

GHANA

FOOD SECURITY AND LAND GOVERNANCE FACTSHEET

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ABSTRACT

Land governance directly influences food security in Ghana. The main issues relate to access to land in the more densely populated areas, and to tenure security in areas where paramount chiefs are powerful and engage in land transactions. Several large land transactions have been made in the last years, mostly for agricultural purposes. Conflicts over access to land are taking place also between generations, with young people not having secure access to land, or between farmers and cattle herders searching for new land. A complex mix of constitutional, legislative and customary sources is the basis for land governance in Ghana. The current land administration system results in overlapping claims and can make investment risky. The government of Ghana is engaged in the Land Administration Project (LAP) to implement the National Land Policy and undertake institutional reforms. Aimed to ensure land tenure security, this process will still take time as implementation capacity remains limited. Water management is another important challenge which also depend on tenure systems for natural resources and forests and which presently do not secure investments made by individuals and communities in protecting resources.



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About IS Academy on Land Governance for Equitable and Sustainable Development

LANDac, the IS Academy on Land Governance for Equitable and Sustainable Development, aims at bringing together researchers, policy makers and practitioners in the field of land governance and development. It is a partnership between several Dutch organisations and their Southern partners involved in development-related research, policy and practice. LANDac is one of the IS Academies for International Cooperation sponsored by the Netherlands Ministry of Foreign Affairs.

About KIT

The Royal Tropical Institute (KIT) in Amsterdam is an independent centre of knowledge and expertise in the areas of international and intercultural cooperation, operating at the interface between theory and practice and between policy and implementation. The Institute contributes to sustainable development, poverty alleviation and cultural preservation and exchange.

Country expert contribution:

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1 POLICY AND LEGISLATION

1.1 Regulatory land governance framework

A complex mix of constitutional and legislative sources is the basis for land governance in Ghana, which is mostly the results of the co-existence of different tenure systems: customary law, statutory law, constitutional provisions, judicial decisions and religious law. Managing these systems to ensure security of tenure for all sections of the society is a challenge to the legal system in Ghana (Agbosu et al., 2007; Sarpong, 2006; Runger, 2008).

Ghana has a deed registration system. Land titling was introduced and even made compulsory in 1986, but implementation has been sporadic. Next, in 1999, Ghana published a National Land Policy which seeks to address a series of issues such as weak land administration; conflicts in the land market (boundaries, ownership); and expropriation of large tracts of land by the state combined with lack of consultation with landowners.

The Land Administration Project (LAP) is set up to implement the National Land Policy and undertake institutional reforms. The first phase (2003 – 2011) had as its objective the development of land administration pilots for laying the foundation for a sustainable decentralized land administration system that is fair, efficient, cost effective and decentralized. The four components of the first phase of LAP were: Harmonizing land policy and regulatory framework (1); Institutional Reform and development (2); Improving Land titling, Registration, Valuation, Land Use Planning and Land information system (3) and Project Management, Human Resource Development and Monitoring and Evaluation (4). The second phase of LAP has started in 2012.

1992 Constitution	Ghana	<p>Vested all public lands in the President in trust for the people of Ghana (Article 257)</p> <p>Freed all pre-existing public lands in the three northern regions from state control.</p> <p>Recognizes that the managers of public, stool, skin and family lands are fiduciaries charged with the obligation to discharge their functions for the benefit of, respectively, the people of Ghana and the stool, skin or family concerned and are accountable as fiduciaries in this regard.</p> <p>Prohibits the creation of freehold interest out of stool land in favour of a grantee (Article 267-5)</p>
National Land Policy (NLP)		<p>articulates Government’s strategy on land management and administration and sets out direction:</p> <ul style="list-style-type: none"> - for facilitating equitable access to land and land tenure security based on registered titles; - promote sustainable land management; - payment of fair compensation for land acquired by the state, - divesting of vested lands to their allodial owners and - promoting research on land governance

1.2 Land tenure forms

Two broad tenure arrangements exist: customary tenure and public land tenure. It is estimated that 80 percent of Ghana’s lands is held under customary land tenure systems (Sarpong, 2006). The Ghanaian Government guarantees customary tenure arrangements. Customary land secretariats have been established to administer land rights but only a few are operational. The Customary Land Secretariats created by LAP can have great impact in local

land administration through their basic records keeping, awareness creation, recording of customary land rights and their protection and dispute resolution. Land disputes are increasingly settled through alternative Dispute Resolution mechanisms (Larbi, 2011).

Allodial title	Highest interest in customary law; held or vested in stools or skins. This right is acquired either by being the first to cultivate the land or by succession from the first owning group. Stool/skin ownership means corporate ownership and not ownership under the personal fiat of an individual ruler. Allodial owners hold their interest under customary law and are not subject to any restrictions on their user rights or any obligations, except for those imposed by the laws of Ghana (Ollennu, 1962; Asante, 1975).
Freehold (broken down into customary freehold and common freehold)	<p><u>Customary law freehold</u>, or "<u>usufructuary title</u>", is an interest held by subgroups and individuals in land acknowledged to be owned allodially by a larger community. Customary law freehold may be held on a corporate status by the sub-stool, lineage, and family or by individuals. It is perpetual and continues as long as the superior title of the stool is acknowledged (da Rocha and Lodoh, 1999).</p> <p><u>Common law freehold</u> is an interest in land acquired through a freehold grant made by the allodial owner, either by sale or gift to another person out of his interest. This grant requires the parties to agree that their obligations and rights will be regulated by common law (da Rocha and Lodoh, 1999).</p>
Sharecropping	<p><i>Abunu</i> (a half share) and <i>abusa</i> (a third share), are sharecropping arrangements by which the tenant tills the land and, at harvest, gives a specified portion of the produce to the landlord. The recipient is obliged also to recognize the superior authority of the stool and to perform customary services due from the subject grantor to the stool/skin. Holders of the usufruct have also the right to relinquish their interest by sale, lease, mortgage or pledge, or to grant agricultural tenancies or shareholder agreements (Sarpong, 2006).</p>
Leaseholds	Rights granted to a person to occupy specified land for a specified term, that are derived from the common law, not customary law. A lease may be granted either by the holder of the allodial title or a customary freeholder. The lessee may create a sublease or assign the unexpired term of the lease, subject to the consent of the lessor (da Rocha and Lodoh, 1999).

1.3 Institutional framework

Institutions involved with land governance include: National Development Planning Commission (NDPC); Ministry of Lands and Natural Resources (MLNR); Forestry Department; Lands Commission (which comprises: Survey and Mapping, Land Registration, Land Valuation and Public and Vested Lands management divisions); Office of the Administrator of Stool Lands (OASL); Department of Game and Wildlife (DGW); the Environmental Protection Agency (EPA); Town and Country Planning (TCP), district assemblies and various customary institutions.

Two institutions, the Lands Commission and the Office of the Administrator of Stool Lands (OASL), are mandated to administer public and stool lands respectively (Sarpong, 2006).

All the ten regions of the country have Regional Offices of the Lands Commission undertaking land administration responsibilities. The LAP is also supporting the creation of Customary Land Secretariats, some 36 have now newly been established and two existing secretariats strengthened.

1.4 Gender

The principal ways in which women acquire land is through their lineage, inheritance, marriage or by contractual arrangements. However, women have more limited rights to land and other natural resources than their male counterparts. Among the multiple causes are Ghana's inheritance systems, tenure arrangements and land-use patterns, all unfavourable to women (Sarpong, 2006).

Women's land rights under customary law in rural areas, tend to be secondary rights, derived through their membership in households and lineages and secured primarily through marriage. These rights are not clearly defined or documented, tend to be subject to change, are of uncertain duration and are often subject to the maintenance of good relations between the parties involved (Runger, 2008). Access to land by women, especially for agricultural use, is generally possible, (Bugri, 2008).

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. The interests and the impact of land administration and land tenure on women have not been mentioned. However, the activities since LAP inception and preparation documents have been gender-conscious and attempt at correcting the policy document through the implementation documents and studies (Runger, 2008).

The constitutional removal of all pre-existing public lands in the three northern regions from state control and their transfer to customary law (as in the south) has had broadly negative consequences for women's control of land.

1.5 Foreign direct investment

The 1992 Ghana constitution bans the creation of freehold interests in favour of foreigners and states that a non-citizen cannot be granted leasehold for a term exceeding 50 years (Sarpong, 2006). Ghana is keen to attract foreign direct investment into the economy and has adopted liberal regulatory regimes, especially in sectors like agriculture and mining. This has led to a proliferation of mining projects initiated mostly by foreign multinational corporations or their subsidiaries, but mineral rights belong to the state and as such mines can proliferate on non-state land (Sarpong, 2006). Mining activities can intervene with agricultural activities.

Large scale acquisitions of land for agriculture and biofuel are taking place. In 2010, a total of 17¹ commercial biofuel developments were identified. Fifteen of these companies are foreign-owned and/or financed by the Ghanaian diaspora, with all but one adopting business models that require large-scale plantations of more than 1,000 hectares. However, only anecdotal and inaccurate information is available on the nature and scale of large-scale foreign land acquisitions in the agricultural sector, as corporate data is often unreliable and government statistics incomplete (Schoneveld, 2010). Government is also mindful of the implications of large scale land acquisitions and in February 2012, the Lands Commission developed guidelines for large scale land acquisitions for agriculture and other purposes with the view to operationalising the principles of responsible agricultural investments developed by the FAO, World Bank, IFAD and UNCTAD (Lands Commission, 2012).

¹ The Land Matrix (International Land Coalition, 2012) lists nine deals covering 669,900 ha, mostly for agriculture purposes.

2 INTEGRATED WATER MANAGEMENT

2.1 Policy framework around Integrated Water Resource Management

In Ghana water resources were subject to customary regimes pre-1996, and are since then subject to the Water Resources Commission.

Ghana has significant forest reserves, significant for watershed management and also for the revenue generated by logging. There is increasing concern about the negative impacts of illegal logging; both on government revenue and in accelerating the destruction of the country's forests. Ghana has engaged in a Natural Resources and Environmental Governance (NREG) Program to improve transparency in systems and procedures for natural resource management (which could lead to more effective forest law enforcement), improve collection of revenues in the mining and forestry sectors, and mainstream environment and climate change in economic planning and development.

Law	Content
Water Resources Commission Act, 1996	Regulates the management of the water resources of Ghana Abolished the pre-1996 customary regime for ownership of water which resided in stools, communities, families and individuals.
The Timber Resources Management Act, No. 547 of 1997 (TRMA)	Aims to ensure that timber harvesting is consistent with the sustainable management and utilization of the timber resources of Ghana. Established a new category of timber right – the timber utilization contract (TUC)
The Timber Resources Management (Amendment) Act, 2002 (Act 617) and the Timber Resources Management (Amendment) Regulations, 2002 (LI 1721). (Bird et al, 2006)	Changes to 1997 Law to allow: Competitive bidding in the allocation and utilization of timber resources; Implementation of Social Responsibility Agreements that require concession holders to assist communities within the contract area with amenities; The Ministry of Lands and Forestry to regulate new investments in the forest sector, ensuring that only the required plants and equipment for the country's needs are installed in the wood-processing sector.

2.2 Institutional framework around Integrated Water Resource Management

The Water Resources Commission Act of 1996 is the basis for the Water Resources Commission (WRC) for the management of the water resources of Ghana. Previously various ministries, departments and agencies (MDAs) of state have sought to regulate water and its uses, consequently several enactments that have a bearing on water use and or management exist on the statute books

State institutions in Ghana associated with the forest sector have been in a state of flux for some years. Under the most recent legislative reform – the Forestry Commission Act, Act 571 of 1999 – the four previously separate public bodies and civil service departments involved in the regulation of Ghana's forestry and wildlife were subsumed under the Forestry Commission as Divisions in 1999.

3 REALITIES ON THE GROUND

The **elaborate institutional and administrative machinery** to govern land tenure and land administration established by the state has not been effective. There is lack of complementarity, networking and occasional conflicts among some of the institutions (Sarpong, 2006). Customary authorities may engage in land transactions without informing, let alone consulting, current land users.

Overall **women** have little control and ownership over land though they are strongly represented in agriculture (Sarpong, 2006).

4 RESOURCES AND OTHER INFORMATION

4.1 Related country profiles

- USAID: <http://usaidlandtenure.net/usaidltprproducts/country-profiles/ghana/>
- FAO: <http://www.fao.org/countryprofiles/index.asp?lang=en&ISO3=GHA>
- FAO/Gender: <http://www.fao.org/gender/landrights/report/en/>
- IMF: <http://www.imf.org/external/country/GHA/index.htm>
- World Bank: <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/GHANAEXTN/0,,menuPK:351958~pagePK:141159~piPK:141110~theSitePK:351952,00.html>

4.2 Laws, policy and regulations search engines

- FAO Lex (Land & NR search engine): <http://faolex.fao.org/faolex/index.htm>
- Water Lex (Water laws search engine): <http://faolex.fao.org/faolex/waterlex.htm>

4.3 Maps and databases

- Land and soils databases/information systems: <http://www.fao.org/nr/land/databasesinformation-systems/en/>
- Water database/information systems: http://www.fao.org/nr/water/infores_databases.html
- Land and water maps and graphs: <http://www.fao.org/nr/solaw/maps-and-graphs/en/>
http://www.fao.org/nr/water/infores_maps.html

4.4 Portals and other resources

- http://landportal.info/search/apachesolr_search/ghana
- <http://www.landesia.org/search/?q=ghana>
- <http://www.ghanalap.gov.gh/index.php>

4.5 Donor support programs

- The World Bank, DFID, Nordic development Fund, KfW, GIZ, CIDA are all supporting the LAP. USAID and MCC have been supporting pilot project on land reform.
- The World Bank, The Netherlands, DFID, Agence Française de Développement and the European Commission contribute to forest and natural resources programs, notably the NREG program.

4.6 Civil society organizations working on land governance

No Members of International Land Coalition from Ghana.

Other CSOs

- The Coalition on Land (CICOL) – CICOL is the umbrella organisation for all important ngos working on land in Ghana. Their aim is to influence processes of land reform and land administration. CICOL engages in research, provides information and organises campaigns to raise awareness on how NREG affects land rights and livelihoods of the rural poor.

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