

# THE ROLE OF GOOD GOVERNANCE IN IMPROVING WOMEN'S ACCESS RIGHT TO LAND

Rita Esinu Sewornu

International Masters in Land Management and Land Tenure Program, Technical University of Munich, Germany.  
Corresponding author: ritesinu@googlemail.com

© Ontario International Development Agency. ISSN 1923-6654 (print)  
ISSN 1923-6662 (online). Available at <http://www.ssrn.com/link/OIDA-Intl-Journal-Sustainable-Dev.html>

**Abstract:** In Ghana like elsewhere within the sub-Saharan Africa region, many people asserts right to land through customary mechanisms. There is however grave gender inequalities with regard to land access and security of tenure thereof within the customary land sectors

Women's weak access rights to customary lands in Ghana are due largely to local custom and practices. These customs and practices emanated from traditional ideologies such as priority of continuation of lineages and the fear of losing lineage land to other lineages upon the marriage. In recent times the gap has been further widened and entrenched by weak land governance such as male predominance in leadership and decision-making, break down of the trusteeship ethos resulting in unaccountability and lack of transparency.

Even though the country's Constitution and other statutory provisions guaranteed equal rights to land for both men and women, their effectiveness in protecting women's land right has been elusive in practice. Customary institutions and processes regulating access to land appear stronger than the state laws. The study thus concludes that the causes of women's weak access rights to land within the customary sector are a complex challenge deeply rooted in the socio-cultural, economic and political systems.

To ensure and sustain women's equal access right to land therefore calls for a holistic approach from different perspectives. The paper in an agreement with current international developments in land management argues that the incorporation of good governance principles into customary land sector is key to improving women's access right to land within the sector. It also emphasized the importance of women's empowerment and creating of enabling environment of a working customary land tenure and land administration system.

**Keywords:** customary land sector, good governance, land access, women and Ghana

## I. INTRODUCTION

Secure access to productive land is critical to the millions of poor people living in rural areas and depending on agriculture, livestock or forests for their livelihood. It reduces their vulnerability to hunger and poverty; influences their capacity to invest in their productive activities and in the sustainable management of their resources; enhances their prospects for better livelihoods; and helps them develop more equitable relations with the rest of their society, thus contributing to justice, peace and sustainable development" (IFAD, 2008 p.4)

Ghana's economy like most countries in sub-Saharan Africa regions depends largely on land; for instance, the agricultural sector alone accounts for about 51 percent of the Gross Domestic Product and about 54 percent of the labour force mainly small scale farmers (Ghana Statistical Services, 2008).

The National Land Policy (NLP) specifically stated that land and other natural resources are "the nation's socio-economic backbone, the basis of its wealth, the realm of its physical and political strength and the source of its sustainable livelihood and very survival"

Farming is the most important economic activity for women in the rural areas in Ghana. Women, who formed more than half of the population, generally constitute about 52% of the agricultural labour force and produce about 70% of the subsistence crops (Gender and Agricultural Development Strategy, 2001). Remarkably, all women who undertake trading activities in the rural areas do it in conjunction with farming. Secure access to land for Ghanaian women is thus critical to their sustainable livelihood, as one of the main factors, which creates and sustains poverty in agrarian society, is insecure access to land and other productive resources (Dowuona-Hammond, 2003). Meanwhile, poverty is believed to have a woman's face in Ghana.

The FAO and others thus argued that increased

land access for the poor, of whom women forms majority, can bring direct benefits to poverty alleviation, not the least by contributing directly to increased household food security (Toulmin and Quan, 2000)

Women's land rights especially within customary land tenure are arguably very weak. In the case of Ghana, it is observed that while the system in all the regions of the country aims to provide equitable people (Cotula, 2007). Currently, land is being commoditized, monetization is on the rise, inheritance patterns are twisting, and power positions are becoming all the more pervasive in accessing and distributing landed resources in Ghana (Yaro 2002).

access to land for all households in a community, women's land rights within the context of the customary land law are weaker than those of the men (Quisumbing et al, 2005). In fact, important equity concerns have often been raised in relation to much customary land tenure and its management thereof, particularly with regards to gender and the protection of the land rights of more vulnerable.

Within the context of sustaining and enhancing livelihoods, efficient and effective land tenure and land management system and presently "good land governance" - an increasingly and very significant concept of sustainable land management and development become very important and deserve urgent attention

Table 1.

Summary of Field data sources and number of respondents

Source: Author 2010

Statistical Package for Social Science (SPSS) was used

Community	Number of Questionnaires Administered	Number of Women Interviewed	Number of Men Interviewed	Number Focus Group Discussions Held	Key Informant Interview of Traditional Leaders/Opinion Leaders
Ho	50	30	20		4
Klefe	20	12	8	1	2
Kpenoe	20	12	8		2
Sokode	20	12	8	1	2
Tanyigbe	20	12	8		2
Lands Commission					1
Office of Administrator of Stool Lands					1
TCPD, Municipal Assembly					1
<b>TOTAL</b>	<b>130</b>	<b>78</b>	<b>52</b>	<b>2</b>	<b>15</b>

in processing and analyzing the data collected using the techniques of data reduction, organization and interpretation.

## II. CONCEPT OF GOOD GOVERNANCE

Good governance has been the flavor of the month at the World Bank, shaping its lending policy towards third world countries (Leftwich, 1993). Poor or bad governance is cited as a foremost reason why economic development continues to lack in many third world countries. There is however no single and exhaustive definition of “good governance,” nor is there a delimitation of its scope, that commands universal acceptance.” The term is used with great flexibility which is an advantage, but also a source of some difficulty at the operational level (OHCHR, 2007).

Depending on the context and the overriding objective sought, it has been said at various times to encompass eight major principles summarized as participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. It assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making. It is also responsive to the present and future needs of society (UNESCAP, 2009).

It has however be pointed out that these core characteristics represent the ideal situation – which no society has in totality (UNDP, 1997). There will therefore be differences in emphasis as at to what good governance is, depending on the situation and field of application. For instance, it is noted that a pro-poor and gender sensitive good land governance approach must incorporate good governance principles like:

*Participation:* provide discretion to communities to design their land tenure systems within a broader policy framework *Equity:* the fruits reaped from resources should equally benefit all individuals in society;

*Gender equality and non-discrimination:* men and women have equal rights to access, to occupy, and to use land;

*Human rights:* striking a balance between the prohibition of arbitrary dispossession and policies that ensure access to resources by all – recognizing the importance of individual as well as collective property rights (UNDP, 2007)

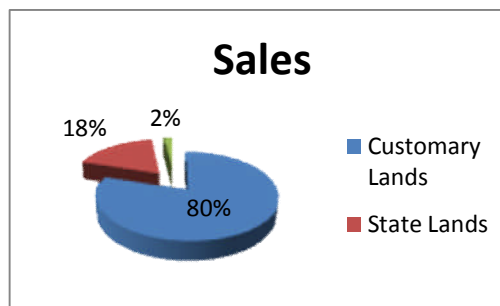
Good governance relates to political and institutional processes and outcomes that are deemed necessary to achieve the goals of development. Good governance has thus been argued to have positive causal relationship with economic growth and human development (Kaufman and Kraay, 2003). It is reiterated in UN General Assembly 2005 World Summit Outcome that “good governance is essential

for sustainable development; that sound economic policies, solid democratic institutions responsive to the needs of the people and improved infrastructure are the basis for sustained economic growth, poverty eradication and employment creation; and that freedom, peace and security, domestic stability, respect for human rights, including the right to development, the rule of law, gender equality and market-oriented policies and an overall commitment to just and democratic societies are also essential and mutually reinforcing”. The goal of good governance initiatives according to UNDP (1994) should therefore be to develop capacities that are needed to realize development that gives priority to the poor, advances women, sustains the environment and creates needed opportunities for employment and other livelihoods.

## III. CUSTOMARY LAND SECTOR IN GHANA: OVERVIEW

Land ownership in Ghana is categorized into three - state lands, vested lands and customary/private lands (See fig. 2) Held under varying tenurial arrangements, the landholders include: Stools/Skins, sub-stools; Clans/Families; Spiritual heads e.g Tendamba; Government or state; Individuals.

Fig 2: Categories of Landownership



Source: Authors (2010)

**StateLands:** State lands are defined as lands compulsorily acquired by the government through invocation of the appropriate legislation, vested in the President and held in trust by the State for the entire people of Ghana. All previous interests are extinguished and persons who previously held recognizable interests in such lands are entitled by law to compensation which could be monetary or replacement with land of equivalent value.

Currently, Article 20 of the 1992 Constitutions, State Lands (Amend) Act, 1962, (Act 125), the Administration of Lands Act, 1962 (Act 123) and the Land Statutory Wayleaves Act, 1963 (Act 186) governs compulsory acquisition of land by the state. State lands constitute about 18% total lands in the

country.

**Vested Lands:** This a peculiar type of land ownership brought about by state intervention in land administration. With the vested land a dual land ownership system where the legal title is transferred to the state and the original traditional owners retain the beneficiary interest. Thus, under vested lands, the state takes over the entire management responsibilities of the land including the right to sell, lease, receive income etc., but any accruing benefit like revenue from the land is paid to owners of the land. In this case no compensation is payable for the vested land. Currently, the legislation governing vested lands is the Administration of Lands Act, 1962 (Act 123). Such lands are in the Northern, Brong Ahafo, Eastern, Ashanti and other regions.

**Private/Customary Land:** Customary lands on the other hand constitute about 80% of all lands in Ghana and predominantly include Stool/Skin<sup>ii</sup>, Clan/Family<sup>iii</sup> lands. They have a common trait of communal or cognate ownership and are guided by the customary tenets expressed in the saying Ollenu (1985, p.7) attributed to the late Nana Sir Ofori Atta "Land belongs to a vast family of whom many are dead, a few are living and countless hosts are still unborn".

Individual lands constituting grants emanating from common law freeholds are acknowledged in the National Land Policy document to be part of customary lands. This has however been a bone of contention. Whereas some scholars upheld the existence of such lands, there are others who vehemently disagreed with them (see Kludze, 1973 p. 137; Ollenu and Woodman, 1985 p. 7)

#### IV. LEGISLATIVE AND INSTITUTIONAL FRAMEWORK

In the distant past, customary lands were exclusively governed in accordance with customary laws, norms and cultural practices recognized by ethno-cultural groups in question. Due to legal pluralism, there is now a significant presence of formal laws in the administration and the management of these lands. Currently the legal framework governing customary lands in Ghana consists of:

- Customary laws, rules, norms and practices
- The Constitution
- Enacted legislations, and policy documents
- Legal instruments

It must be mentioned that the customary laws governing lands in Ghana are unwritten, very complex, diverse from community to community, thus creating a room for manipulation by the custodians of such laws.

**Traditional/Customary Institution:** Although

customary land tenure system in Ghana varied from place to place especially between the centralized, chieftaincy-based, matrilineal Akan system and the lineage-based landholding systems of the patrilineal Ewe and Ga, customary lands are generally governed by the authorized 'representatives' of the people who are either the chiefs or the family/clan heads. There are areas in some parts of the country where 'traditional priests' (Tendana and to a lesser extent the wulomei) are the 'authorized representatives' of the people. They are commonly referred to as custodians and are charged with the responsibility of managing and administering these lands on behalf of their people, with the consent and concurrence of the principal members of the land owning community (council of elders).

The position of every custodian of customary land in theory however is that of a titular holder, holding the land in trust for the whole community or group of people (Kotey, 1999; Kasanga and Kotey, 2001). This principle is upheld by both customary laws and the Constitution. Article 36(8) provided that "the State shall recognize that ownership and possession of land carry a social obligation to serve the larger community and, in particular, the State shall recognize that the managers of public, stool, skin and family lands are fiduciaries charged with the obligation to discharge their functions for the benefit respectively of the people of Ghana, of the stool, skin, or family concerned and are accountable as fiduciaries in this regard".

They alienate, collect and distribute revenue and other benefits accruing from land, adjudicate, manage etc) through customary laws, norms and cultural practices recognized by ethno-cultural groups (MLFM, 2003). The Council often arrives at a decision through consensus building and in some instances the Chief/Head may give specific instructions to be implemented by the council. The councils have procedures through which allocation of land is made, in order to forestall any disputes or multiple sales as well as for the management of common resources. A few customary institutions especially in urban areas –Gbawe family land secretariat and Asantehene's land secretariat have modernized their land administration system by establishing land secretariats or land management committees that mediate the process of land allocation, documentation and record keeping. Such customary institution could be classified as "neo-customary" institutions. Capacity is however, low and most often professionals are not engaged in the process.

**Public Institutions:** Besides the management of public lands, the state through its land sector

institutions also performs supervisory role over customary land by enforcing regulations regarding their administration. Six public lands sector agencies namely the Lands Commission, Land Valuation Board, Office of Administrator of Stool Lands (OASL), Land Title Registry, Survey Department, Town and Country Planning at District Assembly are actively involved in the governance of customary lands.

**Non Governmental Organizations:** Until recently the presence of NGOs in the land sector generally was virtually nil. This was due to the perception that land tenure issues are too complex and too difficult to handle and activities do not achieve readily visible results (MLFM, *ibid*). Two organizations - 'Land for Life' and 'CARE International' have however showed interest in the sector. Through the Land Administration Project, a Civil Society Coalition on Land (CICOL) has been formed with a current membership of more than 30 NGOs. The main duties of these NGOs are to undertake community awareness and public education and sensitization on issues on sound land management practices, especially at the customary level. These NGOs includes; Care International, Land for life, Debasin Consult, COLANDEF, Ecological Restoration, CEDEP, Rural Initiators, Network for Communication and Planning, CIKOD. The roles of the NGOs are therefore that of advocacy and sensitization. It must however be noted that their coverage and influence is very much limited in the country

#### **V. CUSTOMARY LAND GOVERNANCE AND WOMEN'S LAND RELATION: SITUATIONAL ANALYSIS**

Although, land tenure and land administration in most part of sub-Sahara Africa like Ghana, operates within a plural legal and institutional environment consisting of both customary and statutory, the customary land tenure is the predominant system through which most people assert their right to land. While the position of women under customary tenure varies considerably, many such systems contain norms and practices that are gender discriminatory. Whitehead and Tsikata (2003) recounted that "women have long had access to land in Sub-Sahara Africa, but men and women rarely, if ever, had identical kinds of claims to land, largely because genders have very differentiated positions within the kinship systems that are the primary organizing order for land access". Patriarchal notions of pre-eminent male property rights pervade kinship and inheritance practices, whether patrilineal or matrilineal.

In Ghana, under the customary land tenure

systems, control over resources generally follows clearly defined gender-segregated patterns based on traditional norms which operate in such a way as to limit the land rights of women as compared to men (Dowuona-Hammond, 2003). Whereas most men hold a customary freehold interest – the highest interest after the allodial or paramount title that can be held in any customary land in Ghana. It is highly secured and offers much control over the land to the holder. Use right on the other hand is very common among women. It is very weak and is suitable only for subsistence farming. It does not entitle the holder to any sort of control over the land itself.

Apart from customary/informal land market where the common factor of lack of capital limits both poor men and women's ability to access land, women in general face gender-specific constraints in accessing land through all the other means available under the customary land sector particularly through inheritance. The two commonest systems of inheritance in Ghana are the matrilineal – right to succeed derived through one's mother's blood line - and patrilineal inheritance system, in which one inherits through his/her father's blood line.

Under both matrilineal and patrilineal inheritance systems, the customary law and practice is that upon the intestate death of a person, his/her individual property becomes a family property and is then devolved within the family. With regard to a matrilineal inheritance system, since the composition of the man's matrilineal family did not include his wife and children, they are not entitled to succeed to any portions of the intestate's estate. They have only certain limited rights to be cared for from the income from the intestate's estate. In practice, the obligation imposed on the customary successor towards the surviving widow and her children are often ignored leaving the widow without any means of support.

Notwithstanding, women within matrilineal societies have a relatively better access and control over land than their patrilineal counterparts. Some studies have indicated that the protection within the matrilineal inheritance practices are being widely eroded (Quan, 2006 p. 26). Manuh (1984) in this regard recorded that the matrilineal Akan women in Ghana equally have the right to lineage lands but lineage heads often discriminate against them in favour of men

In a patrilineal society, all the children – sons and daughters - of the deceased are in principle entitled to succeed to his estate. In practice, however, respective entitlements are allocated to them subject to the influence of the patrilineal family (executors) and mostly this is done based on gender: the sons are preferred. Kludze (1975 p.259) noted that only the

male children are entitled to succeed in most cases or invariably received the bulk of the intestate. Thus, even where there are older sisters, they will usually be bypassed in favour of younger brothers. In worst cases, even if a woman has no brothers, her right of inheritance will still be postponed in favour of half brothers or male cousins.

In rare occasions when a woman succeeds to a landed property on intestacy, she is regarded as taking a lifetime interest only. Meaning the interest in the property does not devolve on her own children upon her death as it would in the case of a male child. She cannot alienate the interest in the inherited land *inter vivo* nor can she exercise any testamentary capacity with respect to the property, Bortei-Doku Aryeetey (2000).

Clearly, the gender specific constraint are deeply rooted in customary laws and practices based on patriarchy ideologies including the priority of continuation of lineages which is vested in only men; and the fear of losing lineage land to other lineages upon the marriage of a woman as traditionally her children do not belong to her lineage. Views gathered during a focus group discussion at Sokode further confirmed the above: “There is a saying that ‘nyornu degble me bia o’ – “a woman’s palm farm does not produce ripe palm fruits” As women we are not considered as capable of continuing the lineage. Our elders believe we will marry and leave for our husbands’ home and our children will never belong to them but to another family...” [Women folks – Sokode]

Most women’s access to land is therefore through what Kameri-Mbote (2005 p.11) described as a system of vicarious ownership through men: as husbands, fathers, uncles, brothers, and sons. Their access rights to land are vulnerable to breakdowns in relationships, divorce and to the changing priorities of male land owners (Quan, 2006). It should be pointed out that most of these customary practices are in direct contravention of the Constitution of Ghana that guaranteed right to ownership of property and right of inheritance for all and forbid any form of discrimination including on the basis of gender. The main weak governance issues that are further widened and entrenched women’s access right to land within the customary sector are discussed in detail below:

*Outmoded customary laws and practices:* A major drawback in the customary land governance is the reliance on “outmoded customs<sup>iv</sup> and practices” Although customary land tenure system has greatly evolved over the years, very little has changed in terms of women’s and land relations. There are many who believe that improving women’s access right to

land is highly unattainable as customs cannot change. Land rights discrimination as noted by United Nations Economic Social Council Commission on the Status of Women (1998), is a violation of human rights (quoted by FAO, 2002 p. 9). Local customs and practices that create gender imbalances in accessing productive resources like land are a human right abuse and must not be tolerated. The State in this regard charges the National House of Chiefs in Article 272 (c) of the Constitution to undertake an evaluation of traditional customs and usages with a view to eliminating those customs and usages that are outmoded and socially harmful. Despite this honorable provision, not much has been done.

*Non Participatory - Male Predominance in the Leadership and Decision-Making Concerning Land:* The customary sector in Ghana is predominantly patriarchy in nature. The customary institutions that governed land mainly comprised of male members. To a large extent, women’s access and control over productive resources including land are determined by male-centred kinship institutions and authority structures, which tend to restrict women’s land rights in favour of men. In principle, customary norms in both matrilineal and patrilineal kin groups are designed to ensure that women are not arbitrarily deprived of basic resources for their production activities. However because of the lopsided control that men exercise over decisions concerning the allocation of resources both at home and in the public sphere, there is considerable room for gaps to develop and widen between the norms and actions that follow (Bortei-Doku Aryeetey, 2002).

The following are views collected during focus group discussions on land and women’s land relation held in Tanyigbe, Sokode and Klefe - farming communities in the Volta region of Ghana: “By our tradition, being the head of the family is the sole prerogative of men; a woman can never head a family and therefore cannot be head over land” [Family Elder - Tanyigbe] “We do not know anything about the management of our families land because our elders say ‘Nyornu megblor anyigba nya o’ – a woman does not mingle herself with land matters [Women Folks - Sokode]” “No female is part of the people involved with managing lands in our communities – that is our tradition because a woman will one day marry and leave for her husband’s house...She therefore cannot handle family property [Traditional Authorities - Klefe]. Likewise, men strongly dominate decision-making concerning customary lands. Land issues are considered complex and women are seen as incapable of handling them. Only the most elderly women believed to be knowledgeable in history are sometimes consulted or

invited for meetings when the need arises. The system is therefore non-participatory since the view of the community/family members is never sought in the management and administration of their lands (MLFM, 2003).

The observation of Duncan and Brant (2004) of the practice on the ground was confirmed in this study. They noted that “decisions concerning the lineage group are taken at lineage meetings, which are usually attended by male members of the group only. Female members are seldom invited to participate in such meetings. If invited, their roles are usually limited to those of listeners or resource persons, not decision-makers or partners discussants. As a result, men generally take decisions (including those related to land issues) on behalf of the descent group and all its members”. This is what women folks of Sokode said on it: “We are never invited for meetings or involved in discussions concerning our family lands. Our elderly women are only called or consulted when there is dispute and they need to know the history of the land. They believed that our elderly women know more history” [Women folks -Sokode].

The non-involvement of women in either the leadership or decision-making process concerning land should be of concern since inequality in power sharing will definitely lead to unequal sharing of resources.

**Lack of Accountability and Transparency:** Another major drawback in the customary tenure system in ensuring security of tenure for all is the weakening of the fundamental principles of customary land law and the breakdown of the trusteeship ethos. In principle “land under customary tenure was considered as a resource that all community members should have access to in order to subsist” (Pottier, 2005, p 58). They are thus held in trust by the Chiefs, Heads of Families, and Priests depending on the circumstances.

The advent of new land markets and the prospect of ready cash has indeed eroded the trusteeship idea in customary land tenure as well as creating new forms of land relations. Kasanga and Kotey (2001) recounted that “land sales and other dealings in land have increased in all areas. Settlements are being uprooted or livelihoods dislocated in the face of this onslaught. Yet there is no equity, transparency or accountability in the management of this process, neither as it concerns the ‘disposal’ of land nor in the distribution of benefits”. In confirmation women folks of Sokode noted: “Our elders have been selling our land without sharing even the money with us...we do not hear anything about it at all” [Women Folks, Sokode] The bottle(s) of schnapps (drink money) that used to seal land transactions in the

traditional sense in some parts of Ghana is now converted to a huge sum of money. The amount which is never disclosed is believed to be equivalent to the open market value of the land. This ‘drink money’ is paid to the chiefs irrespective of whether or not the transaction will be formalized or not. It is actually the purchase price of the land since the purchaser who happens not to formalize his/her transaction does not pay the required annual rent to OASL<sup>v</sup>.

Although the ‘drink money’ is for the whole community, it is almost never accounted for. The mechanisms of accountability within the traditional system are relatively weak. It is a sign of grave disrespect if not an abomination for an elderly persons and traditional leaders to be questioned. Rooms are therefore created whereby some unscrupulous traditional leaders that manage land amass revenues from communally-owned land for their personal use instead. The government attempted checking this anomaly through statutory provisions such as the statutory management of customary land revenue and passage of the Head of Family Accountability Law, 1985<sup>vi</sup>. The knowledge of this law and its enforcement is still a big challenge on the ground.

**Legal Pluralism:** Legal pluralism<sup>vii</sup> on customary lands also creates the atmosphere for redefinition of land claims and land rights. Weak governance of land prevails and strife where rules and laws on land are diverse, inconsistent, unclear, and numerous. A significant characteristic of the customary land tenure is its diversity and inconsistency. It varies between tribes, villages, communities and sometimes even families. These inconsistencies within the customary land tenure system coupled with a high rate of oral land transactions among women have been one source of insecurity of tenure for women.

More so, the plural systems of regulating land in Ghana, comprising mainly of the customary land tenure systems and the formal land administration system, generally created an environment which is described by Kasanga and Kotey (2001) as poorly articulated and appears to be on a collision course. Managing these two systems to ensure security of tenure for all sections of society has been a formidable challenge to the legal system in Ghana. The situation presents special difficulties, particularly for the more vulnerable sections of society, including women and the rural and urban poor with regard to the practical enjoyment of their land rights, even where they are guaranteed under formal law (Minkah-Premo and Dowuona-Hammond, 2007 p. 7).

In situations of legal pluralism, individuals can

make use of more than one law to rationalize and legitimize their decisions or their behavior. Which of the several laws individuals will use in all cases is never known in advance because “which specific repertoire, in which specific case, people will orient themselves to, will mostly be a matter of expediency, of local knowledge, perceived contexts of interaction, and power relations” (Spiertz, 2000). The State in recognition of the subordinate position of women in Ghanaian society made a lot of interventions in the Constitution, legislations and policies that seek to protect women’s land rights in Ghana. In reality however customary institutions and processes regulating access to land even though greatly undermined the constitutional provisions appear stronger than the state laws.

Women generally have limited resources and very little access to relevant information on their rights under the law. They are therefore often incapable of taking steps to assert their rights, especially when such rights are threatened by powerful developers with the full backing of political authorities or the local elite (Runger, 2006). As a result, their land rights exist in a state of legal limbo, which places them in a position of considerable insecurity.

#### **VI. IMPROVING WOMEN’S ACCESS RIGHTS TO LAND: A CHALLENGE FOR LOCAL AND INTERNATIONAL COMMUNITY**

According to Runger (2006 p. 2) the need to guarantee equity in the regulation of access to property is recognized internationally as an important pillar of social justice and equity. As a result a number of international instruments have been formulated to promote women’s rights to land and other land related assets like housing. The Universal Declaration on Human Rights, 1948, the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966, The Universal Declaration on the Eradication of Hunger and Malnutrition (UDERHM), 1974 the International Convention on the Elimination of all form of Racial and Discrimination (ICERD), 1976, the Convention on the Elimination of All Forms of Discrimination Against Women, 1979 (CEDAW), and the African Charter on Human and People’s Rights (the African Charter), 1981, the Declaration on the Right to Development, 1986, Millennium Development Goals (MDGs), 2000 and many others for contain provisions on discrimination faced by women with respect to accessing and securing land, housing and property.

Important commitment was equally made at some international conferences, notably the African Platform of Action of the United Nations Economic Commission for Africa, Fifth Regional Conference of Women in 1994, the Beijing Declaration and the

Global Platform of Action of the Fourth United Nations World Conference on Women in 1995, and the Commonwealth Plan of Action on Gender and Development in 1995.

The importance of women’s land access have equally been the concern of most international organizations such as FAO, GTZ, UN-Habitat, UNDP, IFAD, ILC, GLTN and the FIG. Notable works in this field including FAO Gender and Land Access Series, GTZ’s Gender Responsive and Land Tenure Development and FIG-Agenda 21 and FIG-Guidelines on Women’s Access to Land all recognize the importance of access to land and security of tenure for improving the situation of the poor (FIG 1999, 2000; FAO, 2002).

Whether the discrimination against women originates from gender-biased formal laws, policies and/or traditions and customary laws, the equal rights of women and men must be guaranteed by society. Ghana as a signatory to most of these international instrument is under an obligation to protect and promote women’s access right to land. At the domestic level, the country through Constitutional, statutory and policies has made provisions although inadequate that seeks to protects women’s land rights. The legislations and policies that have relevance on land and gender relations in Ghana and their impact are assessed below:

##### *A. The 1992 Constitution of Ghana*

Article 17 of the 1992 Republican Constitution of the Republic of Ghana stipulates that “all persons shall be equal before the law without any discrimination against on grounds of gender, race, colour, ethnic origin, religion, creed or social or economic status”.

Discrimination in this sense is defined as “...to give different treatment to different persons attributable only or mainly to their respective descriptions by race, place of origin, political opinions, colour, gender, occupation, religion or creed, whereby persons of one description are subjected to disabilities or restrictions to which persons of another description which are not granted of persons of another description are not made subject or are granted privileges or advantages which are not granted to persons of another description”.

This is a broad definition of discrimination and is not specifically focus on gender. Considering the situation of women in Ghanaian society, it would have been expected that the Constitution emphasized on that. Nonetheless, the above provision does capture that women and men have the same right in all sphere of life including access to resources.

The Constitution, under Article 36 (6), specially requires the state, in affording equality of economic opportunity to all citizens, to take “all necessary steps



to ensure the full integration of women into the mainstream of economic development of Ghana” (Duncan and Brant, 2004). In Clause (7) of the same Article, it is stipulated that “the State shall guarantee the ownership of property and the right of inheritance”.

In protecting the property rights of women, it is specifically provided in Article 22 that all spouses shall be entitled to a reasonable portion of property jointly acquired regardless of whether or not the spouse died intestate. In furtherance to Article 22, parliament would be required to enact legislations to regulate the property rights of spouses. This is to help in removing injustices inherent in the current system of property distribution at death intestate of a spouse and the dissolution of marriage (see Duncan and Brant, 2004).

It is rather unfortunate that parliament has not enacted the necessary legislations to regulate the property rights of spouses as provided for under article 22 (2). The absence of regulatory legislation to govern the property rights of spouses on divorce tends to create inequity and insecurity particularly for the property rights of women (Kuenyehia et. al, 1998). A critical look at all these provisions clearly shows that they do not provide a strong legal basis for women’s equal right to land considering the depth of the problem.

#### *B. National Land Policy*

The National Land Policy (1999) has identified a number of difficulties relating to land tenure and administration, e.g. insecurity of tenure of certain groups. It therefore went ahead to make provision for the protection of land rights of all section in the society. The interests and the impact of land administration and land tenure on women have not been mentioned. However, the following LAP inception and preparation documents have been gender-conscious and attempt at correcting the policy document through the implementation documents and studies and development of the gender strategy for the project implementation

#### *C. Ghana Poverty Reduction Strategy Paper I and II*

Ghana Poverty Reduction Strategy Paper I (GPRS I) identifies insecurity of tenure as endemic and having a bearing on poverty reduction and economic growth in the country. Accordingly, GPRS I acknowledged that failure to provide for the protection of land rights and prevention of abuse of traditional and institutional procedures places disadvantaged groups such as the poor, the illiterate and women at most risk.

In addition to advocating for land tenure reforms,

GPRS I, also recognizes that any land reform should be accompanied by close monitoring to detect adverse effects on the poor and women for whom safety nets may be required. Generally, economic poverty in the country has been identified to be extremely high among crop farmers, and women have been found to predominate in the sector (Runger, 2006).

To address the challenges identified by GPRS I, GPRS II (2006-2009) proposes to ensure women’s access to and control over land and agricultural inputs and therefore to re-examine the existing variations in access and control over land in different communities in order to promote easy access and ensure equity to all, especially usufructury holdings. More specifically, GPRS II expects to review the Land Administration Project (LAP) in order to recognize the importance of property rights to Small and Medium Scale farmers and also, the Land Title Registration Law of 1986 to be enforced as a means of ensuring security of tenure of small land holders, most of whom are constituted by women and the poor [38].

In the framework of GTZ support to the Land Administration Project, especially through the Office of the Attorney-General and Minister for Justice and the Ghana Law Reform Commission (LRC) the ascertainment of customary law has started in May 2005 and is currently being implemented, in collaboration with the National House of Chiefs (NHC) to provide legal certainty and security of tenure. It also could lead to a harmonization of customary laws under the NHC.

#### *D. The Intestate Succession Law*

According to Duncan and Brant (2004) “it is the first legal framework that provides equal rights of inheritance between spouses and increased rights for children”. They further noted that the “Intestate Succession Law is a path-breaking departure from customary law and has been described as an important landmark of existing legislation on inheritance rights in Ghana.

This law primarily provides a uniform intestate succession system that can be applied throughout Ghana no matter the class, type of marriage of a deceased instated. It gives greater portion of a deceased estate to his/her spouse and the kids.

According to Runger (2006) studies on the impact of the P.N.D.C. Law 111 have revealed that in certain communities in Ghana, the provisions of the Law are considered to be unworkable. Studies conducted in certain Moslem communities in the urban areas have shown that community leaders, opinion leaders, chiefs etc. continue to insist that the estates of

persons who die intestate should be distributed in accordance with Islamic rules and not the prescriptions of P.N.D.C. Law 111. In other communities the Law is completely disregarded and intestate estates continue to be distributed according to the relevant customary law rules on intestate succession. According to Mensa-Bonsu (1984), the impact of the law in enhancing the position of women with regard to inheritance rights has been limited by a number of factors. Some of these factors include the high levels of illiteracy and ignorance of the law among women, high cost of enforcement of the law, interference by extended family, and fear of bodily harm done by the extended family and limitations in respect of access to justice.

Other weaknesses identified in the Intestate Succession Law include the following: Limitations of the law with regard to protecting women who live in non-marital relationships although such women do contribute significantly to the acquisition of property by their partners; the inability of the law to address the position of childless mothers; although section 4 of the law accords the spouse and children entitlements to the whole estate where the estate consists of one house, the section does not cover situations where the estate consists of only one farmland (Duncan and 2004). Added to the above, family land does not fall within the scope of the law and this makes it difficult for wives and children to inherit family property, no matter the amount of contribution they have made to the development of the property.

Importantly, PNDCL 111 focused solely on protection of surviving spouse and children together, and therefore did not consider the customary sharing of properties between siblings particularly in the patrilineal inheritance system which invariably favours men.

## VII. WHY GOOD GOVERNANCE MATTERS IN THE LAND SECTOR

In spite of the fact that women's equal rights to adequate housing, land and property are well elaborated in both international and domestic instruments, they are often not implemented in practice (UN-Habitat, 2006 p.5). Haldrup (2008) therefore noted that a key challenge of strengthening women's land rights is bridging the vast gap between on one side, the principles of women's equal rights as found embedded in high level legal instruments, and on the other, their implementation.

As cautioned by Magel, (2001) (quoted in Masum, 2009 p.30), that the implementation of these legally binding international instruments and policy papers requires the readjustment of most institutional and

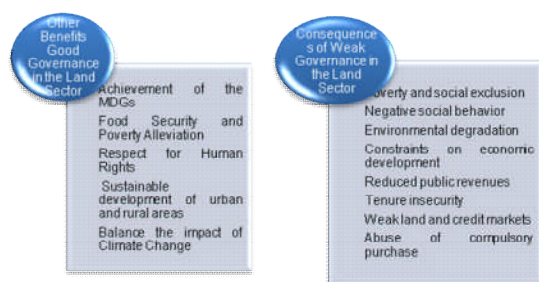
organizational aspects dealing with land namely, land tenure, land administration, land management. In response to finding workable solutions to land related challenges including ensuring secure access to land by all sections of society, the agenda on incorporating good governance in land management and administration began.

Although the ideas behind governance in land administration are not new in itself, explicit recognition of the importance of good governance in land tenure and administration has come relatively recently (FAO, 2007). The current move of applying of good governance in the land sector led to the coined of the term land governance<sup>viii</sup>. Most often than not, weak governance within the land sector is perceived to be with the state or public land sector. Weak governance is however present in customary land sectors also. The presence of weak governance according to FAO (2007 p.1), is evidence in any of the system - statutory or customary whenever that land rights of the poor and other vulnerable members of society are not protected.

As identified in this paper inequities prevail particularly for women and the poor under customary land tenure - as the institutions weaken by transition and commercialization loses indigenous mechanisms for accountability (IIED, 2006; FAO, *ibid* p.1). According to Cotula (ed) (2007) far from being the idealized, "community-based" systems described by some, customary land tenure regimes (and elite manipulation thereof) provide the backdrop for processes of exploitation and social exclusion. It is feared that the situation would be worse in the face of current developments (demographic factors and market development) and as land becomes more and more scarce.

Weak governance in the customary land sector should be of a greater concern to African countries like Ghana where over 90 percent of the rural population access land through indigenous customary mechanisms, and around 370 million of them are definably 'poor' (Wily, 2006). Good governance in the land sector is of a fundamental importance to achieving the benefits of protection of land access rights of the vulnerable people in society like women. Also, for efficient and effective stewardship of the environment and all natural resources (Bell, 2007). Weak governance within the land sector does not only weaken land rights but have other grave consequences. Likewise a well-governed land and natural resources provides some benefits besides securing land access. These extra consequences are presented in Fig. 3

Fig. 3: Other Benefits of Good Governance and Consequences of Weak Governance



Source: Author, 2009 (based on FAO document)

### VIII. GOOD GOVERNANCE: THE WAY FORWARD IN IMPROVING WOMEN'S LAND ACCESS

In spite of the state law and despite the inherent weaknesses within the customary sector, customary tenure systems and traditional land administration practices still reign supreme in Ghana. The paper therefore suggest that in finding a reliable and a practical solution to women's land relation within the customary land sector demands doing away with the

“pandora box” that solely promote formal legislations and interventions. Admittedly, formal legislation to protect and improve women's land rights in general do exist, but their impact is very negligible. To be able to influence gender relation within the customary land sector, there is need to deconstruct, reconstruct, and reconceptualize customary law notions around the issues of land governance in general. The view should be to intervene at points that make the most difference for those who are easily marginalized, especially women such as enabling them to fully participate in decisions making regarding land. Based on the situational analysis undertaken in this paper and using the gender sensitive land governance requirements (Box 1) as blue prints, the level of operation of good governance principles, the potential impacts and the required of activities needed for a reform are presented in Table 2

Box 1: Criteria for Gender Sensitive and Pro-poor Good Land Governance

#### **Equality and Non Discrimination**

- Men and women should have equal rights to access, to occupy, and to use land

#### **Equity**

- Fruits reaped from land resources e.g. drink moneys, rents, royalties should equally benefit all individuals of the landholding group/society not only selected few

#### **Participation**

- Men and women are adequately represented in the land governing authority
- Men and Women should have voice in decisions-making concerning land, their needs and interests well articulated

#### **Transparency and Accountability**

- Processes and institutions and information on land should be accessible to all section of society
- The interests/rights acquired must be certain and clear to all concerned, if landlord and tenant arrangements are practiced, the terms, including duration, rent, taxes and inputs must be certain and clear to all the parties concerned – eliminating arbitrarily changing of terms etc.
- Land custodians should account for their stewardship in all matters concerning the management of land to landholding group/society

#### **Rule of Law**

- Non-discriminatory laws, rules and practices that are enforced impartially particularly the laws on inheritance; Respect for human rights.

#### **Effectiveness and Efficiency**

- Land governance yields results that lead to sustainable development; meeting socio-cultural, economic and environmental needs.

#### **Responsiveness**

- Structures and processes address land relation challenges within a reasonable time frame. Needs of different land users categories are served e.g. land related vulnerable groups

Obviously in Table 1, the present governance system of customary land is weak and lacks the principles of good governance that are a pre-requisite for any land governance system to ensure equitable and secured land access for both men and women. This makes incorporation of good governance into the customary land sector important, looking at its potential impact on women's access right to land.

Table 1: Evaluation of Application of Good Governance in the Customary Land Sector

Gender sensitive good land governance	Participation	Equality	Equity	Transparency and Accountability	Rule of Law	Responsiveness	Effectiveness and Efficiency
<b>Criteria</b>	Men and women are adequately represented in the land governing authority  Men and Women should have voice in decisions-making concerning land, their needs and interests well articulated	Men and women have equal rights to access, to occupy, and to use land	Fruits reaped from land resources e.g. drink moneys, rents, royalties equally benefit all individuals including women of the landholding group/society not only selected few	Processes and institutions and information on land are accessible to all section of society The interests/rights acquired are certain and clear to all concerned  Land custodians account for their stewardship in all matters concerning the management of land to landholding group/society	Non-discriminatory laws, rules and practices are enforced impartially particularly the laws on inheritance;  Respect for human rights.	Structures and processes address land relation challenges within a reasonable time frame.  Needs of different land users categories are served e.g. land related vulnerable groups	Land governance yields results that lead to sustainable development; meeting socio-cultural, economic and environmental needs.
<b>Present Situation</b>	<b>Non-existence:</b> Traditional land governing body made up of only men  Women are not involved in decision making concerning	<b>Non-existence:</b> men and women are not treated equally and do not have the same right to access land.	<b>Limited:</b> Proceeds and benefits are not fairly distributed (captured mostly by heads and elders)	<b>Highly Limited:</b> Information on land not available to everybody. Women and the youth are not aware of what goes on with their land let alone can hold their elders accountable	<b>Limited:</b> Local customs give preference to men. Rules and laws are not impartially enforced because of male predominance	<b>Highly Limited:</b> Obsolete and discriminatory customs that hinders effective management of land and equitable access still prevails	<b>Limited:</b> Gender inequalities in land relation and tenure insecurity is persistent with grave environmental and economic consequence
<b>Potential Impact/Outcome on Women's Access Right to land</b>	Facilitate women's equal access to land by integrating them into mainstream society	Prevent further exclusion of women from accessing land	Safeguard women's equal right to land and benefits	Facilitate women's equal access to land and security of tenure	Safeguard women's equal right to land and security of tenure in patriarchal society	Facilitate women's equal access right to land	Facilitate and safeguard women's access right to land

<p><b>Required Activities for Change</b></p>	<p>Change discriminatory laws, rules and practices Participatory Approach to Land Governance Active involvement of women are actively involved</p>	<p>Change discriminatory customs, rules and practices Participatory Approach to land governance particularly Active involvement of women</p>	<p>Transparent management of land revenue Fair and transparent procedures of land allocation and proceeds from land</p>	<p>Participatory Approach to land governance particularly →Active involvement of women Fair and transparent procedures of land allocation and proceeds from land Information on decisions and transactions on land accessible to everybody Rights and interest in land certain and clear Transparent management of land revenue</p>	<p>Change discriminatory customs, rules and practices Fair and transparent procedures of land allocation and proceeds from land</p>	<p>Participatory Approach to land governance Safeguarding women’s access right to land</p>	<p>Change discriminatory laws, rules and practices Participatory Approach to Land Governance →Active involvement of women Make information on decisions and transactions on land accessible to everybody Rights and interest in land certain and clear Transparent management of land revenue Safeguarding women’s access right to land</p>
--	--	--	---	---	---	--	---

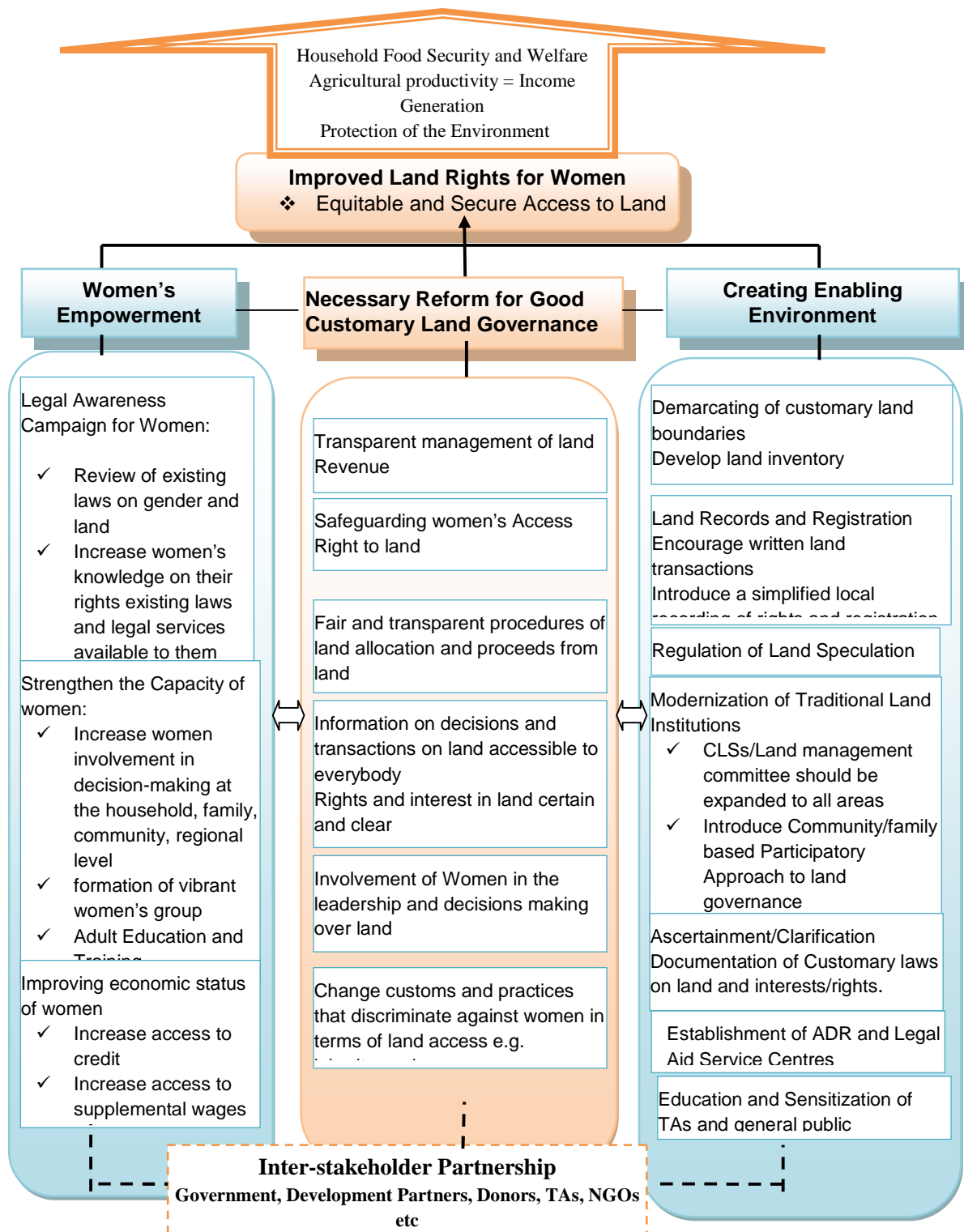
The incorporation of good governance criteria into the process of customary land governance should therefore be the best intervention point. With gender sensitive good land governance principles such as participation, transparency and accountability, equality and responsiveness etc (refer to Box 1) present in the customary land sector, women will be actively involved in land management and their access right safeguarded.

The activities to be undertaken under the enabling environment and through women’s empowerment will directly and indirectly lead to the necessary reforms for incorporating good governance in the customary land management are displayed in the model below:

This paper significantly indicates that women’s weak access rights to customary land are a complex challenge. Its causes being deeply rooted in socio-cultural, political and economic factors that requires a holistic approach from different perspective. In addition to addressing the good governance issues, it is also necessary that women are empowered to enhance their economic opportunities and their self-help capacity with regard to asserting existing rights, making use of existing support services, creating new ones or organizing them effectively for socio-political and economic action (Goler von Ravensburg and Jacobsen, 1999 p. 44). Also, it is necessary that the enabling environment is created. This will include changing discriminatory customs and practices, modernization of traditional land institutions, having good land information/record system etc. All these are needed for the successful operation of the principles to meet the challenge of ensuring security of tenure and protection of right.



Fig 4: Improving Women’s Access Right through Incorporation of Good Governance



## XI. CONCLUSION

Borrowing from the words of Agarwal (2003 p.191) the issue of women's land rights particularly secure land access is not only important today, it is likely to become increasingly so overtime. The potential role of women in ensuring food security and sustainable development cannot be overestimated. It is therefore very important to tackle the problem from its root with the future in mind.

Good land governance is the ultimate tool and approach that will ensure women's secure access right to land now and in the future if the necessary environment is created and decisive effort is made. It however requires the unreserved commitment of all - the land experts, the GoG, the development partners, TAs, NGOs, among others - to see termination of inequitable and unsecured land access by women.

## ACKNOWLEDGMENT

This paper is a product from my Masters dissertation. I would therefore like to express my profound gratitude to my supervisors Dr Zuelsdorf, Dr Fahria Masum and Dr Michael Klaus for their invaluable comments and guidance in the preparation of the thesis.

## REFERENCES

- [1] Agarwal, B. (2003): Gender and Land Rights Revisited: Exploring: Exploring New Prospects via the State, Family and Market. In *Journal of Agrarian Change*, Vol. 3 No. 1 and 2, pp. 184 - 224 .
- [2] Alden Wily, L. (2003): Governance and Land Relations: A Review of Decentralization of Land Administration and Management in Africa, IIED, London.
- [3] Asante S.K.B. (1975): Property law and Social Goals in Ghana, Ghana Universities Press Accra, Ghana.
- [4] Bortei Doku-Aryeetey E. (2002): Behind the Norms: Women's Access to Land in Ghana", in C. Toulmin, P. Lavigne Deville & Samba Traore eds., *The Dynamics of Resource Tenure in West Africa*, IIED.
- [5] Bell, K.C.(2007): Good Governance in Land Administration – an International Perspective", *Geoconference Quebec 2007*, October 2-5, 2007
- [6] Cotula L (Ed), (2007): *Changes in Customary Land Tenure Systems in Africa*. IIED, London
- [7] Cotula L., Toulmin C. and Quan J. (2006): *Better Land Access for the Rural Poor: Lessons from Experience and Challenges Ahead*. IIED, FAO.
- [8] Dowuona-Hammond, C. (2003): *State Land Management Regime: Impact on Land Rights of Women and Poor in Ghana*. GTZ Access to Justice Series No. 2
- [9] Duncan and Brants (2004): *Access and Control over Land in the Volta Region of Ghana from a Gender Perspective*.
- [10] FAO (Regional Office) SNV (Ghana Office), WILDAF (Ghana Office),
- [11] Deininger, K. (2003): *Land Policies for Growth and Poverty Reduction*, Washington DC, World Bank.
- [12] FAO (2007): *Good Governance in Land Tenure and Land Administration*, Land Tenure Studies No. 9, Rome
- [13] FAO (2002): *Gender and Access to Land*. Land Tenure Studies No. 4, Rome
- [14] FAO (2006b): *Improving Gender Equity in Access to Land*
- [15] Ghana Statistical Service (2004): *2000 National Population and Housing Census Report*, Accra, Ghana
- [16] Government of Ghana (1992): *The Constitution of Ghana*
- [17] Government of Ghana, (2001) *Gender and Agricultural Development Strategy*, 2001
- [18] Griffith J. (1986): *What is Legal Pluralism?* In *Journal of Legal Pluralism*, No. 24
- [19] International Institute of Environment and Development (2005): *Land in Africa: Market asset or secure livelihood*. Issue Paper No.136
- [20] IFAD, (2003): *Improving access to land and tenure security*
- [21] Kotey, E.N.A and Tsikata E. (1998): *Women and Land Rights in Ghana*. In Kuenyehia A. (ed). *Women and law in West Africa: A Situation analysis of some key issues affecting women*. Accra, WALWA
- [22] Kasanga K.R and E.N.A. Kotey (2001): *Land Management in Ghana: Building on Tradition and Modernity*. IIED, London..
- [23] Kaufman, D. and Kraay, A. (2003): *Governance and Growth: Causality Which Way? Evidence from the World in Brief*. World Bank, Washington DC.
- [24] Kameri-Mbote P. (2005): *Gender Issues in Land Tenure under Customary Law*.
- [25] Leftwich, A. (1993): *Governance, democracy and development in the Third World*. *Third World Quarterly*, Vol 14, No 3.
- [26] Kludze, A. K. P. (1973): *Ewe Law of Property, Restatement of African Law*; Ghana London, Sweet & Maxwell
- [27] Masum, F. (2009): *Actors and processes behind urban fringe development: Mechanism to guide urban land management*. Study on Dhaka, Bangladesh. PhD Thesis, Chair of Land, Water



- and Environmental Risk Management. Technical University of Munich, Germany. Available at [http://deposit.d-nb.de/cgi-bin/dokserv?idn=995057648&dok\\_var=d1&dok\\_ext=pdf&filename=995057648.pdf](http://deposit.d-nb.de/cgi-bin/dokserv?idn=995057648&dok_var=d1&dok_ext=pdf&filename=995057648.pdf)
- [28] Manu T. (1984): Law and Status of Women in Ghana. Paper prepared for the UN Economic Commission of Africa (ECA)
- [29] Mensa-Bonsu H.J.A.N. (1984): The Intestate Succession Law of Ghana: Practical Problems in Application. 8 Yearbook of African Law, p 105
- [30] Manuh, T., Songsore, J. and Mackenzie, F. (1997): Gender and Land: The Interface between Legislative Initiatives, Customary Tenure and Land Use Management in Ghana. Research Report Submitted to IDRC, Canada.
- [31] Minkah-Premo and Dowuona-Hammond (2007): Recommendations for Integrating Gender Issues into the Land Administration Project
- [32] Ministry of Land, Forestry and Mines, (2003): Emerging Issues in Land Tenure in Ghana
- Ministry of Land, Forestry and Mines (1999): National Land Policy Ghana
- [33] Ollenu, N.A and Woodman R. (1985): Principles of Customary Land law in Ghana. Cal press, Birmingham, Britain
- [34] Office of the United Nations High Commissioner for Human Rights (2007): Good Governance Practices for the Protection of Human Rights. United Nations Publications. Available at <http://www.ohchr.org/Documents/Publications/GoodGovernance.pdf>.
- [35] Pottier, J., (2005): Customary Land Tenure' in Sub-Saharan Africa Today: Meanings and Contexts. In Huggins, C., and Clover, J. (eds), From the Group Up: Land Rights, Conflict and Peace in Sub-Saharan Africa, Nairobi and Pretoria, ACTS and ISS, pp. 66-75. <http://www.iss.co.za/pubs/Books/GroundUp/2Customary.pdf> last accessed (03/11/09)
- [36] Quan J. (2006): Land Access in the 21st Century: Issues, Trends, Linkages and Policy Options. LSP Working Paper 24, FAO
- [37] Quisumbing A.R., Payongayong E., Aidoo J.B. and Keijiro Otsuka (2005): Women's Land Rights in the Transition to Individualized Ownership: Implications for the Management of Tree Resources in Western Ghana, Discussion Papers, No. 58 Food Consumption and Nutritional Division, International Food Policy Research Institute.
- [38] Runger, M. (2006): Land and Gender Issues: Governance, Land Rights and Access to Land in Ghana – A Development Perspective on Gender Equity
- [39] Rhodes, R.A.W. (1997): Understanding Governance: Policy Networks, Governance, Reflexivity and Accountability. Open University Press, Maidenhead, UK
- [40] Spiertz, H. L. J. (2000): Water rights and legal pluralism: Some basics of a legal anthropological approach. In Negotiating Water Rights , Bryan R. Bruns and Meinzen-Dick R.S (Eds), London: Intermediate Technology Publications
- [41] Toulmin, C. and Quan, J. (eds.) (2000): Evolving Land Rights, Policy and Tenure in Africa. DFID London
- [42] Tsikata, D. (2003): Securing Women's Interests within Land Tenure Reforms: Recent Debates in Tanzania. In Journal of Agrarian Change, Vol. 3, Nos. 1 & 2, January and April.
- [43] United Nations Economic and Social Commission for Asia and Pacific (2009): What is Good Governance? Available at <http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp> Last Accessed (05/09/09)
- [44] United Nations Development Programme (2007): Pro-poor Land Governance Exploring Opportunities for Concerted Action 17-19 January 2007. Available at <http://www.undp.org/oslocentre/docs07/ppls/1.pdf>
- [45] United Nations Development Programme (1997): Good Governance and Sustainable Human Development. Available at <http://mirror.undp.org/magnet/policy/chapter1.htm>
- [46] Nations Development Programme (2008): Background Paper on Land Resources Governance in Support of MDGs. Workshop on Land Governance and Emerging Development Agendas: Legal Empowerment, Climate Change
- [47] Whitehead, A. and Tsikata, D. (2003): Policy Discourses on women's Land Rights in Sub-Saharan Africa: Implications for the Re-turn to Customary. In Journal of Agrarian Change, Vol. 3, Nos. 1 & 2, January and April.
- [48] Wily, L. (2003): "Governance and Land Relations: A Review of Decentralization of Land Administration and Management in Africa", IIED, London
- [49] Yaro, J. (2002): The Poor Peasant: One label, different lives: The Dynamics of rural livelihood strategies in the Gia-Kajelo community, Northern Ghana. In Norwegian Journal of Geography 56(1): 10-20

Miss Sewornu holds a first class bachelors degree in land economy from the Kwame Nkrumah University of Science and Technology. She has also obtained an MSc degree with distinction from the Technical University of Munich in Land Management and Land Tenure. She was the recipient of the prestigious President's Award for Best Student 2010.

Rita is very dynamic, up and coming researcher and her research interests include land governance, customary land law, women's and indigenous land rights, land policy, and sustainable development. Rita also has experiences in teaching particularly at the undergraduate level. She is currently a freelance researcher working on starting her PhD soon.

<sup>i</sup> As land governance that incorporates the following principles of good governance: security, sustainability, equity, effectiveness and efficiency, rule of law, subsidiary, transparency, accountability and civic engagement (GLTN, 2008).

<sup>ii</sup> Stool land as defined in Article 295 (1) of the 1992 Constitution include "any land or interest in or right over any land controlled by a stool, skin, and the head of a particular community or the captain of a company, for the benefit of the subjects of that Stool or the members of that particular community or company". The constitution stipulates that such land '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' (Article 267 (1) of 1992 Constitutions).

<sup>iii</sup> "Family land" on the other hand is defined as land or interest in land owned by a family where the 'family' includes any group of persons recognized by an applicable customary law as constituting a family or other corporate person with the capacity to be the single proprietor of a land or an interest in land (Land Title Registration Law, 1986 (PNDCL 152) s.139).

<sup>iv</sup> the normative order derived from the usages of the community, encompassing the whole cultural spectrum of the people in question (Asante, 1975)

<sup>v</sup> The state agency that administer revenue from stool/skin lands

<sup>vi</sup> The Head of Family Accountability Law serves to protect the interest of family members in family property. Under the law, family heads that remain in custody of family property are obliged to account for all dealings on family property particularly involving money and also file inventory of properties in their possession. Any family member who has an interest in the family property has an access to the High court to file a claim against a head of family who mismanages a family property. The High Court has the power to compel the head of family to render account or file an inventory in respect of all properties in his/her possession, control or custody. However, before any such case can reach the High Court, all avenues of resolution at the family must be exhausted first

<sup>vii</sup> Legal pluralism essentially refers to a legal regime where different parallel laws stipulate different conditions for asserting rights. By definition, Griffiths (1986, p.1), in establishing a descriptive conception of legal pluralism, defined it as "that state of affairs, for any social field in which behavior pursuant to more than one legal order occurs".

<sup>viii</sup> Only working definitions exist for the term. The two notable of such definitions are given by UNDP and GLTN. According to UNDP (2007) it "includes both formal and informal rules – the latter often evolving and being situation specific - which govern who gets to use which land resources, when, for how long and under what conditions". The GLTN, 2008 defined it as "the dynamic process by which decisions are made regarding access to and use of land, the manner in which those decisions are implemented and the way that conflicting interests in land are reconciled