



# POLICY BRIEF

## WOMEN, LAND AND CORRUPTION

A situational analysis and policy implications from the Ghanaian case



Participants at stakeholders meeting at GII office

### POLICY POINTERS

- Existing gender differentiated inequalities with regards to land further hinder women's access to agricultural inputs and services and these in turn expose more women than men to climate change vulnerabilities and corruption
- A two prong approach of legal empowerment of women and continuous engagement with traditional authorities is required to improve tenure security for women and improve their *voice* in decision making process
- The newly introduced Client Service and Access Unit at the Lands Commission has the potential to remove existing bottlenecks which cause corruption to thrive in land documentation processes but an institutional culture change is critical to sustain any possible gains
- The often neglected social cost of illegal small scale mining (galamsey) particularly for women is equally disturbing, just like the impact on the environment and appropriate policy responses should tackle the menace more holistically
- A clear policy direction is required to counterbalance possible gains and imminent threats which are associated with the surge in rubber production in order to mitigate the increasing spate of landlessness and food insecurity, particularly for female headed households.

### SETTING THE CONTEXT

Land is a critical asset and its relevance permeates almost every sphere of the economic development discourse. Particularly in developing contexts, it remains the primary asset of production and the source of livelihood for many. In such areas, land is said to be life<sup>4</sup>. Therefore, when people's land rights are unjustifiably curtailed, the implications are direct and profound. It is within this context that ensuring equitable access to secure land rights by men and women is seen as key in expediting economic growth.

Yet increasing pressures on land are weakening the ability of existing institutions and structures to level the playing fields for men and women in accessing and holding productive land. The constitution of Ghana and several other legislations are in principle not discriminatory along gender lines. However, customary tenure which defines access and control of an estimated 80 percent of land in Ghana tend to be nuanced with cultural traditions that skew equitable land access and distribution of benefits more towards men<sup>5</sup>. In dominantly patriarchal setups, women's access to land is often derived from their male relations such as husbands and fathers. Migrant women, unmarried women, divorced women, and married women without children may all be exposed to various forms of discrimination with respect to land across both the matrilineal and patriarchal spectrum of customary

tenure. Decision-making on land at the community level is almost exclusively the preserve of chiefs, clan/family heads and other designated customary leaders who are mainly men. Even when women have been present at decision making meetings, 'they are to be seen and not to be heard'<sup>iii</sup>. At the household level, women have limited voice in land related decisions and this is reflected in the choice of crops - women should produce food crops to feed the family while men invest in long term cash crops. In effect, there are limited opportunities for gender equality under customary land tenure with women worse affected.

### The Interface between corruption and women land rights

The land arena is characterised with competing and vested interests as well as imbalanced power relations. As a result, people who are cloaked with decision making powers – be it politicians, traditional authorities, local elites, the

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bureaucrat and private investors at one point or the other seek to maximise their personal or parochial interest by manipulating the system. This effectively makes

the land sector a major hot spot for corruption. As at 2013, 52 percent of people who accessed services from the land sector agencies paid bribe and other extra-official payments. Stated differently, one in every two persons paid bribe. Other corrupt practices such as altering documents, extortion, and the sale of a single parcel of land to multiple people are deeply engrained in Ghana's land administration. As a result, 'reducing corruption in land administration' and deepening ...'transparency checks' are some of the key improvements the ongoing Ghana Land Administration Project seeks to achieve<sup>iv</sup>.

When corruption compounds gender biases in existing land tenure practices, the outcomes are hugely toxic. It weakens

tenure security, results in forced eviction and undermines the needed investments which are required to increase productivity. The cumulating effect is that majority of already poor people are profoundly affected with women being the most disadvantaged in the process. There is the need for action and this justifies why Transparency International and its local Chapter, the Ghana Integrity Initiative, are partnering to implement the Women, Land and Corruption in Africa (WLCA) Project. Generally, gender neutral interventions are likely to achieve gender insensitive outcomes. Indeed where there are existing gender disparities, failure to mainstream gender could reinforce existing biases and in the process yield more untoward consequences for women.

By drawing evidence from a recent field survey across three of the ten regions in Ghana, this policy brief highlights how corruption is manifesting across the various segments of the land sector and how women are being squeezed as a result.

### Women and female headed households are becoming less food secure in the face of the 'rubber boom'

There is a boom in demand for rubber at the global level and this has cascaded to the Ghanaian context. This is escalating land demand for the cultivation of this crop. Demand pressures appear to be concentrated in the Western Region of Ghana where both the climate and the soil favour rubber cultivation. Rising demand of land for this purpose is increasing land values and incentivising chiefs and custodians of customary land to sell and lease out considerable portions of collectively owned land. But the issues surrounding land transactions in this context are worrying and create favourable environment for corruption to thrive. Decision to alienate land belonging to the community is almost in all cases carried out within a limited circle of chiefs and local elites and benefits are from such deals are heavily skewed in favour of duty bears and not the broader community. In this regard, chiefs and other decision makers at the community level abuse their privileged position for their parochial benefits and this is corruption.



Risk assessment training for CICOL members



### Capacity building on land laws

Such corrupt practices reduce the available stock of arable land in the area and for communities which are dominated by peasant farmers, reducing supply of arable land subjects some indigenes to market driven displaces and this endangers livelihoods. Women are significantly disadvantaged. Their land right vulnerabilities heighten and accessing land for farming by women is increasingly becoming a major hurdle.

The Ghana Rubber Estate Limited (GREL) is an extensive rubber plantation in the Ahanta West District in the Western Region. Left with no land for farming, many women within the catchment area of GREL have become casual labourers on the rubber plantation. An estimated 70 percent of all labourers on GREL are women. Labourers who work on the plantation undertake work such as clearing the undergrowth of the rubber trees, applying fertilizer, tapping, pruning, application of chemicals as well as fixing caps, spouts and hangers and gathering coagulated latex to designated points. But working as labourer comes with its own social cost. The labourers work six days in a week and are transported to the plantation at 4:00am and return by 4:00pm. This means, there is limited opportunity to monitor children. Unsurprising, the rate of pre-teen/teenage pregnancy and school dropout is high in these areas. Under such conditions, it can be anticipated that, the next generation risks growing up without any skill or guaranteed access to land, a situation which will reinforce intergenerational poverty cycle.

As part of the tapping process, the chemical Ethylene is applied in order to induce the flow of latex. Exposure to ethylene has considerable health risks both in the long and short term as highlighted here (<http://www3.epa.gov/airtoxics/hlthef/ethylene.html>). Admittedly, labourers are provided with personal protection equipment such as gloves, aprons and goggles to minimise potential risk. However, it is well documented that these are hardly ever used in the prescribed manner. This heightens the chances of suffering from the various effects of ethylene.

The surge in rubber also raises food security and food vulnerability concerns. Culturally, women have the gendered responsibility of providing food to feed the family while men typically cultivate long term cash crops. Since rubber is currently in high demand, many households are converting from food production to rubber cultivation. Yet in male headed households, men control income from farms. Many households are no longer self-reliant in meeting their food needs. Women now have little or no land for food production and they also do not control income from the rubber. This can create the situation where rural households will not be self-reliant in their access to food and may not readily have the economic resources to purchase even if the food is available. This state of affairs can escalate the level of vulnerability with regards to food security. Already, a sizeable proportion of the population is facing food security challenges. An estimated 1.2 million people, (4.8% of the total population) are said to be food insecure and 1.9 million people are at risk of being food insecure. This means, more than 3 million people (or 12 percent of the population) do not have access to an adequate and secure source of food supply and this will worsen if the current trend of conversion of food farms to rubber is not moderated.

### Galamsey undermines the health and wellbeing of women

The devastating havoc illegal small scale mining is wrecking on the environment has been well documented. Water bodies have been destroyed, farmlands have been rendered sterile and the biodiversity of many areas have been irreparably damaged. These are worrying but when there is gender disaggregation of the social impact of this trend, the true cost of galamsey becomes more apparent.

*Galamsey activities tend to expose more women than men to deadly chemical such as cyanide and mercury*

The recent influx of foreigners, particularly from China is exacerbating both the social and economic cost of galamsey

across the country.

The constitution vests all minerals in the state. However, the land within which such minerals are found tend to be under the ownership and control of chiefs and other customary authorities. Therefore, those seeking to mine in Ghana should first negotiate the mineral and mining rights from the state. Once this has been granted, prospective miners are further required to engage customary land holders in order to access the land. In both cases, corruption tends to manifest. Corruption in small scale mining affects women in many ways. Their limited involvement in the decision making process hinder their chances of receiving fair and adequate compensation. By losing their land and crops without any guaranteed access to equitable compensation, their livelihoods become endangered.

When water bodies are polluted as a result of 'galamsey', it introduces another burden for women. They now walk farther away in search of potable water. Galamsey destroys aquatic life. This means artisanal fishing on rivers and other water bodies are increasingly becoming an endangered activity. Since fish is an important source of protein, this development has implication for food and nutrition of the affected communities. Also, the livelihood of women who hitherto would have been processing and selling fish is curtailed. Collecting and selling snails, mushrooms, medicinal herbs and firewood all constitute important components of the rural economy with women as the key players. When galamsey destroys the forest cover, all these complementary sources of revenue are eroded. As people, particularly women lose their land and livelihoods through galamsey, the resultant effect is rise in social ills such as teenager pregnancy, child labour and prostitution.

Women who work in small scale mining are often assigned less manual tasks such as washing of gold. Yet this comes with its own health implications. Washing gold heightens one's exposure to deadly chemicals such as mercury and cyanide and small even amount of these chemicals can have considerable health implications<sup>vii</sup>.

### Bribery remains rife in the land sector

Corruption in the land sector may take many forms such as fraud, sexual extortion, abuse of process and favouritism. Results from the Baseline Study indicate that demand and payment of bribe is the commonest form of corruption. Customary leaders and public officials were cited as the most culpable. One out of three respondents had been asked to pay bribe during the past 12 months and similar proportion of respondents had indeed paid bribe. Similarly proportion of men and women were asked to pay bribe or paid bribe, thus suggesting that corruption duty bearers may not necessarily target their victims based on their gender. Men and women paid bribe for different reasons. Whereas women paid bribe to prevent possible eviction men did some to improve their sense of tenure security or speed up land transaction.

### Corruption in large land deals creates disproportionate outcomes for women

Through the Ghana Commercial Agriculture Project

(GCAP) and the Lands Commission's Guidelines to regulate large scale land acquisitions, the Government of Ghana can be seen as positioning itself to attract many more large land based investors. But what has been the impact of existing ones, particularly for women? The explosive rate at which land continue to be acquired by investors is rapidly reducing the available supply of arable lands. In some instances, such land deals have rendered many people landless. What is perhaps more disturbing is the fact that, in many cases, investors have not used significant portion of the land. Such speculative acquisitions have effectively frozen out land which could be used by the local people.

Rent which are often paid under such land deals tend to be so low and does not in any way reflect either the social or economic value of such an important asset. In one instance, the annual rent per acre of land was fixed at GHC 2 (which was about \$ 1.0 then). The rent was to be reviewed once every 7 years although the new rent will not exceed 2 percent of the prevailing rent<sup>viii</sup>. For the purpose of illustration, the stated annual rent for an acre of land was not enough to buy a loaf of bread. There are cases where chiefs and local elites have fixed very low rents out of ignorance. However, in some instances, chiefs have accepted bribes and other favours in order to deliberately agree on unreasonably low rents<sup>viii</sup>.

Large scale based investments come with huge promise of employment which is hardly ever realised. Even for the limited employment opportunities which may be created soon give away for mechanisation. A case in point is the Biofuel Africa case in Kpachaa. At the onset of this investment, about 400 people were employed but this was followed with massive downsizing which saw 360 people losing their jobs. Only 'male jobs' such as operating farm machinery were preserved in the process.

Some commercial agriculture investors have diverted water bodies in order to irrigate their farms. Such moves have far reaching implications. People are exposed to using water from unwholesome sources for drinking and other domestic uses. This heightens the risk of water borne diseases. Additional responsibility is placed on women in searching for water from available alternative sources. Where investors have destroyed economic trees such as shea and dawadawa, the economic implications, particularly for women is grave. The opaque nature in which many land deals are executed means, there is little opportunity for women's voice to be heard and considered in order to build safety nets which will address these livelihood issues that tend to affect more women than men. The limited voice of women when executing land deals further reduces their chances of receiving fair compensation for their expropriated land.

These downsides which have increasingly become associated with large land based investments have resulted in the development of Guidelines by the Lands Commission. This is a welcoming development although the Guidelines fall short of some key land governance indicators. For example in its current state, the Guidelines is gender neutral and does not put in place any safeguards for

men and women. But to what extent can the Guidelines help to curb corruption in land deals?

## The Lands Commission Guidelines – opportunity for transparency or pathway for legitimising corruption in land deals?

The Lands Commission's Guidelines largely draws inspiration from the Food and Agriculture Organisation's Voluntary Guides (FAO's VGGTs) and ensuring Free, Prior and Informed Consent [FPIC] is central. As a result, there is a mandatory public hearing as part of the land acquisition process. The Lands Commission and other state institutions such as the Environmental Protection Agency, Town and Country Planning Department among others should be part of such public hearing process.

The Guidelines mandates investors to pay the cost of conducting public hearing. What constitutes the cost component which should be borne by the investor has not been defined. However, where such public hearings have taken place, transportation, lunch and some stipend are provided to officials from the relevant institutions<sup>ix</sup>.

The Lands Commission is not only expected to play a key role in the public hearing - it is also required to exercise a quasi-judicial function in the form of granting or refusing Concurrence. Concurrence is a constitutional requirement that empowers the Lands Commission to scrutinise any proposed stool or skin land transfer (see article 267 (3-4) of Ghana's Constitution). Some investors are now funding the Lands Commission to organise meetings in order to consider the grant of concurrence. This has unsurprisingly been justified by some Land Administrators on the grounds that

*'Public hearing under the guidelines is a process which goes beyond a meeting with the community. It includes other related activities which should help the Lands Commission to examine all the available facts in order to arrive at an informed decision... and that includes our [Lands Commission's] meetings'*

But where do we draw the line between funding public hearing and inducement of the bureaucrat by investors? So despite the good intentions of the Guidelines, there are windows which create avenues to corrupt the process. This can in turn weaken any possible safeguards which the Guidelines may seek to introduce.

## Energy Crisis is fuelling a new wave of land grab in the northern region

The current energy crisis has prompted government to diversify the energy sources with solar receiving attention. The political nature of this subject to some extent is pushing decision makers to welcome investors in the field of solar generation without adequate due diligence. State actors are facilitating investors to acquire huge tracts of land for solar farms. In several instances, basic procedure such as public hearing is ignored. As it has come to be associated with land deals, investors are paying low rents for the land acquired. In other reported

instances, investors have only promised the local community a stake in the investment without paying any rent for the acquired land.

A trend appears to be emerging. Investors in solar energy tend to sell off their interest soon after receiving official documentation which confirms their interest in the said parcel of land. Ordinarily, a lessee should not be able to assign his or her interest without the explicit consent of the lessor. However, complicity on the part of officials and in some cases, pressures from the political elites help to circumvent due process. Supposed investors in the energy sector may thus only be seeking opportunities to acquire land cheaply with the sole intention to assign at significantly higher price in order to make profit. In effect, the current energy situation is helping to set up a complex system of 'land grab'.

## Women are prone to corruption in land documentation process

Documentation of land rights can strengthen one's security of tenure, yet the process is laced with many loopholes which expose people to corruption. The entrenched cultural perceptions that land is a masculine subject means, proportionally, more women than men tend to engage agents and middlemen to facilitate the documentation of their land rights. This creates a layer of bureaucracy which makes women even more prone to extortion. The newly introduced Client Service and Access Unit by the Lands Commission has the potential to bridge existing gaps which results in corruption in the documentation process, at least at the conceptual level. However, corruption in the land documentation process is an 'industry' in itself. It is therefore in the interest of those who are benefiting from the status quo to frustrate the new changes. There is the need for institutional risk assessment to identify in detail all possible sources of threat in order to design appropriate responses.

## Victims of land related corruption have limited opportunities for redress

Chiefs and other traditional leaders are custodians of customary lands. It is therefore difficult to envisage how corruption in land - which tends to deprive and displace people of their land, can thrive without their involvement to some extent. In a recent survey under the WLCA Project, many women respondents indicated that traditional authorities are the most likely to take their land. Ironically, women are more likely to report to the chief when their land right is violated. In such instance, it is difficult to conceive if justice will be served.

## Gender insensitive state policies entrenches existing biases against women

In this regard, the mode of paying compensation is illustrative. When the state acquires land, compensation for the land per se is paid as a lump sum to the family, stool or skin whose land was expropriated and not directly to individual occupants and users. Leadership of such customary units is gendered with men often being in charge. Therefore, by paying compensation to the head of



**TI chapters and partners meeting on WLCA project at TIS**

such units, without sufficient measures in place to ensure equitable distribution means, women are at risk of losing out on any compensation payments

### Where there are uneven opportunities to farming inputs and services, women become more exposed to climate change vulnerabilities and corruption

In the northern part of the country where there is some level of mechanised farming, access to tractor services is critical. Some families own tractors but others rely on commercial agricultural service providers. Either pathway is gendered, with women being disadvantaged.

Family tractors are held and operated by men and not women. In practice, men tend to plough men's farm ahead of women. Commercial agricultural service providers are profit oriented who tend to prioritize bigger farm plots ahead of smaller ones. This effectively translates to prioritising male farmlands ahead of women since the latter have traditionally held smaller farms. Those with smaller farms (invariably women) will have to be 'nice' to the service providers in order to access their inputs and have their plots ploughed timely. Being 'nice' could mean many things, including sexual exploitation of women by duty bearers.

As a result of climate change, it is increasingly becoming difficult to predict the onset of rains with any certainty. Farmers therefore prepare their fields ahead of time in anticipation of rain. As women tend to be the last to plough

their land, they are at a greater risk of missing the rainfall which enables farmers to plant their crops. This inherently exposes women to the harsh vulnerabilities of climate change.

Similarly, the distribution of fertilizer and other inputs to cocoa farmers also suffers from structural gendered issues which tend to create disadvantages for women.



**PRA and learning methods**

## WHICH WAYS FORWARD?

This brief earlier outlined some policy pointers which should inform discussions. Land is a critical asset and its relevance permeates almost every sphere of human life. Therefore, corruption, even petty corruption can have profound and disturbing implication for all. Corruption systematically erodes all the key indicators of good land governances which are intended to serve as a safeguard, especially those whose land rights are vulnerable. Corruption in land impedes inclusive development and shared prosperity.

- It weakens land tenure security and exposes land users to increased likelihood of arbitrary displacement, often without no or incommensurate compensation.
- Corruption further raises transaction cost when attempting to document one's land rights.
- Corruption suppresses the voice of people in land related decision making.
- Corruption skews benefits which accrue from land in their favour.

In each case, women are disproportionately affected, as a result of existing cultural practices. But breaking the corruption chain requires a comprehensive approach which must be driven by well-targeted women centred advocacy interventions which aim at improving tenure security, amplifying the voice of women and ensuring equitable benefit sharing approaches.

### Push towards transparent, inclusive and responsible land deals

- Beef up the Lands Commission Guidelines in order to strengthen the voice of women in negotiations for land deals.
- Funding public hearing - there is the need to unpack the exact incidental cost involved in the public hearing process. Any form of direct payment from the investor to state officials should be avoided in order to avoid what may appear to be a legitimate channel through which the bureaucrat can be compromised.
- Communities should avoid receiving upfront rent payment for investors. None financial benefits such as training and provision of infrastructure could benefit men and women more equitably.
- Due diligence and effective contracting when executing large land deals
- There is the need to improve due diligence in land deals, especially for investors who are venturing into

*Targeted and sustained legal empowerment of women can help to break through even the most formidable gendered barriers.*

solar. Granting large tracts of land to such investors at once should be avoided. Rather, land grants should be on incremental basis, provided investors have been able to fully utilised previously granted land

### Legal Empowerment of women is critical

Ensuring accountability in land governance is important to addressing corruption. Yet accountability splits into two concepts –'accountability as right' and' accountability as power'<sup>xv</sup> Accountability must be demanded. Therefore, women and men should be sensitized to appreciate their 'right'. Similarly, there is the need to empower people to demand downward social accountability.

Recent developments in Adomfe, a farming community in the Asante Akim South District in the Ashanti Region is illustrative. When all attempts by the community members to get the chief and elders to account for revenues they had received from land and other natural resources failed, they were sued<sup>xvii</sup> at the High Court. The chief was eventually compelled to render accounts to the community. Small scale legal empowerment can have a significant impact in fighting corruption in land. Targeted and sustained legal empowerment of women can help to break through even the most formidable gendered barriers.

### Capacity Building and gender awareness among the bureaucrat is important

When personnel at key institutions such as Customary Land Secretariats, Ministry of Food and Agriculture, Office of the Administrator of Stool Lands and Lands Commission among others are unable to appreciate the gendered dimension of existing customary tenure and its ramifications, it becomes a possible source of setback in the fight against corruption in land against women. Gender training of such stakeholders should be central in all future interventions.

### Client Service and Access Unit is promising... but pluck the possible pitfalls

The success of the Client Service and Access Unit largely rests with the human factor as well as the technological platform on which the concept is grounded. The possible risk from the human factor is the likelihood for the emergence of new forms of rent-seeking. From the technological point of view, issues such as internet connectivity, database security, etc are equally key. There is the need for vigorous monitoring and timely response to challenges with tailored solutions.

### Some gains have been made but there is still much to be done. All hands must be on board

Years of advocacy on gender and land rights is yielding some results. A recent gendered disaggregated data indicates that an estimated 21 percent of all those who have documented their land rights between 2005 and 2013 are women<sup>xviii</sup>. This is welcoming. However, this can possibly mask some of the real unresolved challenges, particularly in



### Risk assessment training for CSOs working on land Governance

rural and patriarchal contexts. Civil Society Organisation, Community Based Organisations and allied stakeholders need to work more collaboratively to support communities. Creating opportunities for timely reporting of corruption in land deals is useful and stakeholders should employ various avenues, including participatory governance and social contract with duty bearers in order to be more accessible to communities. The concept of 'Land Administration Mobile Clinics' could further be an innovative means of getting closer to communities. This will help to provide a channel through which communities will voice their concerns and also receive support..

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vii. Bugri, J (2012) Final Report on Agricultural Investments in Ghana: evidence from two case studies. FAO:Rome

viii. Interview with an official from the Office of the Administrator of Stool Land in Tamale on 30/10/2015

ix. Interview with official from Lands Commission in Tamale on 28/10/2015

x. Response from a Focus Group Discussion with women in Wamale on 29/10/2015

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