



## A NATIONAL LAND POLICY IN CRISIS: THE CASE OF GHANA

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### KEY MESSAGE



Developing countries increasingly focus on land policy as part of their development plans. Ghana created its “National Land Policy” in 1999 but has not updated it in over 25 years despite significant changes in land governance. Land policy reforms since colonial times were carried out without a structured plan, leading to problems in land management and many legal disputes due to existing land laws’ shortcomings. This situation prompted the development of a thorough Land Policy in 1999. 2020, the country enacted a new Land Act (Act 1036), providing comprehensive legislation for land matters. Act 1036 addresses some of the issues that the 1999 policy could not even anticipate, let alone resolve. This situation has created procedural and substantive gaps between policy and law. In light of this, there is an urgent need to revise Ghana’s land policy to support and speak to the new land law to a large degree.



It is, therefore, crucial for policymakers, including legislators responsible for drafting and passing land-related laws, as well as advisors and experts in land policy development, to take urgent action to revise and update existing land policies to address current challenges in land governance.



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## BACKGROUND AND CONTEXT

### A Progressive Land Policy

To be progressive, a land policy should follow key principles outlined by Zimmerman (1999) [1] and Kasanga (2000) [2]: operate democratically and with good governance, enforce laws, have a vision for inclusive development, especially at the community level, clarify institutional roles regarding land, ensure fair access to land information, be adaptable to change, have user-friendly legislation, prioritise local language translations, and foster state-citizen dialogue.

Furthermore, the African Union Land Policy noted that several African countries have developed

numerous sector-specific policies and laws to address land issues. However, these policies and laws need to be more cohesive and complex, and a centralised policy framework is needed to harmonise and simplify these complexities.

The African Union, African Development Bank, and Economic Commission of Africa (2010) [3] also noted that while new land policies and laws are important, they can only solve some land-related issues. Therefore, policies and laws need periodic updates to keep up with changing land governance dynamics.

### Methodology

The study adopted a case study research design to be sensitive to evidence (Yin, 2018). The search for data was based on documents that could provide the required information, and therefore, the National Land Policy of 1999 document, the new Land Act of 2020 (Act 1036) and land policy documents of other African countries, among others, were subjected to content analyses. To complement the literature, data were also gathered using interviews and a semi-structured questionnaire from purposively sampled key informants from the Ministry of Lands and Natural Resources, Law Reform Commission, Lands Commission and landowners/users. Others emerged through the snowballing sampling technique to enrich the data collected. The study utilised data from 30 participants for analysis. The study used Miles and Huberman's (1994) characterisation to analyse the data collected for data reduction, data display and drawing and verifying conclusions.



## Findings



### Substantive and Procedural Gaps Revealed

**Institutional capacity:** Despite significant efforts in the land sector, a pressing issue is the action of “landguards” – individuals hired by landowners and users to safeguard the land but frequently engage in criminal activities and disregard the law. Here are the common perspectives:

“**People often employ landguards to protect the land they have acquired. Landguard conflicts mostly stem from boundary disputes, particularly when landowners are uncertain about their exact property boundaries**” (Developer interviewee, November 2021).



**Local threat:** “The moment they hear a tractor or any machine’s sound on the land, they appear immediately on you and stop any activity demanding huge sums of money, and until that is settled, you cannot work on the land you have purchased” (Developer interviewee, November 2021).

Many of these landguards are young individuals with limited access to land and employment opportunities, and this is how they make a living. Ghana’s LAP 2003 sought to amend the policy to incorporate gender considerations. However, this focus appears to have shifted, given that Kidido and Lengoiboni (2019) [4] advocated for urgent government reforms to prioritise youth inclusion in development, with a greater emphasis on land access and control.



### Accelerated environmental degradation:

The rapid deterioration of the environment, exemplified by the harmful effects of illegal artisanal gold mining known as “Galamsey,” was not addressed in the New Land Act (Act 1036) as the issue of “Galamsey” was seen as a matter for a revision under mining legislation. Sections 4.2 and 4.5 of the 1999 land policy aimed to improve land use, capability and conservation but fell short as activities harmed water bodies and agricultural lands and caused land degradation. We need an integrated land policy that addresses these issues co-ordinately.



### The vexed question of vested lands:

An official of a Land Agency narrated that: “Agitations were rising in these vested areas because these lands are prime lands and situated in prime areas. These allodial owners (stool/skin/clan/family) are demanding for a return of their lands” (official interviewee, January 2022). Section 268 of the Land Act 2020 (Act 1036) prohibits transferring ownership of stool, skin, clan, or family lands to the state. However, this contradicts section 2.0 of the Land Policy document 1999, which acknowledges vested lands.



## Recommendations

Therefore, the paper recommends promoting and developing land policy formulation on the continent, mainly based on the AU guidelines, with a window for national-level context-specifics.

- Institutions should be strengthened to enforce laws that criminalise landguard activities effectively.
- Legislative support and specific policy targets regarding youth and women's access to land and employment opportunities in land governance should be addressed.
- Greater attention should be given to de-vesting lands owned by the state to facilitate decision-making and promote economic and social development in these communities.
- Ensure that the new land legislation is anchored on a new land policy that supports and speaks to each other to a large degree.
- Integrate a new land policy in which climate change and environmental degradation, among others, are reflected in one policy document to promote fair land governance.

## CONCLUSIONS AND WAY FORWARD

The critical role land plays in the development agenda of agrarian societies requires the development of fit-for-purpose policies and appropriate legislation to guide the processes. With time, these policies and legislation would require reviews. This paper examined this need in the context of Ghana's nearly quarter-of-a-century-old national land policy that still needs to be revised to reflect contemporary land governance realities. Yet, new land legislation has been passed.

Not only was the procedural sequence putting legislative revision ahead of policy revision found to be inappropriate, but substantive land governance realities also created gaps in the existing land policy of the country, including accelerated environmental degradation, institutional capacity development, the vexed question of vested lands and climate change. These results suggest that having well-defined land policies in Africa could help achieve the objectives of AU Agenda 2063 – the Africa We Want. Notably, it could fulfil the African Continental Free Trade Area (AfCFTA) goals as improving resource governance systems would boost productivity by capitalising on intra-African trade opportunities.



## REFERENCES AND APPENDICES

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