



**BENTSI-ENCHILL**  
**LE TSA & ANKOMAH**

**CUSTOMARY LAW REVIEW & INSTITUTIONAL MAPPING REPORT**

To

**THE PROFOREST INITIATIVE**

**The African Responsible Production and Sourcing Programme  
(ARPS)**

**January, 2018**



4 Momotse Avenue  
Adabraka - Accra  
P. O. Box 1632  
Accra-Ghana

[www.belonline.org](http://www.belonline.org)

## Contents

<b>CHAPTER ONE</b> .....	1
<b>1. INTRODUCTION AND BACKGROUND</b> .....	1
1.1 INTRODUCTION .....	1
1.2 BACKGROUND .....	1
1.3 OBJECTIVE OF THE ASSIGNMENT .....	1
1.4 METHODOLOGY.....	2
<b>CHAPTER TWO</b> .....	4
<b>2. DESK REVIEW AND FINDINGS FROM PRIMARY RESEARCH</b> .....	4
2.1 CUSTOMARY LAW REVIEW.....	4
<b>CHAPTER THREE</b> .....	28
<b>3. FINDINGS FROM THE FIELD RESEARCH AND COMPARITE ANALYSIS WITH THE DESKTOP REVIEW</b> .....	28
3.1 AKYEMANSA DISTRICT .....	28
3.2 KPANDO MUNICIPALITY .....	31
3.3 THE INTERSTATE SUCCESSION ACT AND A SHIFT TOWARDS THE ACQUISITION OF PRIVATE LANDS.....	33
3.4 SUMMARY OF FINDINGS AND CONCLUSIONS .....	34
<b>CHAPTER FOUR</b> .....	35
<b>4. INSTITUTIONAL MAPPING REPORT</b> .....	35
4.1 BACKGROUND .....	35
4.2 INTRODUCTION .....	35
4.3 MINISTRIES.....	38
4.4 OTHER GOVERNMENTAL BODIES AND AGENCIES .....	44
4.5 INTERNATIONAL BODIES AND NON-GOVERNMENTAL ORGANISATIONS (“NGOS”).....	46
4.6 FARMING COMPANIES.....	50

## CHAPTER ONE

### 1. INTRODUCTION AND BACKGROUND

#### 1.1 INTRODUCTION

This document is a review of customary laws in Ghana that affect persons based on gender or that impact on the distribution, use and preservation of natural resources with particular focus on timber and oil palm growing areas. This document is divided into four (4) parts. Chapter One is on the Introduction detailing the background, objectives, methodology and literature review. We provide our findings in the desk and primary reviews in Chapter Two. The results of the field research and a comparative analysis of the primary review and field research is done in Chapter Three. The institutions that affect or relate to the primary areas under discussion and research in this report are also detailed and discussed in Chapter Four.

#### 1.2 BACKGROUND

The Proforest Initiative (“**Proforest**”) has launched the Africa Responsible Production and Sourcing Programme (“**ARPS Programme**”) that aims to promote the uptake of sustainability best practices in forestry and agricultural commodities supply chains.<sup>1</sup>

The expansion of agricultural commodities is a major driver of tropical deforestation. However, commodity agriculture plays an important role for the development strategies in Africa with the potential to improve local livelihoods and national economic development if implemented sustainably and in compliance with legal requirements

A subcomponent of the ARPS Programme is legal compliance and Proforest engaged Taylor Crabbe Initiative to benchmark the requirements of two sustainability standards, the Roundtable on Sustainable Palm Oil (RSPO) and the Forest Stewardship Council (FSC) against the legal requirements in Ghana and to identify the extent to which the legal requirements in the country deliver key elements of sustainability standard requirements.

A further component of the ARPS Programme is to assess how the laws differentially affect smallholders and gender. In order to fully understand the extent to which the legal requirements in Ghana delivers key elements of sustainability, Proforest has identified the importance that the analysis is undertaken in the correct context with a clear understanding of the customary laws in Ghana. Proforest contracted Bentsi-Enchill, Letsa and Ankomah as consultants (the “Consultant”) to undertake this assignment.

#### 1.3 OBJECTIVE OF THE ASSIGNMENT

One aim of this assignment is to conduct a review of applicable customary laws in Ghana to identify the extent to which the customary laws in the timber and palm oil production areas have a differential impact on gender and natural resource

---

<sup>1</sup> Proforest is a global, unique, non-profit group that supports companies, governments and other organisations to implement their commitments to the responsible production and sourcing of agricultural commodities and forest products. It has its African office in Accra, Ghana.

management; how this affects inclusiveness and whether they deliver key elements of sustainability standard requirements.

Another objective of this assignment is to provide an institutional review that will identify institutions in Ghana whose mandate includes natural resources management and gender, particularly in relation to the timber and palm oil production areas in Ghana.

The objectives of this assignment are together known as (the “**Project**”).

The overall aim of the Project together with the assignment conducted by the Taylor Crabbe Initiative is to promote responsible commodity supply chains and sustainable management of resources. Proforest intends to develop guidance to help industry to produce and trade responsibly in Ghana in line with Ghanaian legal requirements and national and international sustainability standards, particularly with respect to a reduction in deforestation. A key emphasis of the ARPS Programme is to promote smallholder and gender inclusion.

The first phase of the ARPS Programme is being rolled out in Ghana, which is expected to be trialled in Liberia, Nigeria and Cote D’Ivoire. It is proposed that the approach can be subsequently replicated in other countries within the Western region of Africa and in other areas.

## **1.4 METHODOLOGY**

### **Research Philosophy**

The Consultant applied a couple of different research philosophies in order to determine the impact on individuals within the oil palm and timber growing areas in Ghana. The initial philosophy applied was realism, more specifically, critical realism, in which the researcher is aware that what is seen in front of them may not necessarily be the reality. In other words, ‘sensations and images of the real world can be deceptive and they do not usually portray the real world’.<sup>2</sup>

In order to satisfy the objectives of the Project, the Consultant subsequently conducted an initial desktop review of customary laws in Ghana which had a differential impact on one’s gender, smallholders and on natural resources use and management in timber and oil palm growing areas in Ghana. The Consultant also conducted a desk review of institutions in Ghana whose mandate includes land use, natural resources management and gender.

Despite their findings, as a critical realist, the Consultant was aware that anything found within the desk review could not simply be taken as fact; more research had to be done in the field in order to determine whether or not there were any discrepancies between the research and the reality. Therefore, the research philosophy applied by the Consultant on the field was interpretivist, a philosophy centered on the integration of human interest within a study. The data collected was mainly qualitative and focused on gaining an understanding of the real-life impact on local communities.

### **Research Approach**

---

<sup>2</sup> Novikov, A.M. & Novikov, D.A. (2013) “Research Methodology: From Philosophy of Science to Research Design” CRC Press.

A deductive research approach was applied, in which research conducted on the field was conducted in order to establish the validity on assumptions made based on the desktop review. It focuses on generalizing from the general to the specific, and as such, the Consultant was focused on applying the generalized research conducted online to real communities.

Based on the results of the desk review, the Consultant engaged a field researcher, who together with the Consultant conducted primary research in selected towns and areas of the Eastern and Volta regions of Ghana which are oil palm and/or timber growing areas in Ghana. The particular areas visited for the primary research were the Akyemansa District of the Eastern Region and the Kpando Municipal Assembly in the Volta region. In the Akyemansa District, the research was conducted in the Akyem Ofoase, Chia, Amantia and Brenase towns. Kpando, Gbefe, Hoeme and Kpando Dzoanti were the focus areas for the research within the Kpando Municipal Assembly. The purpose of the primary research was to obtain first hand practical experience of how customary laws and practices have a differential impact on gender and small holders.

### **Research Design**

The Consultant's research design was exploratory. In other words, the main focus of the research was to gain insight into the current situation, rather than establishing a course of action.

### **Data Collection Methods**

As stated earlier, the Primary research was conducted primarily by way of qualitative interviews using purposive (specific persons) and snowball (reliance on participant referrals to recruit new participants) sampling. The methods used for the interviews were mainly Focus Group Discussion (FGDs), Key Informant Interviews (KIIs) and Individual Interviews (IIs).

### **Sampling**

The participants drawn for the FGDs were purposively selected based on the economic activities engaged in and gender considerations. In undertaking the study, the research communities were divided into four equal parts based on existing demarcations. Respondents were purposively sampled from the four quadrants in each community where the research was conducted in order to have a representative sample.

Generally, the age range of the research participants was between 39 and 71 years. The majority of the respondents were aged between 45 and 55 years. Lower level of education was observed among respondents in both the Akyemansa District and the Kpando Municipal Assembly with most respondents having no formal education to Middle School Form Four (4) education. Most respondents were married or widowed with very few separated. The household size ranged from 3 to 8 members with widely reported household sizes of 6 members.

The results of the primary research were then compared to the desktop review to validate or disprove the desktop review to confirm the current existing customary law practices in the selected areas.

## CHAPTER TWO

### 2. DESK REVIEW AND FINDINGS FROM PRIMARY RESEARCH

#### 2.1 CUSTOMARY LAW REVIEW

##### 2.1.1 Introduction

Customary law has been defined as “the rules of law which by custom are applicable to particular communities in Ghana.”<sup>3</sup> This definition shows that customary law is not of general application but may vary depending on the particular community involved. An important feature of customary law in Ghana is that it is generally oral. There have however been attempts by various authors over time to have the customary laws of Ghana in a written form.<sup>4</sup>

Customary land law is that part of customary law that relates to land. It is the basic land law of Ghana.<sup>5</sup> Kotey adds though that particularly in the rural areas, custom and practice is what governs the acquisition of, right to and transmission of land and interest therein and not the English common law or statutory law approaches, hence customary land law remains very relevant.<sup>6</sup>

To a considerable extent the principles underlying the customary land law of Ghana have been developed around key concepts put forward by major writers ... but the practices of real people in society constitutes the living force at the basis of customary law.<sup>7</sup>

This review assesses customary laws, particularly in relation to land, in the timber and palm oil producing areas of Ghana such as the Ashanti, Brong Ahafo, Western, Eastern and Central Regions and how the laws affect smallholders and gender in a particular geographic area.

In conducting this review, we bear in mind the instructive words of Aryeh that “*work which sets out to state customary law of a nation solely on the basis of rules and principles enunciated by the courts, will be flawed in not taking practiced customary law into account*”.<sup>8</sup>

The quotation above served as the basis for a field research to ascertain the actual customary law of the target areas.

Timber and palm oil are produced mainly in the transitional and forest zones of Ghana. These areas include the Ashanti, Brong Ahafo, Western, Eastern and Central Regions of Ghana.

---

<sup>3</sup> Ghana Constitution, 1992, art. 11(3).

<sup>4</sup> See e.g., Ollenu N.A. and Woodman G.R., (eds.), (1985). *Ollenu's Principles of Customary Land Law in Ghana*, Birmingham, CAL Press & Sarbah J.M., (1896). *Fanti Customary Laws*.

<sup>5</sup> Woodman G.R (1996). *Customary Land Law in the Ghanaian Courts*. Accra, Ghana Universities Press, at preface.

<sup>6</sup> Kotey N.A. (1995), *Land Tenure and Tree Tenure and Rural Development Forestry in Northern Ghana*, UGLJ 102-132.

<sup>7</sup> Josiah-Aryeh, N.A. *Customary Law's Unsteady Stride Forward [1996-97]* UGLJ 157-168; Some of these prominent writers are John Mensah Sarbah, Gordon Woodman, Allot N.A., Kwamina Bentsi-Enchill, A.K.P. Kludze, Nii Amaa Ollenu.

<sup>8</sup> *Ibid*. The article criticized Woodman's approach on basing the Customary of law of Ghana in his book on the cases and decisions of the courts.

Ghana currently has a total of about 305,758 hectares of oil palm of which more than 80% of this is cultivated by private small-scale farmers with women at the forefront. A number of large scale oil palm plantations are also involved in the palm oil production business. Towns and areas like Twifo Praso, Frami, Jukwa, Mfuom (Central Region), Juaben (Ashanti), Adum Bansa (Western) and, Kwae and Okumaning (Eastern) are popular for the production of palm oil.

The vegetation and climatic zones of the palm oil production areas also support timber production. As such, timber production tends to occur mainly in the Ashanti, Brong Ahafo, Western, Eastern and Central Regions of Ghana.

The production of timber in Ghana is largely a male dominated activity, however, women form 52% of the total agricultural labour force in Ghana.<sup>9</sup> It has been observed that women supply 80% of labour on farms.<sup>10</sup> The timber business is unpopular with women due to the relatively huge capital outlay and procedures one has to follow to obtain a timber utilization contract, a timber concession or a chainsaw ownership or operation licence.<sup>11</sup> Any person or company which wants to engage in the lawful felling and harvesting of timber must be incorporated under the Companies Act, 1963 (Act 179) or the Incorporated Private Partnerships Act, 1962 (Act 152).<sup>12</sup> There is also the widely held belief that the timber business is a man's job. For example, it has been identified that women have effectively participated in the forest services sub-sector with the male to female participation ratio being 54 percent to 46 percent respectively.<sup>13</sup> However, female participation in the wood and non-wood forest sub-sector was only 7 percent.<sup>14</sup> Although these results are derived from a sample from the Sunyani West District in the Brong Ahafo Region, it is an indication of a wider national phenomenon.

Furthermore, one has to go through a bidding process and provide evidence of ownership or membership in a registered company or partnership relevant to forestry and also show evidence of payments of all applicable taxes and statutory payments when applying for a timber concession or timber utilization contract.<sup>15</sup> These requirements although aimed at streamlining activities in the timber industry and protecting the environment tend to push women in the timber production areas out of that business. This is because despite these requirements, women are faced with additional drawbacks such as early marriages, domestic obligations and the lack of financial

---

<sup>9</sup> Owusu, G.A, Kwami, E & Tagoe, C.A., *Gender, Land Tenure Dynamics and Livelihoods in the Central and Volta Regions of Ghana*, ISSER Technical Publication No. 86 (2008) p. 21.

<sup>10</sup> *Ibid.*, p. 19.

<sup>11</sup> See Timber Resources Management Act, 1998 (Act 547), section 3 & Timber Resources Management Regulations, 1998 (LI1649), regs. 9-13.

<sup>12</sup> Timber Resources Management Act, section 2.

<sup>13</sup> Asante, K., (2011 Unpublished Thesis). *Prospects and Challenges of Small and Medium Forest Enterprises in Local Development, a Case of Sunyani West District in the Brong Ahafo Region*.

<sup>14</sup> *Ibid.*, p. 51.

<sup>15</sup> Timber Resources Management Regulations, 1998 (LI 1649), reg. 11 dealing with the qualification of an applicant for timber rights.

resources resulting in less allocation of time for farming activities.<sup>16</sup> The low level of education among farmers, particularly women and the cumbersome procedures to be followed are setbacks to women.<sup>17</sup> It is shown that, “both men and women have access to forest resources, but the types of product they collect from the forest reserve are different”.<sup>18</sup> Most women use their forest produce to support household needs, whilst the men perceive them as personal resources of finance.<sup>19</sup> Women have less access to social capital like education, health and legal rights and the ability to participate in decision-making.<sup>20</sup>

### 2.1.2 *Interests in Land Ownership*

Land and all incidences affecting land in Ghana are governed by customary law with the exception of those lands which have been acquired by the government of Ghana through various legislations.<sup>21</sup> There is therefore a parallel system of land tenure in Ghana, namely, customary and statutory.<sup>22</sup> The customary sector holds 80 to 90 percent of all the undeveloped land in Ghana with varying tenure and management systems.<sup>23</sup>

The term “interest” represents the “*sum total of rights vested in a holder (an individual or group of persons) with respect to a particular parcel of land*”.<sup>24</sup> “Ownership” is commonly used for the relationship between an interest and the person in whom the interest is vested.<sup>25</sup> In the words of Bentsi-Enchill, “*our scheme (customary law) does not call for the naming of particular types of interest in land... what matters is that any given interest should be described in terms of the ways in which it falls short of plenary rights of use and disposal of land...but names provide a shorthand for referring to broad classes of facts and relationships.*”<sup>26</sup> Some commonly used names to be considered as representing all the interests under customary law are:

- a. Allodial Title;
- b. Customary Freehold; and
- c. Customary Tenancies:
  - i. Customary Law Licence; and

---

<sup>16</sup> Duncan, B.A., (1997). *Women in Agriculture*, Friedrich Ebert Foundation, Accra.

<sup>17</sup> Asante, p. 52. (August 5, 2016), Akosa, A.N.A., *Limitations of Women in Agriculture* <http://thebftonline.com/business/agribusiness/20334/feature-limitations-of-women-in-agriculture.html>.

<sup>18</sup> Ardayio- Schandorf, E., (2007) *Gender Mainstreaming In Forestry in Africa Ghana*, Food and Agriculture Organization of the United Nations, Rome.

<sup>19</sup> *Ibid.*, chapt. V.

<sup>20</sup> *Ibid.*, chapt. V.

<sup>21</sup> Legislations mainly used by the state to acquire lands are Towns Act, 1892 (Cap 86), State Property and Contracts Act, 1960 (CA 6); Administration of Lands Act, 1962 (Act 123) and State Lands Act, 1962 (Act 125).

<sup>22</sup> E.D. Kuusaana, K.N. Bukari, *Journal of Rural Studies* 42 (2015), 52-66, 53 citing Ubink, J.M., Quan J.F. 2008. How to combine tradition and modernity? Regulating customary land management in Ghana. *Land Use Policy* 25(2) 198-213.

<sup>23</sup> Kasanga K., Kotey N.A., (2001). *Land Management in Ghana: Building on Tradition and Modernity*. International Institute for Environment and Development, London, Russel Press, Nottingham, UK. p.13. Mahama C.A., Baffuor O.A., (2009) *Management of Stool Land Revenue in Ghana, a study of the Nkawie and Toase Stools of the Atwima Nwabiagya district of the Ashanti region*, *J. Sci. Technol* 29(1).

<sup>24</sup> Bentsi- Enchill K. Do African Systems of Land Tenure Require A Special Terminology?(1965) 9 JAL, 114.

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*



## ii. Share-cropping Tenancies<sup>27</sup>

### 2.1.2.1 Allodial Title

According to Woodman, the allodial title denotes the only customary law interest in land which is not originally held by a tenant from a lord and which can also be described as the absolute title or ultimate title.<sup>28</sup> It is the highest interest known to customary land law and capable of being held in Ghana.<sup>29</sup> All interests in land are derived from it.<sup>30</sup>

Ollenu states that, “*the first basic principle of our customary law is that there is no land in Ghana without an owner*”.<sup>31</sup> Ollenu’s assertion is affirmed by Bentsi-Enchill, Woodman and Sarbah although disputed by Kludze.<sup>32</sup> That is to say that there is no land which the allodial title is not owned, by either a stool, skin, family or individual.<sup>33</sup>

The prevalent mode of acquiring this interest was by conquest and possession, by the discovery of unoccupied land by hunters or people and subsequent settlement on it, through gifts and by outright purchase.<sup>34</sup>

Substantially, “*the allodial interest in land is vested in communities represented by stools and sub-stools in the Akan and some Ga communities, and by skins in the Northern Region. Chiefs who represent stools and skins execute judicial, governance and land management functions*”.<sup>35</sup> In some communities, although there may be chiefs exercising judicial rights over land within their areas of authority, such chiefs lack rights of administrative control over land.<sup>36</sup> For example in the Upper West and Upper East regions, the allodial title holders are the *tendamba*.<sup>37</sup>

In communities where the allodial interest is not vested in the stool or village community, it is usually vested in families, clans or lineages.<sup>38</sup> This phenomenon is prevalent among some of the Adangme (Greater Accra region), the Anlo (Volta region), Balun

---

<sup>27</sup> Da Rocha, Lodoh (1999). Ghana Land Law and Conveyancing, 2nd ed, p.7. Land Title Registration Law, 1986 (PNDCL 152), s. 19.

<sup>28</sup> Woodman (1996), p.53.

<sup>29</sup> Da Rocha and Lodoh (1999). Josiah-Aryeh, N.A, 2005, The Property Law of Ghana, Accra, Sakumo Publishers p.45.

<sup>30</sup> *Ibid.*

<sup>31</sup> Ollenu (1962), p 4.

<sup>32</sup> Bentsi-Enchill, K. (1965). Ghana Land Law. Sweet and Maxwell, London p.22. Woodman G.R., The Allodial Title to land UGLJ (1968) Vol 5, p. 79; Sarbah, p. 66 & Kludze A.K.P, The Ownerless Lands of Ghana[1974] Vol. XI No. 2 UGLJ 123-142, where he argues that there are ownerless lands in some parts of the Volta Region.

<sup>33</sup> Woodman (1996) at p. 54. In the case of Saaka v Dahali [1984-86] GLR 774 and Ohimen v Adjei discussed the allodial title of Stools or Skins. In Amoeda v Pordier [1967] GLR 479, it was held that families could hold Allodial titles. In Dennis and Arthur v Ababio (1941) Div. Court, Cape Coast (unreported), an individual was allowed to purchase the allodial interest of a stool in execution of a judgment debt by the stool.

<sup>34</sup> Ohimen v Agyei [1957] 2 WALR.

<sup>35</sup> Kasanga, K. and Kotey, N. A., 2001. Land Management in Ghana: Building on Tradition and Modernity. International Institute for Environment and Development, London. P. 13

<sup>36</sup> Agbosu (1978), Terminology Problems and Individual Land Rights Under African Traditional Systems of Tenure UGLJ Vol 15, p. 191.

<sup>37</sup> Kasanga and Kotey (2001) p. 13.

<sup>38</sup> Agbosu (1978).

Clan, Wa (Upper West region) and Adjumaku (Central region).<sup>39</sup> The position of every allodial title aside individual holders of land in Ghana is that of a titular holder, holding the land in trust for the whole community.<sup>40</sup> Sir Ofori Atta I puts it that “*Land belongs to a vast family of whom many are dead, a few are living and countless host are still unborn*”.<sup>41</sup>

### 2.1.2.2 Customary Freehold Interest

In the hierarchy of customary land law, the customary freehold interest appears to be the second highest interest that can be held in Land.<sup>42</sup> This title is held for an indefinite period until there is failure of succession. The stool cannot alienate it to another person without the holder’s consent.<sup>43</sup> This interest may be classified as that which is held by a subject of the land owning community as of right (known as the usufructual interest) or that interest which may be acquired by a stranger.<sup>44</sup>

#### **a. Usufructuary Interest**

At customary law, stool subjects had an inherent right to a usufruct in any unappropriated portion of stool land in exchange for the performance of customary services. However in modern times these services have fallen into desuetude.<sup>45</sup> The subject’s usufructuary right to stool land is that he has a right to occupy or otherwise enjoy his appropriated portion of the stool land to the exclusion of others, including the allodial owner.<sup>46</sup>

To acquire usufructuary interest in a land in the past, the clan, the family or the individual as the case may be should have cultivated an unoccupied portion of the land by virtue of the customary relationship between the one cultivating the land and the owner of the allodial interest. The Court in *Ohimen v. Adjei*, [1957] 2 WALR, also reinforces this position as it discussed the constitutional arrangement between stools and their subjects who exercise usufructuary rights:

“The stool holds the absolute title in the land as trustee for and on behalf of its subject- and the subjects are entitled to the beneficial interest or usufruct thereof and have to serve the stool. Each individual or family is regarded in the broad sense as the owner of so much

---

<sup>39</sup> Kasanga and Kotey; Kludze A.K.P, *Ewe Law of Property* (London, 1973), pp. 105-25; Pogucki, R.J.H., *Gold Coast Land Tenure* (1955), Accra, Vol. 1. pp. 1-25.

<sup>40</sup> Kasanga and Kotey (2001), p.13.

<sup>41</sup> Ollenu (1962) op. cit., at p. 4.

<sup>42</sup> Asante, S.K.B. (1969). *Interest in Land in the Customary Law of Ghana: A New Appraisal*, UGLJ Vol 6, p. 99.

<sup>43</sup> A stranger here means a person who is not a member of the land owning community.

<sup>44</sup> Asante, S.K.B. (1969).

<sup>45</sup> *Ibid.* Da Rocha and Lodoh (1999), p. 13

<sup>46</sup> Asante (1969); In the Matter of Public Lands (Leasehold) Ordinance- *Osu Mantse & Others (Claimants)* [1959] G.L.R. 163 at 167, it is said that it is incorrect to describe the valuable consideration given as “purchase price” as such payments is in lieu of the performance of customary services.

of the land as it is able by its industry of its ancestors to reduce into possession and control. The area of land so reduced into the lawful possession of the individual or family, and over which he or they exercise a usufructuary right, is usually called his property. It cannot, save with the express consent of the family or individual, be disposed of by the stool. The individual or family may assign or dispose of his interest in the land to another subject of the stool and the land may be sold in execution of a decree against the individual, or the family, as the case may be, without the consent of the stool. But he may not dispose of the stool's absolute ownership in it to strangers without the consent and concurrence of the stool."

However, in view of the steady increase in population, there has been a limitation to this unfettered right in exercising the inherent right of acquisition to land by occupation. There is now the requirement for an express grant from the stool. The Court in *Frimpong v Poku* [1963] 2 GLR 1 at p.4 held that:

"The principle of customary law which says that a subject is free to cultivate any extent of stool land does not confer on a subject an unlimited licence for indiscriminate cultivation, and a subject usually obtains the formal permission of the stool for the purpose. Permission is never refused but it is necessary in order to enable the stool to keep a check on cultivated areas. In days gone by when land was plentiful and persons seeking to cultivate it were few, a subject would be shown a site or would choose his own site with the approval of the stool, and he could then extend his cultivation to wherever "his cutlass could carry him" as the saying goes. In modern times, however, it has become necessary to ensure a more equitable distribution of available land for cultivation and the practice has been for limited areas to be demarcated for subjects of the stool."

#### **b. Stranger Customary Freehold**

The main difference between stranger customary freehold and the usufruct is that, "*what the stranger acquired with valuable consideration, stool subjects claimed by birthright*".<sup>47</sup> The stranger may acquire this interest by either acquiring citizenship (the status of a subject of the stool or membership of the family) by the formal performance of a customary rite or informally by the stranger making his home and identifying himself and being accepted as a member of the family or stool, or through a sale.<sup>48</sup> These grants must be made

---

<sup>47</sup> Ollenu and Woodman (1985), p.79.

<sup>48</sup> Aryeh, Book at p.70; In *Kuma v Kuma* (1938) 5 W.A.C.A 4, PC, it was held that it was only by a grant or rather by contract that a stranger acquires any estate or interest in stool or ancestral land. *Kotei v Asere* [1961] GLR 492.

expressly by the stool or family holding the allodial interest, or by an individual subject of the stool holding a usufruct so far as provision is made for commuting the customary services.<sup>49</sup> *“Though a stranger purchaser still formally acknowledged the stool’s allodial title, he was absolute owner of the land in proprietary sense. He has a full unencumbered title to the land which was transmissible and alienable without reference to any authority. He was not obliged to render any services to the grantor –stool after payment of the purchase-price, nor were his right of beneficiary user restricted in any manner”.*<sup>50</sup>

### **c. Customary Tenancies**

These lesser interests in land are created by owners of the allodial title or customary freehold.<sup>51</sup> Unlike under common law where a leasehold could be created, customary law knows no creation of leasehold interests.<sup>52</sup> The customary tenancies *“confers upon the tenant the right to occupy and use the land for a specified purpose for an indefinite period or for a fixed period, so long as the tenant continues to observe and perform the terms and conditions upon which he has been let into possession.”*<sup>53</sup> Sarbah indicates that *“the granting of permission to others and outsiders to reside on or cultivate the lands of a family, stool or a village community is a practice of the great of comparatively modern growth.”*<sup>54</sup> Broadly, there are two main types of customary tenancies, tenancies for consideration and gratuitous tenancies.<sup>55</sup> The tenancies for consideration are those usually granted for agricultural purposes, while the only known gratuitous tenancy is the customary law license.<sup>56</sup>

#### *i. CUSTOMARY LAW LICENCE*

Da Rocha and Lodoh in their book extensively write that:

*“In customary law a license is a gratuitous tenancy whereby the tenant is permitted to use the landlord’s land free of charge. As a tenancy it creates an interest in the land, subject to the license. It is normally granted to friends and members of the community. There is however no principle in customary law prohibiting grants of licenses to strangers. Indeed, the customary law is that a stranger-licensee continues his possession of the land and the*

---

<sup>49</sup> Asante (1989).

<sup>50</sup> Da Rocha and Lodoh, p. 6.

<sup>51</sup> Da Rocha and Lodoh, p.5.

<sup>52</sup> *Ibid* p.81

<sup>53</sup> Sarbah, p 66.

<sup>54</sup> Da Rocha and Lodoh, p. 82.

<sup>55</sup> *Ibid.* p.82.

<sup>56</sup> *Ibid.* p. 86.

enjoyment of the particular grant to him so long as he continues to recognize the title of his grantor. A customary law license may be either for farming or for building.<sup>57</sup>

(a) *Building Licence*

It is a licence granted to one to build and occupy the building on the premises of the grantor for the life of the building.<sup>58</sup> So long as the building stands, the licence is irrevocable.<sup>59</sup> Thus, the house would remain the property of the licensee and his heirs or successors until the building falls into ruin, is demolished or destroyed.<sup>60</sup> But in some situations parties may be allowed to expressly make a Building License revocable at will provided provision is made for the payment of compensation.<sup>61</sup> However, at customary law no matter how long the licensee remains in possession, it would not transform into an acquisition of an interest in the property greater than that which was granted.<sup>62</sup> The licensor may also not rebuild nor effect a major repair on the building without obtaining the consent of his licensor.<sup>63</sup>

(b) *Farming Licence*

Here, an owner of land may allow relatives, friends or strangers to occupy and use his land without alienating same by gift.<sup>64</sup> The owner only grants the licensor the right of beneficial use at no cost, specifically for farming. Da Rocha and Lodoh write that the land is given gratuitously to “eat” on.<sup>65</sup>

They further write that, the licensee gives a drink called “Aseda” as thanks offering to the licensor for permitting him to use the land free of charge. The customary freeholder in granting the licence does not require the consent of the community unless cash crops or economic trees are to be cultivated on the land.<sup>66</sup> The economic trees and crops on the land before the grant remain the exclusive property of the licensor, and any attempt to harvest them without the prior authorization of the licensor will amount to a denial of title resulting in a termination or revocation of the license.<sup>67</sup> But where the licensee with the consent of his licensor and the allodial

---

<sup>57</sup> Josiah-Aryeh (2005), p.100.

<sup>58</sup> Kano v Atakpa [1959] GLR 387.

<sup>59</sup> See Asseh v Anto [1961] GLR 103 at 106.

<sup>60</sup> Da Rocha and Lodoh, p. 88.

<sup>61</sup> See Saaka v Dahali [1984-86] GLR 774.

<sup>62</sup> Dao v Klu (Djaba-Claimant) [1961] GLR 555.

<sup>63</sup> See Saaka v Dahali [1984-86] GLR 774.

<sup>64</sup> Dao v Klu (Djaba-Claimant) [1961] GLR 555.

<sup>65</sup> Josiah-Aryeh(2005), p 100

<sup>66</sup> Da Rocha and Lodoh, p.87.

<sup>67</sup> *Ibid.*

title holder planted economic trees or crops after the grant, he or she may harvest them.<sup>68</sup> A farming licence may continue indefinitely unless and until revoked, but then long periods of possession and uninterrupted occupation does not transform the interest into anything more than that which was granted.<sup>69</sup> A farming licence may be revoked at expiry of a specific duration or where the licensor sets up an adverse claim.<sup>70</sup> “As a general rule of customary law, boundary trees are not planted when a farming licence is granted so as to show that the title of the licensor has not been transferred to the licensee.”<sup>71</sup>

## ii. FARMING TENANCIES

Woodman writes that all tenancies evolved from an early form of licence where landowners allowed another to use land free of charge. But as Land became scarce and more valuable, other conditions in the form of tenancies were developed.<sup>72</sup> Instructively, Woodman goes further to state that:

The case law and other evidence suggest that in this area of customary law there has been a development from status to contract. They suggest that it has become possible by agreement to create a tenancy on almost any terms the parties desire. The old categories appear to remain largely as presumptions to help interpret the intentions of the parties.<sup>73</sup>

The discussion here shall be on tenancies for consideration, namely seasonal, annual or yearly and share-cropping tenancies. It must be emphasized that the main difference between seasonal and annual tenancies on the one side and share-cropping tenancies on the other side, is that with seasonal and annual tenancies the consideration is purely cash consideration which is not dependent on the produce of the farm, whereas with the share-cropping the consideration paid by the tenant is a portion of the produce of the harvest to the landlord.

### (a) Seasonal Tenancy

This arrangement involves the growing of food crops only. Here, the land is granted to the tenant farmer only for a sowing season for valuable consideration.<sup>74</sup> The consideration payable is dependent on the size of the

---

<sup>68</sup> *Ibid.*

<sup>69</sup> See *Attah v Esson* [1976] 1 GLR 128.

<sup>70</sup> See *Mensah v Blow* [1967] GLR 424 at 431.

<sup>71</sup> *Da Rocha and Lodoh*, p. 87. See also *Kuma v Kuma* (1938) 5 WACA 4.

<sup>72</sup> *Da Rocha and Lodoh*, p. 87.

<sup>73</sup> *Woodman* (1996), p. 115 and 116.

<sup>74</sup> *Ibid.*

land granted and not the size of the harvest and the landowner does not share in the harvest.<sup>75</sup> The tenant cannot unilaterally fell any economic trees on the land, since such an act is adverse to his interest and constitutes grounds for his eviction.<sup>76</sup> A seasonal tenancy only comes to an end at the end of the sowing season and would not automatically come to an end upon the death of a tenant-farmer.<sup>77</sup>

“Upon the death of the tenant, his family is entitled to harvest the crops on the farm and generally manage the farm until the end of the tenancy. The Landlord has no right to appropriate the produce to himself but is obliged to give due notice of the death of the tenant to the family...where the landlord does not know the family of the deceased tenant, the landlord has to harvest the crops and sell them...take his agreed consideration from the proceeds of the sale of the crops ...and keep the balance for the family...should any authorised member turn up to claim it. Such a landlord must be ready to render a true and proper account of the proceeds.”<sup>78</sup>

(b) *Annual or Yearly Tenancy*

It is a tenancy for the growing of food crops subject to the payment of consideration, for a period of one whole year.<sup>79</sup> The tenancy, however, automatically renews itself at the end of each completed year unless terminated in accordance with customary law.<sup>80</sup> Its incidences and related principles are similar to that discussed above for seasonal tenancies, except that an annual tenancy spans for a whole year and automatically renews itself.

(c) *Share-Cropping Tenancy*

With this kind of tenancy the owner of the land permits another to farm on his land in exchange for a share in the produce of the farm. The share-cropping tenancy is broadly categorized into *abusa* or *abunu* tenancy or their equivalent in the other Ghanaian languages. It must be remarked that the modern view of determining whether a tenancy is one or the other is purely a question of fact determined on evidence as to the terms of the contract of the tenancy.<sup>81</sup> Dennis Dominic Adjei, in *Land Law and Conveyancing in Ghana* (2014), rehashes this

---

<sup>75</sup> Da Rocha and Lodoh, p.82.

<sup>76</sup> *Ibid.*

<sup>77</sup> *Ibid* p. 83.

<sup>78</sup> *Ibid.*

<sup>79</sup> *Ibid.*

<sup>80</sup> *Ibid.*

<sup>81</sup> *Ibid.*

position affirming that the current position of the law is that there is no inflexibility about customary law tenancies and effect would be given to what the parties agreed. The traditional view of these tenancies would be discussed because it is what “*prevails if there is no intention of the parties either express or implied to the contrary*”.<sup>82</sup> At customary law, neither tenants of the *abunu* or *abusa* systems acquire title to the land, their sole right is a right to cultivate and enjoy the produce of the land.<sup>83</sup> However, where the tenancy is granted for the cultivation of cash crops, the tenant is entitled absolutely to all food crops grown on the farm.<sup>84</sup>

(i) Abusa Tenancy

Primitively, the *abusa* tenancy arises where the owner of land grants land to another person to cultivate the land for a one-third share in the produce of the farm or proceeds realized from the sale of the produce of the farm.<sup>85</sup> The tenant farmer cultivates the entire farm at his own expense and effort.<sup>86</sup> This kind of tenancy is deemed particularly suitable for the cultivation of cash crops.<sup>87</sup> This system is always made on the understanding that it is heritable where crops of permanent nature are cultivated.<sup>88</sup> It must be noted that the *abusa* custom does not imply a right in the owner to divide the farm cultivated into three but it only entitles the owner to be paid a third share of the proceeds accruing from the whole farm cultivated.<sup>89</sup> The parties may however agree to the contrary.

(ii) Abunu Tenancy

In its basic sense, it is where an owner of an already cultivated land hands it over to another, the tenant farmer, to plant and maintain it or where the owner gives financial assistance to the tenant farmer to cultivate a farm on his land after which the proceeds from the farm is shared equally.<sup>90</sup>

The foregoing provides a fundamental understanding of the available customary interests in land for a better appreciation of the acquisition process.

---

<sup>82</sup> See *Lamptey alias Nkpa v Fanyie* [1989-90] 1 GLR 286.

<sup>83</sup> *Da Rocha and Lodoh*, p.85.

<sup>84</sup> See *Akofi v Wiresi* (1957) 2 WALR 257 at 259.

<sup>85</sup> *Josiah-Aryeh*, p.93.

<sup>86</sup> *Danquah, J.B.* (1928). *Gold Coast: Akan Law & Customs*, p. 220.

<sup>87</sup> *Ibid.*

<sup>88</sup> *Da Rocha and Lodoh*, p.84.

<sup>89</sup> *Josiah- Aryeh*, p.92.

<sup>90</sup> *Sasu v Asomani* (1949) D.C. (Land) 48-51, 133, cited by *Josiah- Aryeh* at p.94.



### 2.1.3 Acquisition and Alienation of Customary Land Interested

As stated earlier, stools and families acquired land in the past through conquest and possession by the discovery of unoccupied land by hunters or people and subsequent settlement on it, through gifts and by outright purchase.<sup>91</sup> Currently, even with the customary usufruct, an express grant of the interest is required since land is not as plentiful as before.<sup>92</sup> All lands are now deemed owned and by reason of modernization, the modes of acquiring land by discovery or acquisition by conquest are all impractical. It is submitted that the most prevalent means of acquisition of customary land now is predominately by way of sale, gift, succession, pledge and a gratuitous or contractual grant. It must further be emphasized that irrespective of the mode of acquisition the principle of *nemo dat quod non habet* applies. That is to say that one cannot give an interest greater than that which he or holds.

For the purposes of this Project, only the gratuitous or contractual grant shall be discussed in detail.

#### 2.1.3.1 Gratuitous or Contractual Grant

This is the mode of acquisition of customary tenancies, which is most relevant to our study. Small holders and women in particular who may not have large capital to acquire absolute interest in land use this means to obtain some kind of interest in land.

As discussed earlier under customary tenancies, a gratuitous tenancy is a customary license where an owner of land simply allows another to use his land free of charge into perpetuity. It is suggested the gratuitous grant may no longer be in practice in the middle and southern areas of Ghana including the Eastern region as a result of the marketing and sale of land in those areas.

Woodman states that the interest is irrevocable and inheritable so far as the conditions of grant are observed.<sup>93</sup> Under a gratuitous grant, the owner simply grants the licensor permission to use his land.

The contractual grant on the other hand is that kind of tenancy which is strictly based on an agreement. Woodman remarks that express agreement by the parties is the most normal mode of creation.<sup>94</sup>

“The abunu tenancy is personal to the tenant. He can only alienate his right to a third party with the consent of the

---

<sup>91</sup> Da Rocha and Lodoh, p.85.

<sup>92</sup> Ohimen v. Adjei [1957] 2 WALR.

<sup>93</sup> Frimpong v Poku [1963] 2 GLR 1.

<sup>94</sup> Woodman (1996) p. 123.

landlord... when the individual dies the family's right to step into his shoes are recognized by the landlord.<sup>95</sup>

The abusa system is heritable... The tenant may not assign his rights by way of sale, gift or pledge without the knowledge of the landlord. Where a pledge or sale is contemplated the landlord must be given the first option of purchase. The landlord also reserves the first right of refusal as he may not want a particular tenant.<sup>96</sup>

Woodman, further suggests that in some situations these customary tenancies may be implied by law to mitigate some injustices.<sup>97</sup> The tenancies determine if the tenant denies the title of the landlord, abandons the land, when the farm falls into ruin or neglect and where the tenant dies without a successor.<sup>98</sup>

#### 2.1.4 Management of Customary Land

The management of customary land under this heading shall be discussed under two broad topics—the management of stool land and the management of family land.

##### 2.1.4.1 Stool Land

Woodman writes that “*every Ghanaian belongs not only to a family (a lineage), but also to a larger community, of which the individual's family is a part. This community, called here a stool, has a legal personality, and often has an important place in the system of land tenure*”.<sup>99</sup> Since families make up a stool, a person's membership of a stool is dependent on the rules of membership of the families of the stool.<sup>100</sup> The effect therefore is that in communities where women are deemed not members of the family, they are equally not deemed members of the stool to entitle them to stool land. For example in matrilineal systems, the children and wife of a nuclear family are members of the wife's mother's family. In such an event both the children and wife would not necessarily be entitled to the stool land of their father or husband's stool.

The stools are normally occupied by a Chief, the custodian of all stool property. “*The Chief's position vis-à-vis stool land was that of a fiduciary. As the top executive functionary he had authority to manage and administer the property, but he was required to do so in the interest of his subjects*”.<sup>101</sup>

---

<sup>95</sup> *Ibid.*

<sup>96</sup> Josiah-Aryeh, p.96.

<sup>97</sup> *Ibid.*

<sup>98</sup> Woodman (1996), p. 118.

<sup>99</sup> *Ibid.* p.100.

<sup>100</sup> Woodman (1996) p.182.

<sup>101</sup> *Ibid.* 185.

It was discussed in *Republic v Court of Appeal; Ex Parte Lands Commission (Vanderpuye Orgle Estates Ltd, Interested Party)* [1999-2000] 1 GLR 75, that it was the lawful occupant of the stool that makes valid grants on behalf of the stool. It was further held that even upon his removal such grants are binding on the stool. However, according to Woodman (1996), the courts have held that the chief must consult the council before acting.

Previously, members had an inherent right to occupy any unoccupied portions of stool land but currently the law provides that the members must first seek the express consent of the stool before exercising his or her inherent right.<sup>102</sup>

It must be noted that, once stool land is occupied by a subject, the stool cannot grant any portions of that said land without the consent of the member.<sup>103</sup>

Currently there are several constitutional and statutory restrictions on stool land. Examples are:

- (a) No interest equivalent to a freehold interest can be created in stool land<sup>104</sup>
- (b) There is the need for consent from the regional Lands Officer for any valid disposition or development<sup>105</sup>
- (c) There is the requirement for the consent of the Traditional Council within which the stool land falls.<sup>106</sup>
- (d) The revenue from proceeds of stool lands is managed by the Office of Administrator of Stool Lands.<sup>107</sup>

#### 2.1.4.2 Family Land

Family land refers to any interest in land held by a family.<sup>108</sup> The customary concept of family here denotes an extended form of family, far broader than what is known as the nuclear family. They are a body corporate, artificial persons, who can hold property, sue and be sued.<sup>109</sup> In the Ghanaian society there are two types of families, the matrilineal and the patrilineal. The patrilineal families trace their heritage from a common male ancestor. In the patrilineal families, it is the males *that "are capable of transmitting the blood to the younger generation"*.<sup>110</sup> In the matrilineal system on the other hand, the group comprises of persons who descended in direct female line from a common female ancestor.<sup>111</sup>

---

<sup>102</sup> Asante (1969).

<sup>103</sup> See *Frimpong v Poku* [1963] 2 GLR 1 .

<sup>104</sup> See *Ohimen v Adjei* [1957] 2 WALR; *Mechanical Llyod v Nartey* [1987-88] 2 GLR 314.

<sup>105</sup> Ghana Constitution, 1992, art. 266(4).

<sup>106</sup> Ghana Constitution, 1992, art. 267(3).

<sup>107</sup> Chieftaincy Act, 2008 ( Act 759), s. 45.

<sup>108</sup> Ghana Constitution, 1992, art. 267(2).

<sup>109</sup> Woodman (1996), p.216.

<sup>110</sup> Josiah-Aryeh, p.116.

<sup>111</sup> *Ibid* p.117.

**a. Matrilineal Family and Inheritance**

*“In Akan law a family is matrilineal”* and that would be the focus of study.<sup>112</sup>

The basic principle is that individually owned property of a deceased intestate is inherited by the family of the deceased.<sup>113</sup> It is also the law that *“once family property always family property”*.<sup>114</sup> Woodman states that a man’s wife is not a member of his family and neither are his children members of his family under the matrilineal system, therefore at customary law the estate of an intestate man passes to his family.<sup>115</sup> Aryeh at page 143 rehashes this point by stating that the widows and children are practically excluded but he issues a caveat that by virtue of the decision in *In Re Kofi Antubam* [1965] G.L.R 138, they now have life tenancy rights. This is because *“by customary law it is a domestic responsibility of a man’s wife and children to assist him in the carrying out of the duties of his station in life, e.g. farming or business. The proceeds of this joint effort of a man and his wife and or children, and any property which the man acquires such proceeds, are by customary law the individual property of the man.”*<sup>116</sup> And such property as discussed upon death intestate vests in the family.<sup>117</sup> The effects of this harsh custom has been ameliorated by the passing of the Intestate Succession Law, 1985 (PNDCL 111), but then not many in the rural areas are actually exercising their rights under it.

On the other hand, where a person acquires an interest in family land, he only acquires a life interest and cannot create an interest which subsists after his death.<sup>118</sup>

Every family has a leader known as the family head.

In a matrilineal community, the son of the originator of the family is head; upon his death a uterine grandson or great grandson of the originator, carrying the blood is appointed, head. They succeed the deceased as head to the family and control the family acquisitions. It is commonly believed that upon assumption of the mantle of office the wisdom and spirit of the predecessor in office fills the successor who carries out his duties with sagacity.<sup>119</sup>

---

<sup>112</sup> Sarbah, pp. 31, 34 cited in Ollenu and Woodman (1985) , p.140.

<sup>113</sup> Woodman (1996), p.219.

<sup>114</sup> Woodman (1996) at p.218.

<sup>115</sup> *Mills v Addy* (1958) 3 W.A.L.R 357.

<sup>116</sup> Woodman (1996) p.278

<sup>117</sup> *Quartey v Martey* [1959] GLR 377 at 380.

<sup>118</sup> See *Larkai v Amorkor* (1933) 1 WACA 323.

<sup>119</sup> Ollenu and Woodman (1985), p. 46; See also *Amissah Abadoo v Abadoo* [1974] 1 GLR 110.

The appointment of a family head is not automatic nor does it devolve as a matter of right.<sup>120</sup> The head of family holds family possessions in trust for himself and the members of the family.<sup>121</sup> In *Agbloe v Sappor*, it was held that it was impossible for land to be legally transferred and legal title given without his consent.<sup>122</sup> *“The Family head in exercise of his powers of management and control stands in a fiduciary relationship to the family as a managing director does to a limited company.... He is the channel of communication with the outside world”.*<sup>123</sup>

In summary Kom E.D. summarizes the rights of a member of a family as:

- a. A member of full age (and this varies from locality to locality), or on marriage is entitled to an allotment of family land according to his needs and ability.
- b. The allotment is rent-free and if he pays anything at all it is as evidence of loyalty to his family head and not of a landlord-and-tenant relationship.
- c. A member cannot devise or by an *inter vivos* conveyance transfer any right, title or interest in his allotment to anybody without the consent of his family.
- d. On the death of a member, his allotment of family land does not as of right devolve on his children, but the family head raises no objection to children continuing where their father left off.
- e. A member may forfeit his allotment of family land by:
  - i. Alienation or attempted alienation without the knowledge and consent of his family;
  - ii. Denial of the title of the family;
  - iii. Misconduct contrary to family norms or the general local law and custom.
- f. Where family land is income-bearing a member is entitled to a portion of the rents and profits derived therefrom. Once a member is paid his share he is free to put it to any use he thinks fit, just as a shareholder is entitled to do with his dividends.<sup>124</sup>

---

<sup>120</sup> Josiah-Aryeh (2005) p.123.

<sup>121</sup> See *Hervie v Tamakloe* 3 WALR 342.

<sup>122</sup> Sarbah, p.89.

<sup>123</sup> (1947) W.A.C.A 187 at 189.

<sup>124</sup> Kom, E.D. Nature of Member's Interest in Family Land in Nigeria and Ghana [1966] Vol III No.2 UGLJ 122.

It is worthy to note that the head of stools and head of families in both the patrilineal and matrilineal systems are male.

#### 2.1.5 *The Constitution and Customary Law*

It must be understood that irrespective of the various customary laws discussed, the 1992 constitution stands supreme. The Constitution at article 26 states that “*Every person is entitled to enjoy, practice, profess, maintain and promote any culture language, tradition or religion subject to the provisions of this constitution.*” It further states at clause 2 of that article that “*All customary practices which dehumanize or are injurious to the physical and mental well-being of a person are prohibited*”. Article 22(1) additionally provides that “*A spouse shall not be deprived of a reasonable provision out of the estate of a spouse whether or not the spouse died having made a will.*” The combined reading of these provisions makes it explicit that the customary laws as enunciated above are abhorred by the Constitution to the extent that they deprive women of the estate of their husbands.

Furthermore, sections 5 and 6 of the Intestate Succession Law, 1985 (PNDC 111) guarantees a wife whose husband dies intestate three-sixteenth and half of the total estate respectively. If women fully exercise their rights under these laws, male biased inheritance and entitlement to land would be greatly curtailed.

#### 2.1.6 *Gender and Land Relations*

Customary law, particularly family and inheritance systems have profound implications on social status and agricultural development in Ghana.<sup>125</sup> There are two viewpoints on women’s access to land in Ghana. One holds that women have no significant obstacles to land access.<sup>126</sup> The other viewpoint which is found in a larger body of literature has noted inequalities in land access between men and women.<sup>127</sup>

Under customary law, both men and women can gain various rights in land through membership of landholding groups, lineages and clans, through marriage and through tenancy arrangements (discussed above).

The effect of customary law on men and women may vary depending on whether an area practices the matrilineal system of inheritance or the patrilineal system. In both communities however, male children or sons are given a larger part and control of a deceased’s estate because of the widely held notion that women would be taken care of by their husbands.<sup>128</sup> Women in matrilineal communities exercise a greater degree

---

<sup>125</sup> *Ibid.*

<sup>126</sup> Duncan, B. A., *Women in Agriculture in Ghana* (2004), Friedrich Ebert Foundation, p. 6. See also, Nukunya G.K. *Tradition and Change in Ghana. An Introduction to Sociology* (1992).

<sup>127</sup> Benneh, Kassanga and Amoyaw (1995), *Women’s Access to Agricultural Land in the Household: A case study of Three Selected Districts in Ghana*, Accra: FADEP

<sup>128</sup> See Duncan, B. A.; Kotey E.N.A., *Land Tenure and Rural Development Forestry in Northern Ghana [1993-95]* UGLJ 102-132 & Kasanga, K. and Kotey N. A., 200. *Land Management in Ghana: Building on Tradition and Modernity*. International Institute for Environment and Development, London.

of control over land than their counterparts in the patrilineal systems.<sup>129</sup> A woman whose husband passes away only has a life interest in the properties of her husband subject to good behavior.<sup>130</sup> All these customs and practices limit women's access to land for agricultural or other purposes.

The rights of women, particularly property rights of women under customary law tend to be more restrictive or limited.<sup>131</sup> The limited property rights of women are evidenced mainly in marriage and inheritance and in turn affect the socio-economic well-being of women. Other factors which affect women's tenure include the sexual division of labour, production relations, land scarcity, and in some cases a strong ideology that women are not farmers.<sup>132</sup>

#### 2.1.6.1 Marriage

Women's land rights are also dependent on their marital status and are therefore significantly influenced by the incidence of marriage and divorce. Marriage is a very significant source of land for women since it is the context within which adult men and women farm on land and tend to live and work. In marriage, a woman does not have any substantial interest in the property of her husband but only has a right to maintenance and support from the husband. This customary law position was quoted with approval by the Supreme Court in *Quartey v Martey* [1959] GLR 377 as follows:

By customary law, it is the domestic responsibility of a man's wife to assist him in the carrying out of the duties of his station in life e.g. farming or business. The proceeds of this joint effort of a man and his wife and any property which the man acquires with such proceeds are by customary law the individual property of the man. It is not the joint property of the man and his wife and/or children. The right of the wife is a right to maintenance and support from the husband and father.

This and other customary law positions which impact negatively on women have been modified by subsequent case law and statutes. For instance, the customary law position as stated in *Quartey v. Martey* was modified to favour women by providing that where the woman makes a substantial contribution to the acquisition of a property by her husband or partner, she acquires an interest similar to that of the man in the property.<sup>133</sup> The current position of the law as regards women's matrimonial property rights was stated by the Supreme Court in *Mensah v Mensah* [1998-99] SCGRL 350. This position is that all properties acquired during marriage shall be divided equally among both spouses upon divorce.

Studies have shown that in the patrilineal areas of inheritance, many women farm on land given to them by their husbands or work with their husbands on the same piece of land. Some writers like Benneh have found that marriage enhances the security of women's rights in

---

<sup>129</sup> See *Quartey v Martey* [1959] GLR 377.

<sup>130</sup> Duncan, p.67.

<sup>131</sup> *Amissah-Abadoo v. Abadoo* [1974] 1 G.L.R. 110.

<sup>132</sup> Duncan, p. 12.

<sup>133</sup> *Ibid.*, xviii-xix.

land. Thus it has been established that stability of marriage and good relations with male relatives are critical factors in the maintenance of women's land rights and access to agricultural resources.

#### 2.1.6.2 Inheritance

Inheritance systems within the palm oil and timber production areas of Ghana are a major determinant of persons continued access to land.<sup>134</sup> Whereas women tend to lose a part or all of their access to land or the security of tenure to land that they may have during marriage or during the life of a parent, men on the other hand get increased access to and security of tenure of land.<sup>135</sup> Under customary law, depending on whether the local area practices the matrilineal or patrilineal system of inheritance, women generally tend to have their rights and access to land reduced.<sup>136</sup>

Traditionally, some areas involved in palm oil and timber production practice a matrilineal system of inheritance while others practice a patrilineal system of inheritance. Among southern patrilineal groups such as the Ga, Ewe and Dangbe, the landholding groups are the clans and lineages that enjoy usufructuary rights. Ownership of the usufruct was mostly among men, partly due to discriminatory inheritance practices. Among matrilineal Akans however, women have a right to lineage lands, but lineage heads often discriminate in giving out land in favour of men. Women in matrilineal societies seem to be more independent in acquiring farms through their own efforts in other enterprises, but this may be forced independence, given the greater frequency of polygyny and the ambiguity of inheritance practices in matrilineal areas.

Note that land in the Ashanti Region was available to every adult male or female member of the land-owning group, but it had to be unoccupied. In the Ashanti Region, unoccupied land was seen as stool land and constituted communal property which was a source of fuel and economic crops such as oil palm, timber etc. In practice, chiefs came to exercise ownership over such land.

In theory therefore, each male and female member of a kinship group has rights to land by virtue of membership of the group. However, in practice, the authority to decide on land allocation to individuals is delegated to male lineage heads or household heads, with women's access depending on the goodwill of male members of the lineage. A woman's rights to land are therefore through men, namely husbands, brothers, fathers or sons.<sup>137</sup>

Some writers such as Nukunya note that although in parts of southern Ghana, women can own land in their own right or acquire land through inheritance, in practice, ownership of land was restricted for many women, as they had to rely on the "goodwill" of lineage and

---

<sup>134</sup> See *Abebreseh v. Kaah* [1976] 2 GLR 46; *Owusu v. Nyarko* [1980] GLR 428.

<sup>135</sup> Duncan, p.22.

<sup>136</sup> Duncan.

<sup>137</sup> *Ibid.* E.N.A Kotey [1993-95], p.10.



family heads (who were invariably males) for land.<sup>138</sup> The portion allocated to daughters is usually smaller than that which goes to sons. Maternal relations also have access to land as long as they recognize the lineage's title. Thus, while the farm may have been worked by the nuclear family's labour, the ownership of the land on which the farm is located is what determines its inheritance. Once the land is family land, it reverts to the family on the death of the member. The distinction between the farm and the land on which it is situated is important in determining security of tenure.

Access without control weakens the potential for empowerment and innovation among resource users. In a study among the Dangbe of the south-eastern coastal zone, Bortei-Doku Aryeetey, in his article "Women's Access to Land in Ghana", notes that although women participate actively in the cultivation of bambara beans alongside their husbands or male relatives on family farms and play a key role in the processing and preservation of the harvest, they are barred by cultural inhibitions from exercising any authority over the produce once it is stored in the family's silo.

#### 2.1.6.3 Division of Labour and Organisation of Production

The ability to exercise rights in lineage land was affected by many factors. Women's rights in lineage land were limited by marital residence and gender bias in the size of land given to women among some groups, the sexual division of labour and the organization of production in both patrilineal and matrilineal areas.<sup>139</sup> Among the Akan for example, particularly in rural areas, women living in their natal home farmed on lineage land acquired from their mothers and shared with other female siblings, while maintaining their labour obligations to their husbands and farming a plot provided them by their husbands for food. In the case of the patrilineal areas, marriages meant the adult women could not farm their lineage land.

It has been reported that even where women have access to land, they choose to farm on land which is closer to the communities because of the need to combine home management and domestic activities with farming.<sup>140</sup>

Women performed most of the domestic or household activities including cooking, cleaning, child rearing and fetching water.<sup>141</sup> The household activities which by custom have been assigned to women reduce the number of hours women have to engage in farming.<sup>142</sup> The soil in such lands closer to the communities is usually not as

---

<sup>138</sup> Awumbila, M. and Momsen, J.H. (1995), "Gender and the Environment: Women's Time Use as a Measure of Environmental Change", in *Global Environmental Change*, Vol. 5, No.5. pp. 337-346

<sup>139</sup> Nukunya, G.K. (1972). *Land Tenure and Inheritance in Anloga*, Technical Publication: ISSER, University of Ghana.

<sup>140</sup> Nukunya, G.K. (1984), *Domestic Rights and Duties in Southern Ghana*, Legon Family Research Papers No. 1, Legon: Institute of African Studies, pp. 186-198.

<sup>141</sup> Duncan, p. 64.

<sup>142</sup> *Ibid.*, p. 27.

rich as those of the lands farther away from the communities.<sup>143</sup> There are some women who may have the choice of a land nearer to the communities imposed on them because of the notion that it may be dangerous for a woman to be travelling long distances to the farm or to work in dense forests which the lands farther away from the communities may be.<sup>144</sup>

#### 2.1.6.4 Commercialization of Agriculture and its Effect on Women

Women's rights may also weaken when the land or resource they are using becomes more valuable due to the commercialization of agriculture and the introduction of more productive cropping techniques, urbanization, or following investments. For example, increasing commercialization of mangroves has changed mangrove tenures and affected women's access to land.<sup>145</sup> It is reported that men took over vast farmlands which women farmed on the introduction of cash crops or commercialization of crops such as cocoa and palm oil mainly because of the money to be made and because men were generally more economically empowered to engage in such commercial farming.<sup>146</sup> The men who may not have been in agriculture at all suddenly pushed the women out based on their priority of access to land under customary law.<sup>147</sup>

#### 2.1.6.5 The Relationship between Access to Land and Credit Facilities, Poverty and Illiteracy among Women

The standards of living of both men and women are determined to a large extent by one's ability to generate income.<sup>148</sup> It is estimated that three quarters of women farmers are currently illiterate.<sup>149</sup> Women's insecure tenure and low levels of education affect their ability to obtain formal credit facilities in comparison to men.<sup>150</sup> As a result of women's insecure tenure, they have difficulty providing collateral with their interest in land for a bank loan.<sup>151</sup> Many women farmers join some form of co-operative in order to secure loans. Kuenyehia reports that women need the consent of their husbands to take loans and that some banks as a lending policy require the women's husbands to formally consent to their wives taking loans.<sup>152</sup> Women may rely on informal sources of credit which include their husbands and family relations, through susu schemes, credit advancement by traders to serve as a lien over goods or produce

---

<sup>143</sup> *Ibid.*

<sup>144</sup> *Ibid.*

<sup>145</sup> Duncan, p. 36.

<sup>146</sup> Awumbila, M. and Tsikata, D. (2005), "Gender, Rural Livelihoods and Health in Ghana: A study of Mangrove Exploitation in the Lower Volta", paper presented at the 48th African Studies Association Annual Meeting, Washington DC, 17-20 November, 2005.

<sup>147</sup> Duncan, p.33.

<sup>148</sup> *Ibid.*

<sup>149</sup> Duncan, p.47.

<sup>150</sup> Duncan, p. 51.

<sup>151</sup> Duncan, p. 68.

<sup>152</sup> *Ibid.*

harvested giving the traders a first priority to buy the goods and local money lenders who usually charge exorbitant interest rates.<sup>153</sup>

The low level of education among farmers, particularly women and the cumbersome procedures to be followed are setbacks to women.<sup>154</sup>

### 2.1.7 *Smallholders and Land Sustainability*

Smallholders consist of farmers who farm on small portions of land at a time. It is difficult to define exactly what would constitute a small farm. Most agriculture, particularly for food crops in Ghana takes place in smallholder systems.<sup>155</sup>

Smallholders usually have limited rights and/or access to farmlands. Smallholders typically enter into a customary licence or a share cropping arrangement (tenancy) with the owner of the land ("Landlord") for the use of the Landlord's land for farming.<sup>156</sup>

Many smallholders in Ghana are women and migrant farmers.<sup>157</sup> There may also be native people who like the women may have no or limited rights or access to farmland. The main problem facing smallholders and which in turn reinforces their smallholder status is the lack of capital for outright lease of lands from Landlords. As such, customary licence and tenancy arrangement work best for them.

However, small holders are often cheated by the Landlords who do not adhere to the original sharecropping or licence agreements. Landlords tend to evict smallholders in total disregard of their agreement, particularly where the land is being sold to a party with a stronger economic power. Usually, there are no written agreements to cover agricultural tenancy and licence agreements which make women more vulnerable.<sup>158</sup>

As such the relationship between smallholders and Landlords has been on a take-it- or-leave-it basis with the smallholders at the losing side. The problems faced by smallholders make their tenure insecure. Smallholders also consider factors such as the refusal of Landlords to renew their rental or sharecropping arrangements, the insecurity on whether their children can inherit their rights under the arrangements and the threat of multiple claims to the land.<sup>159</sup>

As a result of insecurity in tenure, sustainable soil management is declining<sup>160</sup> Smallholders avoid investing in sustainable land practices

---

<sup>153</sup> Kuenyehia, A. (1192) Legal Aid and Services to Women in Ghana.

<sup>154</sup> Duncan, p.70.

<sup>155</sup> Ardayio-Schandorf, chapt. V.

<sup>156</sup> Gollin D., *Smallholder Agriculture in Africa: An overview and implication for policy.*(2014). International Institute for Environment and Development, p. 6.

<sup>157</sup> E.D. Kuusaana, J.A. Eledi., *Land Use Policy* 48 (2015) 454-466.

<sup>158</sup> Gollin p. 5. Kuusaana and Bukari. p.56.

<sup>159</sup> Duncan, p. 66.

<sup>160</sup> Gollin. p. 12.

because of the insecurity of tenure. The smallholder's focus tends to be the maximizing of use of the land before any event of eviction or other unfavourable act on the part of the Landlord.<sup>161</sup>

Fallow periods are shortened to maximize use of the land and also out of fear that the Landlord may consider the land unused and idle.<sup>162</sup> There may also be an attempt to increase the cultivated area thereby removing the vegetation cover on the land.

Of concern to the small scale farmers is the insecurity of tenure mainly caused by the commoditization of land and investment in agriculture.<sup>163</sup> Land owners are increasingly leasing lands to persons or companies for large scale commercial agricultural or other purposes. For example, large tracts of farmlands have been lost to the small scale mining industry.<sup>164</sup>

Even though the smallholder farmer is a big contributor to agriculture in Ghana, she has little protection and cannot be assured of security of tenure under the customary laws of Ghana.

#### 2.1.8 *Implications of Issues of Customary Land Tenure for Land Tenure Reforms*

Ghana adopted a Land Policy in 1999 (the "Policy"). The policy aims among others to increase security of tenure through the registration of land. The Policy feeds into the Land Administration Project (LAP) sponsored by the World Bank. The LAP seeks to strengthen, streamline and decentralize land administration. However, concerns have been raised that as designed, the reforms are certain to lead to the weakening of the claims of the poor and more vulnerable groups such as women whose interest in land have already been curtailed by some of the customary practices mentioned above and that registration projects might in practice serve to re-distribute assets towards the wealthier and better-informed, majority of who in fact are men.

The Policy and LAP have been criticized for lacking any gender dimension and its limited attention to agriculture.<sup>165</sup>

#### 2.1.9 *Conclusion*

Customary laws and practices in Ghana tend to discriminate against women.<sup>166</sup> These discriminative customary laws which control the right and access to lands have the combined effect of making women socially and economically subordinate to their male counterparts. The laws have also entrenched the insecurity of tenure among non-land holding persons who rely on others holding the lands for parcels for farming activities. Although laws such as the Constitution, 1992; the Intestate Succession Act, 1985 (PNDCL 111) and case law make provisions for ameliorating the harsh effects of customary laws on women and other identifiable groups, these laws

---

<sup>161</sup> Kuusaana and Bukari, p.52.

<sup>162</sup> Abimah, pp. 5, 6.

<sup>163</sup> *Ibid.*

<sup>164</sup> *Ibid.* Campion B.B., Acheampong E., (2014). The Chieftaincy institution in Ghana. Caser and arbitrators of conflicts in industrial Jatropa investments. Sustainability 6 (9), 6332-6350.

<sup>165</sup> *Farmlands under Siege*. Reporting Oil and Gas. October 10, 2013. <http://www.reportingoilandgas.org/farmlands-under-siege-by-small-scale-miners/>.

have not fully achieved their purposes because of the observance of deep rooted traditions, illiteracy, limited knowledge of the laws in the first place as well as lax enforcement measures.

---

<sup>166</sup> Duncan, p.45.

## CHAPTER THREE

### 3. FINDINGS FROM THE FIELD RESEARCH AND COMPARITE ANALYSIS WITH THE DESKTOP REVIEW

#### 3.1 AKYEMANSA DISTRICT

The Akyemansa District has about 69.5 per cent of its employed population engaged as skilled agricultural, forestry and fishery workers. The District also has about 87.2 per cent of its households in agriculture cultivating oil palm, cocoa, maize and other food crops. The occupation of the people in the district can be directly linked to the climate and vegetation of the district. The Akyemansa District lies within the wet semi-equatorial climatic zone that experiences substantial amounts of rain twice in a year. This climatic condition supports the cultivation of food crops and tree crops such as oil palm and cocoa. The geographical location of Akyemansa supports the assertion in the Desktop review that oil palm and timber are mainly grown in the transitional and forest areas of Ghana.

It was observed from the primary research that farm sizes for oil palm and cocoa typically ranges from between 1 to 5 acres, thereby making most farmers small scale farmers.

It was also observed that there are more women farmers than men in the Akyemansa District although the women farmers tend to help their husbands on their farms. This observation is comparative to the conclusions made under the Desktop review that women constituted the majority of the agricultural labour force and also supplied the majority of labour.

We observed from our study that even though the Akyemansa district was predominantly a matrilineal society, migrant and settlor farmers who settled in the Akyemansa communities still practice the patrilineal inheritance system that the settlor or migrant's native communities practice.

##### 3.1.1 *Timber Industry*

The district is also home to four (4) forest reserves with a large variety of economic tree species and undergrowth. The forest trees provide resources for the timber industry as there are few private timber plantations in the district.

Forest reserves in Ghana have been grouped into forest districts which do not necessarily correspond to the administrative districts within the country. For example, the Oda District has forest reserves some of which fall within the Akyemansa District. The study confirmed the assertion in the Desktop review that the production of timber in the Akyemansa District is mainly a male dominated activity which is mainly attributed to the processes involved in obtaining a Timber Utilization Contract (TUC). This confirms findings from the desktop research that the process for acquiring a TUC is long and laborious and which partly accounts for men dominating the timber production business. The field research showed that the TUC is processed in Accra and one has to travel in and out of Accra to chase the processing of the TUC. Also, acquiring and maintaining a TUC can be capital intensive and few women are able to raise the necessary capital. Apart from providing evidence of the existence of a Ghanaian incorporated company, an applicant also has

to show the equipment he or she has available for the work. Further, a successful individual must provide evidence of hiring private security to protect the concession he or she is granted. The field research elaborated on the assertion made in the Desktop review of how the TUC acquisition process deterred women from engaging in the timber business as contractors or concessionaires.

It was also observed from the study and also supports the conclusions in the Desktop review that there is a general perception that women show disinterest in the timber business because it is seen as strenuous. For example, a forest ranger interviewed during the study noted that in his view, although money was a contributing factor, he saw the hard tedious work involved in the timber work itself as the deterring factor for women. As such, women tend to be involved in the administration and management aspects of the business. This perception is so deeply rooted that even in the training of forest rangers, men and women are made to specialize on different tasks with the women undertaking the less intensive and physically demanding tasks. This shows that not only do people in the study area perceive the timber business as a man's job but the perception has been incorporated and accepted into our educational system, work and lifestyle as the norm.

In the Oda (forest) district which includes the Akyemansa district, it was reported that only two (2) out of the ten (10) timber contractors were female. There was no female timber contractor in the Akyemansa district itself.

### 3.1.2 *Headship in families*

It was noted that the head of the matrilineal family in the Akyemansa district remains a male even though under certain circumstances, a woman could be appointed as the head of family. The family head's duties and responsibilities include the control, use and sale of family lands. The observation that a woman can be appointed as the head of family where there is no available or qualified male is in contrast to the assertion in the Desktop review that only males are appointed as heads of families in the matrilineal system. It is however noteworthy that even in Akyemansa where it is possible for a woman to be the head of a family, that occurrence is rare.

The study revealed that among the members of the Akyemansa community who practice the patrilineal system, mostly migrant and settlor farmers, women are not allowed to be heads of families in the patrilineal system. This also confirms the appointment of only males as heads of family in the patrilineal society as observed in the Desktop review.

### 3.1.3 *Inheritance*

It was again observed that in a matrilineal society such as Akyemansa, property is devolved through the female line and so a man's property does not pass on to his children but to his sister's children. This principle is applied in selecting heads of communities and families. A man's wife and children cannot inherit any portion of family land that the man cultivated with the wife and children while he was alive. However, family members may allow a widow to farm a portion of land which was cultivated by the widow's deceased husband at the discretion of the man's wider family, subject to the widow's

“good behavior”. Where a deceased man cultivated cash crops like cocoa, the family may allow the deceased’s children to harvest the crops until the trees die. The matrilineal inheritance system observed in Akyemansa supports the conclusions made in the Desktop review that property devolves along the matrilineal line in a matrilineal society.

#### 3.1.4 *Access to Land*

It was observed that most people, mainly men, in matrilineal societies are now acquiring their own private properties and farms to better secure the welfare of their wives and children should they pass on instead of contributing to the development of a family owned property. This current trend may be attributable to the awareness of PNDC Law 111 which outlines a method of devolution of a person’s property mainly in favour of his or her surviving spouse and children.

The study, however, confirmed that women in matrilineal families are not significantly discriminated against as compared to women in patrilineal families in terms of access to farmlands. This is because a woman herself or her children inherit the land which she may farm if the children are young. Also most adult sons and daughters will not completely dispossess their mothers of their land. The study also revealed that even though women in matrilineal families have greater access to farm lands, the lands eventually end up in the control of their male brothers, sons or other relations because of the domestic responsibilities of women and because of the belief that women do not have the physical strength and money to farm cash crops. This confirms the assertion in the Desktop review that most of the lands eventually end up in the control of a woman’s male siblings and other male relations. It is also assumed that women do not have the physical strength to clear virgin lands for farming. Women in predominantly matrilineal societies such as Akyemansa because of these social and cultural constructs tend to give away all or some parts of their portions of land to their sons or other male relations to farm on, without relinquishing their rights in those lands. As a result, women’s participation in tree crop or cash crop farming is limited.

#### 3.1.5 *Division of Labour*

It was again confirmed that there is division of labour along gender lines for farming in the Akyemansa district. In addition to the division of labour on the domestic front as shown in the Desktop review, there is also division on the farms. Men are generally responsible for weeding, clearing virgin forest into farmland and harvesting oil palm. On the other hand, women carry the harvested fresh palm fruit bunch and collect and pick the harvested loose oil palm fruits that have fallen off from the bunches. Women are also generally responsible for planting on the farms and for cooking to feed labourers on the farm during farming activities. Additionally, women are responsible for the production and sale of food crops such as okro, maize and plantain.

Women and men are paid the same amounts for same work done. For example, it was observed that a man who carries fresh palm fruits bunch is paid the same amount paid to a woman who undertakes the same task.



### 3.1.6 *Tenancies*

The study indicated that migrant and settlor farmers and some few women typically enter into an Abunu or Abusa or seasonal tenancy arrangement to obtain lands which they farm on. As explained, the landlords are reluctant to enter into tenancy arrangements with women because of the perception that women do not have the physical capacity to farm the land to its optimum thereby increasing the share of returns for the landlord.

Under the Abunu system as practiced in the Akyemansa district, it was confirmed that it is usually the proceeds or harvest from the farm that is divided into two and shared between the tenant farmer and the landlord and not the farmland. It was noted that in the case of cocoa or oil palm, the tenant farmer's interest passes on to his children in case of his death until the cocoa or oil palm trees ceases to fruit or die.

It was observed that the Abunu system is mainly used in cases where the land is to be cultivated or there is a substantial amount of work to be done whereas the Abusa system is used for already established farms. The tenant farmer carries out mainly maintenance works and gets a third of the harvest or proceeds for it. The Abusa system is mainly used for oil palm cultivation in the Akyemansa district.

It was also observed that the migrant or settlor farmers and women farmers are usually smallholders as they mainly acquire access to land through some form of tenancy. The study revealed that the various tenancy agreements do not provide security of tenure. For example, one of the persons interviewed during the study noted that the issues of mistrust between the landlord and tenant typically lead to the landlords not renewing tenancies after their expiry. The lack of security of tenures was observed in the Desktop review as one of the issues confronting the smallholder farmer.

### 3.1.7 *Decision-making*

While it was observed that women participate in decision making, it was the men who made major decisions concerning the family and agricultural production. The men reportedly take charge of proceeds from the sale of major cash crops such as cocoa and oil palm and give a portion to the women (their wives) for the upkeep of the house and children.

It was observed that although there was no express bar against women's participation in farmer groups meetings, women tend not to participate because of domestic responsibilities.

## 3.2 **KPANDO MUNICIPALITY**

The Kpando Municipality is a predominantly patrilineal society. Of the 94.1 per cent of the economically active population of the Kpando Municipality, about 32 per cent are engaged in skilled agricultural, forestry and fishery work. Similar to that of the Akyemansa District, the climatic conditions favourably supports farming. Again, farming in the Kpando Municipal tends to be on a small scale basis because of small farm land holdings in this area.

### 3.2.1 *Family headship and decision-making*

Interviews conducted during our study indicate that women cannot be head of families. Of note, one person interviewed was emphatic that there was no way a woman can be made head of a family. He even went on to explain that where the only available male was a toddler, that toddler would be made the head of family. This is in line with the conclusions in the Desktop review that in a patrilineal society, the head of family must always be a male.

It was observed that although women played key roles in management and financial responsibilities in the home, women virtually have no voice in the extended family system. The study also revealed that women's participation in decision making is improving as a result of awareness created by civil society groups on human rights and gender which have been engaging the communities in the municipality.

### 3.2.2 *Inheritance and Access to land*

It was revealed during the study that by custom in the Kpando Municipality, a married woman is considered as part of her husband's family by her own family. Since access to land is restricted to members of the family, a married woman does not get a share in or access to her family's land. An unmarried woman has better access to and use of family land than a married woman. A married woman requires permission before she can get access to her own family land. Meanwhile, a married woman is again not considered as part of the husband's family by the family of the husband and so whatever rights or access to land she may have will be dependent on and through her husband. A married woman can only farm on her husband's land and she loses this right on the death of her husband unless she has children whom the land passes on to. This position confirms the observation made in the Desktop research that women in patrilineal societies have significant impediments against their access to lands.

It was further observed that even though family property including land may devolve unto a deceased's children, the male children exercises control over the property and female siblings seek permission from their brothers before using such properties.

Lands in the Kpando Municipal are mainly family lands. The passing down and division of lands among siblings have led to a high fragmentation of land in the Municipality and this has contributed to the scarcity of acquiring a large tract of land for cash crop farming. As a result, it was reported that land owners prefer leasing out available lands to men and not women because it is assumed that the men can work harder than the women to be able to pay the yearly lease rent or even supply their landlords with foodstuffs when the need arises. Another reason why landlords prefer to hire out land to men is because men are regarded as the decision makers in their family whereas a woman will need permission from her husband, if married to enter into such a lease agreement. Women are therefore not active in mainstream farming work but mainly engage in the marketing and sale of agricultural produce.

One system which grants women access to land (but which is gradually fading away) is the *Tuangya* system. The *Tuangya* system allowed women to cultivate food crops on the landlord's land while maintaining the tree crops

planted by the landlord until the canopy of the tree crops close. The system is reportedly fading out because of distrust of the women farmers by the landlord who think the women may intentionally engage in practices that prevent the tree crop canopy from closing when due.

### 3.2.3 *Tenancy Arrangements*

It was observed that the Abusa system is not widely practiced in the Municipality and the Abunu system is not practiced at all.

The hiring out of land is practiced but mainly for annual food crops production. The typical hiring period for land is one year. Lands are usually hired out to only relatives to engage in cash crop farming as such farming usually spans a period of more than a one year.

It was observed that the “full” gratuitous method of acquisition of land is not practiced in the study area because land in the first place is scarce. However, it was observed that there are instances where land was given out without the payment of fees or rent for a fixed period where the landlord has no use for the land and requires the tenant’s presence on the land to ward off encroachers.

### 3.2.4 *Gender Division and farm labour*

The division of labour in the matrilineal community under our study is similar to that in the patrilineal communities.

## 3.3 **THE INTERSTATE SUCCESSION ACT AND A SHIFT TOWARDS THE ACQUISITION OF PRIVATE LANDS**

Many of the persons interviewed in the Akyemansa District referenced the customary means for distributing the properties of a deceased among his family. This is despite the fact that the Intestate Succession Act, 1981 (PNDCL 111) has been in existence for over a thirty (30) years. This shows that the people in Akyemansa still use and submit themselves to the customary processes for the distribution of a person’s estate. As already noted, the customary estate distribution system is discriminatory against women, especially regarding women’s right and access to land.

In the Kpando Municipal, the research revealed that members of the community were aware of the existence of the Intestate Succession Act and this is largely attributed to the fact that the former president of Ghana, Jerry John Rawlings, who championed the passing of that law hails from the region. Some respondents indicated that the law had contributed to a certain level of awareness that discrimination against women and children is not permitted in terms of inheritance. It was indicated that some few women had used their knowledge of the law to fight for their rights. Some women interviewed also mentioned that the law had had a positive impact on their ability to gain access to land and inherit land.

However, a majority of the female respondents had no knowledge of the law. Others only knew of the existence of the law but had no knowledge of the provisions of the law or how they could use the law to end discriminative inheritance practices against women. A large majority of the women were not aware of the law being applied in the case of someone they knew. This confirms the desktop research that even though people may be aware of the existence of the Intestate Succession Law, they are

unable to ensure its application when required. Therefore, discrimination against women in terms of inheritance continues to be perpetuated.

In both the communities visited for our study, however, individuals are acquiring their own properties independent of their extended families. There is the growing awareness that one needs to make provision for a spouse and children in case of death. As such, it was observed that people are now acquiring their own private individual properties which in some cases, they may make a will for and include in their estate. Despite a shift towards the acquisition of private properties, some extended family members still try to apply the customary method of distribution of assets on the death of a deceased.

### **3.4 SUMMARY OF FINDINGS AND CONCLUSIONS**

Customary laws and practices tend to discriminate against women and this is evident in inheritance, family headship, access to land and capital and in the division of labour. However, women in matrilineal societies have better access to land than their counterparts in the patrilineal societies. Again, women in matrilineal families have a chance even if rare at being appointed as heads of their wider families while it is 'impossible' for a woman in a patrilineal society to be a head of family.

Communal perceptions also fuel these discriminatory customs against women. The beliefs that women are physically weaker than men; that women are responsible for domestic activities; that women are to be taken care of by men are so deeply ingrained that even the tasks assigned to males and females in educational centers, schools and training facilities reflect this perception. Therefore, in the communities, especially the matrilineal communities where women gain access to land or acquire lands the women tend to assign the lands to their male relations to farm on them.

These discriminatory practices and customs affect women's equal participation in tree crop and cash crop production.

In the societies where women and other defined groups such as settlor or migrant farmers have greater difficulty accessing land, they enter into tenancy arrangements with landlords with the resulting effect that the women and settlor or migrant farmers cannot be assured of security of tenure.

Although laws like the Intestate Succession Act if applied can ameliorate the harsh effects of customs on women, it became evident during the study that people either have no will power or detailed knowledge of the law to get the law to be applied to their case. Persons like some of the people interviewed in the Akyemansa District who have little to no knowledge of the Intestate Succession Act are likely to put up little opposition to the application to them of the customary distribution method.

Consistent public education and community engagement is required to eradicate the customary practices and laws that discriminate against women in their right to and access to land and property to engender more women participation in mainstream farming.

## CHAPTER FOUR

### 4. INSTITUTIONAL MAPPING REPORT

#### 4.1 BACKGROUND

Proforest is engaged in a programme dubbed the Africa Responsible Production and Sourcing Programme. The programme is aimed at promoting responsible commodity supply chains and sustainable management of resources. A part of the programme is concentrated on how to ensure responsible and sustainable supply chain through legal compliance. The programme assumes that compliance with the law is very beneficial to businesses largely because it helps them to comply with good practices set by sustainability standards and other national and international regimes.

Another key aspect of the programme is to promote smallholder and gender inclusion. Consequently, the programme will carry out a full review of Ghanaian law and identify the relevant ones that are related to the agricultural and timber sectors. Bentsi-Enchill, Letsa and Ankomah has been contracted to particularly focus on the review of customary law in Ghana. Proforest will, against this background, develop a guide which will help the industry to produce and trade responsibly.

In addition, the programme will also consider institutions whose mandates extend to natural resources and gender.

#### 4.2 INTRODUCTION

This institutional mapping is aimed at identifying all the relevant and key institutions, governmental or otherwise, that are engaged in the field of gender and natural resource management.

The choice of Ministries, governmental and non-governmental agencies, and international bodies for this mapping was mainly based on the mission or mandate of those organisations as well as their public visibility in fulfilling their mandates. The agricultural companies were chosen based on the size of their plantations and the market share they are perceived to hold.

This institutional mapping will define the roles, relationships and importance of the key institutions selected.

The institutions will be grouped under the following:

- a. Ministries;
- b. Government bodies or agencies;
- c. International bodies or agencies;
- d. Local Non-Governmental Organizations and civil society organizations; and
- e. Agricultural companies.

## Ministries<sup>167</sup>

GENDER	NATURAL RESOURCES
<ul style="list-style-type: none"> <li>• Gender, Children and Social Protection</li> <li>• Employment and Labour Relations</li> <li>• Attorney-General and Justice</li> <li>• Education</li> </ul>	<ul style="list-style-type: none"> <li>• Environment, Science, Technology and Innovation</li> <li>• Lands and Natural Resources</li> <li>• Food and Agriculture</li> <li>• Attorney-General and Justice</li> </ul>

## Governmental Bodies/Agencies

GENDER	NATURAL RESOURCES
<ul style="list-style-type: none"> <li>• The Judiciary</li> <li>• Commission on Human Rights and Administrative Justice (CHRAJ)</li> <li>• Local Governments or Assembly</li> <li>• The House of Chiefs</li> <li>• The Domestic Violence and Victim Support Unit (DOVVSU) of the Ghana Police Service</li> <li>• Women in Agricultural Development (WIAD)</li> </ul>	<ul style="list-style-type: none"> <li>• Forestry Commission</li> <li>• Lands Commission</li> <li>• Minerals Commission</li> <li>• Environmental Protection Agency</li> <li>• Water Resources Commission</li> </ul>

---

<sup>167</sup> It must be noted that the names and mandate of the Ministries keep on changing as a result of changes in government in Ghana.

### **International Bodies/Agencies**

<b>GENDER</b>	<b>NATURAL RESOURCES</b>
<ul style="list-style-type: none"><li>• FAO Ghana</li><li>• Oxfam Ghana</li><li>• UNFPA</li><li>• Care International Ghana</li><li>• Tropenbos International Ghana</li></ul>	<ul style="list-style-type: none"><li>• FAO Ghana</li><li>• UNEP</li><li>• USAID</li></ul>

### **NGOs**

<b>GENDER</b>	<b>NATURAL RESOURCES</b>
<ul style="list-style-type: none"><li>• FIDA Ghana</li><li>• Women in Law and Development in Africa (WILDAF)</li><li>• Alliance for African Women Initiative</li><li>• The Ark Foundation</li></ul>	<ul style="list-style-type: none"><li>• Green Earth Ghana</li><li>• Friends of the Earth</li><li>• Friends for Rivers and Water Bodies</li></ul>

### **Farming Companies**

Twifo Oil Palm Plantation (TOPP) Benso Oil Palm Plantation (BOPP) Ghana Oil Palm Development Corporation (GOPDC) Norpalm Ghana Limited Volta Red Limited
--

## 4.3 MINISTRIES<sup>168</sup>

### 4.3.1 Gender, Children and Social Protection<sup>169</sup>

The Ministry of Gender, Children and Social Protection is responsible for policy formulation, coordination, and monitoring and evaluation of gender, children and social protection issues within the framework of the National Development Agenda.<sup>170</sup> The mandate of the Ministry is to ensure gender equality and equity, promote the survival, social protection and development of children, the vulnerable and excluded and persons with disability and integrate fulfillment of their rights, empowerment and full participation into national development.

The Ministry is divided into three departments:

- a. Department of Gender
- b. Department of Children
- c. Department of Social Development

The Department of Gender exists to implement programmes and projects in relation to women's rights and empowerment through advocacy, research and education, by networking and collaborating with partners and stakeholders in order to fulfill its vision of "*Empowered Women in a Developed Ghana*".

The Department has the following among its core functions:

- a. implementing policies, programmes, projects and plans of the sector Ministry;
- b. collaborating and networking with local government authorities and private organisations to improve and enhance the socio-economic status and circumstances of women;
- c. undertaking research towards improving the well-being of women;
- d. providing referral and on the spot counseling services;
- e. complying with Ghana's international obligations and ensuring their integration into the development process; and
- f. collecting and compiling documentation that contributes to the body of knowledge on gender and development.

Ghana's goal towards achieving gender equality is guided by the Constitution 1992 and its commitments to various international frameworks and instruments on human rights, social protection, good governance and accountability for development with specific emphasis on the rights of women,

---

<sup>168</sup> The use of "Ministry" in this report refers to the relevant ministry under discussion.

<sup>169</sup> The information on the Ministry for Gender, Children and Social Protection was obtained from the Ministry's website; <http://www.mogcsp.gov.gh/>.

<sup>170</sup> The National Development Agenda refers to the national development plan outlined by the National Development Planning Commission.



men and children. Equality of all persons before the law is guaranteed under article 17(1) and (2) of the Constitution, 1992 of Ghana. This provision offers protection from discrimination on the basis of social or economic status among others. This Ministry's role is vital considering that there are clear inequalities against women in customary law and practices across Ghana, particularly in the rural areas.

#### 4.3.2 *Employment and Labour Relations*<sup>171</sup>

This Ministry oversees and harmonizes employment opportunities and labour-related interventions in all sectors which make it responsible for the formulation and implementation of policies targeted at creating decent jobs.

The Ministry's core functions include the following:

- a. initiate, formulate and coordinate sector policies and programmes, as well as schemes to ensure sustainable accelerated employment generation and human capital development;
- b. advance strategies and mechanisms to ensure and promote industrial peace and harmony;
- c. develop and periodically review all legal and policy instruments for the sector;
- d. coordinate all national employment initiatives with the collaboration of relevant stakeholders of the economy;
- e. ensure the monitoring and evaluation of sector policies, programmes and projects in relation to gainful employment-generation and the promotion of industrial harmony;
- f. promote best modern management practices, systems and procedures in all sectors of the economy to enhance labour productivity;
- g. ensure fair and equitable wages and salaries for employees in all sectors of the economy;
- h. ensure the provision of employable skills and apprenticeship particularly to the youth through vocational and technical training at all levels, to promote decent and sustainable jobs;
- i. ensure occupational safety and health for all workers in both the formal and informal sectors;
- j. Ensure all work places conform to labour laws through labour inspection; and

---

<sup>171</sup>The information on the Ministry for Employment and Labour Relations was obtained from the Ministry's website; <http://www.melr.gov.gh/about>.

- k. Facilitate the development of vibrant co-operatives, medium and small-scale enterprises for employment generation and poverty reduction.

The Ministry executes its responsibilities through internationally acceptable practices of multilateral consultations with the sector's partners. This Ministry takes on the role of encouraging women participation in labour as well as collaborating with other institutions or organizations to create equal employment opportunities.

#### 4.3.3 *Trade and Industry*<sup>172</sup>

The Ministry of Trade and Industry is the government's policy advisor on trade, industrial and private sector development. It is responsible for the formulation and implementation of policies for the promotion, growth and development of domestic and international trade and industry.

The Ministry's vision is to establish Ghana as a major manufacturing, value-added, financial and commercial hub in West Africa. This it will achieve, by developing a vibrant, technology-driven, liberalised and competitive trade and industrial sector that significantly contributes to economic growth and employment creation, particularly involving mass mobilisation of rural communities and other vulnerable groups including women.

The Ministry has implemented a number of programmes and policies to help realise its vision. The Rural Enterprises Programme ("REP") is a programme spearheaded by this Ministry to reduce poverty and improve living conditions in the rural areas. The Ministry has overall responsibility for the implementation of the REP. The programme focuses its attention particularly on vulnerable groups including rural women and the youth. This is done through the implementation of operational measures to promote active participation of women in programme activities. REP is targeting at least 600,000 direct clients of which at least fifty percent (50%) will be women. As a result, the programme will provide employable skills to beneficiaries through community-based skills training and technical skills training; training in marketing, literacy and numeracy, business management, occupational safety, health and environmental management, quality assurance and control; and business counselling, among other business support services.

#### 4.3.4 *Environment, Science, Technology and Innovation*<sup>173</sup>

The Ministry of Environment, Science, Technology and Innovation ("MESTI") has the objective of ensuring accelerated socio-economic growth and development of the country through the formulation of formidable policies and a regulatory framework to promote the use of appropriate environmentally friendly scientific and technological practices and techniques.

MESTI also undertakes certain projects in furtherance of its objective of protecting the environment. The projects include a special program for

---

<sup>172</sup>The information on the Ministry of Trade and Industry was obtained from the Ministry's website; <http://moti.gov.gh/>

<sup>173</sup>The information on the Ministry of Environment, Science, Technology and Innovation was obtained from [http://www.ghana.gov.gh/images/documents/mesti\\_meet\\_the\\_press.pdf](http://www.ghana.gov.gh/images/documents/mesti_meet_the_press.pdf).

recycling dubbed “Resource Recovery-Made in NRW” (“RRMN”) which is funded by the State Chancery of North Rhine-Westphalia (“NRW”). The RRMN is a technical program which is aimed at waste management and the encouragement of the establishment of recycling collaborations between Ghana, Kenya and NRW.

Another project by MESTI concerning the environment and natural resources is the “Climate and Resource Protection for Sustainable Economic Development in Ghana”. In the long-run, the project seeks to make Kwame Nkrumah University of Science and Technology (“KNUST”) a centre of excellence for renewable energy, energy efficiency, waste management and resource protection. The ultimate aim of the project is to promote sustainable development as a whole and specifically the introduction of environmentally friendly technologies in the energy and waste sectors in Ghana.

#### 4.3.5 *Lands and Natural Resources*<sup>174</sup>

The Ministry of Lands and Natural Resources has the mandate to ensure sustainable management and utilization of the country’s lands, forests and wildlife resources as well as the efficient management of mineral resources for socio-economic growth and development.

The Ministry also undertakes projects which includes the Forest Investment Programme (FIP), National Forest Plantation Development Programme, Natural Resources and Environmental Governance Programme (NREG), Promotion of Eco-tourism (Achimota Eco-park and Shai-hills), REDD+ Project, Forest Law Enforcement Governance and Trade (FLEGT), Bamboo and Rattan Development Project (BARADEP), Protection of Atewa Range Forest Reserve, Greening Ghana Project and the Achimota Forest into an Eco-Park.

Agencies under the ministry include the:

- i. Forestry Commission established under the Forestry Commission Act, 1999 (Act 571);
- ii. Lands Commission established under the Lands Commission Act, 2008 (Act 767);
- iii. Minerals Commission established under the Minerals Commission Act, 1993 (Act 450); and
- iv. Office of the Administrator of Stool Lands also established under the Office of the Administrator of Stool Lands Act, 1994 (Act 481).

#### **A. Forestry Commission established under the Forestry Commission Act, 1999 (Act 571)**

---

<sup>174</sup>The information on the Ministry of Lands and Natural Resources was obtained from the Ministry’s website; <http://mlnr.gov.gh/>.

The Forestry Commission was established in order to bring under the Commission the main public bodies and agencies implementing the functions of protection, development, management and regulation of forests and wildlife resources and to provide for related matters. The vision of the commission is to be the corporate body of excellence in the sustainable development and management of Ghana's forest and wildlife resources. The commission is also involved in the active promotion of stakeholder involvement in the sustainable management and development of national forest and wildlife resources.

**B. Lands Commission established under the Lands Commission Act, 2008 (Act 767) and the Constitution, 1992**

The Lands Commission was established by articles 258–265 of the Constitution, 1992 and was given further legal grounding by the Lands Commission Act, 2008 (Act 767) which provides the legal basis for four land sector agencies to merge as Divisions. They include the Land Valuation Division, Land Registration Division, Survey and Mapping Division and the Public and Vested Land Management Division. The mission of the commission is to provide high quality, reliable and efficient services in geographic information, guaranteed tenure, property valuation, surveying and mapping through teamwork and modern technology. The Lands Commission together with the Office of the Administrator of Stool Lands manage aspects of lands in Ghana including stool lands and family lands.

**C. Office of the Administrator of Stool Lands (OASL) established under the Office of the Administrator of Stool Lands Act, 1994 (Act 481) and the Constitution, 1992**

The OASL is responsible for the collection and disbursement of stool land revenue as mandated by Article 267 (2, 6-8) of the Constitution, 1992 and Act 48. The OASL reports to Parliament. Apart from administering stool land revenue, the Office consults and co-ordinates with relevant public agencies, stools and traditional authorities on matters relating to the administration and development of stool lands and researches into stool land issues. The activities of the office include mobilization of stool land revenue, education and sensitization on stool lands, monitoring the use of stool land revenue by local government bodies, establishment of customary land secretariats, customary boundary demarcation, rural parcel right demarcation and ascertainment of customary law on land.

**D. Minerals Commission under the Minerals Commission Act, 1993 (Act 450)**

The Minerals Commission is the main promotional and regulatory body for the minerals sector in Ghana. It is responsible for the regulation and management of the utilization of the mineral resources in Ghana and the coordination and implementation of policies relating to mining. It also ensures compliance with Ghana's Mining and Mineral Laws and monitors operations in the sector.

#### 4.3.6 *Food and Agriculture*<sup>175</sup>

Agriculture in Ghana is recognised as the main economy driver with a greater impact on poverty reduction than other sectors. It is also critical for rural development and associated cultural values, social stabilisation, environmental sustainability and buffer during economic shocks.

The Ministry of Food and Agriculture (MoFA) is responsible for the food and agricultural sector, specifically, for developing and executing policies and strategies for the agriculture sector within the context of a coordinated national socio-economic growth and development agenda. The Ministry of Fisheries and Aquaculture which used to be a part of MoFA has been decoupled from MoFA and made a substantive ministry. Together, the Ministry of Fisheries and Aquaculture and the MoFA are charged with managing and improving food security and sustainability in Ghana. MoFA facilitated the preparation of the Food and Agriculture Sector Development Policy (FASDEP II) and the Medium Term Agriculture Sector Investment Plan (METASIP 2010-15). The Ministry's mission is to promote sustainable agriculture and thriving agribusiness through research and technology development, effective extension and other support services to farmers, persons in the fisheries business, processors and traders for improved livelihood.

MoFA undertakes projects to develop the food and agricultural sector which projects include the Afram Plains District Agricultural Development Project, Export Marketing and Quality Awareness, Inland Valley Rice Development Project, Rice Sector Support Project, Nerica Rice Dissemination Project (NDRP), Sustainable Development of Rain-Fed Lowland, Rice Production Project and Ghana Commercial Agriculture Project (GCAP).

The various agencies and departments that work with MoFA include:

- Plant Protection and Regulatory Services
- Animal Production Directorate
- Crop Services Directorate.
- The Ghana Standards Authority (GSA)
- Food and Drugs Authority (FDA)
- Food Research Institute (FRI)
- Plant Protection and Regulatory Services Directorate (PPRSD)
- Quality Control Division (QCD) of the COCOBOD
- Directorate of Veterinary Services (DVS)
- Environmental Protection Agency (EPA),(Chemical Control and Management Division)
- Women in Agricultural Development (WIAD)
- Districts Assemblies

#### 4.3.7 *Ministry of Justice and Attorney-General*<sup>176</sup>

---

<sup>175</sup>The information on the Ministry of Food and Agriculture was obtained from the Ministry's website; <http://mofa.gov.gh/site/>.

<sup>176</sup>The information on the Ministry of Justice and Attorney General was obtained from the Government of Ghana portal; <http://ghana.gov.gh/index.php/blog-categories/blog-donec-eu-ELIT-in-nisi/94-ministries-info/380-ministry-of-justice-attorney-general>.

The Ministry of Justice and Attorney-General (the “A-Gs”) exists to ensure respect for the Rule of Law and constant observance of human rights as well as ensure equality of access to justice and treatment before the law and to promote social justice. The Ministry thus acts as the defender of the constitutional order, the guarantor of the rights and liberties of citizens and the protector of state legal interest, the enforcer of criminal laws including those relating to the natural resources of the state under the various relevant legislations. The Ministry is also a developer of the human resources of the legal sector. The Legal Aid Scheme enacted under the Legal Aid Scheme Act, 1997 (Act 542) is an institution under the A-Gs which provide free legal advice and representation for needy to low-income clients who cannot afford legal assistance.

#### **4.4 OTHER GOVERNMENTAL BODIES AND AGENCIES**

##### *4.4.1 National House of Chiefs*

The National House of Chiefs is established under Article 271 of the Constitution, 1992. All stool lands in Ghana are vested in the appropriate stool on behalf of and in trust for the subjects of the stool in accordance with customary law and usage. There is also established the Office of the Administrator of Stool Lands which is responsible for the management of stool lands.

##### *4.4.2 Commission of Human Rights and Administrative Justice (CHRAJ)<sup>177</sup>*

The Commission of Human Rights and Administrative Justice (CHRAJ) was established in 1993 under the Constitution, 1992 of Ghana by Act 456.

CHRAJ is responsible for the protection and promotion of fundamental rights and freedoms and administrative justice in Ghana. The Commission is mandated to protect universal human rights and freedoms, especially those guaranteed under the Constitution, 1992 including civil, political, economic, social, and cultural rights.

The Commission advances respect for human rights in Ghanaian society through public education and creation of awareness as well as monitoring and conducting research. In carrying out all these activities, the Commission maintains its neutrality, independence and the plurality of its workforce, and collaborates with other state institutions as well as civil society.

##### *4.4.3 Domestic Violence Victim Support Unit (DOVVSU)<sup>178</sup>*

Previously known as the Women and Juvenile Unit (WAJU), the Domestic Violence Victim Support Unit (DOVVSU) is a specialized unit within the Ghana Police Service and was established in 1998 to address the rising number of cases of abuse and violence against women and children as well as to research on the characteristics and trends of crimes perpetrated against women and children. The role of DOVVSU includes:

---

<sup>177</sup> The information on CHRAJ was obtained from CHRAJ's website; <http://www.chrajghana.com/>.

<sup>178</sup> Information on DOVVSU obtained from the Research Directorate, Immigration and Refugee Board of Canada, Ottawa; Ghana: Domestic Violence Victim Support Unit (DOVVISU), formerly the Women and Juvenile Unit (WAJU), established by the Ghanaian police and whether it provides protection to women in Ghana (March 2006);

- protect the rights of women and children against all forms of abuse;
- provide advice on crime prevention to perpetrators and members of the public; and
- arrest and prosecute the perpetrators where necessary

The creation of DOVVSU has brought help and relief to many victims of abuse, especially women and children who may otherwise have continued to endure abuse at the hands of their perpetrators. Services provided by DOVVSU are free and without any charges.

#### 4.4.4 *Women in Agricultural Development*

The Women in Agricultural Development Directorate (WIAD) is one of the seven Technical Directorates of the Ministry of Food and Agriculture with its main focus as promoting the wellbeing of women in the agricultural sector. Its functions include conducting research into challenges affecting women in the agricultural sector; monitoring and evaluating the effectiveness of extension staff in their delivery of programmes and the impact of those programmes on rural and urban dwellers; and developing collaboration with other agencies to develop the appropriate policies and projects that enhance the livelihoods of women farmers and women generally in the agricultural sector.

#### 4.4.5 *Local Government Authorities*

The local government authorities, namely, the metropolitan, municipal and district assemblies were created pursuant to the Local Government Act, 1993 (Act 462). The assemblies represent the highest unit of local government.<sup>179</sup> The metropolitan assemblies cover urban areas with populations over 250,000; municipal assemblies are single-town councils with populations of 95,000 or more and the district assemblies cover a wider geographical area combining rural areas and small towns.<sup>180</sup> The assemblies receive numerous funds from the central government for the development of their localities.<sup>181</sup> The assemblies also generate funds internally. Membership to an assembly may be by election or by the nomination of the President of Ghana (the "President").<sup>182</sup> Seventy percent (70%) are elected and thirty percent (30%) are nominated by the President.<sup>183</sup> Nine percent of assembly seats are reserved for traditional leaders and fifteen percent (15%) reserved for women through presidential appointment.<sup>184</sup> The local assemblies are the direct representatives of government that most people in localities, towns or villages may encounter.

---

<sup>179</sup> Commonwealth Local Government Forum, Country Profile; at [http://www.clgf.org.uk/default/assets/File/Country\\_profiles/Ghana.pdf](http://www.clgf.org.uk/default/assets/File/Country_profiles/Ghana.pdf)

<sup>180</sup> *Ibid.*

<sup>181</sup> *Ibid.*

<sup>182</sup> Local Government Act 1993 (Act 462), section 5.

<sup>183</sup> Local Government Act 1993 (Act 462), section 5(1)(d).

<sup>184</sup> Commonwealth Local Government Forum Country Profile; at [http://www.clgf.org.uk/default/assets/File/Country\\_profiles/Ghana.pdf](http://www.clgf.org.uk/default/assets/File/Country_profiles/Ghana.pdf).

## 4.5 INTERNATIONAL BODIES AND NON-GOVERNMENTAL ORGANISATIONS (“NGOS”)

### 4.5.1 *United Nations Population Fund (UNFPA)*<sup>185</sup>

The United Nations Population Fund (UNFPA), previously known as the *United Nations Fund for Population Activities*, "is the lead UN agency for delivering a world where every pregnancy is wanted, every childbirth is safe and every young person's potential is fulfilled."<sup>186</sup> UNFPA is the world's largest multilateral source of funding for population and reproductive health programs.

The UNFPA supports programmes in over 150 countries including Ghana. The organisation's work includes the improvement of reproductive health; including creation of national strategies and protocols, and providing supplies and services. The organisation works with governments and NGOs in over 150 countries with the support of the international community, supporting programmes that help women, men and young people to do the following:

- voluntarily plan and have the number of children they desire and to avoid unwanted pregnancies
- undergo safe pregnancy and childbirth
- avoid spreading sexually transmitted infections
- decrease violence against women
- increase the equality of women

### 4.5.2 *Food and Agriculture Organisation, Ghana (FAO)*<sup>187</sup>

The FAO is a United Nations agency with a branch in Ghana. The main aims of the FAO are to achieve food security to eradicate hunger and malnutrition; the elimination of poverty; the driving forward of economic and social progress for all; and the sustainable management and utilization of natural resources, including land, water, air, climate and genetic resources for the benefit of present and future generations.

It has cooperated with the government of Ghana, through technical assistance and advice, in implementing programmes and projects in the area of food and agriculture, nutrition and natural resource management. In collaboration with the government of Ghana and other stakeholders, FAO came up with a comprehensive Country and Programming Framework (CPF, 2013-2016).

The three key priority areas of the CPF are Food and Nutrition Security, Environment and Sustainable Natural Resource Management and Rural Development and Resilient Livelihoods. FAO is also a source of knowledge and information, and helps countries modernize and improve agriculture, forestry practices, ensuring good nutrition and food security for all.

---

<sup>185</sup> Information on the UNFPA was obtained from the UNFPA's website; <http://ghana.unfpa.org/>.

<sup>186</sup><http://www.unfpa.org/about-us>.

<sup>187</sup> Information on the FAO was obtained from the FAO's website; <http://www.fao.org/ghana/en/>.



#### 4.5.3 *United States Agency for International Development (USAID)*<sup>188</sup>

The USAID is the United States Government agency which is responsible for administering civilian foreign aid. The main goals of USAID include disaster relief, poverty relief and socio-economic development. In terms of the environment, USAID assists projects that conserve and protect land, water, forest and wildlife. It also assists projects to reduce greenhouse gas emissions and build resilience to the risks associated with global climate change. Some projects assisted by the USAID Environment Offices are projects for tropical forest conservation, protection of indigenous people's lands, regulation of marine fishing industries, pollution control and helping communities adapt to climate change.

A new agro-forestry project in northern Ghana focuses on improving natural resources, including tree-crops that provide income to women and are an important source of food and nutrition to families. The projects' common objectives are to encourage farmers to grow trees using species and techniques that can protect and sustain the productivity of topsoils, increase crop or livestock production, and, in most cases, also provide wood and other products to augment farmers' home consumption and cash income. These activities are aligned with the Government of Ghana's objectives of poverty reduction, food security, sustainable management, and conservation.

#### 4.5.4 *Tropenbos International Ghana ("TBI")*<sup>189</sup>

TBI is an organisation which focuses on forestry issues. It aims at bridging the gap between forest policy, management and science; providing a forum for discussing forest issues; and carrying out relevant research and training. The objective of the programme is that forestry actors in Ghana deploy sound and adequate information for poverty reduction policies that improve forest-dependent livelihoods and increase forest cover and services in rural areas.

The TBI Ghana programme focuses on the broad theme of forest dependent livelihoods in the High Forest Zone of Ghana, with special emphasis on governance for sustainable forest-related livelihoods. TBI Ghana works in partnership with the Ministry of Lands and Natural Resources, the Forestry Commission, the Forestry Research Institute of Ghana and the College of Agriculture and Natural Resources of KNUST. At the international level, the programme's key partners include University of Amsterdam, Wageningen University and Research Centre, University of Freiburg and University of Twente.

#### 4.5.5 *Green Earth Organisation, Ghana (GEO)*<sup>190</sup>

GEO is an NGO which aims at helping to stop environmental degradation while conserving and restoring the environment towards sustainable development. The objectives of the organization are to promote and undertake tree planting, promote and undertake water conservation activities, educate the public to create awareness on the need to protect the environment, promote development that mainstreams environment

---

<sup>188</sup>Information on the USAID was obtained from the USAID's website; <https://www.usaid.gov/ghana>.

<sup>189</sup> Information on TBI Ghana was obtained from TBI's website; [http://www.tropenbos.org/country\\_programmes/ghana/about](http://www.tropenbos.org/country_programmes/ghana/about).

<sup>190</sup>Information on the GEO was obtained from the Commonwealth Forestry Association's website; <http://www.cfa-international.org/NGO%20directory/DFA-423.htm>.

conservation and gender equity, engage in policy analysis, lobby and advocacy towards sustainable use of natural resource, engage in energy conservation activities as well as forest and biodiversity conservation activities.

The GEO has been instrumental in the formation of over 175 Green Earth Clubs in primary secondary and tertiary institutions in Ghana. Students of these schools clubs are brought together and oriented towards environmental conservation, reproductive right and health issues.

The Organization has also facilitated the formation of adult environmental clubs in a number of communities in the country.

#### 4.5.6 *Friends of the Earth, Ghana (FOE)*<sup>191</sup>

FOE is an organization involved in the campaign on environmental and social issues. It challenges the current model of economic and corporate globalization and promotes solutions that will help to create environmentally sustainable and socially just societies. FOE works with local communities and indigenous people to conserve forests and strengthen communities' rights and community management of forests.

#### 4.5.7 *Friends for Rivers and Water Bodies (FRWB)*<sup>192</sup>

FRWB is an environmental an NGO established in 1989 operating in Ghana. The main aim of the organization is to create awareness on the harmful effects of climate change on wetlands, water bodies and forests. It assists in creating awareness in communities on the negative effects of global warming and climate change as well as the measures necessary for avoiding activities that cause damage to the climate. Some of the activities of FRWB in Ghana include mass education on aquatic environmental sanctity, afforestation, establishment of multipurpose green parks as well as the introduction of rain water harvesting.

#### 4.5.8 *OXFAM*<sup>193</sup>

Oxfam is an international confederation of charitable organisations working together with specific focus on the alleviation of global poverty.

The vision of Oxfam is to have a world without poverty, where people are valued and treated equally, enjoy their rights as full citizens, and are given the opportunity to influence decisions affecting their lives. Oxfam works to find practical, innovative ways for people to rescue themselves out of poverty and thrive.

Oxfam works with partner organisations and alongside vulnerable women and men to end the injustices that cause poverty.

---

<sup>191</sup> Information on FOE- Ghana was obtained from FOE-Ghana's website; <https://foe-ghana.org/>.

<sup>192</sup> Information on FRWB was obtained from the FRWB's website; <http://www.waterfriendsgh.org/>.

<sup>193</sup>Information on FRWB was obtained from the FRWB's website; <http://www.waterfriendsgh.org/>.

#### 4.5.9 *International Federation of Women Lawyers (FIDA)*<sup>194</sup>

FIDA is an international NGO whose mission is to promote the welfare of women and children and the principle and aims of the United Nations in their legal and social aspects.

FIDA-Ghana performs the following roles in addition to the legal aid services it provides to women:

- a. Pursues legal literacy programmes aimed at the simplification, interpretation and translation (into local languages) of laws, specifically those that affect women and children;
- b. Runs mobile legal outreach programmes to educate women in remote rural areas on their human rights;
- c. Advocates and lobbies for the amendment and passage of gender sensitive legislation;
- d. Initiates research into socio-legal issues affecting the status of women and children;
- e. Sensitizes Ghanaian society on gender-related issues of global concern and, in particular, highlights and promotes departure from oppressive custom; and
- f. Establishes networks and links with other groups for the advancement of women.

#### 4.5.10 *The Ark Foundation*<sup>195</sup>

The Ark Foundation is a women-centered organization with a focus on human rights and social justice. The foundation recognizes historical discrimination against women and women's generally disadvantaged positions in all spheres of national life in Ghana. It therefore focuses on bringing women's capabilities, perspectives, values and experiences into the necessary spaces to promote gender equality and women's advancement.

#### 4.5.11 *Alliance for African Women Initiative ("AFAWI")*<sup>196</sup>

AFAWI is a grassroots Ghanaian organization which adopts sustainable development methods in its projects to bridge gender gaps, and create opportunities and prosperity for women and children in Ghana. It engages the communities it works in to ensure the projects will bring the most opportunity and success to the community as a whole.

---

<sup>194</sup> Information on FIDA Ghana was obtained from the FIDA website; <http://www.fidafederation.org/> and from [http://womenscount4peace.org/en/Institutions/ghana/fida\\_-\\_ghana/international\\_federation\\_women\\_lawyers](http://womenscount4peace.org/en/Institutions/ghana/fida_-_ghana/international_federation_women_lawyers).

<sup>195</sup> Information on the Ark Foundation was obtained from the Ark Foundation's website; [http://www.arkfoundationghana.com/about\\_us.php](http://www.arkfoundationghana.com/about_us.php).

<sup>196</sup> Information on AFAWI was obtained from the AFAWI's website; <http://afawigh.org/>.

#### 4.5.12 *Women in Law and Development in Africa (WiLDAF)*

WiLDAF is a non-governmental organisation that seeks to promote and reinforce strategies that link law and development in order to increase women's participation and influence at the local, national and international levels.<sup>197</sup> WiLDAF focuses on the main areas of health, governance, access to justice and agriculture to achieve a greater women's participation in national affairs.

## 4.6 FARMING COMPANIES

### 4.6.1 *Ghana Oil Palm Development Corporation ("GOPDC")*<sup>198</sup>

GOPDC is an integrated agro-industrial company which specialises in the cultivation of oil palm, extraction of crude palm oil and palm kernel oil and is a member of the Siat Group of Belgium. GOPDC owns about 21,000 hectares of oil palm plantations at its Kwae and Okumaning estates in the Eastern Region of Ghana, out of which, about 13,000 hectares have been developed for about 6,000 outgrowers.<sup>199</sup>

The company has a total of over 1,860,000 oil palm trees covering a 30 km radius and thus generating a direct or indirect income for over 50,000 people. The company produces over 35,000 tonnes of palm oil and palm kernel oil per annum and has a storage capacity of about 21,000 tonnes both at Kwae and Tema Harbour.

GOPDC provides support for the communities within which it operates by investing in education, health and the environment with the aim of improving the living standards of the people. For example, GOPDC provides credit schemes for qualifying farmers in the Akyemansa District of the Eastern Region where it operates.

Certain parts of the concession given to GOPDC are being conserved. In the Okumaning estate, for instance, about 15% of the total surface area is conserved and upgraded. These conservation sites will serve the purpose of protecting fauna and flora, but they can also protect hill tops and retain soil moisture in the area. In those BDP's, habitat restoration activities, like reforestation with tree species that are of social and economic significance, are on-going.

### 4.6.2 *Twifo Oil Palm Plantation Limited ("TOPP")*<sup>200</sup>

TOPP is an oil palm plantation company at Twifo Ntafrewaso in the Central Region of Ghana. The mission of the company is to produce superior quality oil palm annually at world market rate parity while upholding best safety, health and environmental practices on plantations. The company aims at maintaining a high standard of environmental care to minimize the impact of operations on the environment and the communities by demonstrating compliance to all applicable legislations. TOPP also works with the

---

<sup>197</sup> <http://wildaf-ghana.org/>.

<sup>198</sup> Information on the GOPDC was obtained from the GOPDC's website; <http://www.gopdc-ltd.com/>.

<sup>199</sup> An outgrower is a farmer who cultivates on a piece of land under a contract with the landholder.

<sup>200</sup> Information on TOPP was obtained from TOPP's website; <http://www.topphana.com/>.

Environmental Protection Agency and other stakeholders to promote environmental care. TOPP embarks on outgrower projects for the benefit of small scale oil palm farmers in Ghana. TOPP also has a smallholder project which supports the resettlement of displaced small scale farmers in a bid to reduce poverty in the community it operates.

#### 4.6.3 *Benso Oil Palm Plantation Limited (BOPP)*<sup>201</sup>

BOPP is a public limited liability company involved in grain and oil seed milling and oil palm tree farming and processing. BOPP's vision is to become a world class vegetable oil business by producing and delivering high quality oil and remaining committed to the protection of the environment and sustainable development. The company allows smallholders to use certain portions of its land for oil palm cultivation without the payment of rent.

#### 4.6.4 *Norpalm Ghana Limited (Norpalm)*<sup>202</sup>

Norpalm is a private limited liability oil palm plantation company based in the Ahanta District of the Western Region on Ghana. It is the product of a joint venture between Norpalm AS and PZ Cussons Ghana. Their vision is to reduce dependence on low-quality Dura fruits so that at least 50% of fuel requirements come from high-quality Tenera plants in the future.

The palm oil mill currently produces approximately 13,000 tonnes of high quality palm oil and 1750 tonnes of palm kernel oil from 80,000 tonnes of Fresh Fruit Bunches (FFB) per year. 65% of their FFB are bought from over 1000 private outgrowers across the Central and Western Regions.

Norpalm have been working with the Roundtable on Sustainable Palm Oil (RSPO) since its inception. RSPO addresses and works to prevent bad practice in oil palm cultivation.

#### 4.6.5 *Volta Red*<sup>203</sup>

Volta Red was established in 2012 with a view to building a business that will serve to increase economic development. It is based in the Volta UK. The company is owned by two UK-based entrepreneurs; however the day-to-day running of the business is conducted by a management team in Ghana.

Volta Red's vision is to build an integrated and sustainable oil palm industry in the Volta Region. They also aim to create a successful outgrower programme, bringing major economic and social benefits to local communities and to contribute to the Volta Region becoming self-sufficient in producing oil palm.

The company owns 3 plantations, totaling 4,362 hectares. The mill processed 2 tonnes of FFB per hour, amounting to 1800 tonnes of crude palm oil and 200 tonnes of kernel palm oil each year. They have registered over 500

---

<sup>201</sup> Information on BOPP was obtained from [https://www.emis.com/php/company-profile/GH/Benso\\_Oil\\_Palm\\_Plantation\\_Limited\\_\\_2035692.html](https://www.emis.com/php/company-profile/GH/Benso_Oil_Palm_Plantation_Limited__2035692.html) and <http://www.gipcghana.com/2011-sector-leaders/66-ghana-club-100/company-profiles-2010/254-benso-oil-palm-plantation-limited.html>.

<sup>202</sup> Information on Norpalm was obtained from Norpalm's website; <http://www.norpalm.no/index.php?topmenu=105&expand=105&show=105>.

<sup>203</sup> Information on Volta Red was obtained from their website; <http://www.voltared.com/>.

individual farmers accounting for 2000 hectares of smallholder farmer oil palm plantings, and fruit is currently being bought from over 250 outgrowers.

Volta Red is a member of the Roundtable of Sustainable Palm Oil (RSPO). They employ 400 workers, nearly half of whom are female, and their wages are among the industry's highest within Ghana. Volta Red are currently working in partnership with Solidaridad, an international organization with more than 25 years' experience in creating sustainable supply chains from producer to consumer. They have been teaching outgrowers how to increase their yields by managing their farms in a structured way.

#### **4.6.6 Conclusion**

Some international organisations work closely with the government and the government agencies in reaching the local communities with their services while others work directly with their target communities without the help of or collaboration with government.

The various governmental ministries and agencies, international organizations, local NGOs and the companies or plantations discussed above complement each other in their various roles in promoting the participation of women and other vulnerable groups in local and national affairs, and in protecting the natural resources of Ghana.

