documents are not all stored and organized in the same place, or using the same filing method.

At this time, each of the four divisions of the Lands Commission retains its own records keeping system, and its own set of archives, from before they were merged. This takes up space – several rooms at both the Lands Commission in Accra and the TDC in Tema – which increases overhead costs for the Commission. There is also the issue of duplication – where documents in different divisions record information about the same referents. Akosua C from PVLMD cited this as a major challenge for registration now that the four branches are united under one Commission:

C: Because, you know, like I said, because the records were different, now before we start, we need to set modalities. If we start, which records should we use?

E: Right

C: Should we put more preference to the one from the other division than the one from here, or should we attach more priority from the one from here, or the one from there, from the other one? Or do we attach the same priority to both? Now if we attach the same priority to both and they are in conflict, how do we resolve it? How do we go about addressing it? So we need to find a way to address all the issues, possible issues that we perceive to come up before we start. Else, we might accept it, we might not be able to then the client would feel we've unduly delayed his process. (Akosua C, 2016)

So, deciding which divisions' documents will take priority in the event of a discrepancy is a challenge that has yet to be definitively addressed. A consensus on how to resolve conflicts when amalgamating information from the different divisions must be reached before a single digitized database can be established, but it is being constructed already without this consensus.

Several providers told me about the ongoing digitization processes being undertaken by the Lands Commission and the CLSs. This was framed as a mark of progress, and was associated with hopes that the current difficulties of storing, organizing, and protecting physical documents might be resolved (Akosua C, 2016; Ebo T, 2016; Kofi L, 2016). However, the process of digitization produces some of its own problems. The main barriers to digitization that were cited

were lack of resources – specifically money and labour. Some funding and expertise was being provided by the World Bank, as part of the LAP-2, to create a database for storage and a network for access to the newly digitized records (Akosua C, 2016). However, the task of data entry fell to state workers, in addition to their usual duties (Kofi L, 2016; Rockson M, 2016). Some offices were able to make use of national service workers – that is, recent post-secondary graduates participating in mandatory government-subsidized internships – for this task (Ebo T, 2016). Furthermore, there did not seem to be any consensus on how to reconcile conflicting information from different documents even within the same department, let alone resolving conflicts between departments as records were digitized.

Thus, the materiality of paper documents poses a challenge for the maintenance of the records, and therefore the formalization and enforcement of land rights in Ghana. Digitization was viewed by providers as a potential solution to systematizing the management of the mountains of paperwork, but this process presents the challenge of resource requirements – namely manpower, money, electricity, and time – which have not yet been addressed.

9.0 Conclusions

Clear definition and enforcement of land rights is associated with a range of benefits, including increased tenure security, which is in turn associated with increased agricultural productivity (Bellemare, 2013), commercial investment (Leblang, 1996), personal investment (Calderon, 2003), labour market participation (Field, 2007), feelings of empowerment (Field, 2005), and political participation (Glavin et al., 2013). It is therefore generally considered desirable by economists and many development practitioners. The institutional framework for the definition and enforcement of land rights, however, remains controversial. Some believe that land rights should be exclusively the domain of the state, while others argue that customary law and informal institutions also have a place in land rights administration. Ghana presents an interesting case in terms of this debate, as there is unusual mutual recognition and cooperation between the state and customary law regarding land matters. This inhibits what De Soto called ‘pulling together’ property representations, whereby “all the information and rules governing the accumulated wealth of [a country’s] citizens [are deposited] into one knowledge base” (De Soto, 2000, p. 51), but also creates alternative avenues for landholders trying to secure their rights. The question remains: how does this system affect overall transactions costs and thus the ability of people to pursue and obtain legal title to lands?

This research explored the network of land rights in the Greater Accra Region of Ghana, in order to deepen our understanding of the interests of the state, customary authorities, and various users of the system and the processes through which rights to land are formalized and secured. As this case demonstrates, formalization projects in the developing world are often very complex, hybrid systems comprised of multiple and overlapping institutions. Originating in the institutional disruption of colonialism, this institutional plurality complicates state efforts to rationalize and formalize land rights. Ghana, which is typical in its rapid urbanization and distinct shift away from subsistence agriculture, shows that formalization projects must also contend with the rapidly changing economies and landscapes of developing countries.

In many ways, this study supports De Soto’s (2000) criticism of overly bureaucratic, paper-laden systems of property rights in the developing world. The material obduracies of paper documents compound the already plentiful challenges of formalization, and the high transaction costs of formalization currently dissuade many users from registration. However, in this context

of institutional pluralism, documents can be mobilized by users in creative ways to pursue their interests. Indentures, produced by customary authorities; site plans, produced by (usually state) surveyors; ground rent receipts, produced by the state; boundary plans, produced by customary authorities and approved by the state; as well as registration certificates may be used to support users' claims to land in ways not originally intended. They may be used conventionally (in a court of law), or unconventionally, in informal negotiations, arbitration by customary authorities, and mediation by bureaucratic entrepreneurs. The overlap of institutions means that the documents produced for use under state enforcement mechanisms may still be useful in supporting land claims across the whole system.

My research, adopting an Actor Network Theory approach, revealed that most people agree on what the rules are (i.e. what land relations are allowed, and for whom, how access to land can be legally obtained), and who makes the rules. The laws concerning land relations that have been created by the state mostly seem to match those imagined and desired by the customary authorities, so conflicts over the desire of the elites to “define” property rights in competition with the state has largely been avoided. Yet the dual nature of the systems allows customary authorities to retain much of their power to manage and to profit from their customary position as land stewards. The state lends legitimacy to their role, but retains exclusive rights of taxation, and it allows the state to essentially tax customary land transactions through the percentage of ground rents claimed by the OASL. And the ultimate coordinator is the state; keeping track of who has legal claim to each parcel of land – or maintaining a registry – is legally duty of the state, and this duty is the justification for the taxes collected by the state (through the OASL) on customary leaseholds. But the registry remains woefully incomplete.

The state, through its legislative instrument, has made land registration in Ghana compulsory, but in actuality this is not actively enforced and land only gets registered when users are sufficiently interested. Due to the high time and financial costs of registering land, acquiring formal titles is only perceived to be beneficial when users wish to transfer use rights for inheritance or sale purposes, or when they want the state to enforce their rights. Registration, and the accompanying state guarantee of land rights, are not viewed as the only way, or even the best way, to protect one's interests in land. In some cases, building on the land, rather than seeking a title certificate, serves users' interests better and perhaps with overall lower costs, than seeking

rights protection from the state. Additionally, some users prefer arbitration by the Chiefs, or mediation by customary authorities or bureaucrats, rather than seeking rights protection from the state. These avenues may be more accessible, more affordable, more efficient, or allow more opportunities for leveraging social connections.

In this context, it is difficult for the State to create a complete registry, but paradoxically the consequences of an incomplete registry are the major factors dissuading landholders from seeking formal title. The registry is needed to establish whose claims have been guaranteed by the state. The State cannot effectively and efficiently perform its role of enforcing land rights without a complete registry; but if the state is not perceived as an effective enforcer of land rights, landholders have little incentive to register their land. Furthermore, the rules about land documents – those needed for registration and those produced over the course of registration – are not clear, and as a result, the current system seems to conflate ends with means in terms of land rights. This uncertainty leads to higher transaction costs, as landholders may need to resubmit applications multiple times, to amend or add documents to their files. High time and money costs involved in producing and assembling myriad documents, as well as frustration with the lack of clarity, make the registration process unappealing to landholders.

Nevertheless, the creation and circulation of documents are not only essential to the functioning of the systems individually – and together – but themselves shape these institutions and how they operate. As De Soto argued, it is the documents themselves that circulate, “not the house itself, but an economic concept *about* the house, embodied in legal representation... something separate from the asset itself” (De Soto, 2000, p. 48). Most users, and even providers, seem concerned with producing, presenting, and obtaining the *documents* which are needed for registration itself and the state protection of land claims promised through registration. In the face of such complex bureaucracy, users seem to lose sight of the desire for state protection itself, sometimes using the documents which are produced as means to that end, in other institutional contexts to have rights momentarily recognized, if not formally secured. Indentures, site plans, even registration certificates, are mobilized as representatives of land claims even outside of the courts, or other mechanisms of state enforcement. These documents may also be used to represent one’s legal claims to a parcel of land to other claimants or unofficial arbiters such as customary authorities or bureaucratic entrepreneurs. These documents circulate the

institutional overlap of the state, customary law, and informal norms, lending their support to the land claims of both individual users and groups (like Families and Stools) across a variety of institutional contexts. And because of the quantity and complexity of the documents involved, agents have emerged as liaisons between users and the state in order to facilitate registration, and allow users to obtain the documents that they would need in order to invoke the enforcement mechanisms of the state, or may desire to invoke other enforcement mechanisms.

From a development perspective, the production and management of these documents is a major challenge. Documents are an essential part of how bureaucracies function, and the building of bureaucracies therefore necessitates the production of documents (Hull, 2012a). As with most development issues, finding the resources to achieve this task is challenging – as the state seems to lack resources and customary authorities seem unable or unwilling to pick up the slack. The actual process of formalization has largely been attempted in the way De Soto would suggest: with the state attempting to produce and distribute titles for all informally held lands, embodying existing relations in terms of individual land holdings as much as possible. However, this attempt to codify existing land relations has had the effect of annexing, rather than ‘pulling together’, customary and informal land institutions as De Soto intended (De Soto, 2000, p. 51). The result is a complicated environment of institutional pluralism, where users must recruit numerous and varied material actors to support their land claims if they wish to have their rights protected, and which vary, depending on which system their land lies. The question remains: what is the impact of an increasing reliance on documents to secure land rights in this complex bureaucratic context?

The creation and circulation of these myriad documents, as well as their storage, verification, and management, are major contributors to the high transaction costs of land registration in Accra. Many of the documents require input from more than one party, and the burden of circulating incomplete files, as well as following up to ensure that they are completed, often falls to the applicant. These bureaucratic hurdles dissuade landholders from seeking formal title. While this exacerbates many of the difficulties associated with formality, it also creates unique opportunities for landholders to solve disputes and secure their rights outside the formal court system. Thus, the documents produced and circulated through the system of land rights in the Greater Accra Region of Ghana have become both burdens and assets for landholders, used

to represent and enact land relations in institutional contexts beyond their originally intended purpose. It can be costly and time consuming to procure any single document for one's file, but each one is also a tool which can be deployed by users at different junctures, in the interests of securing their claims.

Users draw on different strategies to try to get their rights protected. Users draw on their social networks, and their financial resources, to try to achieve this goal. In many cases, they send agents to persuade the other actors needed to protect their rights through registration and state guarantee. But this option is only available to those who are able to afford it both in terms of time and money. The cost of hiring an agent may vary, depending on the prior relationship of the agent and the patron, but for some it is cost prohibitive. Initiatives such as the implementation of the CSAU, which may reduce users' reliance on agents by streamlining the process and make it more user-friendly (as well as reducing opportunities for bribery), may therefore reduce costs for users. This initiative may also influence the way that power is exercised by users and agents to expedite the registration process. Agents, particularly, draw on social relationships with state workers in order to ensure that their cases are prioritized, but the social position of CLS workers, and even the Family Heads and Stools that they represent, can be leveraged in both registration and dispute resolution. If the CSAU is successful in eliminating contact between users and the back office, there will be far fewer opportunities for these advantages to be mobilized. This may make the process more equitable, or it may simply change the ways in which power is mobilized by different users, as they will have to find different points of access to the workers in question.

It is also unclear how the ongoing digitization process will affect user costs and experiences. The existence of soft-copies of archived documents may reduce costs for users, if they are no longer required to obtain and submit so many hard copies. Most of these changes, engendered by the World Bank through the LAP, are intended to reduce the transaction costs associated with registering land, and thereby reduce the barriers to legality lamented by De Soto. The Bank estimates that wait times have been reduced through the LAP, by 34 months on average from 2003 to 2011 (The World Bank, 2011, p. viii), but neither the workers nor the landholders that I interviewed perceived any meaningful change. Still, if digitized copies are required to be produced and submitted by the user, this likely will make the whole process much

less accessible for poorer Ghanaians who may not have easy and affordable access to the internet. The system is currently undergoing a number of changes, and further research will be required to understand how they might affect user experiences once they are fully implemented.

Finally, the system is extremely complex, elements of which could not be addressed in the scope of this thesis. Most notable is how power differentials do exist among actors of different genders, ethnicities, language groups, and levels of literacy; and these likely affect people's abilities to obtain and retain land rights. For instance, other scholars have noted a gender dimension in many countries actively attempting to formalize land rights (See Abdulai, 2007; Amanor, 2010; Anaafo, 2014; Joireman, 2011; Quisumbing, 2010 for examples in Ghana alone). Some, such as Joireman (2011) and Anaafo (2014), argue that customary land practices in Ghana disadvantage woman claimants. The scope of my research does not allow me to draw firm conclusions, but there was a noticeable underrepresentation of women at all of the field sites except the NGO which was entirely women. Of all the 35 participants, only six were women: one user and three lands commission employees in Accra, one user at the Red CLS, and the director of LandDev. None of the participants from Tema were women. It is interesting to note that although I encountered women users and providers, I did not encounter – and no participants ever mentioned the existence of – any female agents. Further studies are therefore needed to explore gendered dimension of land rights and tenure security per se, as well as the ways in which other socially and economically marginalized groups are affected, in the context of this institutional complexity, as well as the ways in which types of actors, or positions in the network, are gendered. Property rights are complex, even more so in the developing world, due to the legacy of colonialism. Formalization projects must understand this complex environment, and the material challenges of bureaucracies in the developing world, if they are to reduce transaction costs and increase tenure security.

10.0 References

- Abdulai, R. T. (2007). Customary landholding institutions and housing development in urban centres of Ghana: Case Studies of Kumasi and Wa. *Habitat International*, 31(2), 257–267.
- Addo-Fening, R. (2008). The Relevance of Traditional Governance. In B. Agyeman-Duah (Ed.), *Ghana: Governance in the Fourth Republic* (pp. 32–56). Digibooks Ghana Limited.
- Addo-Fening, R. (2012, September). *The Southern Model of Traditional Authority*. Institute of African Studies, Legon, Ghana.
- Agbosu, L. K. (1990). Land Registration in Ghana: Past, Present and the Future. *Journal of African Law*, 34(2), 104–127.
- Agrawal, A. (2002). Common Resources and Institutional Sustainability. In E. Ostrom, T. Dietz, N. Dolsak, P. C. Stern, S. Stonich, & E. U. Weber (Eds.), *The Drama of the Commons* (pp. 41–86). Washington DC: National Academy Press.
- Agyeman-Duah, B. (2008). *Ghana Governance in the Fourth Republic*. Digibooks Ghana Limited.
- Akram-Lodhi, A. H. (2007). Land, markets and neoliberal enclosure: an agrarian political economy perspective. *Third World Quarterly*, 1437-1456.
- Akrich, M. (1992). The De-Description of Technical Objects. *Shaping Technology- Building Society: Studies in Sociotechnical Change*.
- Alston, L. J., Libecap, G. D., & Schneider, R. (1996). The Determinants and Impact of Property Rights: Land Titles on the Brazilian Frontier. *Journal of Law, Economics, and Organization*, 12(1), 25–61. <https://doi.org/10.1093/oxfordjournals.jleo.a023360>
- Amanor, K. S. (2010). Family Values, Land Sales and Agricultural Commodification in South-Eastern Ghana. *Africa*, 80(Special Issue 01), 104–125.

- Amoako, I. O., & Lyon, F. (2014). 'We don't deal with courts': Cooperation and alternative institutions shaping exporting relationships of small and medium-sized enterprises in Ghana. *International Small Business Journal*, 32(2), 117–139.
<https://doi.org/10.1177/0266242613484778>
- Anafo, D. (2014). Land reforms and land rights change: A case study of land stressed groups in the Nkoranza South Municipality, Ghana. *Land Use Policy*, 42(Complete), 538–546.
- Appiah, M. (2011). *Land Disputes Resolution in Ghana- The Role of Customary Land Secretariats (CLS). Case of Gbawe Customary Land Secretariat* (Master's Thesis). Technische Universitat Munchen.
- Aryeetey, E., & Udry, C. (2010). Creating Property Rights: Land Banks in Ghana. *The American Economic Review*, 100(2), 130–134.
- Augustinus, C. (2003). *Key Issues for Africa and Globally*. Nairobi, Kenya: UN - Habitat.
- Bellemare, M. F. (2013). The Productivity Impacts of Formal and Informal Land Rights: Evidence from Madagascar. *Land Economics*, 89(2), 272–290.
- Blocher, J. (2006). Building on custom: land tenure policy and economic development in Ghana. *Yale Human Rights and Development Law Journal*, 9, 166+.
- Boone, C. (2003). *Political Topographies of the African State: territorial authority and institutional choice*. New York: Cambridge University Press.
- Boone, C., & Duku, D. K. (2012). Ethnic Land Rights in Western Ghana: Landlord–Stranger Relations in the Democratic Era. *Development and Change*, 43(3), 671–693.
- Bourbeau, H. (2001). Property Wrongs. *Foreign Policy*, 78-79.
- Braaten, R. H. (2014). Land Rights and Community Cooperation, 61(Complete), 127–141.
- Bromley, D., W. (1992). The Commons, Property, and Common-Property Regimes. In D. Bromley W. (Ed.), *Making the Commons Work: Theory, Practice, and Policy* (pp. 3–16). San Francisco California: Institute for Contemporary Studies.

- Bunting, M. (2000, September 11). Fine Words. Flawed Ideas. *The Guardian*.
- Calderon, J. (2003). The formalisation of property in Peru 2001–2002: the case of Lima. *Habitat International*, 289–300.
- Carter, M. R., & Olinto, P. (2003). Getting Institutions “Right” for Whom? Credit Constraints and the Impact of Property Rights on the Quantity and Composition of Investment. *American Journal of Agricultural Economics*, 173–186.
- Chen, M. A. (2012, August). The Informal Economy: Definitions, Theories, and Policies. *Working Paper No. 1. Women in Informal Employment Globalizing and Organizing (WIEGO)*.
- Chieftaincy, Governance and Development Project. (2016). House of Chiefs. Retrieved May 11, 2016, from <http://chieftaincy.org/>
- De Soto, H. (1989). *The Other Path*. Harper & Row Publishers, Inc.
- De Soto, H. (2000). *The Mystery Of Capital*. Transworld.
- Dietz, T., Dolsak, N., Ostrom, E., & Stern, P. C. (2002). The Drama of the Commons. In E. Ostrom, T. Dietz, N. Dolsak, P. C. Stern, S. Stonich, & E. U. Weber (Eds.), *The Drama of the Commons* (pp. 3–36). Washington DC: National Academy Press.
- Domeher, D. (2012). Land rights and SME credit: evidence from Ghana. *International Journal of Development Issues*, 11(2), 129–143.
- Ellickson, R. C. (1991). *Order Without Law: How Neighbors Settle Disputes*. Cambridge, MA: Harvard University Press.
- Fay, D., & James, D. (2009). Restoring What was Ours. In D. Fay, & D. James, *The Rights and Wrongs of Land Restitution: "Restoring What was Ours"* (pp. 1-23). New York: Routledge-Cavendish.
- Field, E. (2005). Property Rights and Investment in Urban Slums. *Journal of the European Economic Association*, 279–290.

- Field, E. (2007). Entitled to Work: Urban Property Rights and Labor Supply in Peru*. *The Quarterly Journal of Economics*, 122(4), 1561–1602.
- Field, E., & Torero, M. (2008). Do Property Titles Increase Credit Access Among the Urban Poor? Evidence from a Nationwide Titling Program. *Revision Requested by American Law and Economic Review*, 1-42.
- Foucault, M. (1980). Two Lectures. In Colin Gordon (Ed.), *Power / Knowledge: Selected Interviews and Other Writings* (pp. 78–108). Brighton: Harvester. Retrieved from <https://www.scribd.com/doc/37700426/Michel-Foucault-Two-Lectures-From-Power-Knowledge>
- Gedzi, V. S. (2012). Property relations and women's access to courts among the Anlo and the Asante in Ghana. *European Scientific Journal*, 8(29), 121+.
- Ghana. The Constitution of the Republic of Ghana, Pub. L. No. Article 36 (1992).
- Glavin, G., Stokke, K., & Wiig, H. (2013). The Impact of Women's Mobilisation: Civil Society Organisations and the Implementation of Land Titling in Peru. *Forum for Development Studies*, 40(1), 129–152.
- Gravois, J. (2005, January 29). The De Soto Delusion. *Slate*. Retrieved from http://www.slate.com/articles/news_and_politics/hey_wait_a_minute/2005/01/the_de_soto_delusion.html
- Greif, A. (2006). *Institutions and the Path to Modern Economy: Lessons from Medieval Trade*. (R. Calvert & T. Eggertsson, Eds.). New York: Cambridge University Press.
- Hardin, G. (1968). The Tragedy of the Commons. *Science*, 162(3859), 1243–1248.
- Herbst, J. (2000). *States and Power in Africa: Comparative Lessons in Authority and Control*. Princeton, NJ: Princeton University Press.
- Hull, M. S. (2012a). Documents and Bureaucracy. *Annual Review of Anthropology*, 41(1), 251–267.

- Hull, M. S. (2012b). *Government of Paper: The Materiality of Bureaucracy in Urban Pakistan*. University of California Press.
- Jacoby, H. G., & Minten, B. (2007). Is Land Titling in Sub-Saharan Africa Cost-Effective? Evidence from Madagascar. *The World Bank Economic Review*, 21(3), 461–485.
- Joireman, S. F. (2011). *Where There is No Government*. New York: Oxford University Press.
- Lands Commission of Ghana. (2015, October). Land Commission Requirements (Checklist) For Services at Client Service Access Unit.
- Larkin, B. (2008). *Signal and Noise: Media, Infrastructure, and Urban Culture in Nigeria*. Durham and London: Duke University Press.
- Latour, B. (1996). *Aramis, or, The love of technology*. Harvard University Press.
- Leblang, D. A. (1996). Property Rights, Democracy and Economic Growth. *Political Research Quarterly*, 49(1), 5–26.
- Levine, R. (2005). Law, Endowments, and Property Rights. *The Journal of Economic Perspectives*, 61-88.
- Meinzen-Dick, R., & Mwangi, E. (2009). Cutting the web of interests: Pitfalls of formalizing property rights. *Land Use Policy*, 26(1), 36–43.
- Ministry of Lands and Forestry, Ghana. (2003). *Emerging Land Tenure Issues*.
- Morphy, F. (2008). Enacting sovereignty in a colonized space: The Yolngu of Blue Mud Bay meet the native title process. In D. Fay & D. James, *The Rights and Wrongs of Land Restitution: “Restoring What Was Ours.”* Routledge.
- Musembi, C. N. (2007). De Soto and Land Relations in Rural Africa: Breathing Life into Dead Theories about Property Rights. *Third World Quarterly*, 28(8), 1457–1478.
- North, D. (1990). *Institutions, Institutional Change, and Economic Performance*. New York: Cambridge University Press.

- Odotei, I., & Awedobu, A. (Eds.). (2006). *Chieftancy in Ghana: culture, governance and development*. Accra: Sub-Saharan Publishers.
- Quisumbing, A. R. (2010). Promising Approaches to Address the Needs of Poor Female Farmers: Resources, Constraints, and Interventions. *World Development*, 38(4), 581–592.
- Schoneveld, G. C. (2014). Translating Legal Rights into Tenure Security: Lessons from the New Commercial Pressures on Land in Ghana, *50(2)*, 187–203.
- Scott, J. C. (1998). *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed*. Yale University Press.
- Selwyn, B. (2011). Liberty Limited? A Sympathetic Re-engagement with Amartya Sen's Development as Freedom. *Economic & Political Weekly*, 68-76.
- Shaw, T. (2013). The Integration of Multiple Layers of Land Ownership, Property Titles and Rights of the Ashanti People in Ghana. *Urban Forum*, 24(1), 155–172.
- Sick, D. (2008). Social Contexts and Consequences of Institutional Change in Common-Pool Resource Management. *Society and Natural Resources*, 94–105.
- The World Bank. (2011). *Ghana - Land Administration Project* (No. ICR2083) (pp. 1–68). The World Bank. Retrieved from <http://documents.worldbank.org/curated/en/2011/12/15590436/ghana-land-administration-project>
- Ubink, J. M., & Quan, J. F. (2008). How to combine tradition and modernity? Regulating customary land management in Ghana. *Land Use Policy*, 25(2), 198–213.
- Wood, E. M. (2009, May/June). Capitalism and Social Rights. *Against the Current*. Retrieved from Against the Current.
- Woodruff, J. (2001). The Mystery of Capital. Review of deSoto. *Journal of Economic Literature*, 1215-1223.

Yaro, J. (2010). Customary tenure systems under siege: contemporary access to land in Northern Ghana. *GeoJournal*, 75(2), 199–214.

11.0 Participant Interviews

Abeiku Q. (2016a, October 20). Agent Menso Tema.

Abeiku Q. (2016b, October 27). Agent Menso Continued.

Adamfo V. (2016, September 22). Land Valuation Division, Accra.

Adjwo N. (2016, October 6). Surveying and Mapping, Tema.

Akosua C. (2016, September 20). PVLMD Officer, Accra.

Akua Z. (2016, October 28). Red User, Twi.

Akwasi R. (2016, October 20). Ground Rents Collection, Tema.

Amma B. (2016, September 26). OASL, Accra.

Barbara J. (2016, November 7). LandDev Director.

Chadwick F. (2016, October 4). Legal Practitioner, Accra.

Ebo T. (2016, October 5). Registration Office, Tema.

Effia Iota. (2016, September 22). Registration Division Accra.

Ekow S. (2016a, September 27). Inheritance.

Ekow S. (2016b, October 21). Inheritance Follow Up.

Felix Theta. (2016, October 5). Commissioner for Oaths, Tema.

Frank D. (2016, September 27). User, Accra.

Fredrick K. (2016a, September 28). Agent Accra.

Fredrick K. (2016b, October 17). Agent Accra Follow Up.

George I. (2016a, October 14). Agent, Association Member.

George I. (2016b, October 19). Association Member Revisited.

Isaac H. (2016, September 26). Client Services Access Unit, Accra.

John E. (2016, September 27). Estate Consultant, Accra.

Jojo Delta. (2016, October 6). User, Tema.

Kabelah Epsilon. (2016, October 7). Courts, Tema.

Katwe Beta. (2016, November 2). Blue Provider.

Kobby U. (2016, October 11). User, Accra.

Kofi L. (2016, September 20). Public and Vested Lands Management Division, Accra.

Kwaku X. (2016, October 28). Red User.

Kwame O. (2016, September 26). Office of the Administration of Stool Lands, Accra.

Mefia Gamma. (2016, September 28). Accra User.

Michael G. (2016, October 14). Agent, Tema.

Moses W. (2016, October 26). Red CLS Provider.

Peter P. (2016a, October 4). Legal Assistant.

Peter P. (2016b, October 12). Legal Assistant Follow Up.

Red Representatives Zeta. (2016, November 1). Family Head Meeting.

Rockson M. (2016, October 3). Survey and Mapping Division.

Samuel Alpha. (2016, November 7). Blue User.

Wilhelm Eta. (2016, September 29). Surveyor.

Yaw Y. (2016a, September 28). University Representative.

Yaw Y. (2016b, October 12). University Rep, Follow Up.

Yeboah A. (2016a, October 18). Customary Spokesman, Tema.

Yeboah A. (2016b, October 21). Customary Spokesman, Continued.

Appendix 1: Research Ethics Board Approval

File Number: 08-16-19

Date (mm/dd/yyyy): 09/13/2016



Université d'Ottawa **University of Ottawa**
 Bureau d'éthique et d'intégrité de la recherche Office of Research Ethics and Integrity

Ethics Approval Notice **Social Sciences and Humanities REB**

Principal Investigator / Supervisor / Co-investigator(s) / Student(s)

<u>First Name</u>	<u>Last Name</u>	<u>Affiliation</u>	<u>Role</u>
Deborah	Sick	Social Sciences / Sociology	Supervisor
Erin	Andrews	Social Sciences / Others	Student Researcher

File Number: 08-16-19

Type of Project: Master's Thesis

Title: Land Rights in Southern Ghana

Approval Date (mm/dd/yyyy)	Expiry Date (mm/dd/yyyy)	Approval Type
09/13/2016	09/12/2017	Approved

Special Conditions / Comments:
 N/A

Appendix 2: Provider Recruitment Script



uOttawa

Faculté des sciences sociales
Faculty of Social Sciences

École d'études sociologiques et
anthropologiques / School of
Sociological and
Anthropological Studies

Land Rights in Southern Ghana – Provider Recruitment Script

Hello,

My name is Erin Andrews. I am a master's student in the School of International Development and Globalization at the University of Ottawa. I am conducting research, with the support of the University of Ottawa, on land rights practices in the Greater Accra Region of Ghana. I hope to learn more about your experiences working for a land services organization and your perspectives on and experiences with local landholders and procedures for land tenure and transactions.

I would like to know if you can help me with this research by participating in my study. This would include an interview of about 60 minutes. The interview will be about your experiences as a part of a land rights organization and your interactions with local service providers for your land. These interviews will be scheduled at a place and time of your convenience where the interview can be conducted in a private manner.

Your participation is completely voluntary. You have no obligation to participate but if you decide to be involved, your story and experiences will be very important and valuable to my understanding of land institutions in Ghana, and the challenges facing organizations like yours.

The information that you give me will remain strictly confidential. What you tell me in this interview will remain strictly confidential. Your name will not be used in anyway and no information will be given that could identify you in research reports or presentations. The information that I collect will be stored securely both here in Ghana and in my supervisor's office in Ottawa, Canada.

Would you like to participate?

When would be good time for you, and a convenient place for us to talk?

Appendix 3: User Recruitment Script



uOttawa

Faculté des sciences sociales
Faculty of Social Sciences

École d'études sociologiques et
anthropologiques / School of
Sociological and
Anthropological Studies

Land Rights in Southern Ghana – User Recruitment Script

Hello,

My name is Erin Andrews. I am a master's student in the School of International Development and Globalization at the University of Ottawa. I am conducting research, with the support of the University of Ottawa, on land rights practices in the Greater Accra Region of Ghana. I hope to learn more about your experiences as a person trying to secure rights to land and your perspectives on and experiences with local service providers and procedures for land tenure and transactions.

I would like to know if you can help me with this research by participating in my study. This would include an initial interview of about 20 minutes with a possible follow-up interview of about 60 minutes. The interviews will be about your experiences trying to secure your land rights and your interactions with local service providers for your land. These interviews will be scheduled at a place and time of your convenience where the interview can be conducted in a private manner.

Your participation is completely voluntary. You have no obligation to participate but if you decide to be involved, your story and experiences will be very important and valuable to my understanding of land institutions in Ghana, and the challenges facing land holders.

The information that you give me will remain strictly confidential. What you tell me in this interview will remain strictly confidential. Your name will not be used in anyway and no information will be given that could identify you in research reports or presentations. The information that I collect will be stored securely both here in Ghana and in my supervisor's office in Ottawa, Canada.

Would you like to participate?

When would be good time for you, and a convenient place for us to talk?

Appendix 4: Provider Consent Script



uOttawa

Faculté des sciences sociales
Faculty of Social Sciences

École d'études sociologiques et
anthropologiques / School of
Sociological and
Anthropological Studies

Land Rights in Southern Ghana – Provider Informed Consent

As I explained before, my name is Erin Andrews and I am a graduate student in the School of International Development and Globalization at the University of Ottawa in Canada. The purpose of my study is to understand the different experiences of landholders in Ghana, and their interactions with different land administrators.

Before we begin, I just wish to be sure that you understand the study and are still willing to participate.

In this interview, I would like to discuss with you your experiences working with land administration in Ghana. I understand that this may be inconvenient but your participation is very important in order to help me understand how land institutions really work in Ghana, and how organizations like yours operate to define and enforce property rights, and to serve local landholders.

Participation: Your participation will consist essentially of being interviewed for about 60 minutes. During this interview you will be asked to discuss your experiences as a land service provider and your interactions with different land administration bodies and landholders, as well as some general facts about your place in your organization, such as your daily activities and usual protocols for common land services.

Risks: Your participation in this study will mean discussing some of your life experiences with your organization. Talking about personal experiences may make you feel uncomfortable. You are not obligated to answer any of the questions that you find uncomfortable.

Confidentiality and anonymity: It may be difficult to keep your participation strictly confidential from others in your community, but you can be assured that your identity will be protected and the information that you will give me is strictly confidential, unless you indicate otherwise. In all reports and presentations, pseudonyms will be used to protect your identity. None of the information that you give which could identify you will be used unless I have your permission to do so. The information will be used only for the researchers understanding of Ghanaian land rights institutions, and landholders' strategies for pursuing their interests. No information will be given to any other organization or government agency.

Conservation of data: The information will be kept secured in a locked location and password protected computer both here and also at my home in Ottawa, Canada. Only my supervisor and myself will have access to this information. All precautions will be taken to secure your identity.

Benefits: Your participation in this study will not only help me, the researcher, to better understand how land institutions work in Ghana, but it will allow you to add your voice and perspectives which could help researchers and policy makers as well.

Voluntary Participation: I wish to emphasize that you are no obligation to participate and if you do choose to participate, you can withdraw from the study at any time and/or refuse to answer any questions, without suffering any negative consequences. If you choose to withdraw, all data gathered until the time of withdrawal will be properly destroyed so it can no longer be accessed by any one.

Do you understand the study? Do you have any questions?

Do you wish to participate?

[check if agreed] _____

Date _____

If you permit, I would also like to use a tape recorder. Would this make you uncomfortable? Will you allow the use of a tape-recorder? Yes/no _____

If you I have any questions about the study, you may contact myself, my supervisor, or the university

This copy is yours to keep.

Appendix 5: User Consent Script



uOttawa

Faculté des sciences sociales
Faculty of Social Sciences

École d'études sociologiques et
anthropologiques / School of
Sociological and
Anthropological Studies

Land Rights in Southern Ghana – User Informed Consent

As I explained before, my name is Erin Andrews and I am a graduate student in the School of International Development and Globalization at the University of Ottawa in Canada. The purpose of my study is to understand the different experiences of people trying to secure land rights in Ghana, and their interactions with different land administrators.

Before we begin, I just wish to be sure that you understand the study and are still willing to participate.

In this interview, I would like to discuss with you your experiences with securing and exercising your land rights, and your feelings about land administration in Ghana. I understand that this may be inconvenient but your participation is very important in order to help me understand how land institutions really work in Ghana, and how people like you use the resources available to you to pursue your interests.

Participation: Your participation will consist essentially of being interviewed for at least one interview lasting about 20 minutes. If you agree, a second interview of about 60 minutes will be conducted in which we discuss the issues and your experiences in more depth. During these interviews you will be asked to discuss your experiences trying to secure your land rights, and your interactions with different land administration bodies, as well as some general facts about yourself, such as age, schooling, and occupation.

Risks: Your participation in this study will mean discussing some of your life experiences with securing and exercising your land rights. Talking about personal experiences may make you feel uncomfortable. You are not obligated to answer any of the questions that you find uncomfortable.

Confidentiality and anonymity: It may be difficult to keep your participation strictly confidential from others in your community, but you can be assured that your identity will be protected and the information that you will give me is strictly confidential, unless you indicate otherwise. In all reports and presentations, pseudonyms will be used to protect your identity. None of the information that you give which could identify you will be used unless I have your permission to do so. The information will be used only for the researchers understanding of Ghanaian land rights institutions, landholders' and claimants' strategies for pursuing their interests. No information will be given to any other organization or government agency.

Conservation of data: The information will be kept secured in a locked location and password protected computer both here and also at my home in Ottawa, Canada. Only my supervisor and myself will have access to this information. All precautions will be taken to secure your identity.

Benefits: Your participation in this study will not only help me, the researcher, to better understand how land institutions work in Ghana, but it will allow you to add your voice and perspectives which could help researchers and policy makers as well.

Voluntary Participation: I wish to emphasize that you are no obligation to participate and if you do choose to participate, you can withdraw from the study at any time and/or refuse to answer any questions, without suffering any negative consequences. If you choose to withdraw, all data gathered until the time of withdrawal will be properly destroyed so it can no longer be accessed by any one.

Do you understand the study? Do you have any questions?

Do you wish to participate?

[check if agreed] _____

Date _____

If you permit, I would also like to use a tape recorder. Would this make you uncomfortable? Will you allow the use of a tape-recorder? Yes/no _____

If you I have any questions about the study, you may contact myself, my supervisor, or the university

This copy is yours to keep.

Appendix 6: Provider Interview Guide

Provider Interview Guide

Topic: Provider perspectives on land institutions in Ghana, land services organizations, and document production and use in land transactions.

Researcher: Erin Andrews

Opening

[Introductions/shake hands]

My name is Erin and I am a student from Canada doing research on land rights and land institutions in Ghana. I wanted to listen and learn from your experience working with [name of organization] [also introduce interpreter].

(Purpose)

I would like to ask you some questions about what you do here, and about your perspectives on the role of your organization in land management in Ghana.

EXPLAIN INFORMED CONSENT AGAIN (and ability to opt-out of questions or selectively respond)

(Time Line) The interview should take about an hour.

(Transition: Let me begin by asking you some questions about what you do on a typical day at your job.)

Body

I will ask questions about usual activities such as: Suppose I was with you on a typical day at work. What kinds of things would I see and hear? Can you walk me through your day?

What other functions are performed in your office? Can you briefly describe the jobs of your colleagues? Your boss? Your subordinates, if you have them?

Do you work directly with the public? If I were a landholder looking to register my land, or sell it, or claim my inheritance, for example, might I end up speaking with you? How would that interaction go?

I will ask about the interactions that may take place between state offices and customary land offices. I will probe for information about documents that may circulate both organizations. For example:

Are there any activities that you need approval from (the central government/customary government) to perform? Any for which they need your approval? How is that approval given? Is it in writing? How do you get it? How are the documents transported? Is it done electronically?

What sorts of documents do you deal with regularly? Which ones do landholders or claimants bring in? Which ones do you produce or circulate through your organization? (What

kind of information do they carry? What are they for? What do you do with them? Do you read or alter them? Do you judge their authenticity? How can you tell if they are authentic? Do you talk to people as you go through their documents, or do they just drop them off and pick them up later? How many copies are needed? Why? Where does each copy go?)

Has unclear jurisdiction, or competition between offices had any impact on your personal experience? (If yes, how so? Did it make it difficult or complicated for you? Did it present a new opportunity?)

I will ask about their perspectives on the work that they do, and how accessible it is to the public. I will probe for ways that their offices do or do not make accommodations for, or help, uninformed members of the public. I will ask questions such as:

Do you feel that the protocols and procedures for the lands services that you provide are clear? (Are they easy for you to understand and follow? Are they easy for the public to understand and follow? Can you give me an example?)

How do you perceive the level of understanding that most people have for the protocols and procedures for the lands services that you provide? (Do most people understand what this office is for, and how to use this office? Do most people know what documents they need to achieve their goals? Do most people know what to do when they get here?)

How do you handle customers who don't understand the procedures? Do you find that you spend a lot of time explaining the rules to people? Are there other resources that are available to them?

(Transition) Is there anything else that you think would be helpful for me to know? Is there anything else you want to tell me?

Closing

(Summary) Thank you very much for speaking with me, I've really enjoyed it. Let me briefly summarize what I've learned from this interview.

(Maintain rapport) I really appreciate the time that you've taken to talk about your experiences with me. This has been very helpful. Do you have any questions for me?

(Action to be taken) I think I have all the information that I need. Please let me know if you have any questions for me. Thank you again.

Appendix 7: User Initial Interview Guide

User: First Interview Guide

Topic: Basic information about land activities, interests, and experiences.

Researcher: Erin Andrews

Opening

[Introductions/shake hands]

My name is Erin and I am a student from Canada doing research on land rights and land institutions in Ghana. I wanted to listen and learn from your experience at the [name of land office] where we met [also introduce interpreter].

(Purpose)

I would like to ask you some questions about what you were doing at [land office] and how your experience with [land office] has been going.

EXPLAIN INFORMED CONSENT AGAIN (and ability to opt-out of questions or selectively respond)

(Time Line) The interview should take about twenty minutes.

(Transition: Let me begin by asking you some basic questions about yourself and your case.)

Demographic Info

I will collect basic demographic information including name, age, gender, ethnic identity, marital status, level of education, languages spoken, and place of residence.

I will then collect basic information about the land in question. I will ask about its size and value and location.

Body

(Transition: Great, thanks for that information. Now, can you tell me the story of that land?)

I will probe for the participant's relationships to the land, what bundles of rights they previously had in relation to it, what they have now, and what they want to have following their case.

Then I will ask about what they are trying to do with the land in question. For example:

Can you tell me about what you were doing on the day that we met outside the (land office)?

Why were you there? What were you trying to achieve? Did you bring anyone with you?

Did you bring any documents with you? Which ones? How did you know?

Was this your first visit? If not, when? Have you been to any other offices?

Have you sought help from any NGOs, lawyers, or other representatives? Have they given you advice, or done anything on your behalf?

How did you expect your errand to go? (Did everything go the way you expected? Were there any surprises?)

Did you achieve what you set out to do that day? (How were you able to do that? Why were you not able to do that?)

Has your claim been resolved? If yes, how was it resolved?

Was this a good outcome for you? (Was it what you expected?)

If not, what is your next step? (What documents, evidence, or resources will you need for that? How do you know?)

(Transition: I've enjoyed speaking with you. This has been very helpful. Let me briefly summarize the information that I have recorded during our interview)

Closing

(Summarize)

(Maintain Rapport) I appreciate the time you gave me to speak with you. Is there anything else you think would be helpful for me to know?

(Action to be taken) I should have all the information I need for now. If you are interested in participating in a second interview, I would like to talk about your experiences in more detail. Let's talk again soon to find a good time to meet for that.

Appendix 8: User Follow-Up Interview Guide

User: Second Interview Guide

Topic: User perspectives on land rights institutions and organizations, documents produced and used in land transactions, experiences and strategies interacting with different providers.

Researcher: Erin Andrews

Opening

[Re-introductions]

It's great to see you again. I was hoping to follow up from our last interview.

(Purpose)

I would like to ask you some more questions about your experiences trying to [register, transfer, purchase etc.] land.

EXPLAIN INFORMED CONSENT AGAIN (and ability to opt-out of questions or selectively respond)

(Time Line) The interview should take about an hour.

(Transition: Let me begin by reviewing some of the details from our last interview with you.)

Body

(Summarize previous interview)

Is that all correct? Have I understood you properly?

I will ask about why the participant was at this particular land office. I will ask why they went through the state channels rather than customary law, or vice versa. I will probe for specific motivations, for example:

Is the jurisdiction of this one clear for the task you were trying to accomplish? Or did you perceive some advantage to one over the other? If you were at the NGO, were you given any advice in terms of customary law vs. the state? Is the NGO working on your behalf, or advising you on how to pursue your goals independently?

Next I will ask about the documents related to their case. For instance:

Did you bring any documents or other evidence on your first visit? (What were they? Why or why not?) Do you have a title deed for the land in question? (If yes, what does it look like, what information does it contain? What is important about it? How does an official person know that it is genuine?)

Did the person you spoke with look at or alter any of the documents or evidence you brought? Did they produce any new documents, either to give to you or to circulate within the office? Can you describe them? (What did they look like, what were they for?)

Next, I will ask for more specific information about the process of interacting with the land office. I will probe for challenges faced, and opportunities presented. I will ask if unclear jurisdiction, or competition between the state and customary law had any impact on their personal experience. Did it present challenges? Opportunities?

Next, I will ask about plans for the future. For instance:

Can you tell me more about what you plan to do next? (Where will you go? Who will you see? Will you bring anyone with you? Will you bring any documents or other evidence with you?)

Can you tell me why you decided to do this? How did you choose your course of action? (Were you instructed by an official person, or advised by a friend? What factors did you consider when making this decision?)

Do you think that you will be successful this time? Why, or why not? (What factors do you think will influence the outcome of your claim? Which ones can you control or influence? Which are out of your control?)

If you are not successful, what do you think you will do next? What appeals or other contingency options are available to you? (Are these processes formal or informal? Will they be conducted through the same office, or will you consult a different service provider?)

Personal Feelings

Next, I will ask about the participant's personal feelings about the process. I will ask about their initial feelings, and how they may have changed over time, and at specific points in the process. For instance:

Can you tell me about your personal feelings when you were at the office the first time? Were you nervous, or excited, or scared? Were you bored or impatient?

Can you tell me about your personal feelings about this process now? (Do you feel satisfied, or hopeful, or nervous, or frustrated, or angry? What makes you feel this way?)

Finally, I will ask them to reflect on the process, and how it could be made better for people like them. I will probe for specific problems that could be fixed, and speculation on why things are as they are. I will ask questions such as:

What kinds of changes do you feel could be made to the procedures for [land registration, sale, inheritance, etc] to make things easier for people like you?

Why do you think the challenges that you face persist?

(Transition) Is there anything else that you think would be helpful for me to know? Is there anything else you want to tell me?

Closing

(Summary) Thank you very much for speaking with me, I've really enjoyed it. Let me briefly summarize what I've learned from this interview.

(Maintain rapport) I really appreciate the time that you've taken to talk about your experiences with me. This has been very helpful. Do you have any questions for me?

(Action to be taken) I think I have all the information that I need. Please let me know if you have any questions for me. Thank you again.

At the end of the second interview, I will ask if participants will allow me to accompany them on the next step in their case.

I would like to know if you would be interested in helping me further with my research by allowing me to accompany you on your next visit to a land services office. If you agree, I would follow you on your errand and observe, without interacting with the land services personnel. I would observe the types of documents that you use to pursue your interests, and the ways that these documents are used and circulated through the different offices.

You are under no obligation to agree to this, and may refuse with or without withdrawing from the interview process. It is also possible that the land services personnel may not allow me to accompany you, in which case I will leave. You may withdraw your consent at any time, for any reason. If you choose to participate, your shared experience will be very important for my understanding of land rights institutions in Ghana, and the way that land services are really provided for people like yourself, seeking to secure your land rights.

As with the interviews that we conducted, the information that I gather here will remain strictly confidential. What you say and do at the land office will remain strictly confidential. Your name will not be used in anyway and no information will be given that could identify you in research reports or presentations. The information that I collect will be stored securely both here in Ghana and in my supervisor's office in Ottawa, Canada.

Would you like to participate?

What would be a good time for us to meet for your next errand at the land office?

Appendix 9: Snowball Sample Recruitment Letter



uOttawa

Faculté des sciences sociales
Faculty of Social Sciences

École d'études sociologiques et
anthropologiques / School of
Sociological and
Anthropological Studies

Land Rights in Southern Ghana – Snowball Sample Recruitment Letter

Hello,

My name is Erin Andrews. I am a master's student in the School of International Development and Globalization at the University of Ottawa. I am conducting research, with the support of the University of Ottawa, on land rights practices in the Greater Accra Region of Ghana. I hope to learn more about your experiences as a person trying to secure rights to land and your perspectives on and experiences with local service providers and procedures for land tenure and transactions.

I would like to know if you can help me with this research by participating in my study. This would include an initial interview of about 20 minutes with a possible follow-up interview of about 60 minutes. The interviews will be about your experiences trying to secure your land rights and your interactions with local service providers for your land. These interviews will be scheduled at a place and time of your convenience where the interview can be conducted in a private manner.

Your participation is completely voluntary. You have no obligation to participate but if you decide to be involved, your story and experiences will be very important and valuable to my understanding of land institutions in Ghana, and the challenges facing land holders.

The information that you give me will remain strictly confidential. What you tell me in this interview will remain strictly confidential. Your name will not be used in anyway and no information will be given that could identify you in research reports or presentations. The information that I collect will be stored securely both here in Ghana and in my supervisor's office in Ottawa, Canada.

If you would like to participate, please contact me at your convenience so that we can set up a time and place to meet.

Sincerely,
Erin Andrews

Appendix 10: Research Assistant Confidentiality Agreement



uOttawa

Faculté des sciences sociales
Faculty of Social Sciences

École d'études sociologiques et
anthropologiques / School of
Sociological and
Anthropological Studies

Translator/Research Assistant Confidentiality Agreement

As I explained before, my name is Erin Andrews and I am a graduate student in the School of International Development and Globalization at the University of Ottawa in Canada. The purpose of my study is to understand the different experiences of landholders in Ghana, and their interactions with different land administrators.

Before we begin, I just wish to be sure that you understand the study and the requirements for confidentiality to protect the participants.

Your role in my investigation will be to meet with me before we conduct interviews in order to discuss the questions to be asked, and clarify the type of information that we are trying to collect, to accompany me to my interviews, to translate my questions for my participants and their responses for me as necessary, and then to review notes after the interview to ensure that information has been properly recorded.

The information that we gather from participants will be strictly confidential, and must not be discussed with anyone outside the study. Any notes taken during interviews must be given to me after the interviews are over, or destroyed. The identities of our participants must not be disclosed to anyone. The information that we collect must only be used for our understanding of Ghanaian land rights institutions, and different actors' strategies for pursuing their interests. No information can be given to any other organization or government agency.

By agreeing to participate, you agree to keep all information we collect confidential, as outlined above.

_____ (Signature)

_____ Print

This copy is yours to keep.