

Article

The Politics of Decentralization: Competition in Land Administration and Management in Ghana

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Abstract: Decentralization policy forms part of a broader global ideology and effort of the international donor community in favor of subsidiarity and local participation, and represents a paradigm shift from top-down command-and-control systems. Since 2003, the formalization of property rights through titling became an integral component of decentralized land administration efforts in Ghana. The creation of new forms of local government structures and the related changes in the distribution of responsibilities between different levels of government have an impact on natural resource management, the allocation of rights, and the unequal distribution of powers. This paper aims to understand how decentralization reforms modify the balance of power between public administration, customary authorities, and resource end-users in Ghana. Decentralization's impact is analyzed based on two case studies. Relying on purposive and snowball sampling techniques, and mixed methods, we conducted 8 key informant interviews with local government bureaucrats in land administration, 16 semi-structured interviews with allodial landholders, 20 biographic interviews and 8 focus group discussions with small-scale farmers. The interviews analyzed the institutions and the roles of actors in land administration. Our case studies show that decentralization has the tendency to increase local competition in land administration where there are no clear distribution of power and obligation to local actors. Local competition and elitism in land administration impact the ability of small-scale farmers to regularize or formalize land rights. Thus, the paper concludes that local competition and the elitism within the land administration domain in Ghana could be the main obstacles towards decentralization reforms.



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1. Introduction

Decentralization research has mainly focused on a wide range of public policy issues including education, healthcare, waste management, and social policies [1–4]. For roughly two decades, the World Bank and other international development agencies have pushed for merging objectives of decentralization with land administration and management [5,6]. Decentralization in land administration refers to the transfer of land-use (or physical) planning, cadastral surveys, land (tenure) regularization, and formalization from the central government to the sub-national government level to secure land tenure [5–7]. Available records from land formalization programs show that implementing land-use planning and cadastral survey towards secure land tenure has remained problematic [7]. Yet, this is largely unexplored in Ghana [5–7]. In this paper, we aim to appraise and highlight how decentralization in land administration and management increase local competition among local actors and impact the land rights of small-scale farmers.

Decentralization in land administration and management is conceptually linked to participatory planning and is thus relevant for land-use planning and cadastral survey, which in turn influence land regularization and formalization [7]. Since the 1980s, the

spread of formalization initiatives emerged in structural adjustment programs to promote individualized land ownership for increased land and natural resource sustainability [8–12]. In the realm of land tenure, formalization is defined as “the administrative recognition of occupancy rights—by the state or by local authorities—which results in the delivery of personal rights to household living in informal settlements [11,12] (p. 7). It is also the “process by which informal tenure is integrated into a system recognized by public authorities” [13] (p. 105). Public authorities acknowledge a system via “its administrative procedure or within the formal planning system” [7] (p. 4). In this regard, land-use planning is one of the many planning instruments that offers the rules to permit the integration of informal tenure into a system recognized by the government authorities [7]. Land-use planning refers to the process of creating a suitable land partition within a given local government area to enhance the land rights security of the people or set of people living in a particular zone [7,14–16]. It involves a combination of decision-making and activity implementation, which modifies numerous plots of land at a time, and simultaneously has a link to the plot division process with cadastral (land) survey [7]. The land-use planning process engenders land-use decision-making and the division of boundary [7]. The division of land into property units permits property rights to develop [7,17]. The development of property rights encompasses the division of land into property units that are easily distinguishable and protectable through the executive or formal decision of relevant authorities [18] (p. 174). Property units are not effectively transferable until they are regularized and/or formalized [7].

Often, formalization and regularization are used interchangeably, even though they mean different things [7,19]. Regularization refers to the “process through which existing land rights of people or organizations over different categories of land are recognized, guaranteed and secured through the administrative procedure to ensure formalization and delivery of land rights to people” [19] (p. 9). Regularization sets up “property recognition and permits property right holders to enjoy *de facto* tenure security”, while formalization “sets up property rights to become legalized and allows for *de jure* tenure security to protect property owners” [7] (p. 4). Moreover, “legalizing property formation (as the results of formalization) implies making land and property rights to become legal by way of land/property rights registration” [7] (p. 4). Both land formalization and land regularization are inextricable to post-land-use planning and post-cadastral survey activities that aim to give a boost to the tenure security of landowners.

In Ghana, following the 1999 national land policy and the implementation of the land administration project between 2003 and 2016, legislations have been passed to modify the Lands Commission as a one-stop-shop for land related services, including the mapping and registration of land boundaries of traditional areas and individual land rights within traditional areas to enhance the tenure security of resource end-users [20,21]. Simultaneously, the Lands Act, 2020 (Act 1036) provides the legal framework for the Customary Land Secretariats (CLSs) to identify and demarcate land boundary, to adopt a simple land-use planning and plot allocation procedure, and to register customary use rights to the land such that they facilitate informal resource users’ initiatives to enhance their living conditions [20–26].

Paradoxically, however, decentralization creates opportunities for few local powerful actors to organize, select, and develop institutions to increase the incentives of land administration and management to their own ends [6,21,27]. The theory of New Institutionalism in Social Anthropology [28] provides a heuristic approach to understand how customary authorities have become very relevant in recent times due to fluctuating relative prices of land. The theory postulates that within the context of increasing relative prices of land, institutions change in line with the ideology and bargaining power of diverse actors, which usually leads to a biased delivery of resources. In this regard, decentralization and structural adjustment programs together with a rise in land values tend to reinforce the bargaining power of customary chiefs who can manipulate their position as trustees of customary land and change it into *de facto* private property via the performance of ‘institution

shopping' [29,30]. In respect of legal pluralism, the phrase 'institution shopping' describes how powerful actors resort to various institutions (i.e., customary and non-customary laws) to expedite their access to resource in a more legitimate way [21,29–32]. The theory argues that "institutional change usually creates both winners and losers" and "winners have an obvious interest in promoting such change; losers have an interest in resisting it" [28] (p. 166).

This paper aims to understand how decentralization reforms modify the balance of power between public administration in charge of land administration, customary authorities, and resource end-users. Specifically, we ask: which new institutional arrangements that regulate land administration emerge at the local level? What are the implications of the institutional arrangements on the land rights of small-scale farmers? In this paper, institutional arrangements refer to the formal government organizational structures and informal norms put in place at all levels of government (federal, provincial, and local) for arranging and undertaking its policy work [4]. The paper follows two lines of arguments: First, we demonstrate that decentralization has the tendency to increase competition among local actors in land administration because power and responsibility are transferred downwardly to heterogeneous actors with diverse interests. As such, customary authorities seize the opportunity of the withdrawal of the central state from local matters to reinforce their nondemocratic identity even more through strategies based on *fait accompli* leading to negative consequences on the land rights of small-scale farmers. Second, we demonstrate that the elitism within the formal land administration domain could be the main obstacle towards decentralization reforms.

Bole and *Talensi* cases in northern Ghana present an interesting basis of comparison because they allow us to observe how the impact of decentralization has evolved in rural areas with distinct social and institutional conditions [2]. The cases represent a range of experiences with the subsidiarity principle, from chaos to a partial working decentralization. We assume that a variance may influence the analysis of the outcome and the impact of decentralization reform processes [2,4,9]. The cases were also chosen based on the differences in traditional political system, which shape land relations amidst state laws, rules, and regulations [9,33,34].

The following section provides an overview of the institutional shift towards decentralized land-use planning and cadastral survey, and the subsequent administrative efforts to secure land (rights) tenure through regularization and formalization. Section 3 describes the materials and methods used for the comparative study. The case studies are outlined in Section 4 to illustrate how the institutional arrangements work with as well as against land administration. In Section 5, we analyze the actual impacts of decentralization policies at the local level. In Section 6, we synthesize the theoretical and empirical insights into a broad argument about decentralization reforms. We present the conclusion in Section 7 with emphasis on new forms of formalized collective tenure that build on common property relations.

2. The Institutional Shift towards Decentralization in Land Administration and Management

The key elements of land administration and management include land-use planning, cadastral survey, regularization, and formalization. This section focuses on these key elements to show how they are ingrained in western style of complex legal and technical standards or ethics, which end up downgrading the social cultural relations and the existing land tenure arrangements of the rural population and concurrently increase the bargaining power of government bureaucrats.

2.1. Decentralized Land-Use Planning and Cadastral Survey in Perspective

Decentralization reforms are part of a broader project initiated by the World Bank as a paradigm shift from top-down command-and-control systems. In 1988, Ghana's decentralization policy was launched to transfer power, functions, and responsibilities regarding land use and spatial planning from the central government to the district assembly or

spatial planning authority [35–37]. The 1992 Constitution of Ghana, the Local Government Act, 1993 (Act 462) and the Land-Use and Spatial Planning Act, 2016 (Act 925) provide the legal framework of Ghana’s decentralization policy [35]. The 1992 Constitution designates the district assembly as the highest planning authority at the local level. The district assembly is responsible for physical/spatial planning of customary land in conjunction with customary authorities, granting approval of all planning schemes before they can take effect and granting of planning and building permits to control development [35–37]. Ghana’s decentralization policy aims to ensure effective participation of local citizens in land-use planning to enhance the judicious use of land to improve quality of life, promote health and safety in respect of human settlement [6,35,38].

Land-use planning or physical planning is the “planning instrument employed by government agencies (or instituted authorities) to regulate how land and natural resources are used” [7] (p.4). Since physical planning relates to decisions and activities, it makes it a regulator of property rights within the framework of their applications to land use [7]. As such, issues related to plot divisions, regularization and formalization are influenced by land-use planning [7].

Over the years, the Town and Country Planning Department (TCPD) has been responsible for land-use planning to ensure the orderly and progressive development of human settlement, and the provision of layout plans (planning schemes) [35]. Planning schemes are important in the concurrence process by the Lands Commission as part of registration of title [20,33]. With planning schemes, potential differences between planned layout, the actual location on the ground and ownership claim can be identified and fixed. Structure plans provide information about the future general land use within a specified local government area. Structure plans are the main legal planning documents with zones of development that are approved by a technical and political process [35]. They are usually prepared by land-use planners in consultation with major landowners, developers, utility companies and the district assemblies [35]. The tools to implement structure plans are local plans, which form the basis for parcel administration, land use management and permit issue.

A local plan identifies detailed land uses down to parcel level. They require strong community participation so that land holders and users can specify their land (tenure) rights and boundaries based on their individual views [39]. Yet only few selected local citizens get to participate due to the “strict standards and quality assurance specifications” [40] (p. 3). For example, the use of Global Navigation Satellite System, Unmanned Aerial Vehicles and Mobile app for spatial data collection are too technical for local citizens to use. As a result, local plans are set up by qualified and registered architects, engineers, developers, together with land-use planners and the Geographic Information System experts. Therefore, land holders who want to develop land for sale are required to engage technical experts to develop local plans for approval by the local, technical, and political authorities before being implemented [41].

As land-use planning comprises decision-making and activity implementation, it has connection to a cadastral survey [7]. In this regard, the TCPD collaborates with the Survey Department to prepare acquisition plans when stool or skin land is being acquired [18]. Oftentimes, registered private surveying firms are engaged in the (sub)division of parcels into property units to enable disposition [7,18]. The TCPD in consultation with the Lands Commission provide a referenced coordinate system with the district assembly uses as the basis to provide a unique parcel number of each parcel of land “The division of land into property units serves to “individualize objects of ownership and other rights in land” including privileges, obligations and interest [42] (p. 58). Land divisibility makes it possible to be titled, possessed, or co-possessed, and be transferred from person to person, person to a group, or from a group to a person [7]. Note that ownership, responsibilities, privileges, and interests can be transferred either in whole or components from one form or person to another [7,12,42,43]. Land regularization and formalization enable transferability. The idea of “transferability or property (land) rights from person to person is what makes

property rights, together with its associated institutional arrangements”, ‘strong’ drivers in the use of land and natural resources use and tenure” [44] (p. 25). Thus, property rights can be termed as a bundle of many (sticks) rights, including the right to use the property, to obtain income from the property, and to alienate the property [45]; or the rights of access, withdrawal, exclusion, management, and alienation [46]; or privileges, interest and obligations, which the formal law on any occasion grants to the owner of a property unit relative to other persons [7].

In summary, land-use planning and cadastral survey are regulated by high professional ethics or standards and strict legal requirement. As a result, public authorities perform such functions with weak participation of local citizens. This is highly unexpected considering that decentralization reforms aim to empower local citizens in land administration to feel a sense of ownership [40]. Considering the weak participation of local citizen in land-use planning and cadastral survey, we examine the systems through which property (land) rights are regularized or formalized in Ghana in the next section to see if they offer possibilities for local citizens to be involved.

2.2. The Administrative Procedure of Land (Tenure) Regularization and Formalization

A title to land refers to the legal proof of ownership of real property [43,47–50]. A good land title is one that is stemmed from an enactment, a vesting order or conveyance from the state, a final judgement of a court, or an acquisition under customary law [9,40,47,50,51]. Title registration is done by any individual who is the allodial owner, holds a common law freehold or a customary freehold, and has usufructuary interests, a leasehold interest, or a customary tenancy [40,47,50,51]. The rights that are registrable in relation to land include a mortgage, an easement, a restrictive covenant, a power of attorney, a contractual license, a *profit a prendre*, and a user right under a certificate of allocation [50]. The registrable interests in land are an allodial title, a common law freehold, a customary law freehold, a usufructuary interest, a leasehold interest, a customary tenancy, and an interest in a condominium. A condominium refers to a single estate unit in a multi-unit development in which a person has both a separate legal right of ownership to the real property and a common interest with others [52]. An allodial title is the highest interest in land and is held by the state, a stool or skin, a clan or family, or an individual, and may be acquired through a compulsory acquisition, a first discovery and settlement, a gift, a purchase, or an agreement [26,50].

The bundle of rights and obligations that attach to any form of interest in land is based on the applicable source of law which forms the basis of that interest [26,53,54]. Act 1036 spells out three systems for the recording and registration of land and interests in land. These are the recording of customary interests and rights by the customary land secretariat; the registration of instruments relating to land; and the registration of title, interests, and rights in land by the State’s Lands Commission [50].

Following the successes of the *Akyem Abuakwa’s* land secretariat in *Kyebi* in the Eastern region, the *Asantehene’s* land secretariat in Kumasi in the Ashanti region, and the *Gbawe Kwatei* family’s land secretariat in Accra in the Greater Accra region of Ghana [22–26], the land administration project recommended for the establishment of the customary land secretariats across the country to maintain a register of written and oral grants at the local level [22]. The secretariats receive, sign and stamp plot allocation papers issued at the village level after land purchase [51]. Section 17 of Act 1036 empowers the secretariats to charge and collect fees for the services that it renders to land buyers [50]. The plot allocation papers, which are prepared by customary chiefs usually contain the name of the grantor, the town/village where the land is situated, the layout/ward/block, the plot number, and the allottee name and address. In some cases, the conditions for the land are stated in the allocation papers, which the allottee must abide by, including entering into a formal lease agreement with the paramount chief of the traditional area within six months from the grant on terms mutually agree upon. The plot allocation papers do not contain spatial information of the land purchased and as such not likely to convey title to

the allottee [40,50]. The plot allocation papers provide evidence of land ownership and is relied on to adjudicate local land disputes [32,51,55].

The secretariat is also responsible for part of the procedures to formalize land under the customary tenure at the Land Registration Division of the Regional Lands Commission by issuing the above-mentioned plot allocation papers [32,51]. Formerly, to obtain a formal land title (or title certificate), people would have to deal directly with the Land Title Registration in Accra, the national capital. In the new system, the Land Registration Division receives the plot allocation paper issued by the customary land secretariat together with a site plan from the Town and Country Planning Department (TCPD) and a cadastral plan from the Survey Department. The Registrar would scrutinize all the relevant documents submitted and ensures that the processing fees are paid before a title certificate is prepared, signed, sealed, and issued out to the applicant.

Available records show that a little over 30,000 parcels have been titled by urban elites in Ghana [22,40]. To facilitate title acquisition by rural citizens, several programs have been developed, including a systematic titling project by the Millennium Development Authority, a paralegal titling project by the Corporate Initiative Development Group, a Medeem Proprietary ParcelCert, a LandMapp Initiative, and the Community-Based Land Survey Tool by the Land Resource Management Center [22,40]. Paralegal titles can be converted into formal titles [40]. Furthermore, while the application procedure for formalization now begins at the lower level than in the past, the ultimate issuing out of titles takes place at the regional level and requires expensive outside expertise in the form of professional surveyors. In addition, there have been very little efforts to promote and reinforce the public image of plot allocation paper, which is the only evidence of land ownership hand out by the customary authorities at local level [32,51,55].

In the light of the different registration systems performed by the land secretariats and the Regional Lands Commission [8,9,53,54], resource end-users select forums to register their land rights “based on accessibility, efficiency, legitimacy, jurisdiction and cost”, as well as the forum’s capacity to provide asset protection [53] (p. 44). In the following section, we describe the methods employed for the data collection to enable the comparative analysis.

3. Materials and Methods

3.1. Case Selection

The *Bole* case in the savannah region is characterized by a formal recognition of customary chiefs as sole authorities in the customary land secretariat to grant consent and concurrence in local land transaction [10,20,33,40]. Article 267 of the 1992 Constitution of Ghana acknowledges the *de facto* power of a customary chief to govern skin or stool lands in accordance with customary law. The CLS is responsible for managing all land held under customary land tenure system [40]. The *Talensi* case in the upper east region is characterized by the absence of the customary land secretariat due to multiple customary authorities laying claim to the land [10,33]. In *Talensi*, the customary chiefs lay claim to the land based on the British colonial land legislations and the land administration project. Based on the judicial decisions of the Supreme Court of Ghana, first discovery and settlement, the *tindanas* lay claim to the land [26,31,34,38], while settlers lay claim to the land based on usufruct [38,56]. As such, little is done by way of survey and mapping of parcel boundaries when registering land [40].

3.2. Methods

We obtained our field data from *Dokrupe* and *Tinga* for our *Bole* case, and *Datuku* and *Gbani* for our *Talensi* case to enable a comparative analysis. The field data were gathered between February 2019 and February 2021. We used the purposive sampling technique to choose our respondents (small-scale farmers, customary authorities, registered surveying firms and local government authorities) based on their respective activities, experiences, knowledge and obligation in land administration and management. We applied the snowball sampling technique to make sure that the right small-scale farmers who were

involved in land-use planning, regularization and formalization, and the government authorities who facilitated the approval of local plan at the local level were chosen [7,57].

We relied on the mixed methods approach, including key informant interviews, semi-structured interviews, biographic interviews, and focus group discussions (FGDs) to collect the relevant data for the study [10]. Eight key informant interviews were conducted with local government bureaucrats in land administration to share their knowledge, experiences and roles in land-use planning, plot demarcations and title processing. The interviews with the private surveying firms centered on how they gathered spatial data and verified the rights of individuals on the ground before plot demarcations. Also 16 semi-structured interviews (made up of both closed-ended and open-ended questions) were conducted with the allodial landholders comprising of 4 customary chiefs, 4 *tindanas*, 4 clan and 4 family heads to understand the power dynamics, social norms, and rules governing land boundary adjudication and the filing of informed consent for land-use planning to happen. The interviews analyzed the local power dynamics hindering the operations of the customary land secretariat. In addition, 20 biographic interviews were held with small-scale farmers to uncover the nature of participation in land-use planning, how individual plots were partitioned, and the challenges faced in regularizing plots at the customary land secretariat or formalizing at the Regional Lands Commission. Furthermore, 8 FGDs were conducted with a total of 72 selected small-scale farmers (both men and women) to triangulate the individual views expressed privately. We also augmented our empirical qualitative data with published journal articles on decentralization, participatory land-use planning, formalization programs and cadastral survey [7,10,16,17,40]. We reviewed legal documents, including the Acts of Parliament, relevant chapters of the 1992 Constitution, national land policy and unpublished documents from the land administration project.

3.3. Data Processing, Analysis and Presentation

We recorded all the interviews and focus group discussions on our field diary and notes. The field data were subsequently coded according to major themes and concepts such as affordability and participation to make our comparative analysis. The assessment elements were participation in land-use planning, cadastral survey, regularization, and formalization. Some of the indicators were the ability to collect spatial data, the ease of use of the spatial data collection technology, and the cost of surveying and processing title. The descriptive technique for data analysis was used, and discoveries were represented in tables and texts under key thematic areas [7]. In the next section, we describe the context of the two case studies, concentrating on the history of customary land administration and management.

4. The Case Study: Decentralized Land Administration and Management

In this section, we outline the history of land administration and management from the precolonial to the postcolonial era in the *Bole* and *Talensi* case studies to show the institutional arrangements that work with as well as against.

4.1. Customary Land Secretariat for Land Administration and Management in Bole

The roles of customary chiefs in customary land administration and management have not changed in the *Bole* traditional area since the precolonial era. Instead, it is being reinforced by colonial and post-colonial land legislations and policies [56]. During the precolonial era, land was abundant and available for everyone to use under the common property regime [26,34]. Settler farmers presented kola nuts to the village chief to obtain use rights. The village chief had to direct the land priest to find suitable plots for strangers to develop [34]. The strangers often planted trees of marginal economic value on the plots to serve as evidence of land use and occupation. As land gained economic value due to the opening of commercial agriculture beginning in the colonial era, people's "free" access to the land diminished [26]. As a result, customary authorities began to introduce discriminatory rules of access to land for the *Ngbanya* (people of royal descent), the *kramo*

(the Muslim group), and *Nyamasa* (the settlers) [34]. Unlike females, adult male *Ngbanya* exercised most of the rights usually associated with land ownership [34]. The *Nyamasas'* access to land depended on social capital and relational reciprocity.

In recent times, population pressure and global land rush are contributing to weakening the security of tenure of rural landowners [14,15,21,25]. This is partly due to lack of formal titles and proper plot demarcations at the local level, leading to several land boundary conflicts [25,56,58]. The local government authorities appear very weak to safeguard the land rights of rural landowners from intrusion by rural newcomers [26,56].

In this regard, the *Bole* Traditional Council—an assemblage of king makers, elders, and divisional chiefs in the traditional political system [59]—inaugurated a 16-member land management committee to operate the customary land secretariat [22]. Through the help of the customary land secretariat, it is anticipated that the individual land rights within the traditional areas would be registered and mapped [21]. As such, rural communities invigorated land-use planning to improve tenure security to promote human settlement [41]. Since the establishment of the customary land secretariat, over 7000 land transactions have been regularized, and over 100 land boundaries disputes resolved [22]. The successes are attributed to the development of local plans by landowners with support from the Town and Country Planning Department and the district spatial planning committee [22].

4.2. Multiple Customary Authorities in Land Administration and Management in *Talensi*

Talenteng (*Talensi* Traditional Area) has gone through three phases of institutional arrangements in customary land administration. Before 1930 (phase 1), land control and allocation were the prerogative of the *tindanas* and was often combined with performing the rituals for land use [34]. The *tindanas* had duly exercised that authority in the time when the economic value of land was not profitable and demand for land was low [26,34,56]. The *tindanas*, in consultation with family members, granted land use rights to settlers. In the eyes of the British colonial administration, the *tindanas* were inefficient in land regulation and quality natural resource management [26,38].

By the 1940s (phase 2), the colonial administration appointed chiefs in *Talenteng* and took land control and alienation rights away from the *tindanas*, and gave these rights to the chiefs. This resulted in some families losing their land to the chiefs [26,34,56]. The chiefs were granted supervisory, jurisdictional, and territorial control of the people, land, and related natural resources in *Talenteng* on behalf of the colonial government [27,35,57]. The commissioner made the chiefs more business-orientated to increase their efficiency and effectiveness [26,56]. Since the 1980s, land alienation was no more than the exclusive right of the *tindanas* [26,31,33,34,38]. This is because after the 1979 Constitution of Ghana, the *tindanas*, clan and family heads made claims on land ownership, land title, and the right to alienate land [31,34,38]. Subsequently, individuals and heads of clans and families exercised control over land under clan or family ownership, while the chiefs and *tindanas* exercised control over land subject to collective rights, such as grazing or hunting grounds [21,31,38]. Each of the customary authorities kept to their exclusive functions, a situation which fostered a cordial relationship among them, and by extension, accounted for a nonviolent atmosphere in *Talenteng* [34].

From 2003 onwards (phase 3), the national government's land administration project, which introduced the CLS for improved land administration and management, was rejected by selected local actors [10]. The *tindanas* have resisted the creation of the CLS, which paved the way for landowning families to individually prepare local plans for the land. With the increase in the value and demand for land and related natural resources, the *tindanas*, having compromised in the past, have now rejected their downgrading, and want to re-assert their rights as landowners. This complexity puts to test the extent to which the adoption of western style of decentralization affects local land administration. In the next section, we present the institutional arrangements and their implications on land rights of small-scale farmers.

5. The Institutional Arrangements in Land Administration and The Implications on Land Rights of Small-Scale Farmers

In this section, we compare the similarities and dissimilarities of the institutional arrangements in Bole and Talensi cases and show how they affect the participation of local actors in land-use planning, cadastral survey, regularization and formalization. The empirical findings are presented separately beginning with the Bole case and followed by the Talensi case.

5.1. Bole

5.1.1. Participation of Local Actors in Land-Use Planning and Cadastral Survey

Since decentralization seeks to empower local actors in land administration, this section examines the nature of involvement or participation of local actors in land-use planning and cadastral survey leading to plot boundary creation. Land-use planning and cadastral survey in rural communities aim to promote formal and efficient land development. Formal land development deals with the administrative and lawful way of developing and occupying land [7]. Formal land development involves a sequence of activities, including physical planning, formal land acquisition, cadastral survey, supply of basic infrastructure and services on land and occupation of developed plots or parcel [7].

However, oral history indicates that *Dokrupe* and *Tinga* were informal settlements occupied since the 1930s and 1970s, respectively (Customary chief in *Tinga*, Semi-structured interview, 7 March 2019). Informal settlements are characterized by informal land acquisition and unplanned land use leading to haphazard creation of houses, shops, gardens, and farms. As a result, in 2015, the district assembly, the Town and Country Planning Department (TCPD) and the customary land secretariat (CLS) began processes to upgrade unplanned traditional settlements to a planned status that would ensure the standardization of land parcels, which will eventually lead to land regularization and formalization [6]. The upgrading of the settlements was in response to population pressure, modernity, community orderliness and tenure security. Upgrading provided a forum for state and non-state actors to dialogue and negotiate in land-use planning to tackle land boundary conflicts and to pave the way for formal land acquisition and its use within the government's legal framework [7]. As such, allodial landowners and resource end-users were sensitized and educated on the importance and advantage of land-use planning and plot demarcation (Customary chief in *Tinga*, Semi-structured interview, 7 March 2019). The entire process of land-use planning was led by the TCPD and involves planning, drawing, and giving opportunities to community members to list the reasons for which people use the land (Chairman of the land committee in *Tinga*, FGD, 10 March 2019). The flexibility of the land-use planning process ensured that the various interests, vision, concerns and needs of the different segments of the rural population were considered in the plan. The participants, for example, assented for the creation of additional access roads and public open space zones—parks and gardens, small play areas for children, and open area buffers between industrial and other land use activities (Director of TCPD in *Bole*, Key informant interview, 19 March 2019). The TCPD also ensured that the planning standards of the parcel size and width of the development zones conformed to the Town and Country Planning Ordinance (Cap 84) and the Environmental Protection Agency guidelines (Director of TCPD in *Bole*, Key informant interview, 19 March 2019).

Land-use planning led to the creation of plot boundaries and plot shapes which formed the basis for land use and property rights [6]. The lines that created the plots on the land-use plan were executed by a registered private surveying firm (Chairman of the land committee in *Dokrupe*, FGD, 13 April 2019). The creation and recording of new plot boundaries paved the way for the formation of new property rights in the communities [7]. According to Lai [60], “spatial partition of land whether by governments or private bodies, which involves decision on boundary delineation” enables the creation of property rights (p. 619). The demarcation of plot also enables land buyers to determine the size, location, and access to the plot before buying. The way and manner land-use

planning and plot demarcation facilitate property transfer support previous studies by Gwaleba and Chigbu [7]; Lai et al. [60]; MacMahon [61]; and Roose et al. [62]. In all, the realization of land-use planning and cadastral survey was due to the participation of local actors and their distinct roles.

5.1.2. Actors and Their Roles in Land-Use Planning and Cadastral Survey

Table 1 shows the different groups of actors and their roles in land-use planning and cadastral survey. The actors involved are grouped into primary actors, secondary actors, and tertiary actors. The primary actors are based at the community level, and comprise of the village chiefs, the village land committees, and the customary land secretariat. The village chiefs settled and verified the land boundaries of clans and families and documented their consent prior to the preparation of the conceptual layout plan (Village chief in *Tinga*, Semi-structured interview, 7 March 2019). The village chiefs also oversaw the organization of community consultations and determined which lineage members and youth group leaders would be appointed to constitute the village land committees based on patrimonialism [10]. The village chiefs' unilateral appointment of members of the village land committee resulted in a skewed distribution of positions in the land-use planning process. The land committee is only accountable to the village chiefs because he appointed them (Small-scale farmer in *Dokrupe*, FGD, 27 April 2019).

Table 1. Local actors and their roles in land-use planning and cadastral survey in *Tinga*.

Actors	Role
Primary actors	
Village chiefs	<ul style="list-style-type: none"> Form village land committees Document the consent forms of landowners during the land boundary settlement process Organize community meetings for public sensitization, awareness creation, and education on land-use planning, and to discover the needs, concerns, and interests of the community Issue plot allocation papers to buyers Pay cash and in-kind for cadastral surveying activities Submit application to the district assembly to prepare local plan Register the local plan at the RLC
Village land committee	<ul style="list-style-type: none"> Assist in land-use planning and activity implementation
Customary land secretariat	<ul style="list-style-type: none"> Regularize individual land rights Charge and collect fees for land regularization
Secondary actors	
Private survey firms	<ul style="list-style-type: none"> Undertake mapping activities to certify that the lines drawn by the TCPD are genuinely implanted on land parcels Fix beacons for parcel partition
Technical sub-committee and TCPD	<ul style="list-style-type: none"> Participate in meetings arranged by the village chiefs Monitor and supervise the land-use planning process Gather reliable spatial data from the communities for detailed land-use plan preparation
District spatial planning committee (district assembly)	<ul style="list-style-type: none"> Maintain local plan at the public data room for public inspection Receive public complaints concerning local plans Provide administrative support to the technical sub-committee
Tertiary actors	
Survey and Mapping Department	<ul style="list-style-type: none"> Regulate the private surveying firm's practice of cadastral survey Approve cadastral plan for land registration
Land Registration Division	<ul style="list-style-type: none"> Issue title certificates to land buyers

Source: Qualitative methods and review of relevant literature.

The secondary actors were the district assembly/spatial planning committee, the technical sub-committee, the TCPD, and a private surveying firm. Except the private surveying firm, the secondary actors are based at the district level. The TCPD was the lead actor in land-use planning. The TCPD prepared and presented the conceptual plan to the local communities to deliberate. The district assembly approved the layout for implementation in the communities. A private surveying firm based in Tamale, the regional capital of the northern region, was engaged by the village chiefs and the land committees to demarcate the new parcel borders and to prepare a cadastral plan (Village chief in *Tinga*, Semi-structured interview, 4 January 2021). The tertiary actors are the Survey and Mapping Division and the Land Registration Division of the Regional Lands Commission. The land registration division prepared title certificates for land buyers based on cadastral plan. Overall, the actors played complementary roles. In spite of that the actors expressed different views about the nature of collaboration in land-use planning and cadastral survey.

5.1.3. The Different Views of Actors in Participatory Land-Use Planning and Cadastral Survey

In this section, we present the different views and assessments of the actors in the land-use planning process and cadastral surveying. In general term, there was a strong feeling of effective collaboration in land-use planning centered on the five elements of collaboration, namely “information sharing, active engagement, consultation, delivery and monitoring of local citizens” [14,58]. The private surveying firm was of the view that it took too much time to explain technical issues of cadastral survey to the local citizens, which suggests information sharing between local citizens and surveyors. He added that the time spent to explain survey issues resulted in a plan implementation delay at the local level (Private surveyor in *Tamale*, Expert interview, 10 January 2021). The surveyor acknowledged that participatory cadastral survey enhanced local knowledge, experience, and skills development, and helped to “obtain relevant spatial data for plot demarcation and the preparation of accurate cadastral plans”. The participatory survey also enabled local landowners to know plot sizes, shapes, and road access to plots (Private surveyor in *Tamale*, Expert interview, 10 January 2021).

Through the collaboration and partnership in land-use planning, the CLS has been able to take inventory of plots in all traditional areas to ensure checks and balances (Official of the CLS in *Bole*, Semi-structured interview, 14 January 2021). The TCPD opined that the participatory approach used for land-use planning helped to “record local participants’ concerns, visions, interests and needs into the local plan”, which defused local complaints and acrimony (Director of TCPD in *Bole*, Expert interview, 14 January 2021). The village chiefs who were the main architects of land-use planning praised the entire planning and cadastral survey process because it has helped to clarify plot boundaries of individuals and would contribute to reduce scale of land boundary conflicts in the communities (Village chief in *Tinga*, Semi-structure interview, 16 January 2021). The village chiefs lamented that the cost of cadastral survey was expensive, and as such, a large truck of communal land was not partitioned. Apart from cash, 1% of the 5000 plots demarcated was granted to the private surveying firms as part of the administrative cost, which reduced the quantity of plots available for sale (Village chief in *Tinga*, Semi-structure interview, 16 January 2021). The cost of survey has been factored into the price of plots.

Considering that poverty is highest in Northern Ghana, where the majority of the rural population’s daily subsistence income falls below \$1 per day, many of the poor small-scale farmers do not have the capacity to buy plots at higher price [10]. As such, small-scale farmers were of the view that plot demarcations are not pro-poor, notwithstanding that they can help to secure land tenure (Small-scale farmer in *Dokrupe*, FGD, 24 January 2021). They also argued that the private surveying firm pulled down various economic and noneconomic trees and grasses leading to a severe negative impact on livestock farmers due to the implementation of the plan without compensation packages for the affected farmers (Small-scale farmer in *Dokrupe*, FGD, 24 January 2021). In response, small-scale farmers had to react by appealing to the village chiefs when their human rights were

violated. This led to a 10% reduction in price per plot for them (Small-scale farmer in *Dokrupe*, FGD, 24 January 2021). This finding echoes Lanz et al. [21] who indicate that local small-scale farmers are not passive but active local actors in community programs or initiative such as rice cultivation.

5.1.4. Participation of Local Actors in Land Regularization and/or Formalization

After the plot partitioning, land buyers are obliged to take steps to regularize land rights at the customary land secretariat at their cost and formalize property rights at the Regional Lands Commission to hold many bundles of sticks or rights (Official of the CLS in *Bole*, Semi-structured interview, 27 January 2021). The customary law of the traditional area is that “any land buyer who fails to regularize land rights within 6 months from the date of the allocation paper or fails to develop it within two years from the date of grant will lose the land rights” (Official of the CLS in *Bole*, Semi-structured interview, 27 January 2021). The customary law seeks to prevent acquired lands from being idle at the local level. However, “repertoires of domination” by sons of the *Bolewura* (divisional chief) incumbered land regularization efforts at the community level [27] (p. 1). For instance, in 2014, a new customary chief was installed, and the chief’s sons sought to hijack the CLS because of the change in “traditional government”, leading to a build-up of tension among lineage members, albeit latent (Official of the CLS in *Bole*, Semi-structured interview, 28 January 2021). The tension led to the shutting down of the CLS for two consecutive years, which negatively affected small-scale farmers’ ability to regularize land rights locally (Small-scale farmer in *Tinga*, FGD, 30 January 2021). The CLS lock down also made it largely difficult for the small-scale farmers to formalize property (land) rights at the Regional Lands Commission because without the secretariat’s plot allocation papers, formalization cannot happen with respect to land acquired from the customary sector.

Land buyers who bypassed the CLS to acquire formal title indicate that the processes of formalization at the Regional Lands Commission is cumbersome, expensive, bureaucratic, and it takes several days to complete the process (Small-scale farmers in *Tinga*, FGD, 23.01.21). Thereby most small-scale farmers with no financial and social capital are unable to formalize property rights. It emerged that rich elites who have acquired several plots along the main streets and farmlands near the government’s protected zone used their social connections with state actors at the Regional Lands Commission to obtain title certificates to secure land tenure (Chairman of the land committee in *Dokrupe*, FGD, 13 April 2019). In any case, rich elites would have formalized their land rights with or without decentralization due to the economic, political, and social benefits of formal title.

5.2. *Talensi*

5.2.1. Participation of Local Actors in Land-Use Planning and Cadastral Survey

In this case, land-use planning is not well-structured and uncoordinated because of the multiple customary authorities who prefer to have land-use planning done separately, which does not bode well for local land administration [22]. As such, the village chiefs are helpless in land control and management because the *tindanas* have taken possession of communal land, decided land-use planning and derived private benefits from ground rent [31,38]. The *tindanas* reiterate that lands in *Talenteng* belong to individuals, families, and clans, with the *tindanas* having the oversight responsibility of such lands and not the chiefs [26,34,56]. This view is supported by the Supreme Court of Ghana, which ruled that the *tindanas* are the leaders of their communities and must have control over communal land [31,34,38]. Therefore, placing the CLS under the care of customary chiefs is not a proper institutional design that would stand the test of time in this context [22]. It also means that the central government did not ask important questions about the nature of land ownership and whether the CLS would be accepted in acephalous communities. The observation echoes Biitir et al.’s [22] assertion that the participation and consultation processes of the land administration project were not adequate to obtain the needed consensus among the

diverse landowning authorities before recommending that the CLS should be replicated across the country.

In the context of rising land values, *tindanas* put their own interests first before those of their subjects using various discourses and diverse institutional environment to legitimize their action [21]. As a result, land-use planning is directly playing into the hands of the *tindanas* and strengthening their position in land control. Family heads are also the sole decision-makers of family land disposition, and have legal backing from Act 1036, which permits them to prepare local plans before disposition (Family head in *Gbani*, Semi-structured interview, 20 May 2019). Family heads collaborate with the *tindanas*, district assembly, the TCPD, private surveying firms and the Regional Lands Commission for support in local plan development and implementation [50]. In this context, there is limited participation of local actors because most of the lands are held by clans and families who have the leeway to choose who participate in land-use planning (Family head in *Datuku*, Semi-structured interview, 5 June 2019).

5.2.2. Actors and Their Roles in Land-Use Planning and Cadastral Survey

The roles of the participant were found to be direct in the arena of land-use planning and implementation. The family heads were responsible for sending the applications to undertake local plan to the district assembly for approval as well as employ private surveying firms to demarcate plot boundaries at a fee (Family head in *Datuku*, FGD, 5 June 2019). They also organized private meetings with local stakeholders to deliberate on the local plans before implementation. The district assembly reviewed and granted approval to the applications submitted by family heads. Without the district assembly's approval, no local plan would be prepared or executed. The review and approval role played by the district assembly reinforces it as the highest planning authority at the local level [35]. The TCPD ensured that planning standards and guidelines were adhered to (Director of TCPD in *Tongo*, Expert interview, 10 February 2021). The important role of the private surveying firm cannot be over emphasized because it translated the local plan drawn on paper on the actual ground. The surveying firm recommended that some private structures should be demolished before the plan could be executed. The notion of demolishing local structures was not embraced by most of the local citizens (Small-scale farmer in *Gbani*, FGD, 15 February 2021). As a result, various expressions were poured out by the different actors about cadastral survey activities at the local level.

5.2.3. The Different Views of Actors in Participatory Land-Use Planning and Cadastral Survey

The various views of local actors were obtained to understand the challenges encountered as well as the prospects for future improvement. It emerged that family heads selected few male adults of the family at the expense of women and children in land-use planning (Small-scale farmer in *Datuku*, FGD, 11 February 2021). Under normal circumstances, every community member must be given the leeway to participate and decide what they want their local plan to look like or contain [35]. According to the TCPD, there was "no prejudiced interest for them to exclude" some community members in land-use planning (Director of TCPD in *Tongo*, Expert interview, 15 February 2021). The TCPD indicates that the decision to include or exclude was the prerogative of family heads, even though the district assembly had implored them to ensure the representation of vulnerable members of the community to improve the content of the plan and enhance community ownership (Director of TCPD in *Tongo*, Expert interview, 15 February 2021). The situation where planning authorities exclude some vulnerable community members in land-use planning may lead to a lack of community ownership and thus result in sustainability crisis [10,40].

The deficiency of participatory planning led to the production of a layout which did not take into consideration pre-existing structures leading to their demolition to pave the way for plan implementation (Surveyor in *Bolgatanga*, Expert interview, 21 February 2021). Consequently, the public relation and complaints committee of the district assembly has

been inundated by several complaints from the local citizens concerning the output of the surveying firm (Coordinating director in *Tongo*, Expert interview, 22 February 2021). It looks like the hands of the district assembly are tied because they must adhere to the central government's policy of non-interference in customary land affairs [20,21]. The *tindanas* and family heads are aware of the inability of the district assembly to pin them down and therefore, they sometimes deal directly with the Regional Lands Commission in local land matters by directing land buyers to the Lands Commission for title certificate.

5.2.4. Participation in Land Regularization and/or Formalization

Even though plot demarcations aim to improve the security of tenure of small-scale farmers, the number of plots for the small-scale farmers reduced after the work of the surveying firm. Small-scale farmers were required to purchase the plots at the prevailing market price before regularizing or formalizing land rights. The existence of multiple customary authorities and the lack of recognized local structures for local land regularization create problems for small-scale farmers. Within clans and families, members are competing among themselves for authority to sell and register land rights locally [33]. Similarly, customary chiefs and *tindanas* are competing in land regularization because of the fees associated with it (Small-scale farmer in *Datuku*, FGD, 25 February 2021). In 2018, the *tindanas* stopped cosigning land documents for regularization with the customary chiefs (*Tindana* in *Datuku*, Semi-structured interview, 25 February 2021). The *tindanas'* fears and suspicions are that, by allowing customary chiefs to cosign land documents, for instance, the descendants of these customary chiefs would arrogate to themselves the allodial title in the future [22]. It also implied that the capacity of the future children of the *tindanas* to maintain allodial title may be terminated, resulting in a gradual loss of social and material security that is often associated with allodial landholders [22]. It is in the light of the above that no *tindana* would want to accept subordination regarding customary land administration [22]. No wonder that the *tindanas* have retained their prerogative to allocate land and do not want to relinquish a part of the rights, obligations, or responsibilities with any customary authority (Table 2). In effect, customary chiefs failed in their bid to usurp land control in acephalous society [38].

Table 2. Summary of comparative analysis.

Issues	<i>Bole</i> Case	<i>Talensi</i> Case
Land-Use Planning	<ul style="list-style-type: none"> • High collaboration and partnership among local actors • Local skills, knowledge, and experience development 	<ul style="list-style-type: none"> • Carried out by family heads • Restricted participation to male adults
Cadastral (land) survey	<ul style="list-style-type: none"> • Minor errors due to participation of local actors in land-use planning • High cost • Technical and complex 	<ul style="list-style-type: none"> • High irregularities due to lack of local participation • Many complaints of survey outputs • Recommended the demolishing of structures
Land sector agencies	<ul style="list-style-type: none"> • Enhance supervisory and monitoring power over customary land practices 	<ul style="list-style-type: none"> • Regulate customary land and natural resource management
Customary authorities	<ul style="list-style-type: none"> • Local competition among lineage members led to the shutdown of the CLS for 2 years • Achieved compromises • Have knowledge about plot size, number, and shape for accountability and transparency 	<ul style="list-style-type: none"> • Competition among family members and between customary chiefs and <i>tindanas</i> • No compromises made • The <i>tindanas</i> have gained control over land management and benefit ground rent [26,34,38]
Small-scale farmers' land rights	<ul style="list-style-type: none"> • Difficult to regularize land right due to closure of CLS • High cost, bureaucracy and "unnecessary" documents required discourage property rights formalization at the RLC 	<ul style="list-style-type: none"> • No identifiable local structure to regularize land rights at the local level • Too many complaints of elitism within the land administration sector

Source: Qualitative methods and review of relevant literature.

The competitions among customary authorities (e.g., *tindanas*, customary chiefs, clan, and family heads) arise because there are no clear guidelines in the distribution of power and responsibility at the local level. Besides these challenges, the elitism within the land administration and affordability issues dissuades small-scale farmers to formalize land rights at the Regional Lands Commission, which threatens security of land tenure (Coordinating director in *Tongo*, Expert interview, 27 February 2021). The comparative analysis of the case studies and the emerging issues are discussed in the following section.

6. Discussion: Competition in Decentralized Land Administration and Management

This section analyzes and discusses the politics of decentralization in land administration and management in Ghana. Decentralization proponents often assume that the withdrawal of the central government from the local level would lead to the empowerment of local citizens through participation in land administration and management and ultimately improve tenure security through regularization and formalization of property rights [5–7,12,16,19,32]. Local participation in decentralized land administration is underpinned by “the norms and values of equity, effectiveness, efficiency, power distribution and sustainability” [63,64]. In theory, local participation in land administration is contingent on the specific institutional arrangement (or design) and how it alters power and distribute responsibilities [1–4,27].

Our case studies show that the institutional arrangement that performs customary land administration and management function is the customary land secretariat [20–26]. The secretariat collaborates with the state land sector agencies (e.g., the district assembly/spatial planning committee, the TCPD and RLC) and non-state actors (e.g., private surveying firms) and are expected to play a *complementary role* in land administration practices to create more effective checks and balances [18,32,57,58]. However, in practice, decentralization has increased *local competition* among local actors in land administration with unintended consequences on the land rights of small-scale farmers. The findings concur with Van Leeuwen [32] who show that in Uganda, decentralization “adds to institutional multiplicity and fuels competition among state and non-state authorities and about the rules they apply” (p. 208). As a result of the local competition, decentralization has limited impacts in connection with securing the land rights (tenure) of small-scale farmers. The CLS set up for decentralized land administration and management in *Bole* for example has been realized only to a limited extent because it is inaccessible to local small-scale farmers. In effect, decentralization of land administration and management only benefits customary authorities who use the CLS to reinforce their position [21,28–32] and contribute to commercialize land regularization and formalization thereby reducing the feelings of tenure security among those who cannot afford the new land administrative services because of the elitism and bureaucracy within the land administration domain [65]. In Ghana, the laws that regulate land survey practices (e.g., the 1962 Survey Act 172, the 1989 Survey Regulations Legislative Instrument 1444, and the 2008 Lands Commission Act 767) and title registration (e.g., the 1962 Land Registry Act 122, the 1986 Land Title Registration Law 152, and the 2020 Lands Act 1036) are too complex and contradictory [7,58].

To this end, some scholars propose new approaches to strengthen the land rights or tenure security of marginalized small-scale farmers through “formalized arrangement for collective tenure (FACT)” that builds on existing common property relations as the way forward for inclusive land development [66]. As an institutional innovation, FACT can guarantee collective ownership of land to local communities, whilst accommodating the different land-use interests of the different actors involved in the land through contractual partnership and collective decision-making over distributive outcomes [66]. Perhaps a proposed innovative institutional arrangement based on collective tenure could provide a better approach for obtaining a better impact of decentralization initiatives at the local level. Through FACT strategies of democratic decision-making and the inclusion of marginal groups and gender sensitivity in land development, the democratic procedures of land administration and management could be upheld, ensuring that checks and balances in

land are put in place and that nondemocratic decision-making processes leading to elite capture are forestalled [66]. Through such newly adopted formalized collective tenure-based land administration, decentralization could transform nondemocratic customary institutions into democratic apparatuses for land administration.

7. Conclusions

Decentralization policy forms part of a broader global ideology and effort of the donor international community in support of the principle of subsidiarity to improve local participation in land administration and management [5,7,16]. We have demonstrated how decentralization in land administration and management failed to foster local participation. We have shown that land-use planning and cadastral survey are the key component of land administration and management [7,18,35]. Furthermore, the case studies show that customary authorities are strategic actors and behave rationally in land administration and management in the context of legal pluralism by performing institution shopping to increase control over land [21,28–32,53]. These elites whose interest are well-represented through the customary land secretariat might see decentralization as a success even though it increases local competition. Nevertheless, actual results, such as the empowerment of small-scale farmers in terms of safeguarding their land rights are still lacking [3,6,8,32]. Local competition and elitism within the land administration domain could be the perils towards decentralization reforms.

Our empirical analysis shows that decentralization in Ghana is paradoxical because competences are transferred to the land sector agencies, customary authorities, and their local structures. The nondemocratic practices of the customary authorities including the absence of checks and balance weakens democracy and heighten local competition in land administration. We strongly suspect that decentralization might have been embraced with undue swiftness under the pressure of international donors because central questions have not been asked, such as the issue of the reinforcement of nondemocratic customary authorities in land administration.

Instead of proposing decentralization reforms for land administration to improve the formalization of property rights and land title, we ask, has the time not come to question this broad objective? As a response, Ostrom [67] has already clearly shown that there is a range of options between pure state property and pure private property, of which customary clan property used to be. To avoid another wave of enclosure, which is detrimental to majority, except for a few elites [68], it is also necessary to go beyond conventional models of individualization to test *formalized collective common property (i.e., collective land titling)*—which has been neglected, perhaps due to ideological reasons.

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Abbreviations

CLS	Customary Land Secretariat
FGD	Focus Group Discussion
PNDCL	Provisional National Defence Council Law
SMD	Survey and Mapping Division
TCPD	Town and Country Planning Department
RLG	Regional Lands Commission

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