

**NETWORK FOR WOMEN'S RIGHTS IN GHANA
(NETRIGHT)**

**“STRENGTHENING GENDER RESPONSIVE POLICY
PROCESSES IN THE AGRICULTURAL SECTOR”**

**A COMPARATIVE ANALYSIS OF GENDER IN
AGRICULTURE DEVELOPMENT STRATEGY II (GADS II)
AND THE LANDS BILL**



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Table of Contents

List of Acronyms	iii
Executive Summary	v
1.0 Introduction.....	1
2.0 Contextualising Women’s Access to Productive Resources in Ghana.....	1
3.0 Objectives of the Study.....	5
4.0 Methodology.....	5
5.0 The GADS II: A Review.....	5
5.1 Strengths and weaknesses of the GADS II.....	12
6.0 The Lands Act and Women: A review	17
6.1 Implementation and interests and rights in land.....	17
6.2 Allodial Interest.....	18
6.3 Customary Law Freehold.....	19
6.4 Usufructuary interest.....	20
6.5 Customary Tenancies	21
7.0 Responsibility for Clan and Family Lands	21
7.1 Prohibition of Discriminatory Practices.....	22
7.2 Customary land management.....	23
7.3 Functions and staffing of the Customary Land Secretariat	23
7.4 Areas reserved for common use.....	24
7.5 Parties to a Conveyance	24
7.6 Restrictions on Transfer of land by spouse	25
8.0 Implied Covenants by Transferor.....	25
9.0 Registration of lands and certificates	26
10.0 The Lands Bill and the GADS II: Similarities, Differences and Gaps	26
11. 0 Conclusion	32
12.0 References.....	33

LIST OF ACRONYMS

ADR	Alternative Dispute Resolution
CADDP	Comprehensive Africa Agriculture Development Programme (CAADP)
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CICOL	Civil Society Coalition on Lands
CSO	Civil Society Organisation
DAD	District Agricultural Departments
ECOWAP	ECOWAS Agriculture Policy
ECOWAS	Economic Community of West African States
FAO	Food and Agriculture Organisation
FASDEP	Food and Agricultural Sector Development Policy
FBO	Farmer-Based Organisation
GADS	Gender and Agricultural Development Strategy
GCAP	Ghana Commercial Agriculture Project
GDP	Gross Domestic Product
GFP	Gender Focal Point
GLSS	Ghana Living Standard Survey
GSF	Grassroots Sisterhood Foundation
GSGDA	Ghana Shared Growth Development Agenda
HIV/AIDS	Human Immunodeficiency Virus/ Acquired Immune Deficiency Syndrome
LAP	Land Administration Project
LC	Lands Commission
LRMC	Land Resource Management Centre
MDA	Ministries, Departments, Agencies
METASIP	Medium Term Agricultural Sector Investment Plan
MiDA	Millennium Development Authority
MMDA	Metropolitan, Municipal, District Assemblies
MOFA	Ministry of Food and Agriculture

NGO	Non-Governmental Organisation
PLWD	Persons Living with Disability
PNDCL	Provisional National Defence Council Law
RAD	Regional Agricultural Department
STA	Spousal Transfer Agreement
UNCWFS	United Nations Committee on World Food Security
WIAD	Women in Agricultural Development Directorate

Executive Summary

The agriculture and land sectors in Ghana have witnessed a significant amount of vigour in recent years. Since the mid-1990s, policies, laws and programmes have emerged to organise, regulate and govern the sectors with the aim of achieving economic development and promoting social cohesion. The GADSII and the Lands Bill are a few of these new dynamisms that have become synonymous with agriculture development and responses to gender equality/equity and poverty reduction. The GADS II which was launched in 2016 and the Lands Bill which is yet to be laid in parliament have been crafted with objectives that seek not only to promote economic development but also with recognition that gaps exist between women and men in access to productive resources such as land, inputs, information and extension services amongst others. The main objective of this comparative review is to analyse and identify the synergies between the GADS II and the Lands Bill. It is also to critically assess in what ways the Lands Bill if passed could advance the GADSII. The approaches used in the review were mainly gender auditing and policy analysis which are effective tools for interrogating provisions in policy documents and their implication for the intended beneficiaries. In this case, the focus is on women and their position in the agriculture sector and their relationship to land resources retrospectively and prospectively.

The GADSII focuses on the entire agricultural value chain and its comprehensiveness provides a good framework for the advancement of agriculture and women's position in the agriculture sector. With nine strategic objectives comprising those that focus on strengthening institutional capacity of MoFA in terms of raising awareness about gender issues, coordination amongst sector players, a focus on the inclusion of the socially marginalised in decision making bodies and provision of information including gender disaggregated data amongst others, the GADSII puts in proper context the myriad of issues in the agriculture sector that hinder women's full participation in the sector. The review put spotlight on a few sections that must be examined. These include the power dynamics of sector players where MoFA's scope of work and resource scarcity inhibit it from asserting aspects of the strategy that relate to gender mainstreaming of projects, especially when many projects across the country are being implemented by non-state actors such as NGOs and agri-businesses.

The Lands Bill which has three parts gives meanings and greater explanation to interests in land, land administration and management and some other miscellaneous provisions that relate to land.

The Lands Bill aims at revising and consolidating the over 166 state laws on land to enhance land administration in the country.

In general, both the GADSII and the Lands Bill prioritised the inclusion and participation of the socially marginalised in decision making and benefit sharing in the land and agriculture sectors. Additionally, they both emphasised gender disaggregated data collection and information sharing. The two documents in their framing are serving as bridges for two interlinked sectors - agriculture and land. While the GADSII has used information sharing and institutional coordination amongst players as a strategy to achieve a gender mainstreamed agriculture sector among other strategies, many provisions in the Lands Bill equally detailed how various aspects of land in the community, family and clan could be successfully governed and managed by women and men.

This review has twelve sections. This section is followed by an introduction. Section three discusses the context of women's access to productive resources while section four details the objectives of the review which is also followed by the methodology used. The section six and its sub section provide a critique of the GADSII. Sections seven, eight, nine and ten discuss various aspects of the Lands Bill while section eleven draws a comparative analysis between the two documents. The successive section provides conclusion of the review.

1.0 Introduction

Agriculture remains the backbone of the economy of Ghana even though its contribution to GDP has been declining in the past decade generally. Nonetheless, the sector is still very important for the country for many reasons. This include the fact that it accounts for a substantial proportion of the workforce in the country especially in the rural areas where the livelihoods of women and men depend on its sustainability. According to the Ghana Living Standards Survey Round 6, 51.5% of households in Ghana own or operate a farm. This figure is even higher in rural areas where 82.5% of households engage in agriculture production. In urban areas, the contribution of the sector to the food needs of the country cannot be overemphasized. Although agriculture production is the major economic activity in the country, it continues to be riddled with inequalities amongst men and women.

In recent times, increasing attention has been drawn in both academic and policy circles to the gender dynamics at play in the agriculture sector and how these could be addressed to improve agriculture production. The discourses that emerged from some of these documents emphasized the gulf of differences that exist between men and women in the sector. These gender differences include the imbalances in access to productive resources such as land, information, inputs and extension services amongst others. It is in this light that the GADSII and the Land Bills with the objectives to address various aspects of agriculture production and its related issues have become important documents for gender scrutiny to ensure that women who are differently positioned in the agriculture sector are properly considered in these documents. These two documents are to be read together with the FASDEP II and its implementation plan METASIP II which are the current national development policies and strategies for the agriculture sector in the country. These later documents also draw from the African Union's Comprehensive Africa Agriculture Development Programme (CAADP), ECOWAS Agriculture Policy (ECOWAP) as well as the commitments in the 2014 Malabo Declaration for agriculture development in Africa.

2.0 Contextualising Women's Access to Productive Resources in Ghana

Access to factors of production such as land is an important ingredient in ensuring improvement in agriculture production more generally. More particularly, women's access, control and ownership of land is a critical factor in addressing gender inequalities in the agriculture sector. Yet, land access pathways for women is interlocked in a combination of complex customary and statutory laws. The land governance regime operates within a remit of plural legal system within

which layers of rights unfold. For women, these could be both an advantage and disadvantage depending on the specific context of the mixture of regimes that apply to land in their traditional areas/ communities.

It is particularly important to point to the customary law regime in land governance practices as 80% of the land in the country is governed customarily with varied practices across different traditional areas/ communities across the country. Only 18% of land is vested and 2% is state owned. The statistics even gets more complex when in the current state, about 166 laws govern the land sector in addition to the many unwritten customary laws which fall within the ambit of stools, skins, families and individuals. These complex mix of land governance systems often bring confusion and in the case of customary governance systems, men determine how women could access, own, control and operate land. It is this arbitrariness that has entrenched the inequalities that women and other vulnerable segments of the society experience in the land sector. Consequently, their tenure regime becomes fragile and insecure.

Meanwhile, the promotion of agriculture production depends on a secured land tenure system for women and men. However, this is not usually the case in Ghana where social norms governing inheritance practices, residential arrangements and patterns, marriage, and division of labour circumscribe how women access, control, operate and own land for agriculture purposes. A more general outlook of women and land in Ghana shows that, women's access to land is mediated through their membership of the family, marriage, inter vivo transfers from relations and through different forms of contracting such as yearly rentals and sharecropping. While marriage remains a means through which many women could access land, changing demographic characteristics at the household level challenge the widely held view as Ghana Statistical Service¹ in its GLSS Round 6 reported 30.5% of households are headed by women with rural coastal areas recording even higher figures of 38.1%.

Women's land access portfolios present a particular picture of transiency instead of permanency. For instance, when a woman divorces, she might lose right to the land in her husband's family. In her own family, she might also lose the right through her physical absence due to marriage. The Land Bill which is under consideration has been drafted with these dimensions under consideration. It's stated objective is as follows: to revise and consolidate the laws on land, with

¹ Ghana Statistical Service(2014) on GLSS6

the view to harmonizing those laws to ensure sustainable land administration and management, effective land tenure and efficient surveying regimes and to provide for related matters. This review aims at situating the Lands Bill within the GADS II and the general insecurities that women suffer in the agriculture landscape and how the land Bill furthers the GADS II or vice versa.

Data culled from GLSS Round 6 found that women account for 41.2% of people involved in agricultural production. The data which was collected from all households, both agricultural and non-agricultural, show that 42.3 percent of households are involved in some form of food processing (29.8% in urban areas and 57.9% in rural areas). The results also clearly show women's responsibility for processing of agricultural produce, with women's share being over 80 percent in every locality and close to 90 percent in urban areas. More than two-fifths of households are involved in some form of food processing (42.3%), with women (84.9%) dominating. Therefore, women's roles in processing, marketing and production cannot be overemphasized. According to the Ministry of Food and Agriculture (MoFA), women contribute 70% of food and food crop production in the country. Women's position in the agricultural value chain as crop producers, processors and marketers, present particular opportunities, challenges and vulnerabilities as suggested in some scholarly work². Despite their contributions in the agriculture sector, women reap minimal benefits from investments in the sector. MOFA's Progress Report for 2013 shows that large proportions of the agricultural workforce are women (52%) with a high rate of illiteracy and limited capacity to access and adopt improved agricultural technologies, thus most of them are poor. Women farmers' access, control and ownership of land also pose a huge challenge to their farming activities.

The Food and Agricultural Sector Development Policy (FASDEP) II categorically states that gender inequality in the agricultural sector has undermined the achievement of sustainable agricultural development because programmes and projects are not systematically formulated around different needs of women and men. MoFA's mid-term review report of the Medium Term Agricultural Sector Investment Plan (METASIP) in 2013 also indicates that the approximate male to female coverage ratio of all projects mapped to the METASIP was 2:1 and very few of the projects had gender inclusiveness as part of the areas of focus within project objectives. FASDEP II policy direction for the sector focuses on value chain approach to the

² Carr, E.(2008).

agricultural sector, emphasizing value-addition and market access. This brings into sharp focus emerging issues in the shifts in policy since development of Gender and Agricultural Development Strategy (GADS I) in 2001.

The GADS was reviewed and re-launched in 2015 as GADS II. GADS II provides guidance for integration of gender equality in the implementation of agricultural development policies and programmes. In addition, it gives recognition to the potential that men, women, the youth and PLWDs have in accelerating agricultural growth and development. Furthermore, it highlights the need to obtain gender disaggregated data for planning programmes to meet the diverse needs of different groups along the agricultural value chain.

Ghana's constitutional regime recognizes the equal rights to women and men. In fact, Article 17.36(6) copiously detailed the need for the integration of women in economic development. It states

“The State shall afford equality of economic opportunity to all citizens, in particular, the State shall take all necessary steps so as to ensure the full integration of women into the mainstream of the economic development of Ghana”.

Land is an important production factor for many people whose livelihoods depend on it. Similarly, in furtherance of the family and property regime, laws such as the Head of Family (Accountability) Act-1985 (PNDCL 114) and the Intestate Succession Law, 1985 (PNDCL 111) were enacted to equally govern different aspects of property including land. On the international level, Ghana as a member of international bodies has also ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and must further the provisions to which it is committed. These include non-discrimination in the sharing of production resources such as information, inputs, extension services and land. It is within these broader dimensions that this comparative analysis of the GADSII and the Lands Bill are situated. In recent years, programmes such as the Land Administration Project (LAP) and the Ghana Commercial Agriculture Project (GCAP) have taken seriously the inclusion and participation of women in land and agriculture governance, value chain and management structures. Both the GADSII and the Lands Bill are situated within this context of gender mainstreaming in the agriculture and land sectors of the country.

3.0 Objectives of the Study

The broad objective of this review is to analyse and identify synergies between GADS II and the Land Bill. In doing this, the analysis would underscore how both documents interact in ways that advance women's involvement in agriculture production. The review also proposes recommendations to address gaps to facilitate the implementation of GADS II at the community/district level to protect women in agriculture. The critical review of the GADS II and the gender provisions of the Land Bill identifies the linkages between the two documents and for the Lands Bill in particular, underlines how its provisions will benefit women in agriculture. At the end of the review, a set of practical recommendations are proposed to make sure that the Land Bill when passed can facilitate the achievement of GADS II at the community/district level.

4.0 Methodology

The 'Strengthening Gender Responsive Policy Processes in the Agricultural Sector' Project which aims at examining the gender responsiveness of two important policy documents- the GADSII and the Land Bill required a social and gender auditing research methodologies. The auditing approach to policy and interventions furthers the course of the project because it enabled the researcher to measure the stated objectives against what they set out to achieve within a broader political economic framework. This included an analysis of the two policies and the context in which they were produced, their stated objects, their intended outcomes and the social gaps that exist in these documents. In reviewing the documents, a desk review of other related documents and laws was done. These included a close reading of the constitutional provisions on gender equality and the international conventions that Ghana has ratified- CEDAW for instance is one of such documents. The final document gave detailed recommendations for gaps identified in terms of their gender responsiveness and how best various categories of women's issues can be addressed. For the GADS II which is already launched, the focus is on implementation and lessons for further review. Since the Lands Bill is yet to be passed, the recommendations are meant to help in advocating for a review and incorporation of relevant sections in the document.

5.0 The GADS II: A Review

The Ghana Shared Growth Development Agenda (GSGDA II 2014-2017) expects agriculture to lead growth and structurally transform the economy of the country by providing optimal support for small holder farmers especially women. Thus, the GADS II has become even more important as it provides a framework through which gender can be fully integrated into agriculture

development which is expected to spearhead growth in the country. The GADS II, has nine main strategic objectives which include:

Strategic Objective 1: To strengthen institutional capacity for gender-responsive policies, programmes, projects, budgets and monitoring and evaluation within MOFA. This objective identifies institutions as centres where gender equality and equity could be manifested. Gender mainstreaming in MoFA and other key institutions in the agriculture sector is key in enhancing women's integration in the agriculture sector. As much as this objective is important especially where it places emphasis on ensuring that gender is integrated in policies and programmes, a careful understanding of how MoFA works would make enforcement difficult unless MoFA has its own finances to invest in the programmes. The reality in Ghana's agriculture sector shows how programmes are sponsored by different NGOs and donors. Each of these come with their already made programmes for execution and MoFA may not have the power to influence how a specific programme is implemented especially when the funds do not come from government. In some cases, it is MoFA staff that are co-opted by the well-resourced foreign NGOs to execute their projects causing attrition in the human resource base of MoFA. The GADS II has rightfully mentioned staff attrition as part of its core areas to tackle.

Recommendation: There should have been a compelling statement in the GADS II, and national policies and programmes that relate to agriculture stating that all programmes must be gender mainstreamed and women included through direct quotas and indirect forms of affirmative action. In so doing, projects by NGOs would align to the GADS II for it to have synergistic effect. If these are left undone, there would be several programmes implemented at the blind side of MoFA which are below the gender mainstreaming mark. This would also ensure that, there is continuity in agenda and purpose in the agriculture sector. Currently, parallel programmes are being implemented by NGOs, government agencies, corporate organisations and CSOs. The GADS II must enable MoFA to have enough powers to vet programmes for their gender sensitivity before they are implemented. It is clear that this is difficult at the moment. However, an entry point for making women's issues a core agenda in the agricultural sector could be achieved through decentralised Women in Agricultural Development Directorate (WIAD) whose presence should be felt at local level where many NGOs and programme implementers engage

communities. WIAD's core objective is to improve access of women and other target groups to information, improved agricultural and post production practices for adoption, facilitating their access to resources towards an increase in production, high incomes, improved nutrition, and health and food security on environmentally sustainable basis. In this regard, WIAD could further engender the strategic framework by working closely with key actors -state and non-state- in key areas of interest. At the current juncture, resource -financial and human- scarcity at MoFA affects WIAD as well in its delivering its objectives.

Strategic Objective 2: To enhance equitable delivery of agricultural services and access to inputs.

This objective is well conceived as the issues about access to services and inputs are important for agriculture development. Access in this case could be physical access where distance to the point of delivery and information about the services and input are pertinent in how women access these services and inputs. Similarly, women's access to inputs and services could be hampered where they lack the financial backing to enable them pay for them. It must state how access could be enhanced in such a way that limits cost implications for women who may not be able to afford.

Recommendation: There are several traditional methods used in agriculture which could be enhanced through research. The GADSII should be able to unearth some of these that women and men use and test their relevancy for the agriculture sector. Additionally, service delivery should be conducted in a way that recognises the inherent social differentiation in the society and how it marginalises some women. Service delivery systems must be fashioned in a way that does not exclude some people in the community especially migrants, widows, divorcees, young women and PLWDs. Since the physical mobility of many rural women and PLWDs are challenged, services should be delivered at their doorstep instead of being delivered in an external location which demand they moving out of their communities to access these. Additionally, there should be a conscious effort to prioritise the needs of women and PLWDs farmers in free input distribution schemes since they mostly lack the means to purchase inputs even when it is subsidized. A personal communication with a MoFA official in the Volta Region suggest that many women send their male relatives to access inputs for them from the MoFA

offices because of time constraints. Many do not get these inputs because inputs are distributed to the beneficiaries directly and not through an intermediary.

Strategic Objective 3: To enhance access to land, information on land rights and tenure security. Land is the main factor of production in agriculture which is the means through which the livelihoods of many, particularly small-holder farmers who are mostly women are based. Thus, secure and equitable access to and control over land resources is crucial. Since tenure systems determine who can use which resources, for how long, and under what conditions, the inadequacy and insecure tenure rights increase vulnerability, hunger and poverty, and can lead to conflict and increased environmental degradation.

The GADS II acknowledges the different categories of land users who face problems of access and tenure security and these include women, youth and PLWDs who are particularly vulnerable in terms of access to, control over land. This makes their tenure rights insecure. Thus, the need to improve the access of these vulnerable groups to land, information on land rights and tenure security to achieve equity and equality. The recommended sub-strategies to achieve Strategic Access to Land and Tenure Security

At the National level

- Collaborate with Land Commission (LC) and land sector agencies to implement gender, land and agricultural investment-related strategies under the Land Administration Project (LAP) II
- MoFA/GCAP/LC to sensitise producers, especially women on the model lease agreement procedures on land for agricultural investment and guidelines on large scale land acquisition for commercial agriculture;
- Collaborate with Development Partners, Civil Society and Private Sector in the implementation of the United Nations Committee on World Food Security (UNCWFS)/FAO Voluntary Guidelines on the Responsible Governance of Tenure on land.

At the Regional level

- Regional Agricultural Departments (RADs) co-ordinate with Regional Land Commission, civil society to engage District Agricultural Departments (DADs) to disseminate information on gender, land and agricultural investments.

District level

- DADs should collaborate with traditional authorities and CSOs to educate men and women farmers on existing formal and customary rights to secure land tenure
- DADs should collaborate with traditional authorities and community leaders to promote increased access to productive land and tenure security for small-holder farmers, especially women;
- DADs should collaborate with CSOs working on land, gender and agricultural investment to disseminate information to communities on land rights to women, youth and PLWDs for secured tenure arrangements; MoFA should liaise with civil society to promote the use of social accountability tools to improve access to productive land and tenure security.

Recommendation: It is recommendable the GADS II has taken seriously the issues of awareness raising and advocacy on land issues. Lobbying traditional authorities to support improving land access for women is laudable indeed. Information dissemination is important for the agriculture sector. However, the GADSII should have emphasised that programmes that are sent to communities are rated with gender lens. This would ensure that if a community has proven its mettle to challenge the status quo by eliminating gender based discrimination cultural practices that are injurious to women's economic development, such a community benefits from new programmes on agriculture implemented by NGOs and donors. This check list would encourage communities to take practical steps to eliminate gender-based inequalities gradually.

Information and sensitisation alone would not achieve results if there is no reward and punishment system in place to check communities.

Strategic Objective 4: To develop and disseminate gender-sensitive appropriate technology along the agricultural value chain including climate smart practices. The focus is to disseminate information to Farmer Based Organisations. However, this could exclude farmers who do not belong to FBOs. Although the FBO concept is to make sure that there is an efficient way of mobilising farmers, many farmers do not belong to such groups. It is important to note that most FBOs are organised around commercial export crops which are mainly cultivated by men. These are mainly put together by the buyer or made around a certain kind of service delivery system to enhance mobilisation and organisation.

Recommendation: The FBO based organisation is a good mobilising force. Women should be encouraged to form women only FBOs or join sex mixed FBOs. In addition, FBOs exist because there are aggregators who are mostly women. Marketers and processors must be integrated as well.

Strategic Objective 5: To promote gender-responsive agribusiness, value-addition and market access for livelihood and growth in incomes. While the GADS II seeks to enhance women's participation in the agriculture sector, some of the sub-strategies would entrench gender norms. For instance, under strategies for crop production, a sub-strategy states "Support the production of selected women crops such as soy, cashew, groundnuts and sesame along the value chain for increased incomes". This provision meant that in the long round, women are to continue to be clustered in food crop production. Closely related to this is the shocking examples of crops that are labelled as female crops. It is not clear which research produced the data that made sesame, soy, groundnuts and cashew female crops. In any case, even if women produce these crops, it does not appear anywhere in practice and in literature that women farmers in all geographic and climatic zones in the country produce similar crops. This is an aberration to say the least. Not to popularize a misconception and a gender stereotype, some study³ singled out cassava as the only crop that has a gender difference when one controls for geography, land access and control. It is

³ Doss, C. (2002)

also not clear why these supposedly crops are produced by women. This is important because if an inequality in resource access clustered women in a certain type of production, it must be stated and explained.

Recommendation: The provisions must not re-enact inequalities in the agriculture sector. Instead, inequalities must be systematically demolished. Women should be supported to produce perennial crops and crops that have much support from government such as oil palm, cocoa, rubber, coffee, etc. The shea sector which is a value chain dominated by women especially those in the Northern, Upper East and Upper West regions of Ghana must be included for support in terms of technology use in picking, processing and marketing. Instead of entrenching the status quo, in addition to ensuring greater benefits for women in their production of “women crops”, additional research needs to be conducted to unearth the very reasons why women are clustered into certain crops and find it difficult to break into “male crops”. This should enable efforts to directly tackle the root causes of persistent segregation in crop production.

Strategic Objective 6: To promote gender-sensitive research and extension linkages. The promotion of gender-sensitive research and extension linkages is important because it would target women who are usually excluded from such services due to socio-cultural norms that manifest in the community and household levels.

Recommendation: The marketing end of the value chain must be emphasised.

Strategic Objective 7: To promote equal representation and participation in decision-making by women and men at all levels

Recommendation: This is an important part of the GADSII because the exclusion of women is rife in many areas. However, the objective must recognise that women are heterogeneous and many intersections define in what ways they are included or excluded in decision making bodies. Women must be seen in their diversity and these must show in the selection for participation in programmes. Also, it is not enough to bring a woman to a decision making body. The woman’s contribution must be given equal consideration so as not to make their presence a mere formality and a tick box exercise.

Strategic Objective 8: To harness the potentials of vulnerable farmers for social protection (Rural women, the aged, the youth, Persons Living with Disabilities and Persons Living with HIV/AIDS) along the Agricultural Value Chain. The strategy and sub-strategies, are achievable through an implementation plan that aims to include an understanding by all stakeholders of gender and the various forms of structures and institutions that have perpetuated the status quo and those which need to be challenged in order to achieve equity in the agriculture sector. Additionally, the commitment of all stakeholders to promoting gender equity and equality as well as the availability of human and financial resources within the sectors of agriculture are important blocks for achieving gender balance in the agriculture sector. These in addition to a re-established Gender Focal Points (GFPs) made functional through the provision of resources at the national, RADs and DADs levels with roles and responsibilities to support the implementation of GADS II is important for a smooth implementation.

Recommendation: In furtherance of this objective, recognition must be given to divers groups of people and their needs and these should also include widows and female household heads.

Strategic Objective 9: To strengthen gender co-ordination among key ministries, civil society, the private sector and development partners.

Recommendation: This is important for building synergy. The modality of its happening is not clear. This could emphasise the form in which the coordination must take place. For instance, it could be in the areas of data and information sharing amongst others.

5.1 Strengths and weaknesses of the GADS II

With lessons learned from GADS I, and baseline information from the Gender Analysis of Agriculture Sector (2014), the GADS II is a comprehensive strategy and provides a synthesis on how to achieve the aims and objectives of the FASDEP I and II, METASIP II and GSGDA II which envision a leading role for agriculture in achieving national growth and structural transformation in a gender responsive manner. Thus, GADS II presents the most concerted agenda to achieve gender equity and equality in the agriculture sector by providing a holistic framework that will guide an integration of gender in policies, programmes and projects. As well, it builds and harnesses consensus in the efforts of government agencies (MDAs and

MMDAs), private sector organisations and CSOs in gender-responsive activities in the agriculture sector.

Not only does the GADS II tackle gender equity in access to production inputs such as land, extension services and inputs, it emphasises the need to look at post-harvest activities such as processing and marketing where women dominate to include gender-responsive policies, programmes and projects along the agriculture value chain. This in addition to gender-responsive agribusiness and gender-sensitive research and extension linkages makes the GADS II a comprehensive strategy to achieving gender equity and equality in the agriculture sector.

In relation to land, the GADS II is very explicit on the need to collaborate with implementers of existing programmes and projects on gender and land as a strategy to improve women's access to land and information related to land rights. More so, information dissemination and sensitization especially on the model lease agreement procedures on land for agricultural investment is very important since post 1969 land acquisitions are leasehold. Additionally, education on formal and customary land rights, as well as general information on gender, land and agriculture investment, at the national regional and district levels is an important entry point to achieving improved access to productive land for women.

In spite of these strengths of the GADS II it also has some weaknesses especially in relation to land. One of the lessons from GADS I specifies that all gender disaggregated data generated indicated inequities and a widening gap between males and females but they were not analysed to access how they affect men and women's access to agriculture inputs differently. Additionally, excerpts from the Gender Analysis of Agriculture study presented in section 2.3.4 on Gender Gaps in Access to and Control over Land in GADS II indicates that:

“Land ownership and tenure security among female farmers was a challenge. The main challenges in having access to land were related to the processes and the cost. Indigenes were largely found not to have difficulties in accessing land for agricultural purposes. Persons considered “settlers” to the area had a lot of problems. Additionally, socio-cultural factors limited majority of women's access to essential resources. For example, in some cultures, women could not own land” (pp 6). While this overall inequalities in land is acknowledged, subsequent data presented are not disaggregated by sex. The GADS II indeed presents these statistics:

- Disaggregating land access by land tenure, the survey revealed that 40.9% of the respondents accessed land through family inheritance, 27.2% hiring of land, 19.4% marital access, 9.1% outright purchase/acquisition and 3.4% others for all players along the agricultural value chain.
- About 90.3% of the respondents indicated not having any form of education or sensitization on existing formal and customary land rights and use.
- Majority (58.7%) of the farmers interviewed cultivated less than 3 acres. Only 11.1% of the respondents who had access to land were able to cultivate 10 acres or more within a farming season. Only 9.1% cultivated 7 to 9 acres, while 21.1% cultivated 4 to 6 acres.

Aggregation of these statistics shroud a lot of nuances between males and females in terms of their real access to land and control over land which is a crucial resource in agriculture. Thus, basing a gender strategy on statistics that veil remarkable differences between males and females in relation to land becomes a slippery pedestal to launch efforts at achieving equity in land access which is a crucial resource in agriculture.

GADS II aside gender sensitive policies and programmes intends to embark on gender targeted programming to address practical and strategic gender needs, which includes an improvement in the position of women by addressing the various disadvantages that affect their access to resources. Considering the importance of land as a major factor of production in agriculture and the various inequalities that continue to deepen between men and women due to fundamental differences in access to and control over land, the GADS II should have placed much more emphasis on land than it did.

While clearly stating in Strategic Objective 3 that the GADS II aims to improve access to land, information on land rights and tenure securities, it seems to concentrate on improving access to information on land rights and tenure securities than on actual improvement in access to land. While one of the sub-strategy to be adopted at the district level indicates that “DADs should collaborate with traditional authorities and community leaders to promote increased access to productive land for small-holder farmers especially women” (pp 16), there is no activity in the

implementation plan nor action plan that describes how that improved access can be approached aside improvement in access to information on land rights and tenure security. Thus, the implementation plan and structure assumes that access to information is the main means of achieving everything ‘land’ including access to, control over and tenure security. Certainly, with data from the 2014 study on Gender Analysis of the Agriculture Sector where 90% of respondents indicated that they have no form of education or sensitization on existing formal and customary land rights and use, information on land right and tenure security becomes an immediate strategy to be adopted. Thus, while strategic objective 3 of GADS II highlights an improvement in access to land, information on land rights and tenure securities, it seems to have reverted to objective 5 of GADS I which was on improving access to information on land rights since the action plan for achieving this objective is predominantly focused on improving access to information on land.

While not discrediting information as a crucial resource in contemporary world, access to the right information although necessary is not a sufficient factor in improving access to land and tenure securities. Research has indicated that processes of titling and other means of securing tenure has been a difficult process for women due to the lack of resources to access these services and/or the high illiteracy rate that makes access to these services difficult if not impossible for women. Thus, the practical and strategic needs of women does not boil down to access to information alone but beyond it, it also include the means of making use of the information acquired. This objective could also approach this from a perspective of collecting gender disaggregated data. It is only when issues of women’s land access are backed by evidence that policies and programmes could critically direct attention it in its varied forms. While it is acknowledged that a lot of work has been done to improve access to land at various levels by diverse actors, tenure security remains a major issue. The various actors in the land and agricultural sectors could draw lessons from land-based projects implemented by various actors. The following are a few examples of gender mainstreamed initiatives implemented across the country in recent years:

- a) The Grassroots Sisterhood Foundation (GSF) implemented a land-based project in several communities in the Nantong Traditional Area in the Northern region of Ghana. The project researched into traditional, religious and constitutional provisions that hinder

and or promote women's land access, ownership, tenure and control. The project took practical steps including sensitisation of communities, and educating women on false beliefs about cultural inhibitions to their rights to acquire lands. It also educated women on statutory and customary land governance frameworks which included ensuring that women got title deeds for their lands. This project also engaged traditional authority and Islamic leaders on issues that hinder women's economic integration. Consequently, beneficiary communities allocated lands to women's groups for cultivation while many community leaders became more receptive to women's land access issues.

- b) The Millennium Development Authority as part of its agricultural development project also worked with organisations such as COLANDEF to design workable ways of registering and documenting different types of tenancies. Initiatives leading to the roll out of the land registration project in Awutu areas in the Central Region included public forum which was opened to women and men. Per the project design, the community engagement was used to educate communities about laws and procedures on land titling and registration amongst others. A novel outcome of the project was the documentation of lesser tenancies such as yearly rental, sharecropping and other types of oral grants. Some women beneficiaries used the opportunity to register housing lands as well.
- c) The Land Resource Management Centre (LRMC) developed tools for Spousal Transfer Agreement (STA) of land which were being piloted in the Western, Ashanti and Brong Ahafo Regions.
- d) The Land Administration Project used serious engagement methodologies to sensitise communities on land access and also to include women in land decision making bodies.
- e) The GCAP as part of its grant scheme for beneficiaries made the inclusion of women in all aspects of the value chains of the selected crops in the project areas a priority.
- f) WILDAF through its legal literacy programme in the Suhum area educated women and communities on statutory and customary practices on land issues. Many women from land owning communities used the opportunity to claim rights to lands in their families.
- g) The Civil Society Coalition on Lands- Ghana trained queen mothers and female leaders on issues pertaining to women's lands rights Western, Eastern, Ashanti, Upper East, Upper West and the Northern regions of Ghana.

Many of these projects pitched combined women's access to land with increasing their tenure securities.

6.0 The Lands Act and Women: A review

When passed into Law, the Lands Act will become the main document that spells out modalities for land administration, access, registration, conveyancing and all land related issues in the country. This makes it a very important document which must be scrutinized in a manner that makes sure that its provisions encompass all segments of the society especially women who experience the negative parts of customs that exclude them from issues related to land in gross contravention of Article 17. 36(6) of the 1992 constitutions. Just by way of emphasis, this Article 17 enjoins the state to integrate women in the economic development of the country. Often, in the conception of laws that relate to resources, the tendency to treat women as homogenous groups is rife. It is in this light that the review would emphasize women's heterogeneity as expressed in their marital status as married either in a monogamous or polygynous marriages, unmarried, divorced and separated. It would also put into perspective provisions for women who are indigenes and their migrant counterparts intersecting with their marital statuses. The emphasis would also consider the residential arrangements for women either rural or urban. Other dimensions would include the generational distinctions such as old or young women and how the provisions cater for their needs and interests in their economic integration would not be extinguished by the provisions. Additionally, the Lands Act as it is structured is progressive as it seeks to correct burning cultural practices that discriminate against women in their access to land. In general terms, it advances the GADSII which is a strategy which helps to integrate women in agricultural development in the country. The review is structured in sections:

6.1 Implementation and interests and rights in land

The provisions in the Lands Act stipulate that the Lands Commission is responsible for implementing the Act. However, the Lands Commission is not a decentralized agency. The Lands Commission has offices in the regions and not in the Districts. This has cost implications for women who need to take advantage of the Lands Act.

Recommendation: The Act must include a provision for the Lands Commission to work in close collaboration with community-based Customary Lands Secretariats on this matter since these are closer to the people and more likely to be frequented by them.

6.2 Allodial Interest

This section of the Lands Act brought together the various interests in land and gave succinct definitions for them. The section states the status quo of what is already known in Ghana about the customary practices and land governance regime. The allodial title is the highest interest in land which has been held by traditional authorities and clans. The structure of the traditional rulership system in itself shows a hierarchy where many women fall within the bottom of the pyramid. As women have been disadvantaged and excluded customarily in land governance issues, this section of the Lands Act does not necessarily reorganize the governance structure which allows men to be the executors of the allodial interests. Since many lands already have allodial title, women can have access and ownership rights through other interests but minimally through allodial interest.

Recommendation: This section could be revised to include the provisions in Article 17 36(6) which emphasises non-discrimination. Since the Lands Bill does not seek to redistribute land, the gap between men and women in terms of land access, control and ownership is already wide and entrenched especially because customary practices pertaining to land are still upheld. Since deep rooted discrimination against women does not self-correct, the language recognising allodial title should state the obvious and the caveat. In this direction, the State must make its presence felt in articulating non-discrimination by stating the related provisions in the constitution. Although this would not significantly translate into equal access, ownership and control of land for men and women, its symbolic nature would remain a reminder to all.

In addition, the government of Ghana is signatory to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) the Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights and other international human rights conventions which it must tap from to ensure that the protection of the human and economic rights of women is ensured in the way the allodial interest in land is executed. The section on these customary practices in land must be backed by these provisions in the

international governance regime that the government has ratified to serve as emphasis, direction and a check for traditional authorities that exclude women in land governance structures.

6.3 Customary Law Freehold

Since customary freehold has also been governed by customary laws, women have been disadvantaged. Even in times of outright purchase under customary freehold, women do not have the resources. In some cases due to illiteracy or cultural practices that frown on women's ownership of landed property, women use male relations including husbands, brothers, fathers, friends to front for them when they seek land to lease. Many conflicts arise from these arrangements and women lose out as their signatures are not on the land documents.

Recommendation: The Lands Commission should be given additional responsibility to open an Alternative Dispute Resolution (ADR) unit that investigates such claims and advice on how the parties can solve them. Although courts are to be one of the resorts for seeking justice, their structure could be intimidating to women who have problems with funds to seek legal redress. In addition, the provision should also include the Legal Aids offices which should liaise with the Lands Commission on land conflicts arising from male signatures on women's property issues in order to help poor women seek justice. Anything other than this promotes the status quo of men accumulating more lands, rather unjustly than women.

This said, the fact that the section emphasises that customary freehold lands held before 1969 remained the individual property of the buyer meant that it could be passed on from generation to generation. Women can therefore benefit from this as customary freehold lands belong to individuals and not subject to customary practices of stools/skins clans or families. This has been evident in some recent studies⁴ that show that women have been inheriting lands from their parents, husbands or other relatives and non-relatives especially post 1985 where the PNDC Law 111(Intestate Succession Law) was passed. However, since this has been forbidden by law, it means post 1969 lands are likely to be leasehold. In this case when inherited by women, they have to renew the lease after expiration. As land has become commoditized in recent years, renewal could pose a problem to women who inherited lands bought post 1969. If they are unable to renew these lands due to lack of funds and information, it would revert to the owners who would resell them to the highest bidders who are likely to be men. The issue of renewal

⁴ Torvikey, G.D (2016); Duncan (2010; 2009)

could be solved with a provision that stipulates a year limit of 10 years reminder to the lessee and the amount to be charged for renewal.

6.4 Usufructuary interest

This aspect of the interest in land present two distinct ways through which women could access, control, own and operate lands. By clearing the land themselves, women could exercise the right to use the land cleared. Secondly, they could have usufructuary interest by inheriting lands that their parents, husbands or other relations have already cleared and bequeathed such usufructuary interest to them. Women can benefit from this interest through their membership of clans or families with allodial titles. Thus usufruct interest when gained through first clearance or development will disadvantage women unless they are inheriting the interest. In that case, such inheritance is also subjected to injurious cultural practices which in themselves are discriminatory to women. In traditional areas such as Wamale of the Northern region where first clearance is an avenue for user rights in land but where women are not expected to be the first to clear the land, many women by way of cultural practice would miss out on accessing lands through first clearing and consequently holding the usufructuary interest. Unless through express grant to women which is not assured since customs have always played to the disadvantage of women in express grants, women's landholding through this means would be weak.

Recommendation: Some sections of the GADSII focus on making information available to women on many issues relating to agriculture production. It is important for the District level structures to make information on credit available to women who want to use hired labour to clear lands. A caveat here is that certain cultural barriers that hinder women's land access through this way would retrogress any steps made in their ability to be the first to clear a piece of land. By way of example, in some traditional areas, land seekers must be led by title holders to the chief's palace where negotiation about land allocation is made. Married women must first inform their husbands who in turn look for title holders to lead them. These layers of land seeking protocols in some traditional areas would hinder women's access to first cleared lands in their own rights. This discriminatory cultural practice could be enforced by expressly enforcing the provisions in the constitution and the CEDAW which protect women against such discriminatory cultural practices so as to further the provisions of the GADS II. In any case, most lands are already cleared by indigenes, migrants and foreign companies who are unlikely to be women.

6.5 Customary Tenancies

Although customary tenancies such as sharecropping appear to be free of gender based discrimination as land owners rent lands to the willing and people who could put it to cultivation, the economics of it suggest that women might not get such lands easily. This is because, when land owners think about resources to be invested in the farm and the output, it might not make economic logic to rent lands to poor women as their financial endowment would not permit them to invest so much in the farms. It can however play to the advantage of resourceful women with outstanding accomplishments. Their accomplishments could serve as motivations for land owners to grant them customary tenancies as they seek it. It, however, does not benefit many women as women's reproductive work which takes much of their time could hinder time spent on their farms and hence affecting their productivity.

Nonetheless, customary tenancies can benefit women who become the grantors of the lands especially in matrilineal societies where women have some leverage on land control. Their counterparts in patrilineal societies may not have such advantage since the established customary obligations governing inheritance and transfers might not be favourable to them.

Recommendation: Women can benefit from usufruct interest in stool/skin/clan/family lands especially in matrilineal societies and also patrilineal societies depending on specific cultural practices. However, the provision must ensure that information is made available to women and entrenched discriminatory cultural practices are extinguished with emphasis on non-discrimination.

7.0 Responsibility for Clan and Family Lands

The opening of this section states: *“Pursuant to Article 258(1(e)) there shall be created within the Lands Commission a division to be responsible for matters relating to clan and family lands”*. This section enjoins the Lands Commission to be responsible for the collection, distribution, rents, dues, royalties, revenues and payments accruing from land transactions. This is progressive as it would prevent cheating and conflicts that arise from land transactions.

Recommendation: The Lands Commission should also be responsible for scrutinizing the disposal of land and whether women agreed and were consulted on such land transactions. If women who belonged to families or clans are absent by virtue of the fact that they are married and changed their places of residence, they could be short changed. In such instances, the

revenue accruing from the transaction could not be shared. By way of extension, the Lands Commission should have such powers to reverse land transactions under this category of lands if it is proven that women are not consulted and did not belong to decision making structures that transferred the land. Such transactions should be deemed illegal and rendered null and void.

The provision should also state how the internal sharing of revenue accruing from such land transactions should be done. There should be a framework spelling out the distribution formula as the silence on this matter could spell confusion in families and clans where the vulnerable in the family who are likely to women might not get what is due them. The provision should ensure that family/skin and clan lands that are transacted provide evidence that women are part of the decision making process that permitted that land to be sold. In this case the Lands Commission must make it an additional criteria to register lands only when these lands transacted have such evidence of women's participation in the land transaction. Since land transactions may include lands that are given on sharecropping basis and which might have long term revenues, the provision must stipulate how the crops are shared to ensure that women in the family get a fair share of proceeds.

7.1 Prohibition of Discriminatory Practices

A decision or practice in respect of land under customary tenure, whether the land is individually or communally held shall be in accordance with the customs, traditions and practices of the community concerned but a decision or practice which discriminates on grounds of

- (a) gender, race, colour, religion, creed, and ethnic origin, or
- (b) social or economic status

in contravention of Article 17 of the Constitution is void.

This is perhaps the icing on the cake as it is framed with the spirit to ensure women are protected from cultural practices that discriminate against them. However, since many cultural practices which vest land interests in the hands of men are inherently and unconsciously discriminatory, this section might not be very practical or enforceable unless it challenges the cultural practices themselves.

Recommendation: Apart from stating that such land practices are null and void, the provision is silent on what cultural practices are deemed discriminatory and what happens if such protections

are violated. This section must state the discriminatory cultural practices to assume universality and not subject to any interpretation in each cultural context, else this could lend itself to several interpretations and confusion.

7.2 Customary land management

A chief, tendana, clan head, family head or any other authority in charge of the management of stool, skin, clan or family land shall be transparent, open, fair and impartial in making decisions affecting the specified land. The provisions of the Head of Family (Accountability) Act, 1985 (PNDCL 114) apply to this Act with the necessary modifications.

Recommendation: The provision is vague and maintains the status quo as it makes provision for men who have been custodians of land governance institutions to continue to enjoy the accumulated power and resources they control. The section must make provision for the inclusion of women in the decision making structures in the land management and governance structures in the traditional setting. It is also not clear what ‘fair’, ‘open’, ‘transparent’ and ‘impartial’ mean. These words must be defined and explained as this could be left for manipulation and at the whims and caprices of the land ruling class.

7.3 Functions and staffing of the Customary Land Secretariat

A few provisions under this section are important to highlight:

- (a) facilitate the settlement of land disputes through alternative dispute resolution;
- (e) facilitate the participatory preparation of local plans;
- (f) undertake community education, sensitization and awareness creation on land issues;

The Customary Land Secretariats may determine and appoint their required staff on merit and in accordance with best human resource practice and gender considerations.

These three functions can benefit women if the customary/stool lands secretariat is functioning effectively. With backing from the Office of the Administrator of Stool Lands at the Lands Commission. The emphasis on recognizing gender as an inherent need in recruiting staff for the secretariat is good. However, the secretariat must be near the people. In addition, provisions must be made to engender the Customary Land Secretariat through the inclusion of queen mothers and female chiefs in its governance structure.

7.4 Areas reserved for common use

The provision for reserve area is not certain as the provision makes it optional. It states:

- (1) A community may set aside or recognize one or more areas of land and water resources within the community for common use by the members of that community.

The use of 'may' should be removed and this should be made an explicit need for communities. In place of 'may' 'shall' should be used. Common resources are very important productive and reproductive needs for communities especially those who depend on natural resources for survival. Since time immemorial, common resources have remained an assured source of livelihoods for women in particular as these resources are less likely to fall within the layers of cultural practices that discriminate against their access to land. Thus, the reserve area must be made a compulsory provision in a manner that ties in with the forest reserves that government protect over the years. Failure to do this would subject all lands in the community to market transactions to the detriment of women and generations to come. Also, this provision could affect agriculture production as reserve lands could be subject to land transaction that would convert their use to residential facilities. Witness is the sprawling nature in which cities are growing and invading peri-urban communities across the country. This provision if made compulsory could put a break on the incessant conversion of common resources for residential facilities and other competing land use options. In addition, the management plan of the common resources which is proposed in the provision must state that women of various social strata are part of the decision making bodies that draws the common resource reserve management plan for the community. It must also indicate the avenues for seeking redress if the reserved common resources are transacted outside the management plan that has been drawn through a broad consultation of community members. The community consultation plan must be made available to offices of the Lands Commission and District Assembly to enhance planning.

7.5 Parties to a Conveyance

The provisions for conveyance have dealt with instances where women are left out on land titles and documents when they have interest in the land. However, in the subject-matter of the conveyance which upholds the word used in a conveyance indicating the intention of the person making the transfer of interest in land as sufficient, difficulty may arise if for instance an illiterate woman hires a writer who falsifies the intentions of the woman who is disposing off the land. Much scrutiny must be conducted to ensure the intention of the owner of the land is what is

been conveyed. Earlier studies have indicated that it is a normal phenomenon for women who are illiterates to be short changed by “letter writers” who have their own intentions⁵.

7.6 Restrictions on Transfer of land by spouse

“In the absence of a written agreement to the contrary by the spouses in a marriage, a spouse shall not, in respect of land, right or interest in land acquired for valuable consideration during marriage”

One party cannot sell lands acquired during marriage without a written consent of the other partner. This is good for women because husbands cannot cheat them out on lands they have acquired together during marriage. The provision should include clauses that stipulates that the agreement to dispose of land does not include those taken under duress, threat or ransom. This would ensure that men do not use divorce to tie women down to agree on disposing lands jointly acquired in marriages. In addition, the registration forms should be designed in such a way that could allow spouses to state their interest in lands being registered.

8.0 Implied Covenants by Transferor

Where a lease in respect of bare land is granted by a person who holds an allodial or usufructuary interest in the land which is the subject of the lease and the lessee is an indigene of the area where the land is situated, the lease is subject to automatic renewal where the lessee has developed

- (a) the land for residential purposes;
- (b) a farm of perennial crops on the land; or
- (c) a commercial or industrial property on the land,

for the same duration as the original lease when the lease expires.

Unless otherwise expressly provided in the lease, where bare land is leased to a citizen of Ghana who is not an indigene of the area where the land is situated, there shall be an implied term in the lease that the lessee is entitled to a renewal of the lease.

Women who have perennial crops on a leased land located in an area where they are indigenes have a right to automatic renewal after the expiration of the lease agreement. But, migrant women in similar situations do not have such automatic renewal. This can be devastating for migrant women as many migrant women acquired agricultural lands in such manner. It is also

⁵ Torvikey, G. (2016).

not clear if migrant women gain indigenous status through marriage. If this is not the case, then migrant women would suffer more.

Recommendation: The provision can grant all such land holders automatic renewal once they are ready to put the land to the economic use for which it has been granted unless there is a change in use where automatic reversal option should be extinguished.

9.0 Registration of lands and certificates

The provisions on registration and acquisition of certificates both recognised the fact that women who have interest in lands acquired during marriage but do not have their names on them are co-owners of the land whether their names are stated or not. This is framed with good intention and spirit except that it is crafted with a monogamous marriage in mind. This would create confusion as women in polygynous marriages would struggle to agree on who should be recognised in addition to the man whose name is on the land title.

Recommendation: The provision should state how such matters could be resolved as marriage in itself could discriminate against women who have co-habited with men who simultaneously have recognised wives. There is the need to spell out whether by acquisition, economic contribution of the women either married to the title holder man or not has any implication for how the provision is stated. Also, even when all women are legally recognised as wives of the title holder man, the contributions of the wives could vary depending on residential status of the wives and other social norms that define conjugal life. This must be clarified.

10.0 The Lands Bill and the GADS II: Similarities, Differences and Gaps

Both the GADSII and the Lands Bill are crafted within the development framework of the country which is to ensure that growth is achieved and the interest of both women and men are equally favoured. These considerations also put into perspective inequalities that exist (GADSII for the agriculture sector and the Lands Bill for the lands sector) amongst women and men in the country. They are both detailed and comprehensive with very practical steps and clarifications on issues that they articulate. The GADSII and the Lands Bill are both similar and dissimilar in some ways. The GADSII which is already launched has nine strategic objectives covering the entire value chain of the agriculture sector including strengthening institutional capacity for gender-responsiveness in policies, programmes and projects, enhancing equitable delivery of agricultural services and access to inputs, enhancing access to land, information on land rights

and tenure security, develop and disseminate gender-sensitive appropriate technology along the agriculture value chain, promote gender-responsive agribusiness, value-addition and market access for livelihood and growth in incomes, promote gender-sensitive research and extension linkages, promote equal representation and participation in decision-making by women and men at all levels; harness the potentials of vulnerable farmers for social protection and strengthen gender coordination among state and non-state institutions .

The Lands Bill is drafted to revise and consolidate the laws on land, with the view to harmonizing those laws to ensure sustainable land administration and management, effective land tenure and efficient surveying regimes and to provide for related matters. Both the GADSII and the Lands Bill recognise the inherent importance of productive resources and the roles they play in development. Both documents also apply a gender considerations in how they conceptualise the opportunities, potentials, emphasis and cautions in their wordings.

Both the GADSII and the Lands Bill intersect at strengthening institutional collaboration, enhancing land tenure securities for women, enhancing information flows and deepening participation of women and men at all levels of governance. The main divergence is technical in nature as the Lands Bill provided more details and clarifications on many of its provisions. The GADSII presents a careful posture on issues pertaining to land and only focused on sensitisation and information sharing on land issues.

With nine strategic objectives, the GADS II singled out land access and information on land rights and tenure security for women as objective three. This sits in well with the Lands Bill, as it also consolidates the several laws and practices in a single document. The Lands Bill also revised some provisions in accordance with human right practices. Nonetheless, both the GADS II and the Lands Bill, seemed to build on the existing norms that govern land tenure practices. A few sections of the Lands Bill correspond remotely with the GADS II are discussed below:

Section 3 of the Lands Bill indicates that the highest interest in land is allodial title which an individual or group of persons hold and usually acquired through conquest, pioneer discovery and settlement, gift, purchase or agreement. Traditionally women have been disadvantaged because conquerors, pioneer discoverers or first settlers were usually males which vest in them the highest interest in land. Thus women at the onset have been at a disadvantaged position. Since the lands Bill, like many other bills before it also alludes to allodial interest as the highest

interest in land, the status quo has been preserved and thus, women's access to land minimally or cannot be improved through allodial interests because existing lands all have allodial interest vested in men. Similarly, the GADS II is crafted with the assumption that once information is made available to women, they could have access to land or their land rights are inherently improved. The strategic object three of the GADS II dedicated only one sub-section to improving women's access to land through the collaboration with land agencies and traditional authorities to increase women's access to productive land. However, the Lands Bill, is silent on the role of MoFA in executing agriculture land. It is difficult to see how MoFA, the Land Commission and the traditional authorities will collaborate on matters relating to women's land rights as stipulated in both documents.

Section 4 of the bill also talks about the customary freehold which confers absolute interest in land to an individual or group of persons through outright purchase governed by customary laws from a stool, skin, clan or family that holds the allodial interest. For this interest as well, historically, women have not had the resources for outright purchase of land. In cases where even females have had resources, same customs and norms that govern such transactions have been a disadvantage for females as many holders of allodial title did not see women as possessing the qualities to buy and own land.

Section 4 continues to indicate that, such land can be bequeathed to others without consent of the stool/skin or family/clan. This can benefit females as they can inherit lands that their parents or other relations bequeath to them without any recourse to customary laws which may be to their disadvantage. Recent studies have indicated that some daughters are indeed inheriting lands from their parents which has improved their access to land.

Section 6 of the bill talks about usufructuary interest that is generated through membership of a family, clan or stool that holds the allodial title. Women can benefit from this interest by being members of clans or families with allodial interest. However, this usufruct interest when gained through first clearance or development, women will miss out unless through express grant. This is also not likely since customs have always played to the disadvantage of women in express grants.

Section 8 talks about customary tenancies that arise when holders of allodia title, customary freehold or usufructuary interest enters into a contract with a lessee to use land on agreed terms. These customary tenancies encompass all forms of sharecropping arrangements in agriculture. In the case of females in agriculture and as studies have highlighted, sharecropping customary tenancies have been a good source of access to land to females but to females who have a good record of accomplishment in agriculture. Thus, while this interest can potentially benefit women, their record of accomplishment is usually the determining factor of their access through such interest. It thus excludes women with less endowment.

Section 10, sub-section 2 clearly indicates that one person or group of persons cannot create freehold interest in stool, skin, family or clan lands. Sub-section 3 further indicates the importance of usufructuary interest in such lands. As such, women who belong to land owning families can have access to such lands for use especially in matrilineal societies than their counterparts in patrilineal.

Section 13 of the bill indicates that, a decision or practices in respect of land under customary tenure, whether the land is individually or communally held shall be in accordance with the customs, traditions and practices of the community concerned but a decision or practices which discriminates on grounds of gender, race, colour, religion, creed, and ethnic origin, or social or economic status in contravention of Article 17 of the Constitution is void. Section 15 sub-section 2 reiterates the importance of chiefs, tendanas, family and clan heads to remain impartial in making decisions affecting land. While this section is important for women, many cultural practices in which confer such land interest to men can be inherently and unconsciously discriminatory.

Section 33 also indicates clearly that any transfer of land is only valid when that transfer is written and signed by the transferor or his/her agent and the transferee or his/her agent. Although this is important, transfer of land done by will and those by oral grant under customary law are exempted from this written document. This is important piece of information since women mostly have access to land through inheritance and/or oral transfer for which many of them do not have written documents to that effect.

Section 37 on parties to conveyance sub-section 3 clearly indicates that, in conveyance for consideration of interest in land to a spouse during marriage, the spouse shall be stated to be

parties to the conveyance, unless a contrary intention is expressed in the conveyance. Sub-section 4 further indicates that, even when a conveyance is made to one of the spouse, that spouse shall be presumed to be holding the land in trust for the spouse, unless a contrary intention is expressed in the conveyance. These sections are very important for women whose spouses acquire land during marriage as it gives women interest in the lands. Females may therefore have access and usufructuary and even ownership interest in such lands.

In addition, section 46 goes a step further to place restriction on the transfer of land by a spouse by clearly indicating that, in the absence of a written agreement to the contrary by the spouses in a marriage, a spouse shall not, in respect of land, right or interest in land acquired for valuable consideration during marriage, sell, exchange, transfer, mortgage or lease the land, right or interest in the land; enter into a contract for the sale, exchange, transfer, mortgage or lease of the land, right or interest in the land; give away the land, right or interest in the land inter vivos; or enter into any other transaction in relation to the land, right or interest in the land without the written consent of the other spouse, such consent not to be unreasonably withheld. Indeed, per this statement one spouse cannot engage in transactions concerning any piece of land without the consent of the other partner. In effect, husbands cannot sell lands without the consent of wives.

Section 49 sub-section 8 indicates that, where a lease in respect of bare land is granted by a who holds an allodial or usufructuary interest in the land which is the subject of the lease and the lessee is an indigene of the area where the land is situated, the lease is subject to automatic renewal where the lessee has developed a farm of perennial crops on the land; or for the same duration as the original lease when the lease expires. While this is an advantage for females who have perennial crop farm on a leased land located in an area where they are indigenes as they have a right to automatic renewal after the land expires, what happens to migrant women then?

Section 96 sub-section 4 and 5 indicate that, an application for registration of land or an interest in land acquired for valuable consideration during marriage shall state the spouses in the marriage as the applicants unless a contrary intention is expressed in the conveyance. Where only one of the spouses is stated as the applicant that spouse shall be presumed to have applied on behalf of that spouse and the other spouse unless a contrary intention is expressed in the

conveyance this statement indicates that, while females can register their lands, as well, when their spouses register lands acquired during marriage, their names are supposed to be part register unless otherwise stated. Even if their names are not part, they are implicitly co-owners of the interest in the particular land. This statement is further extended beyond application to include the certificate of registration of land issued from the application in section 124 sub-section 6 and 7.

These sub-sections states that, where a certificate in respect of land or an interest in land is acquired for valuable consideration during marriage, the certificate shall have the names of the spouses to the marriage. Where only one spouse is stated in the certificate as the proprietor of land or an interest in land referred to in subsection (7), that spouse shall be presumed to be holding the land or interest in land on behalf of that spouse and in trust for the other spouse. Thus, females by this statement attain interest in land.

Many sub-sections in the GADS II talked about providing information to women on land governance and management issues. Perhaps, this is one of the areas MoFA could play a major role in sensitising women on issues as stipulated in the Lands Bill.

The GADSII and the Lands Bill are framed within the general economic development of the country and therefore situated within constitutional provisions including those that prohibits discrimination. Both documents placed little emphasis on transformation or reformation of traditional land titling arrangements such as women and men being able to seek and acquire land by themselves and also able to elect their own witnesses. Land acquisition and titling practices for individual lands and family lands must be differentiated so that one is not superimposed on the other as it currently appears. Today, evidence abound to support claims that even when women seek lands through the markets, landowners direct them to provide male witnesses before transactions could be completed.

Finally, little provision is made for how women and men can equitably access lands that belong to government for their economic activities. Information on government lands and plans for their devolution must be part of the information sharing priority of the GADSII. Additionally, MoFA must liaise with the Lands Commission to collect gender disaggregated data on users of government lands across the country. Additionally, the Lands Bill must stipulate how

information on government lands can be made available to women and men. Such information must include location of the land, plans for devolution and use. This would ensure that, women do not lose out on benefiting from government lands.

11.0 Conclusion

The GADS II is a comprehensive document which succinctly describes women's position in the agriculture landscape by way of providing specific answers to begging questions along the entire value chain. Nonetheless, considering the importance of land as a major factor of production in the agriculture sector, the GADS II is weak. This is because, it assumes that the provision of information on land also guarantees access, ownership, control and how the land is operated. It is important to note that while GADS I informed the GADS II, there seemed to be a reversal to the former on issues relating to lands. In the GADS I, the stated object was to increase access to information on land rights. The section of the GADS II which aimed at enhancing land access only focused on information dissemination as a way of achieving access and spent a considerable space describing information and how it could be disseminated. On this weakness on land issues, the Lands Bill has come in at the right time as it complements the lands section of the GADS II. The Lands Bill has comprehensive and detailed information that MoFA can rely on to give out to women. In general, although the GADS II promises to enhance women's participation in agriculture production, it focused on more convenient parts of the value chain which are extension provision, marketing and processing. It is difficult to know how these could be achieved without an equitable land access regime for women. Since the GADS II already exist, the Lands Bill could make the necessary adjustments as suggested in the review taking into consideration women's experiences as members of a community, clan, family, wives, daughters and citizens of the country. The many other strategic objectives of the GADSII as discussed in the opening discussion of the document show a few gaps such as the lack of emphasis on indigenous technologies as well.

12.0 References

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