



# **A World Bank Discourse and Ghanaian Realities**

A discourse study on the Land  
Administration Program in Ghana

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MSc Thesis in Human Geography  
Conflicts, Territories and Identities  
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**Radboud Universiteit Nijmegen**

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## Acknowledgements

During my Master's programme, I became increasingly interested in the field of development aid. Critical scrutiny of monetary investments in third world countries is of great importance, since several evaluations of projects have already shown how potentially risky these programmes can be. Therefore I believe in the need to increase dialogue on aid programme policies, which is why I wrote this thesis.

I would like to thank my supervisor Mathijs for his patience, wise words and guidance. It was not always easy to narrow this research down, and with your help I found my way in this sometimes overwhelming process. I also want to thank my parents and my sister for their support during these months. They know how difficult the last two years have been for me, and without them it would have been much harder to keep believing in myself.

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## Abstract

This thesis looks into the following question: “What discourses on land tenure systems can be identified in the case of the World Bank’s Land Administration Project in Ghana, and what effects do these discourses have on their program’s policies and consequently on women’s land security in Ghana?”

The academic debate on customary tenure is ongoing. As some researchers emphasize the opportunities that arise from customary tenure practices, other inquiries show how reinforcement of customary tenure systems can provide a window of opportunity for traditional authorities to abuse their power. In this case study on the Land Administration Project in Ghana, this thesis investigates the implemented policies based on policy documents. This results in a description of different World Bank’s discourses on land tenure with the help of discourse analysis. These findings are then evaluated and compared to critical findings on customary tenure from the academic field.

In the analysis, three discourses on land tenure in the World Bank’s LAP were distinguished; a discourse wherein modernization and economic prosperity is the main goal; a discourse that displays a high level of trust in traditional authorities and a discourse wherein women stand in the background. Based on this analysis and comparison with academic research on actual experiences with the LAP in Ghana, the World Bank seems to underestimate the complexities of women’s land tenure security, despite recognizing the importance of focusing on women’s land security in its policy documents. There was no sufficient attention paid to the opportunistic politics that are often involved with customary land systems, which undermined women’s accessibility to land. Furthermore, no sufficient practical plans were made to support women in overcoming their fragile position or these plans were not monitored properly. Therefore, the blind spot remains and no clear pathways were constructed to overcome these difficulties. Since there may be a risk of organizations mindlessly taking over World Bank’s policies, the World Bank has a certain responsibility to put more effort into studies to thoroughly understand the variety of customary land systems in Ghana, prior to the implementation of a program

*Keywords: Ghana, customary land tenure, land tenure security, women’s rights, World Bank, discourse analysis, Land Administration Project*

## Samenvatting in het Nederlands

Deze scriptie onderzoekt de volgende vraag: “Welke discoursen van de Wereldbank kunnen geïdentificeerd worden binnen het Land Administration Project in Ghana, en wat voor invloed hebben deze discoursen op het projectbeleid en daarmee op de landzekerheid van vrouwen in Ghana?”

Het academisch debat rondom traditionele landsystemen is nog steeds gaande. Aan de ene kant laten verschillende onderzoeken de positieve bijdragen van traditionele landsystemen zien. Aan de andere kant presenteren diverse onderzoeken hoe versterking en pogingen tot harmonisering van traditionele landsystemen met staatsbeleid mogelijkheden kunnen creëren voor traditionele autoriteiten om hun macht te misbruiken. In deze case studie is het beleid binnen het Land Administration Project in Ghana onderzocht. Dit resulteert in een beschrijving van verschillende discoursen die ten grondslag liggen aan het project van de Wereldbank. Deze bevindingen zijn vervolgens geëvalueerd en vergeleken met bevindingen in het academische veld.

De volgende drie heersende discoursen naar voren; een discours waarin modernisering en economische welvaart voorop staat; een discours waarin een grote mate van vertrouwen wordt gegeven aan traditionele autoriteiten; en een discours waarin vrouwen op de achtergrond komen te staan. Gebaseerd op deze analyse en vergelijking met academisch onderzoek lijkt het dat de Wereldbank de complexiteit van de landzekerheid van vrouwen in Ghana onderschat, ondanks de focus op deze landzekerheid in de beleidsdocumentatie. Daarnaast suggereert de analyse dat de Wereldbank de complexiteit van de landsystemen in zijn geheel onderschat, en niet inziet waar precies de frictie ligt binnen het implementeren van traditionele landsystemen en het verbeteren van landrechten van vrouwen. Er werd niet genoeg aandacht besteed aan de opportunistische gedragingen van elites, die de landzekerheid van vrouwen ondermijnen.

Geen duidelijke, praktische plannen werden aangedragen om vrouwen te begeleiden in het verbeteren van hun zwakke positie. Deze plannen werden daarnaast niet voldoende gemonitord en geëvalueerd. Daardoor blijft er een blinde vlek in het beleidsplan en zijn er geen duidelijke stappenplannen ontwikkeld om deze moeilijkheden in het harmoniseren van vrouwenrechten en traditioneel landgebruik te voorkomen. Concluderend heeft de Wereldbank gezien hun positie een zekere verantwoordelijkheid om meer aandacht te besteden aan wetenschappelijke studies die investeren in de complexiteit van traditionele landsystemen. Er bestaat namelijk het risico dat andere organisaties deze beleidsplannen overnemen.

*Kernwoorden: Ghana, traditioneel landgebruik, landzekerheid, vrouwenrechten, Wereldbank, discoursanalyse, Land Administration Project*

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## Abbreviations

ADR	Alternative Dispute Resolution
CDA	Critical Discourse Analysis
CJS	Customary Justice Systems
CLS	Customary Land Secretariats
DA	Discourse Analysis
FAO	Food and Agriculture Organization
GPRS	Ghana Poverty Reduction Strategy
LAP	Land Administration Project
LIS	Land Information System
LSLA	Large Scale Land Acquisitions
NLC	National Land Commission
NLP	National Land Policy
PAD	Project Appraisal Document
PID	Project Initiation Document
RLC	Regional Lands Commission
RSA	Rapid Social Assessment
SSA	Sub-Saharan Africa
TA	Traditional Authorities
WB	World Bank

# Chapter 1. Introduction

*Poverty is not an accident. Like slavery and apartheid, it is man-made and can be removed by the actions of human beings. And overcoming poverty is not a gesture of charity. It is an act of justice. It is the protection of a fundamental human right, the right to dignity and a decent life. While poverty persists, there is no true freedom.*

- Nelson Mandela, London Trafalgar Square 2005

Improvement of land tenure security is one of the main priorities in developing countries in order to fight poverty (Abdulai & Ochieng, 2017). In general, land tenure in Ghana is insecure due to an overflow of time-consuming competing claims to land (Ubink 2002, in: Obeng-Odoom 2013). Therefore, the World Bank — an international financial institution that provides loans and policy programmes to governments of low- and middle-income countries — aims to contribute to improvement of land tenure security and consequently, development (Deininger 2003; FAO 2002, in: Simbizi, 2016). However, there is a lack of consensus within the academic and policy field on how this should be achieved. This can also be observed in the Land Administration Project (LAP) of the World Bank, set up in Ghana in 2003. In this programme, it seems that the World Bank finds itself struggling in two worlds; one wherein it tries to respect and anticipate on local customary land practices, and one wherein it desires to push through its focus on official land registration. Given the substantial amount of funding that has been pumped in the LAP and its questionable results, it seemed relevant to further examine this project. This research consists of a discourse analysis and a comparison of these discourses to scientific findings on the effects of customary tenure on women's land security. In order to comprehend the setting wherein the Land Administration Project is implemented, a background of this case is necessary.

## 1.1 Case background

As of today, the majority of people in sub-Saharan Africa live on land that is held under customary law, often described as 'traditional law', wherein land is allocated by local chiefs (Chimhowu & Woodhouse 2006; IEG 2013). Considering the scale on which customary law is being implemented, it has an enormous impact on several aspects of life, like marriage, land tenure and inheritance (Ndulo, 2011). This is also the case for Ghana, where most of the land

(around eighty percent) is held under this form of law (USAID, n.d.). Within the principle of customary tenure, local chiefs or other traditional authorities are recognized as political heads and the custodians of the rights which are held by the local people (Biitir & Nara, 2016). Land is mostly obtained through membership in a group, e.g. lineage or extended family (Spichiger & Stacey, 2014). It must be said that these systems are highly diverse, which is shown by the existence of more than twenty formal and informal institutions that form the Ghanaian land administration system (Spichiger & Stacey 2014 p. 6). Only a small part of the six million parcels is registered under the title registration system, around thirty thousand. An unknown number is registered under the deeds registration system, which is an older institution based on colonial precedents (IEG, 2013).

Over the last decennia, different strategies were implemented by the World Bank to improve land security and development. Since customary tenure used to be considered as insufficient by policy makers, statutory law and registration programmes were carried out in order to map land ownership of farmers (Freudenberger, 2013). However, these registration projects had mixed results; statutory systems often failed to acknowledge the special needs of specific communities, the complexity of these communities or did not acknowledge their existence sufficiently (Freudenberger 2013; Atwood 1990). Therefore, the World Bank started to shift towards a renewed attention to customary tenure, wherein it began to emphasize the usefulness of preserving customary land tenure (Collins & Mitchell, 2018). The advantages of customary tenure are mostly found in cost-efficiency and the recognition that customary land rights provide a certain level of legal protection. Thereby, the realization occurred that statutory systems seemed to be primarily functional to people who have the skills, knowledge and financial resources or power to operate in these systems, which most (poor) farmers lack (Freudenberger 2013 p. 7).

This openness towards different perspectives could be perceived as a positive development wherein alternatives are being considered. However, some researchers argue that it predominantly results in a somehow troubled situation wherein the World Bank does acknowledge the existence and usefulness of customary land tenure in Ghana, but simultaneously desires to implement the policy reform programmes the Bank itself believes will be most effective. Even though the World Bank and multiple other aid agencies are now more open towards supporting customary tenure, it seems that they maintain the starting point that land titling is seen as the most important intervention to promote land reforms and security of tenure (Peters, 2004). As described by Easterly (2006), the World Bank keeps pouring in loans in order to stimulate economic growth and prosperity, although evidence does not support a convincing positive effect (Easterly, 2006). Furthermore, according to Collins and Mitchell (2018), the World Bank overlooks the issues of

customary land tenure systems and the effects on women's land security. On the other hand, there are researchers who condemn the rejection of customary tenure. Besteman (1994) states how "a war on customary tenure in Africa" has unfolded, while instead she argues how modern registration programmes were actually harmful for the land security and productivity of farmers as well (Besteman, 1994 pp. 484). This again suggests that the debate will not be settled anytime soon.

Clearly, this inclusion of customary tenure practices by the World Bank causes an ongoing debate. Various theorists argue that a lack of clear statutory law implemented and controlled by the government creates vulnerable groups and, on the other hand, powerful elites within these customary practices. These vulnerable groups are mostly represented by women, sick people or migrants, who often find their access to land challenged (Spichiger & Stacey, 2014; Collins & Mitchell 2018). Therefore, it is necessary to better understand the discourses of the World Bank in the case of the Land Administration Project, wherein there is aimed to include customary tenure systems within the reforms of land administration.

As mentioned, I will lay a focus on Ghanaian women in particular. This seems relevant since Ghana has made limited progress towards improving gender equality and women's access to assets is still weak (Spichiger & Stacey, 2014; Collins and Mitchell, 2018). Due to strong cultural obstacles, legislations to protect or improve women's rights have been scarcely implemented (Ghana Joint Assistance Strategy 2007:5 in: Spichiger & Stacey 2014 p. 19). By mostly gaining their land rights through their husbands, fathers or brothers, there could be argued that women are not treated equally. In addition, women who *do* have assets, do not experience the same extent of control over these assets as men do (Oduro et al. 2011, in Spichiger & Stacey 2014 p. 19). This often results in land disputes and a low level of land security.

## 1.2 Societal relevance

As described by Lentz (2007), land is an extremely precious resource. It is non-renewable, not increasable and of utter importance to sustain livelihoods. This explains why territory and access to land resources evoke so many conflicts between people. Drastic changes in the political economy, such as land grabbing and reform programmes, have caused a growth of these conflicts (Lentz 2007 in: Collins & Mitchell 2018).

Even though Ghana is often mentioned as an 'example country' or so-called 'darling' for their records in promoting peace, stability and gender equality, it seems that in practice this is not quite the case (Collins & Mitchell, 2018). However, owning land is a fundamental human right

according to Article 17 of the Universal Declaration of Human Rights. It states that “(1) everyone has the right to own property alone as well as in association with others, and (2) no one shall be arbitrarily deprived of his property” (Lemmens, 2019 p. 34). Despite this quite solid statement, Spichiger and Stacey argue that the Ghanaian government does not perceive gender equity as one of their main priorities (Spichiger & Stacey, 2014). Only ten percent of women in Ghana hold land in their own name (USAID, 2013), despite the fact that small-scale food production and the women involved could be described as the backbone of rural livelihoods: “female farmers produce more than half of all the food grown in the world and even sixty to eighty percent of the food grown in most developing countries” (FAO 2010b 2011; Oxfam 2013 in: Namubiru-Mwaura, 2014 p.1). A study by the FAO reveals that women in Sub-Saharan Africa would be able to increase their harvest by twenty to thirty percent, only if they had equal access to land. This would raise the agricultural output in developing countries by two and a half to four percent, which could reduce starving people in the world by twelve to possibly seventeen percent (FAO 2011 in: Namubiru-Mwaura 2014 p.1). Furthermore, women with property rights are more likely to be active members of their communities, and community institutions are more likely to be responsive to the needs of women (Agarwal 2003; FAO 2002b; Scholz et al. 2013 in: Namubiru-Mwaura 2014). This illustrates the importance of women’s land security.

The World Bank’s influence on the national land policies should not be underestimated, as Ghana is strongly depending on poverty-reduction projects. The Land Administration Project is a proper example of such a project, since it received a substantial amount of money from the World Bank and overall worldwide attention (World Bank 2003; Collins & Mitchell 2018). Reasonably, the discourse of the World Bank influences its policy programmes, since a discourse determines a certain perspective on land tenure (Herrera & Vuollo, 2016). Therefore, this thesis explores how this concern with customary tenure works out in their policy and strategy.

Furthermore, donor organizations and land policy makers have so far paid unsatisfactory attention to the issue of gender equality in land administration reforms, and the results of these attempts are questionable (Collins & Mitchell 2018 p. 122; IEG 2020). By analysing and acknowledging the existence of discourses that are laying at the basis of the LAP, a contribution could be made to the debate and suggestions can be given for future land projects. Only by understanding from what view this programme is being conducted, further constructive dialogue on improving such programmes can be proceeded. If the underlying ground assumptions of the World Bank on the Land Administration are not grasped, discussion and possibly reform of projects will never be fully effective.

### 1.3 Scientific relevance

As mentioned in the introduction, the scientific relevance of this thesis lies in the ongoing debate of the potential contributions or disadvantages of customary tenure institutions on customary tenure, and its effects on women's land rights and overall land security. Over the last decennia, a clear shift has taken place on the view of customary tenure practices in the academic and in the policy field as well. Therefore, the current and past literature surrounding customary land tenure is complex and extensive. As land security is closely connected to an improvement of quality of life, it is an ongoing process and researchers continue to search for the best approach in the field of land tenure.

In this analysis, there will be a focus on the contributions and perils of customary tenure in the specific Land Administration Project case in Ghana, and how this project is steered by World Bank's discourses. It could therefore contribute to the overall debate focusing on (f)actors that could positively or negatively influence women's land security due to implementation of customary land tenure systems. As is shown by the results of the project evaluation, the outcomes of the project are questionable despite its optimism towards customary land tenure systems. This research could thus add to the overall academic debate and could provide additional suggestions in order to help organizations, such as the World Bank, with its projects. Furthermore, limited academic research has been conducted on the underlying discourses of the World Bank. It is therefore relevant to evaluate and contrast these discourses against academic findings, in order to possibly contribute to the debate on the effects of customary land tenure in Ghana.

### 1.4 Research objective

As stated in the introduction, land tenure projects in sub-Saharan Africa have regained attention by the World Bank and several projects have been initiated in order to support customary land tenure and land administration in Ghana. However, the results of these projects have been mediocre and scholars, governments and activists have challenged this land law reform agenda (Collins & Mitchell 2018, p. 112). Therefore, the aim of this thesis is to gain a better insight on the discourses of the World Bank and the effects of implementation of customary land tenure institutions in its Land Administration Project. This will contribute to an understanding of the dilemma that is unfolding in Ghana's Land Administration Project concerning the support of customary land tenure and simultaneously women's land rights and land security.

### 1.4.1 Research questions

In order to conduct this research, the following main research question has been constructed:

*What discourses on customary tenure guide the World Bank's Land Administration Project in Ghana and what effect does this project have on women's land security in Ghana?*

The sub-questions consist of the following:

- 1. What are the different perspectives within the academic literature on how customary tenure threatens and protects women's rights?*
- 2. How does the World Bank Land Administration Project in Ghana understand notions of land tenure and development and women land rights, and the impacts of these on customary institutions?*
- 3. How does the World Bank aim to harmonize customary land tenure and women's rights in Ghana?*
- 4. What were the results of this project on the level of women's land tenure security in Ghana?*
- 5. What lessons on strengthening customary institutions for enhancing tenure security could be learned from the Land Administration Project?*

### 1.5 Reading guide

This thesis starts with a theoretical framework which elaborates on various theoretical approaches of customary land tenure and women's land rights and security. Furthermore, the course of land policies over the last decennia will be discussed in order to better comprehend the current debate on customary institutions. Thereafter, there will be zoomed in on the dynamics of women's land accessibility in Ghana.

Logically, a methodology is crucial. Therefore, chapter three will start with a description of the paradigm this research is based on and an exploration of the used method of discourse analysis. Additionally, chapter three consists of a description of the research case, the data selection and an elaboration on the validity, reliability and limitations of this research.

Chapter four provides the discourse analysis. It gives an overview of the Land Administration Project in order to create a clear image of the research context. This is followed by the results of the analysis and the interpretation of the policy documents of the Land Administration Project.

Chapter five consists of a conclusion and discussion of the conducted research, wherein theoretical and empirical findings are drawn together.

## Chapter 2. Literature discussion

Before discussing the World Bank's discourses on land reform in Ghana, key concepts should be examined. This theoretical chapter starts with a description of the main concepts of this research, and illustrates the policy course of landholding in sub-Saharan Africa to exemplify the debate concerning customary land tenure. Furthermore, a focus lies on factors that influence women's land accessibility in Ghana. This theoretical overview concludes with the ground assumptions of the inquiry and a conceptual framework, which will be the baseline of this research.

### 2.1 Land tenure and land tenure security

*Land tenure* can be described as “the relationship, whether legally or customarily defined, among people as individuals or groups with respect to land” (FAO 2002 p. 7). Therefore, land tenure is an institution which comprises of rules invented by a society to regulate behaviour concerning the use of land. In practical terms, it determines who can make use of what resources for a certain period of time and under which conditions (FAO 2002 p. 7).

According to the FAO, land tenure can be categorized into four different groups:

1. *Private*. Land rights can be assigned to a private party. This party can be an individual, a married couple or even a group of people such as a commercial entity or a family who have the exclusive rights to the parcel. Other people can be excluded from using the land (FAO 2002 p. 8)
2. *Communal*. In a community where every single member has the right to use the land, a right of commons exists. For example, farmers of a specific community may all use the land to let their cattle graze (FAO 2002 p.8)
3. *Open access*. Within the category of open access, no-one can be excluded from using the land and there are no specific rights assigned to people (FAO 2002 p.8)
4. *State*. Within state land, property rights are assigned to an authority in the public sector. For example, nature reserves can fall under state authority (FAO 2002 p. 8).

The 1999 National Land Policy of Ghana categorizes all land in Ghana broadly into private and state lands, wherein private encompasses land held by stools or skins, clans and some families (Agbosu 1990; Spichiger & Stacey 2014 in: Ehwi & Asante 2016 p. 1). State lands consist of public land, solely owned by the Ghanaian state, and vested lands, which are owned by traditional authorities but held by the state (Larbi 2008 in: Ehwi & Asante 2016 p.1).

Moreover, there has been made a distinction between formal and informal property rights. Formal property rights are clearly acknowledged by state authorities and may be protected by legal law, while informal property rights lack official recognition and protection but could still give access due to customary law. Therefore these terms could be perceived as quite unclear by the local population (FAO 2002 p. 11). Another category is defined as extra-legal, wherein property is not unlawful or illegal, but is not recognised by the law either. Customary land practices could fall under this category in some countries (FAO 2002 p. 11).

However, while one might have a formal right to land, this is not always the case in practice. This brings us to the term of land tenure security.

### *Land tenure security*

Cotula (2006) describes land tenure security as “the degree of reasonable confidence not to be arbitrarily deprived of the land rights enjoyed or of the economic benefits deriving from them” (Place et al. 1994; Schlager & Ostrom 1992 in: Cotula 2006 p. 19). He includes objective elements, such as clarity of rights, duration and enforceability of rights, but subjective elements as well. These subjective elements consist of the landholders’ perception of their land rights security (Cotula, 2006 p. 19). Security of land rights is immensely important for the safeguarding of the livelihoods of people in Africa. Enhanced tenure security promotes investments, while a lower level of security seems to cause that people use land less sustainably and profitably (Cotula 2006; Deininger & Squire 1998). Therefore, land tenure security can bring improved living standards over the long-term (IDLO, 2010). This illustrates the importance of land security in Ghana.

One has to realize that the concept of land tenure security is not as straightforward as it may seem. There is a significant difference between protection by legislation and true access to land, as Cotula (2006) already illustrated by pointing out the subjective elements such as perception of security. Therefore, Ribot and Peluso (2003) work towards a more elaborate definition of access, and define it as the possibility to benefit from ‘things’, in this case land (Ribot & Peluso 2003 p. 153). Instead of the concept of rights, they focus on the concept of ability. Focus of ability describes how one can be legally protected by the state, even though this does not automatically ensure this protection in practice (Ribot & Peluso, 2020). Not all formal claims, such as titles, are enforceable. For example, forms of violence, like war or corruption often result in a lower level of access and thus a reduced level of land tenure security. This is especially the case for poor people with a lack of power. However, other groups might use violence in order to actually gain access to land that is not theirs, resulting in access without rights (Ribot & Peluso 2020; Doghle et al. 2019). So, in the case of natural resources as ‘things’, various mechanisms, processes and social

relations have a great influence on the level of access. Therefore, there has to be realized that each and every case has its own local and political dynamics related to these differences in access. As Piers Blaikie (1985) states, in order to understand access, we have to know “who is able to benefit from things, under what conditions, mobilizing what relations of power and through what set of mechanisms” (Ribot & Peluso 2020 p. 305).

The concept of land tenure security will play a central role in this thesis. It will function as an indicator to illustrate the inclusion and participation of (female) farmers, and the positive or negative effects of the Land Administration Project in Ghana.

## 2.2 The concept of customary land tenure

Customary land tenure plays a central role in the reforms within the Land Administration Project in Ghana. In order to understand the World Bank’s policy dilemma that is described in this thesis, an understanding of this form of land tenure is necessary.

As stated in the introduction, in most sub-Saharan African countries, including Ghana, the majority of people live on land that is in principle under the rule of customary law (Chimhowu & Woodhouse, 2006). In rural areas, the state administration and infrastructures are often non-existing or inaccessible, which results into customary systems being the main system to enforce community rules to mediate in land conflict (Chimhowu & Woodhouse, 2006).

However, the nature of these systems is almost impossible to comprehensively define. Ndulo (2011) refers to customary law as “the indigenous law of ethnic groups in Africa. Pre-colonial law in most African countries was in essence customary, based on the practices and customs of the people” (Ndulo 2011 p. 88). According to Chimhowu (2018), customary tenure is a term that, at its base, means collectively owned land, and which is usually under the authority of a traditional leader (Chimhowu, 2018). Collective or individual land rights are usually earned through ‘son of the soil’ entitlements, which basically refers to a right to land due to place of birth (Chimhowu, 2018).

Vital to understanding the principle of customary tenure is that the term does not indicate one particular set of customs, but actually covers large numbers of different legal systems. This means that customary regulation does not necessarily exist of indigenous rules only, but is often an exchange and adaptation between the formal and the informal (Van Leeuwen, 2014). Therefore, it is argued that customary law therefore is so-called ‘living law’, and not static (Ndulo, 2011 p. 87). Customary law and tenure should thus not be seen as “informal” or “traditional” systems which

are separated from or contrary to formal systems or law. Instead, these are overlapping with those systems (Peters 2004 p. 272). This fluidity causes state and customary authorities to be often in competition over what rules, norms and procedures apply (Van Leeuwen, 2014). This mix of different legal systems competing with each other is called legal pluralism. Such legal pluralism can lead to inequity, foster land tenure insecurity and undermine the rule of law. People may feel encouraged to so-call 'forum shop', in order to get the most advantageous outcome. Moreover, if people cannot access the formal system, they are often bound to customary systems (Cotula, 2007). As mentioned in the introduction, such systems could provide a proper level of tenure security. However, these are often not quite sufficient to safeguard the poor's land rights. This is often caused by more powerful external actors. These groups possess the wealth and knowledge to make use of the formal system, but could also shape this system to their advantage (Cotula, 2007). This causes social skills, resources and social status to be essential within these land tenure systems (Amanor & Ubink 2008; Peters 2013). By investing in social status and networks, people claim resources including access to land. This complexity leads to a system that lies beyond the current capacities of the government and certainly beyond formal legal systems (Amanor & Ubink, 2008).

### 2.2.1 Criticism on customary land systems in Ghana

As mentioned in the former paragraph, customary land systems have the tendency to initiate opportunistic behaviour (Cotula, 2007). This is also the case for Ghana. In the academic debate, Collins & Mitchell (2018) and Amanor (2008) are quite critical on the practices of customary tenure. Since there are only a small number of arrangements that enable customary systems to be formally recognised, Amanor argues how this often results in land relations being largely unregulated and subject of abuse by chiefs, but also bureaucrats (Amanor, 2008). Poorer farmers simply do not have the means, such as money, connections or knowledge, to gain access to justice. According to Amanor (2008), by promoting the customary system as a fair and community-based system, the Ghanaian state is absolved from blame for abusing the rural poor. Without support and recognition from the Ghanaian state and support for their version of customary practices, chiefs would have much less power to enforce their version of customary tenure (Amanor, 2008). Even though chiefs claim to be the customary custodians of land and communities, these men are often part of the modern elite and could be perceived as businessmen who use their wealth to gain chiefly titles (Amanor, 2008). Therefore, several researchers question

the negotiability and equity of customary land tenure systems. It also suggests that the Ghanaian state may withdraw from their responsibility to protect land security of Ghanaians.

In reality, it is thus clear that some people have more negotiating power and more contesting power and capacity than others (Lund, 2008 in: Amanor & Ubink, 2008). These political elites are able to continually redefine customary tenure to meet their interests and to dispossess farmers of their access to land. Negotiations are most often only accessible to the people with wealth and power, and excludes rural poor and women (Amanor 1999, in: Amanor & Ubink, 2008; Collins & Mitchell, 2018). Multiple studies that were conducted in Ghana showed this increasing social differentiation within rural areas as well (Tonah 2002, 2006 in: Amanor & Ubink, 2008).

On the other hand, there are researchers who condemn this rejection of customary tenure.

Besteman (1994) states how “a war on customary tenure in Africa” has unfolded, while instead she argues how modern registration programmes were actually harmful for the land security and productivity of farmers as well (Besteman, 1994 pp. 484). Furthermore, Freudenberger (2013) also emphasizes the possibilities of customary tenure systems. This discloses that there is still a lively discussion in progress whether customary tenure is contributing to land security or not.

### 2.3 The potential contributions of customary law to securing land tenure

In order to have an inclusive view of customary tenure, the strengths and other positive attributes of this system should be acknowledged as well. Moreover, due to its worldwide implementation by billions of people, it is necessary to understand and ascribe value to customary tenure systems.

According to Freudenberger (2013), customary law has certainly its benefits. First and foremost, the recognition of customary land rights provides a certain level of legal protection for land owners who are at risk of losing their rights in the transition to statutory systems. Instead of being treated as squatters, and thus being deprived of their property without or with little compensations, their rights would be protected. This would also avoid severe social unrest within these customary communities (Freudenberger, 2013). Additionally, there has to be realized that statutory systems are mostly functional for people who own the skills, knowledge and financial resources or power to operate in these systems. In general, within customary systems, these requirements are not necessary. In many cases, formal administrative systems do not even exist within a customary tenure system in a remote area. Therefore, when customary systems are being undermined, the majority of people who live according to this customary system actually become unprotected occupants, often treated as illegal squatters on their parcels. Statutory systems often fail to

acknowledge the special needs of specific communities or do not even acknowledge their existence (Freudenberger, 2013). Furthermore, customary tenure systems will give the opportunity to create models on how to deal with the complexity of these rural societies, since statutory systems have proved to be insufficient regarding these complexities (Freudenberger, 2013). These include separating bundles of rights to ensure that parties maintain their access to the resources that are most critical to their livelihoods, instead of indiscriminately according all rights to a given space to a single party or user. This way, there will be made more efficient use of resources since people are not allocated exclusionary rights to resources they are unlikely to use or need (Freudenberger, 2013).

Over the last years, governments are starting to gain a better understanding on how there are limitations to the formal state institutions to deal with issues in often remote and inaccessible rural areas. If the state would respect the authority of customary tenure institutions to a greater extent, administrative costs could be lowered significantly. Concludingly, customary mediation systems are often effective at dealing with conflict between rural parties before actually ending up in the national court system (Freudenberger, 2013).

So, while the dominating literature argues that customary tenure is possibly a threat towards equality and land security, there are other voices apparent in the academic world as well. Thereby, donor organizations are increasingly open towards the opinion that customary tenure should not be erased completely. As stated by USAID, “this is not realistic and not desirable since customary tenure systems have attributes and strengths that respond to real needs in many countries” (USAID 2013:1 in: Spichiger et al., 2013 p. 37).

## 2.4 The policy course of land tenure in sub-Saharan Africa

In order to understand the current policy issues the World Bank is struggling with, a comprehension of the course of land tenure in sub-Saharan Africa is necessary. However, this course is not as straightforward as it may seem. If sub-Saharan African landholding over the course of time should be summarized in a few words, it could be defined as “complex, variable and fluid” (Shipton & Goheen 1992 p. 318 in: Peters 2004).

Sub-Saharan African landholding systems have been dealing with a longstanding prejudice of being inefficient. After the colonial rule, politicians affirmed to abolish the colonial structures, but instead maintained these insofar as this enables them to stay in power, and to privilege a small elite of politicians and civil servants (Amanor 1999 p. 80 in: Peters, 2004). The colonial rulers’

Christian gender ideology led to a purge of female traditional leaders, and caused an exclusion of women from participating in traditional courts (Becker 2001, 2005 in: Ubink 2018). Moreover, further monetization of the economy caused an even more concentrated power in the hands of men, since it weakened the financial position of women by downgrading their domestic and agricultural work to non-paid activities. This caused a loss of recognition of women's achievements as essential producers of goods (Ubink, 2018). It is interesting to observe how current traditional systems are perceived as discriminating to women by Western countries, while discriminating systems were forced upon communities by Western countries themselves.

During the 1960s and 1970s, land administration in sub-Saharan Africa was influenced by the vision of modernization theory, which aimed to replace the traditional agricultural sector with modern farming based on mechanisation (Amanor & Ubink, 2008). Within this view, customary land tenure was seen as outdated and inefficient, as Western economists perceived the indigenous people as uninformed about their own economies (Besteman, 1994; Obeng-Odoom ). Under this influence of modernization theory, land tenure reform was based on promoting land titling and the creation of state cadastres through which farmers could register their land.

The position of the World Bank and the major aid agencies towards customary land systems was based on De Soto's premise that customary systems did not provide the necessary security to ensure agricultural investment and productive use of land as well (Peters, 2004; Obeng-Odoom 2013). This lack of security was thought to lie in the absence of clearly defined and enforceable property rights, and therefore the correct policy arrangements should be the state creation of such rights. Without formal property rights, the world could be described as "a planet of wealth inhabited by dormant entrepreneurs waiting to become rich" (Obeng-Odoom 2013 in: Ehwi & Asante, 2016 p. 3). According to this perspective, the only effective medication was formal registered titling, which would not only widen the tax net but also lead to economic growth and development in free market. It removes discouragements to invest in long term management and productivity. It is also argued that registration can create a land market that is more dynamic, and it provides a title that can be offered as collateral to financial institutions (De Soto 2000 in: Ehwi & Asante, 2016; Spichiger et al., 2013).

We see here an important development within the policy discourse of the World Bank, wherein a slow change to more interventionist strategies can be observed (Williams, 2003). Initially, the view of the World Bank was to only lend money so that receiving governments would use the money to improve their economic environment. The World Bank did not lend the money in order to change the economic policy environment or the social and institutional structures. However, this has changed drastically, which can also be seen in the Land Administration Project in Ghana.

In the 1980s and 1990s, a set of benchmarks was created in order to justify a more interventionist strategy. If states were not performing to the World Bank's satisfaction, the Bank could be justified in undertaking interventionist actions (Williams, 2003). Even though the Articles of Agreement state that "The Bank and its officers shall not interfere in the political affairs of any members", this thus changed remarkably (Williams, 2003 p. 11).

However, as turned out, land registration and titling procedures were expensive and only a small minority of rich farmers registered their plots. Most of the farmers continued to hold their land under customary or informal arrangements (Peters, 2004). Additionally, it seemed to over-exaggerate the entrepreneurial base of the informal sectors (Amanor 2009 in: Ehwi & Asante, 2016). This confirms the view of economic anthropologist Hill (1966 in: Obeng-Odoom), who argues that the sophistication of the available tools and the high level of local knowledge about farming point towards the conclusion that the people chose to live that way. Even though considered as economically inefficient, Hill defined it as efficient in a social view since it avoided monopolization of the commons by few people. While land may not have been used in its most optimal way economically, this was not without a purpose. For example, reserve land was seen as land for families' future generations, not for speculation (Hymer 1970 in: Obeng-Odoom pp. 664). So, field research showed how programmes of land registration and titling performed in the 70s and 80s challenged the premise that titling would improve tenure security and lead to increased productivity and therefore economic prosperity (Peters, 2004). Apart from the fact that these programmes did not meet their goals, they also encouraged speculation in land by outsiders, which displaced the local people, and caused a system of bribing, fraudulent titling and expropriation of land. Therefore, instead of the presumed advantages, the programmes caused conflicts and patterns of unequal access to land, based on gender, age, ethnicity and class (Peters, 2004). Moreover, according to Domeher and Abdulai (2012), possession of registered titles does not automatically guarantee ownership security, and it does not make any substantial difference to accessibility and availability of formal credit (Domeher & Abdulai 2012 in: Ehwi & Asante 2016).

Thus, this focus on titling and registration did receive quite some critique. The translation of customary land into formal tenure was clearly difficult to achieve, and sponsored research by the World Bank questioned the effectiveness of land titling on security of tenure, long-term investments in land and agricultural development as well. Because of this, some academics recommended community-based solutions that would decentralise land administration to communities (Bruce & Migot-Adholla 1994 in: Amanor & Ubink, 2008 p. 10; Spichiger et al., 2013). Thereby, World Bank analysts concurred that formal individual land titling may

not be the most desirable way to secure tenure rights and facilitate land transfers as well (Deininger & Binswanger 1999; Collins & Mitchell 2018).

This development caused the emergence of two different visions within the organization of the World Bank; one wherein individual land titling was advocated, and another that supported decentralised community-based management and emphasized the advantages of customary systems. Along the way, there was a compromise found between the two, which resulted in a framework that supported the recognition of customary tenure from the perspective of the so-called evolutionary theory of property rights. This theory describes how customary systems are dynamic and changing, and in the longer run tend to evolve towards individual property rights systems in response to a changing economy. Therefore, secure property rights should eventually emerge in a movement from communal rights to extended family rights and then to rights of individuals (Amanor & Ubink, 2008).

Even though the World Bank and multiple other aid agencies are now more open towards supporting customary tenure, it seems that they retain the old premise that land titling is seen as the major avenue promoting land reforms and security of tenure. The difference lies in the fact that there is less emphasis on the directive role of the state, but instead more attention for local governments, tribal groups, villages, communities and civil society organisations negotiating their own solution to securing access to land (Peters, 2004). Thereby, there has to be realized that this is still more of a vision of what ideally should happen than what is happening in current land policy programmes, or what is likely to happen.

However, there are still reasons to be wary of the developments that have taken place. As mentioned in the former paragraph, research has shown how the national and local elites profit from the benefits of decentralization to local and traditional managers (Ribot 2000; Carney & Farrington 1998; Woodhouse et al. 2000 in: Peters, 2004). Therefore, some academics recommend cautious intervention by the governments and other agencies to protect customary holders from expropriation by local and national elites (Peters, 2004).

The questionable reputation of customary tenure has caused a reactive and defensive literature that promotes customary systems as flexible, adaptive but also more accessible for women (Odgaard 2006 in: Spichiger et al., 2013). Peters argues that despite these possible advantages, more attention should be paid to relations of inequality of class, ethnicity, age and especially gender. When these social inequalities are identified, they are often dismissed by emphasizing that these groups are “at least still involved” (Peters, 2004).

## 2.5 Gendered access to land in sub-Saharan Africa

As the troubling position of women has been discussed, specific attention should be paid to the specific Ghanaian dynamics that involve the gendered access to land in the Land Administration Project. It is only a recent development that women are being incorporated into the legal framework. Before, policy reforms had a so called gender-blindness, wherein it was assumed that the entire household would benefit equally from reforms (Spichiger et al., 2013). Previous programmes did not take gender into account at all, or simply assumed that men and women had equal rights in accessing land (Spichiger et al., 2013). However, during the second half of the 1990s, policies have started to look more into the question on how to improve the position of women and their land rights. Despite this development, a wide gap between practice and principle still remains in many countries, including Ghana (Spichiger et al., 2013).

The problems Ghanaian women face are multidimensional and complex (Grigsby, 2004). Policies or statutes at the national level may directly or indirectly leave them at a disadvantage when it comes to land tenure. Even if women do have legislative or judicial support, the patriarchal culture and social structure can pose almost intractable dilemmas and barriers to using land (Grigsby, 2004). As long as men are willing and able to define their productive activities as more important than women's contributions, land tenure will remain a gendered institution (Grigsby, 2004 p. 218).

As Gray and Kevane (1999) describe, there is a common narrative of women and land tenure status that “transcends ethnic, cultural, and national boundaries in sub-Saharan Africa” (Gray & Kevane, 1999 p. 16). This narrative commences by identifying women not as ‘owners of land’, but as ‘owners of crops’. In general, women have right to cultivate land (also known as user rights), as well as rights to control the income from this resulting production of crops. However, for most women, their rights stop at this point since they rarely have the power to sell land, rent, hand over or lend it to others, which can be referred to as transfer rights (Gray & Kevane, 1999 p.16). Even though there is a great variation across sub-Saharan Africa, women mostly obtain their user rights through their male relatives (Spichiger et al., 2013). Therefore, there could be stated that women's rights to land use are mostly associated with their position in relation to men (patrilineal), for example as mothers, sisters, wives and daughters (Gray & Kevane 1999 p. 16). In both customary and statutory law, a woman's rights depend on her social position (Gray & Kevane, 1999). For example, an older woman may have stronger rights than a young woman. However, her rights may improve after she is married for a longer period of time or gives birth to multiple children (Guyer 1986 in: Gray and Kevane 1999). On the other hand, rights may decrease due to a divorce (in case the woman has to return to her own lineage), widowhood or the

incapability to give birth to sons (Gray & Kevane, 1999). Coexistence of two authorities (legal pluralism, as mentioned in the former paragraph) creates a complex system which can be manipulated as well, even though this depends on the economic and social capital of the protagonists involved.

In many regions of sub-Saharan Africa, women's rights to land have been eroding over time (Gray & Kevane, 1999). In order to comprehend the position of women with regard to their land rights and access, there has to be an understanding of the underlying processes that cause a diminishment of women's access to land. These processes are often interwoven with each other (Gray & Kevane, 1999).

#### *Change of land value*

In the first place, a change of land value is a vital cause for the erosion of women's access to land. As land value rises, for example due to more valuable crops, new farming techniques or population growth, individual men and corporate groups (including state authorities) find it in their interest to challenge women's rights to this land (Gray & Kevane, 2004). This phenomenon could be illustrated with a case from Benin, where men stopped the production in yams and instead started producing oil palms. This caused yams to become a woman's crop. However, women quickly started to realize that cassava was more advantageous to produce, and therefore started to replace the yams. Afterwards, men asserted control again when new techniques were developed to process cassava in an even more advantageous way. Another example is Cameroon, where women started to grow cocoa, but which in the period of a decade transformed into "une affaire d'hommes" ("men's business") which caused women to be pushed off the land because of its profitability (Coquery-Vidrovitch 1994: 109-10 in: Gray & Kevane 2004).

#### *Contesting rights and manipulations of meanings underlying rights*

Furthermore, land rights can change when the meaning that underly rights change, or when rights are contested entirely (Gray & Kevane, 2004). Peters (1987) argues how a strategy of relabelling and recategorization of fields, garden and other resources can be used in order to redefine ownership. An example from Zambia shows how gardens were controlled by women, until the gardens were reclassified as ibala gardens for the production of staples. Since land where staples were grown belonged to men, women lost control over their land (Moore & Vaughan 1994 in: Gray and Kevane 2004). Such forms of manipulations are also present in the cocoa regions of West-Africa. Several competing classifications of land are the centre of struggles over rights.

This is an interesting process, since land has not always been linked to gender. According to Mikell (1984):

*“Land did not exist as a sex-linked good before 1900, and the stool was the custodian of it. When land did begin to generate produce and raw materials intended for international markets, males tended to acquire it and pass it on to males. The females who began to acquire and control farm land after 1920 considered it their property (thus female property) and desired to pass it on to daughters and sisters... They did not list “brother” as the desired inheritor and seldom listen “son”. Yet it is clear that the transmission of cocoa farms to female offspring was not taking place.”* (Mikell 1984 in: Gray & Kevane 2004).

This erosion of rights occurred at the same time that men gained the right to designate an inheritor, which caused men to be increasingly successful in defining land as self-acquired, outside the purview of the lineage. On the other hand, women were increasingly unsuccessful in defending their arguments that the land they farmed was female property (Gray & Kevane, 2004).

#### *Creation of new rights through the state*

While donor organizations emphasize the increase of women’s registrations as a result of their programmes, Gray and Kevane (2004) and Lambrecht (2016) argue that the involvement of the state in the allocation of land through formal registration and titling mostly had a negative effect on women’s access to land. While women’s access historically had been guaranteed through customary tenure, it has actually been in general denied through formal titling and registration. Land is no longer available through customary channels and women are restricted in their financial and social ability to gain land through government or market routes (Gray & Kevane, 2004; Lambrecht, 2016). An example of this state- involvement is Kenya, where the government continued the policy of individual ownership of the European settlers, after independence. According to Davison (1988b: 165 in: Gray & Kevane 2004), these policies caused a priority of individual ownership for men, and marginalized the rights of women, which were formerly guaranteed under lineage tenure. Registration thus caused a hardening of men’s land rights into absolute legal ownership, while women were excluded (Shipton 1988 in: Gray & Kevane, 2004; Nyamu-Musembi 2008 in: Spichiger et al., 2013). Most land laws and reforms (like resettlement programmes and land titling projects) were implemented in order to increase agricultural productivity. However, these reforms generally led to men being assigned as head of the household, which deteriorated women’s rights to land (Lambrecht 2016). After this wave of registration, women who first had the rights to act on the behalf of their guardians were mostly

limited since the land was registered in the husband's name only. While women still continued to use land that was registered on their husband's name after his death, their land position became much more insecure since male children would inherit the land and sell it without the permission of their mother. So, these state interventions often did not respect the secondary forms of tenure and therefore undermined secure tenure status (Gray & Kevane, 2004).

However, over the last years, policymakers have designed land reforms in order to stimulate gender equality. For example, they use compulsory joint titling of land between spouses. But, there has to be realized that the implementation of a new law does not necessarily means success. It is crucial that the implemented law fits the realities of its citizens and is applicable to the target population. This often causes difficulties, since extra-legal practices like customary marriages are very often apparent, which are not legally accepted (Lambrecht, 2016). Additionally, women and men are often not aware of the legislation or do not have the knowledge of the process of claiming their land rights (Lastarria-Cornhiel et al., 2014 in: Lambrecht 2016). Third, the law must be enforced in a successful way, which often does not happen out of fear of social repercussions from their network or family (Yngstrom 2002 in: Lambrecht 2016). Thereby, it turns out that often people try to circumvent laws that stimulate gender equality, for example by gifting family properties to sons. This way, they avoid the obligation to inherit land to their daughters (Lambrecht, 2016).

However, several authors bring in a more opposite vision. Shipton (1988) states that some women, mostly widows, actually gained from land registration. Since they obtained titles in their own name, they could leave the land to any person they wanted. Additionally, they were protected from their husband's relatives. However, Shipton emphasizes that this number of cases were limited (Shipton 1988 in: Gray & Kevane 2004). Thereby, there has to be realized that these interventions by the government do not preclude customary and informal norms and practices. Even in areas where land is registered through formal title, land allocation and disputes are often still settled through customary law.

#### *How women respond to exclusion and reshape their access*

Whether a woman is able to press claims on land depends on several factors. First of all, it is a matter of personality; the ability to manipulate and interpret notions of identity that determine who has the rights to what part of the land. Second, the economic resources of a woman are of great importance. Since the latter is often an issue, traditions of collective action through songs or public demonstrations could be a source of power as well (Gray & Kevane, 2004).

Women use different strategies to fight back in order to obtain their rights to land. There are broadly two forms;

1. operating through men's authority, utilizing relationships with male kin, husbands and sons to gain access to resources
2. by manipulating other routes of access and evading male authority, for example by women-to-women marriage or by forming associations

Wealthier women have the option to purchase land via the land market and clearly register it under their name. This gives them the security of not losing their land in case of a divorce or widowhood (Gray & Kevane, 2004). However, women's access to the land market is not free from conflict. Often it takes organized action to clear these paths of access (Dei 1994 in: Gray & Kevane, 2004). Therefore, women have been forming associations and even purchased land collectively. Such forms of group action is a reoccurring theme in the literature, and these sorts of actions can also be a tool to assure tenure status within the customary framework. In multiple cases, women's groups collaborated with churches, donor agencies and NGO's assistance to permanently demarcate garden plots with fencing over which they only had insecure customary tenure (Gray & Kevane, 2004).

Furthermore, women manipulate customary institutions in order to create new routes to access land. For instance, they circumvent male authority and gain control over land by marrying another woman and give her a part of the land in order to protect her access. Additionally, mother-son partnerships are quite common as well. In these cases the son acquires land, whereafter the mother and son work together. They make joint decisions as well, while the mother is responsible for all the financial aspects. However, while women are the primary decision-makers in this relationship, they still do not fully control the land (Besteman 1995 in: Gray & Kevane 2004).

The article of Gray and Kevane gives a nuancing overview of the effects of registration and administration programmes of donor organizations, arguing that these programmes have its shortcomings, especially for women. At the same time, Gray and Kevane do not seem to be overly enthusiastic of customary tenure as well.

## 2.6 Conclusion

This theoretical chapter has given an overview of the different perspectives on customary land systems. These different views are needed in order to analyse and understand the World Bank's discourses on customary tenure within its Land Administration Project.

Overall, the contemporary academic debate on customary land tenure seems to have two main views which are quite polarized. The first group consists of proponents of state tenure reforms in terms of registration of individual rights, such as De Soto. The second group emphasizes the advantages of customary tenure in order to fight landlessness among the poor (Freudenberger, 2013; Besteman 1994). Other academics such as Peters (2004), Cotula (2007) and Amanor and Ubink (2008) emphasize advantages of a possibly higher level of tenure security, but also acknowledge the risks of opportunistic behaviour. Furthermore, Collins and Mitchell (2018) state that the World Bank has an over-simplified view of customary tenure. This is worrying, since the World Bank's evolving land law reform agenda in Africa is getting parroted by other global institutions without critical revision. If the politics of customary land tenure systems are overlooked, this could actually trigger conflict (Collins & Mitchell, 2018).

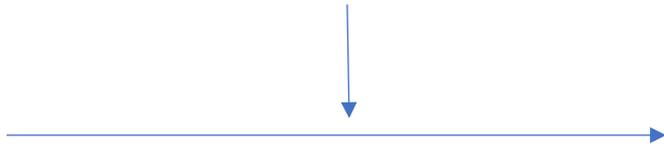
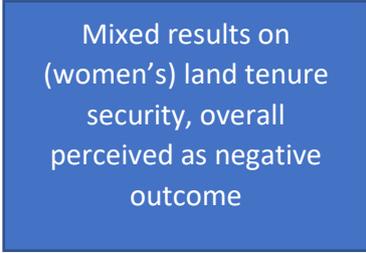
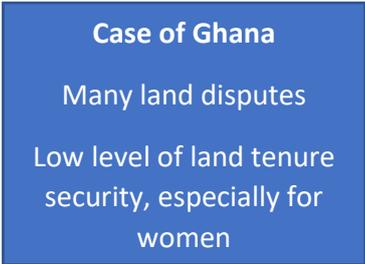
The following overview has been made in order to create a clear overview of the possibilities and disadvantages that are considered in the academic debate.

<b>Visions on customary land tenure</b>	
<b><i>Rejection of customary tenure</i></b>	<b><i>Pro customary tenure</i></b>
Economically inefficient, limits investments	Facilitates access to land through group membership
Often perceived as a trigger for conflict and inequity for women	Often cost-efficient, also for impoverished farmers
Complex combination of formal and informal institutions, which could cause competition between state and customary authorities	Certain level of legal protection and therefore safekeeping their property, thanks to chiefs and local family relations, while the state could have taken the land otherwise
System is vulnerable for misuse by opportunistic elites	Flexible and adaptive to specific circumstances in a local region, since state is often not capable of this, e.g. the specific characteristics of the disputes are not thoroughly understood. Statutory systems have

	proved to be insufficient regarding these complexities
Success for rural people is sometimes dependent on social skills and status, lack of legal backing	
Could give an impulse for the state to withdraw from their responsibilities	

The literature provided in this chapter underbuilds this thesis with quite a lot of information and several theoretical concepts. As turns out, the construct of the position of women in Ghana among the practices of customary tenure and the influence of the program of the World Bank is quite complicated. However, a simplified schematic representation has been constructed in order to give an overview of the concepts that are being used. This schematic overview may not entirely grasp the complexity of the issue, however it does show the interaction of the variables related to each other which will help to conceptualise the research.

In this research, there is argued that the implementation of customary tenure in the LAP possibly causes negative consequences for women, advantages for men and stimulates misuse by elite powers. This may outweigh the advantages that customary land tenure can provide for women. By implementation of donor programmes which stimulate customary land tenure, the outcome of these variables could therefore result in a lower level of women's land security. However, this academic debate is still ongoing. In order to understand why the World Bank executed its policies, there has to be a better understanding of the different discourses that push the World Bank towards their decisions in policy making. This may contribute to a better overall understanding of the implementation of customary land practices in land administration projects in Ghana.



## Chapter 3. Methodology

*“It is not uncommon for textbooks on language to have sections on the relationship ‘between’ language and society, as if these were two independent entities which just happen to come into contact occasionally. My view is that there is not an external relationship ‘between’ language and society, but an internal and dialectical relationship”.*

*- Norman Fairclough, 2013*

The research that has resulted from the current debates on tenure security reveals that there has been a paradigm shift from formalisation strategies, which were based on market models, to the integration of informal and customary rights within land programmes in rural areas in Ghana. The aim of this thesis is to gain better insight on the view of the World Bank on customary land tenure and its Land Administration Project. Therefore, this thesis might contribute to the bigger debate on how to understand, and possibly harmonize, the struggle of both women’s rights and the implementation of customary tenure.

In this chapter, the research methodology of this thesis is described. There is laid out which research method had been chosen in order to conduct the research in an appropriate manner, what kinds of data were collected, how this data was processed and what difficulties and limitations were encountered.

### 3.1 Research paradigm

A research paradigm can be described as “the set of common beliefs and agreements shared between scientists about how problems should be understood and addressed” (Kuhn 1962 in: Patel 2015). As Patel states, the awareness of these philosophical assumptions will increase the quality of the research, but can also contribute to the creativity of the researcher (Patel, 2015). Therefore, it is of vital importance to pay attention to the paradigm of this research.

In this thesis, there is no aim towards obtaining a single or general reality, which could be described as a more positivist view on the world. Instead, this thesis is more based on a constructivist point of view wherein reality is interpreted and a qualitative method is used in order to analyse multiple possible realities (Patel, 2015). Moreover, I believe that every academic research is influenced by the researcher’s interpretations of the world. Knowledge is a product of society and research can therefore not be about the exploration of an ultimate single truth (Herrera

& Vuollo, 2016 p.5). Thereby, seen the nature of this study, it does not seem helpful to aim towards a single truth.

Since it is important to get a grasp of this complex issue wherein several actors are involved, there will be made use of a holistic approach instead of a reductionist approach (Verschuren & Doorewaard, 2015 p.180). This holistic approach is characterized by an open approach to collecting data. In this research, data includes interpretations of textual sources such as the World Bank's policy documents on the Land Administration Project, but also reports by independent scholars or commissions, case studies and literature.

Given the multifaceted nature of customary tenure and its diversity among sub-Saharan Africa, it is not realistic to focus on the entire geographical area. Instead, the decision was made to study one particular intervention case in a specific country thoroughly for this research. This way, it was possible to gain a deeper understanding of the project, instead of obtaining a more shallow understanding of a wide range of interventions. This way, the risk of missing important details will be limited, which would be more challenging when researching a variety of cases.

### 3.2 Content- and discourse analysis

Reasonably, there is no ready-made step-by-step methodology in order to study the assumptions, ideas and considerations of the World Bank. However, some methodologies are more appropriate than others. The first step is to decide whether the research will be qualitative or quantitative based (Hernández-Guerra, 2014). Broadly speaking, quantitative research is based on large amounts of data which often can be numbered, while qualitative research usually contains a more limited amount of non-numerical data and focuses on in-depth insights. Despite its more limited amount, the variation in the scope is much broader. Since this thesis strives towards a better understanding of the World Bank's discourse, and consists of open-ended research questions, qualitative research seemed to be the most appropriate point of departure. However, this did not specify the research methodology sufficiently, and while exploring the different methodologies, content analysis seemed the most appropriate method at first. However, there has been made a switch to discourse analysis, which will be explained later on. Despite this switch, content analysis is still part of the method. Therefore, this method will be laid out as well.

According to Druckman (2005) content analysis is described as “any technique for making inferences by objectively and systematically identifying specified characteristics of messages” (Holsti 1969 p. 14 in: Druckman 2005). It is a flexible approach within the field of analysis and

can therefore be applied to a wide variety of oral and written communications. Advantages of content analysis are the unobtrusive collection of data (which causes the researcher not to influence the results), but also its transparency and replicability, which results in a high level of reliability. Additionally, the flexibility of content analysis is definitely an advantage as well since the research can be conducted at any time and at any location (Druckman, 2005).

However, content analysis has several disadvantages as well. First of all, codes often miss nuance and the analysis focuses only on what is said in that specific sentence and therefore disregards other aspects, causing reductivity of validity (Druckman, 2005). In the case of the World Bank, it is of importance to realize that the organization is situated in a variety of political, economic and social settings. Without context, single words or sentences could easily be misunderstood. This leads us to the following challenge; coding within content analysis is an interpretive exercise. Since a content analyst has to rely on his or her understanding and knowledge of the situation, this can be perceived as a limitation of this method (Druckman, 2005). It is thus prone to subjectivity, since the researcher is human with its own perception of the world, which can affect the validity and reliability of the results. However, by accepting and acknowledging this subjectivity and by staying aware of this during the analysis, this subjectivity could be limited. Furthermore, the subjectivity could be limited by verifying multiple data sources to double check findings. Additionally, the analysis is limited by the material that is available and published by the organization, in this case the World Bank. Therefore, it may be possible that a specific selection of reports is publicized, while other reports are not available to the public. Finally, content analysis is highly time consuming. Manually coding large volumes of text takes a lot of time and is difficult to automate (Druckman, 2005).

While exploring the field of content analysis, I realized that I was more concerned with power relations and the context or situatedness, which is not taken into consideration in the field of content analysis (Herrera & Braumoeller, 2004). Thereby, whereas many analysts who use content analysis accept the realist idea of a fixed and objective reality (which allows counting and coding), discourse analysis is more open to different interpretations of reality (Herrera & Braumoeller, 2004). Therefore, since I believe that this matter of context is of great importance in my research, the focus was shifted towards discourse analysis. However, content analysis will still be important and it will help as a guide to analyse the data in a structured way.

Discourse analysis differs from other qualitative methodologies as it tries to understand the meaning of social reality for actors, and by aiming to uncover the way in which that reality was created (Herrera & Braumoeller, 2004). In contrast to content analysis, it also aims to trace how content comes about.

The concept of discourse analysis has been used broadly over the last decades within multiple fields of science, resulting in a term that is often vague and covering several meanings. However, in many cases, the word ‘discourse’ is the general idea that language is structured according to different patterns. Discourse analysis is the analysis of these patterns. This does not clarify immediately what discourses are and how they should be analysed (Jorgensen & Phillips, 2002). According to the Oxford English Dictionary, discourse analysis can be defined as:

"Linguistics, a method of analysing the structure of texts or utterances longer than one sentence, taking into account both their linguistic content and their sociolinguistic context; analysis performed using this method." (Adolphus, n.d. p.1). Adolphus states that discourse and language cannot have a fixed reality, but one that is shaped by social context, such as the author’s belief system, as well as the surrounding political, economic and social context (Adolphus, n.d.).

Jorgensen and Phillips (2002) use a more ‘simple’ definition of discourse: “a particular way of talking about and understanding the world (or an aspect of the world)” (Jorgensen & Phillips 2002 p. 1). Jorgensen and Phillips give several examples of applications of discourse analysis. For instance, discourse analysis can be used as a framework for analysis of national identity, e.g.: ‘how can we understand national identities and what are the effects of the division of the world in nation states?’ In this case, many forms of text and talk could be used in this research, such as textbooks about British history to study the construction of national identity.

Discourse analysis is thus based on a social constructionism orientation to knowledge. Jorgensen and Phillips list several premises which are shared by all constructionist approaches, and are also embraced by discourse analysis. First of all, social constructionism is critical to taken-for-granted knowledge, and does not accept an objective truth. This means that our knowledge and representations are not reflections of reality, but are products of our way of categorizing the world. Second, our views of the world and knowledge are the products of historically situated interchanges among people (Jorgensen & Phillips 2002 p. 267) This means that our worldview can change over time as well and multiple world views are valid. Discourse is thus a form of social action, wherein knowledge is created by social interaction (Jorgensen & Phillips, 2002).

In this thesis, the method of ‘reading between the lines’ will be of utter importance. According to Adolphus, policy documents are often public relations documents simultaneously. As she states: “In a democracy, policy has to be sold; you cannot enforce it”. Therefore, discourse analysis can be of use in disentangling the different agendas of policy documents. Adolphus emphasizes how all policy documents should be read within their context. Being able to distinguish subtle subtext in order to differentiate between facts and fake news or propaganda is crucial to discover the true

meaning and intention of a text (Adolphus, n.d.). Our ways of talking do not neutrally reflect our world, identities and relations, but rather play an active role in creating and also changing those (Jorgensen & Phillips, 2002).

### 3.2.1 Advantages and disadvantages of discourse analysis

There are several advantages in using discourse analysis. First of all, it challenges the so-called “taken for granted nature of language” (Sitz 2008 in: Adolphus n.d.). It can show us how language displays subtle shifts in priorities and values, which discloses how documents may contain a hidden agenda. Therefore, it stimulates a more qualitative and interpretative perspective on for example reports, which are sources that often are only subjected to quantitative approaches. It therefore shows us the value of discourse analysis in understanding the complexity of a case (Tsoukas 2005 in: Adolphus n.d.). While critics often argue that discourse analysis is prone to subjectivity, Fierke (2004) states that discourse analysis is in fact more objective than content analysis, since it is less dependent on categories pre-chosen by the researcher (Fierke 2004, in: Herrera & Braumoeller, 2004).

However, as every methodology, discourse analysis has its disadvantages or difficulties as well. First of all, discourse analysis requires many choices on the part of the researcher, especially regarding the limits of the discourse since its boundaries are not clearly defined. Crawford refers to this as overlapping webs of meaning with no clear starting or ending points of analysis (Crawford, 2004). Additionally, researchers have to have a thorough understanding of the context of the discourse that is being analysed, which can take a lot of time and effort (Crawford, 2004). It is a question and a debate whether discourse analysis and content analysis can truly be separated from each other. Another question is whether one can use content analysis techniques within discourse analysis, or the other way around. Neuendorf argues that discourse analysis is more concerned with validity, while content analysis focuses more on reliability (Herrera & Braumoeller, 2004 p. 18).

### 3.3 Discourse analysis on the World Bank Land Administration Project in Ghana

As stated above, the case consists of the intervention by the World Bank in order to understand its considerations when implementing the LAP, and to get a deeper understanding of the dynamics that cause the friction between customary land tenure reforms and women's rights. In order to thoroughly examine the interventions, there has been chosen to select the LAP, since this project has gotten a great amount of attention by the international public. Furthermore, the World Bank has published an extensive amount of data concerning this project, which was in other projects often absent. One of the biggest advantages of discourse analysis is the nearly endless research possibilities from a theoretical viewpoint (Hernández-Guerra, 2014). This is at the same time one of the biggest disadvantages; there are barely clear-cut approaches available.

In this research, there will be made use of corpora. A corpus is a collection of linguistic data used as the basis for linguistic description and analysis (Alba-Juez 2009 p. 40). In this case, there will be mostly made use of text, i.e. government policy documents, reports, the media, journal articles and websites.

There is aimed to understand the discourse of the World Bank concerning their view towards land tenure programmes in Ghana. Therefore, the following starting point for this analysis is based on the method introduced by Laffey & Weldes (2004):

1. Identify the problem area or conflict
2. Specify the arguments that are given by the World Bank and its functions (e.g. persuasion, implementing certain policies) based on policy documents or other sources such as media coverage
3. What are the specific *beliefs, ideas or assumptions* of the dominant actor (in this case, the World Bank), and where do these beliefs come from? In other words; what is the context?
  - ➔ This means that there should be a focus on particular *signs* (e.g. words such as 'economy', 'income', 'globalization', 'development', 'third world', 'first world')
  - ➔ Investigating *articulations* ("there is no alternative", "this *must* happen in order to..")  
What is the tone of the message in the data sources, what does it imply?
  - ➔ What patterns are apparent?
4. What are alternative discourses in comparison to the World Bank's discourses? This may be criticism towards the policies of the World Bank, but also discourses of other organizations which are involved in similar issues. What makes the World Bank stand out in its discourses?

For the purpose of this thesis, the analysis is focused on the Project Appraisal Document (PAD) of the World Bank Land Administration Project 2003-2008; the Implementation, Completion and Results Report of 2011 and the ICR report of 2020. Furthermore, literature and evaluations of the LAP have been analysed. These documents as a whole present an extensive overview of the why, where and how of the strategy (Herrera & Vuollo, 2016). Additionally, it gives a combination of primary data and secondary data.

In the first phase of the analysis, patterns were detected and an overall impression of the strategy was formulated.. The analysis was continued by selecting sections, sentences and certain choice of words. Thereafter, the data was organized and patterns of assumptions were detected in the documents. Subsequently, broad narratives were constructed, wherein the patterns could be organized and sectioned into discourses.

### 3.4 Limitations of this research

This research has, unfortunately, also its limitations. First of all, the researcher was not able to conduct a field research in Ghana, especially because of the Covid-19 pandemic. Therefore, it was not possible to research the intervention by the World Bank in several specific villages, since this data is not presented sufficiently by the World Bank. Given the complexity and variety of customary land practices, this means that this thesis is not able to present a thoroughly detailed examination of a specific rural area, but will instead give a deepening understanding of the policy ambitions in the country overall.

Second, there was a limited amount of time to conduct this research. Therefore, there was no possibility to analyse all documents of the World Bank concerning the Land Administration Project. Since there are around fifty reports available, there has been chosen to select the documents that were in my opinion the most valuable, such as the appraisal document, the project restructuring document and the results report. By focusing on a selection of reports instead of skimming through dozens, I believe that the analysis is more substantiated and therefore more trustworthy.

Concludingly, as mentioned earlier, discourse analysis requires many (personal) choices on the behalf of the researcher. This may contribute to a higher level of subjectivity than other methodologies. This limitation was taken seriously and was therefore considered during the discussion of the results.

# Chapter 4. The Land Administration Project in Ghana: a gap between World Bank discourses and Ghanaian realities

*“The major driver of insecure tenure is the assumptions on which current land policies are based”*

*- Franklin Obeng-Odoom, 2013*

## 4.1 Introduction

Due to dishonest practices, an overflow of land disputes, inaccurate maps and a low level of economic development, the Land Administration Project was developed in order to assist the government of Ghana in restructuring its land sector (World Bank, 2003). During the project, the World Bank had an active role in the construction and evaluation of the reforms and provided over twenty million US dollars (Collins & Mitchell, 2018). However, fifteen years later, the outcomes are questionable and land security remains a significant issue. Therefore, this chapter provides a more deepening understanding of the Land Administration Project. In this analysis, it is argued that the Land Administration Project is subject to multiple discourses of the World Bank which have greatly influenced the reforms. In this chapter, focus will lie on the development of the Customary Land Secretariats, since this reform aimed to harmonize customary tenure with land registration and women’s land security. At the end of this section, there will be discussed what lessons can be learned from the Land Administration Project in Ghana.

## 4.2 The World Bank’s Land Administration Project in Ghana

Several arguments were given for the involvement of the World Bank as the main financier and policy developer in this project. First of all, The World Bank emphasizes on the fact that the organization already funded the development of land titling and registration projects in several other countries, such as Thailand and Ivory Coast. Therefore, the World Bank claims to have a “considerable experience and comparative advantage in encouraging institutional development, long term sustainability and ensuring appropriateness of the investments” (World Bank, 2003 p. 18). Concludingly, the project would fulfil the Bank’s main role in reducing poverty in Ghana, according to the monetary organization (World Bank PID, 2003, p. 6). Originally, the project would take place over a period of five years, from June 2003 until 2008. Yet, the program took

longer than expected, and even a Land Administration Project-2 was constructed after the first. This second project came to an end in June of 2020 (World Bank, 2020).

The objective of the Land Administration Project was to develop a sustainable, well-functioning land administration system that is efficient, fair, cost-effective, enhancing land tenure security, and decentralized (World Bank, 2003 p. 3). However, these ambitions have been revised, as it turned out to be too ambitious and therefore unattainable within the projected time frame (World Bank, 2020). Therefore, the new final goal was to “undertake land policy and institutional reforms and key land administration pilots for laying the foundation for a sustainable decentralized land administration system that is fair, efficient, cost-effective and ensures land tenure security” (LAP 2008: 12, LAP 2009: 5 in: Majeed 2010 p. 16). Furthermore, clarity in land ownership was needed because of an overflow of land disputes and uncertainties in areas where chieftain-based land administration and management was present (World Bank, 2020).

In short, the ambitions of the Land Administration Project were to:

- Seek to harmonize land policies and the legislative framework with customary law for sustainable land administration,
- Establish an efficient, fair and transparent information system of land titling, registration and valuation, with a focus on the inclusion of women
- And organize a more efficient and decentralized land administration system in accordance with government policy and compatible with cultural norms and practices (IEG 2020 p. 9)

The key ambition of this program is thus to contribute to an overall improved system of land administration, including local practices (World Bank, 2003). It is interesting to see how customary land tenure is explicitly mentioned in these goals. This shows that the World Bank acknowledges the possible contributions of customary tenure to tenure security.

Harmonization of customary law and statutory institutions is aimed to achieve “through restructuring of public sector land agencies and strengthening of customary land administration authorities by the establishment of at least fifty customary land administration units; and at least ten NGOs involved in promoting local level administration and land management” (World Bank 2003 p. 3). The LAP aims to redefine the role of the state by collaborating more effectively with partners outside the government, especially traditional authorities, civil society and the private sector. Second, the project would promote the development of local conflict resolution mechanisms. Training would be provided for traditional land owners in basic land administration and records management (World Bank, 2003).

#### 4.2.1 Establishment of Customary Land Secretariats

As stated in the theoretical framework, land administration in Ghana consists of a hybrid system of state institutions and customary authorities or institutions (Amanor, 2009). The local land structures that determine and control land use and decision making are consisting of chiefs (in the centralised traditional political authority of southern Ghana and parts of the northern region of Ghana), and families, clans and tendamba (traditional authorities) in the Upper West and East regions (Biitir & Nara 2016 p. 528). The chiefs, clans and family heads have a fiduciary relationship with farmers who entrust them with the authority to make land decisions for, and on their behalf (Biitir & Nara, 2016). Land allocations are remaining unrecorded by most traditional land owners and customary land management is characterized by weak administrative systems. This results in a lack of consistency and coordination on customary practices and procedures. Additionally, there is a lack of awareness among traditional authorities of government policies and programmes (Biitir & Nara 2016; World Bank, 2003). Therefore, the LAP seeks to strengthen and formalise the customary land management through the establishment of Customary Land Secretariats (CLS) in order to promote good local land governance (Biitir & Nara, 2016). Customary land institutions would be able to operate effectively at community levels, in comparison to other governmental organizations (Biitir & Nara 2016 p. 528 in: Bruce 2013). A primary goal of the LAP is to strengthen these CLSs and expand the number of secretariats. This is simultaneously part of the formalisation of customary land, in partnership with the Ghanaian government and public land sector agencies such as the Lands Commission, Office of the Administrative of Stool Lands (OASL) and the Country Planning Department (Biitir & Nara, 2016).

The main functions of the CLS are to develop landholding rules, to adopt simple land use planning in order to minimise inappropriate land use, to educate the local people and to identify and resolve overlapping claims of rights among landholders. Additionally, CLSs have the task to establish simple registries to record land holdings and to develop mechanisms that should improve the security of most vulnerable groups, such as women (Ehwi & Asante 2016; Biitir et al. 2017). Land boundaries of traditional areas and individual land rights within these areas are supposed to be mapped and registered at the Regional Lands Commission (Ubink & Amanor 2008 in: Lanz et al., 2018). Any land transaction needs to be validated by the appropriate CLS. To quicken the process of safeguarding land rights, hope has been put on the advanced technologies and innovative land tools in the form of digital mapping and the use of Geographic Information Systems (GIS) (Lemmens, 2019; World Bank, 2003). The World Bank adds that the land property register is public as well, which means that anyone can see what rights have been registered to whom, “providing for the first time a transparent system of registration of customary rights” (WB

2020, p. 17). Owners of land will receive a certificate as proof of their registration (Spichiger & Stacey, 2014).

These ambitions are interwoven with each other and already show some friction. As is shown by research, traditional authorities tend to have a negative impact on women. Thereby, customary practices and official registration of land parcels seem to be actually quite contradictory.

Therefore, it is interesting to research how the World Bank envisions a method on how this can be achieved. As can be observed from the main project components, the project's concept of tenure security consists of strengthening laws on land rights, strengthening CLSs, clarifying customary land borders, raising public awareness of land rights and registering claims to land (IEG, 2013). On the one hand, there is an ambition to create more accessibility for the rural masses, and on the other hand there is an desire to protect women's land security. Referring to the literature discussed in the second chapter, this could cause friction.

#### 4.2.2 Alternative Land Dispute Resolution Mechanisms

In 2004, there were around sixty thousand land cases pending in court (Kuusaana et al. 2013). There was indicated that the average time to settle a dispute was between three to five years, but could take as long as fifteen years as well (Kuusaana et al., 2013). This enormous amount of incidences of land disputes caused the World Bank to invest in Alternative Land Dispute Resolution, in order to fight the high level of distrust between parties and conflicts over land. Within ADR, customary laws and local community mechanisms are used in order to settle disagreements over land. Because of the high amount of disputes, the World Bank proposed in its LAP that land cases would only go to court when the available ADR mechanisms fail to settle the case. This would ease the growing number of pending cases in the state courts, but would also help to de-escalate conflict that could otherwise lead to violence and even deaths (Kuusaana et al., 2013). However, it remains a choice for the conflicting parties to decide to either resort to the state court or customary court. But, since state courts are known for their slowness, ADR provide several procedures to serve as a cheaper and faster alternative for the average citizen, particularly the rural poor. This group often lacks resources, or simply experiences long physical distances to make use of state courts (Kuusaana et al., 2013).

Even though these mechanisms already exist within customary systems, the World Bank argues that these mechanisms should be spread over the entire country of Ghana, since it would "ensure the claims of vulnerable individuals and groups are adequately identifies and fully protected" (WB 2003 p. 26). Statutory judges may lack knowledge in specific customary land matters and

may therefore be unsuitable to give proper judgement in land disputes. Therefore, there is argued that land experts and traditional authorities are more suitable to resolve disputes. In order to support these authorities, involved NGO's will play a central role in developing, but also encouraging, the use of effective dispute resolution mechanisms which should be acceptable to the local communities (WB 2003 p. 28). Furthermore, the World Bank lies a focus on monitoring and evaluating this process: "NGOs will also be involved in ensuring that the process of monitoring, evaluation and impact assessment is participatory by building the capacity of communities to become actively involved in these project activities" (WB 2003 p. 28). Despite this form of control, ADR seems to increase the responsibility of the traditional authorities to reconcile in case of a land conflict, which gives the authorities an acknowledgement of their legitimacy. This will be discussed later on.

#### 4.3 Discourse analysis on the World Bank's Land Administration Project

The World Bank Land Administration Project reports attempt to give a comprehensive approach to development in Ghana considering land registration. Different patterns and tensions were detected while analysing this document. These patterns and tensions are described in the form of multiple discourses. In this section, there is light shed on the ways in which the World Bank's strategy perceives land tenure in relation to the theoretical framework. The aim of this analysis is to research the World Bank's assumptions which are often taken for granted, but are of great influence on the execution of land reform projects (Herrera & Vuollo, 2016).

The discourses that have been analysed, consist of the following:

- 1) A discourse with a predominant focus on economic prosperity and modernization
- 2) A discourse wherein the World Bank presents an optimistic level of trust in traditional authorities
- 3) A discourse wherein women remain in the background despite some efforts to improve their position

Naturally, these discourses are intertwined with each other and potentially involve some contradictions as well. However, to create a clear overview, for every actor a separate discourse has been composed.

#### 4.3.1 Discourse 1. Modernization and economic prosperity as primary focus

The first discourse that is unravelled in the LAP documents is a discourse wherein a reoccurring pattern of emphasis on modernization of the land tenure system and economic prosperity is being placed on the foreground. In its Project Appraisal Document, the World Bank describes how Ghana's land sector is an "underdeveloped land registration system and inefficient land market" (WB 2003 p. 6). By phrasing the land sector as "underdeveloped" and "inefficient", a focus on economic prosperity and productivity seems to be clearly apparent. Furthermore, by stating how Ghana could achieve "a *relevant* system of land administration" (WB 2003 p. 48), there is implied that Ghana's current system has no relevance according to the World Bank. Many transactions within the land market are informal, "and therefore the revenues that could be generated for national and local governments are lost" (WB 2003 p. 7). At the same time, landholders would benefit economically as well. As a result of improved land security and improved access to formal credit, landholders could increase their investments and therefore their productivity and overall income. In order to make land registration attractive, the costs of land registration are as low as possible (WB 2003 p. 63).

Such citations could reveal a certain view of how a country should be constructed according to the World Bank; namely with the help of modernizing and improvement with the help of technology (WB 2003 p. 11). Instead of using words such as "change" or "adjust", the choice to formulate the reforms as 'improvements' also could be perceived as a contribution to this discourse. In conclusion, economic growth and increasing productivity is mainly presented as the ultimate path to development, by "formalizing land markets" (WB 2003 p. 6), and "developing the land market" (p. 3), and "the need to correct land market distortions" (WB 2003 p. 44).

Furthermore, attention should be paid to the terminology that was used to describe the people who work on the land: "The main objective of the LAP is to develop a structure for the land administration sector as a whole that would achieve transparent, effective and efficient delivery of land administration services that "satisfy customer requirements" (p. 46), referring to people who aim to obtain a piece of land. By mentioning the satisfaction of customer requirements, there could be argued that the Ghanaian traditional system of land is not truly acknowledged, but is instead again dominated by a more economically efficient approach to land markets.

However, the World Bank does state that it recognizes the value of traditional land rights arrangements. However, by stating that "traditional tenure arrangements *may* be more cost-effective in increasing tenure security and *even* in providing a basis for land transactions" (p. 17), several remarks could be made. First of all, by using the words "even" and "may", traditional tenure arrangements are presented as somewhat inferior. Second, by only focusing on cost-

effectiveness as an advantage, the World Bank's seems to show a lack of knowledge about traditional arrangements. Instead, the overall focus is lied on the financial possibilities that could be created if the reforms designed by the World Bank are implemented.

### *Theory of change*

In its project appraisal, the World Bank makes use of theories of change in order to underwrite their policy decisions. Theories of change are often used by organizations and companies in order to achieve their project goals. These theories are based on a certain argumentation of why and how a desired change is expected (Center for Theory of Change, n.d.). By first identifying the desired goals, an organization works backwards in order to identify all conditions to realize this outcome. According to the World Bank's theory of change in this case, the conditions that are necessary in order to improve economic growth consist of a proper organization of the key components of land administration (such as registration of deeds and titles, laws, policies and court performance) and land management (proper land procedures, map development and improved capacity). If these key components could be improved, then institutions such as the CLSs and the Land Use and Spatial Planning Authority would have the needed resources such as human capacity and technology in order to be more productive and transparent. This would therefore lead to improved land investments, which would increase the earnings of the government agencies. These earnings would in return provide proper land services deliveries (ICR 2020 in: IEG 2019 p. 6). While this theory does seem to focus on the benefits for the local landowners, more emphasis is lied on the increased revenues of the Ghanaian government.

In order to persuade the Ghanaians of the necessity of the reforms, the World Bank proposes a public awareness campaign "to educate the populace on the social and economic advantages of land title registration to pave the way for systematic land titling in areas where it is deemed suitable" (p. 31). Especially the last part of this sentence is of importance, since it suggests that the World Bank does seem to realize that formal land registration is not always fitting. It reveals a certain development wherein the World Bank seems to be informed about negative consequences of formal land titling. The organization mentions in its appraisal document the mistakes that have been made in former projects. It states that the Bank now realizes that "land policy should be viewed as an integral element of a broader policy dialogue rather than as a string of narrowly oriented technical interventions... Moreover, the social and political sensitivity of land issues and the need to adapt to site-specific conditions often require that carefully designed, small circumscribed area experiments should be conducted and evaluated before any fundamental nationwide policy change is implemented" (p. 17). This is interesting, since the literature

mentions that the World Bank does not acknowledge these factors sufficiently in practice. Indeed, as will be discussed seen later on, this knowledge will barely be put into practice.

#### 4.3.2 Discourse 2. High level of trust in traditional authorities

A second pattern that is recognized in the policy documents of the World Bank concerning its LAP in Ghana, is a reoccurring high level of trust in traditional authorities.

According to the appraisal document of 2003, political commitment and willingness to participate of the traditional authorities and land owners is one of the biggest keys of success or failure in this project. In this document, the World Bank states that Ghanaian state agencies have not developed proper mechanisms for active collaboration with traditional authorities and all land stake holders, as the big variety of land sector agencies has created fragmented land administration responsibilities. This leads to errors in land records and lengthy land acquisition procedures due to conflicting claims to ownership (WB 2008 p. 7). Therefore, the World Bank aims to improve customary land management by the creation of Customary Land Secretariats (Ubink, 2018). By implementing these CLSs, the World Bank tries to stimulate community-level participation, establish a decentralized public land record, but also aims to reinforce the level of accountability of traditional authorities through training. Despite the academic acknowledgement that some traditional authorities pursue private gains at the expense of communal interest (WB 2003 p. 5), a high level of trust is put in the functioning of the CLSs, which can again be seen in the following quote:

*“Strong partnership will be developed with traditional authorities for effective and participatory land administration and management and for instituting alternative land dispute resolution mechanisms” (WB 2003 p. 10).*

Such an approach starts from the assumption that the customary trustees of land and elders are willing and even have a “demand” to pursue collaboration with the World Bank’s project, which is based on a rapid social assessment (World Bank, 2003 p. 24). Even though the possible risk of lack of willingness is shortly mentioned in the project appraisal, not much doubt is expressed in the documents about this issue. In this assessment, there was identified that customary land authorities mainly see the project as an opportunity to discuss and negotiate with the state for the repeal of “perceived oppressive legislation that has contributed to the usurpation of powers vested in customary forms of governance” (WB 2003 p. 24). It may seem that there has been some lack of time in order to constructively discuss the reforms with the traditional authorities. There were no indicators present in the results framework to be able to evaluate the efficiency, quality or even transparency of the CLSs (IEG, 2019). Therefore, it is also not clear whether the traditional authorities were aware of certain requirements. Given the fact that eighty percent of the land in Ghana is held under customary tenure, the implementation issues of the CLSs may have been

underestimated in this case, as it is a massive operation. However, some training and schooling was provided, maybe with the aim of influencing the traditional authorities in their policy making: “the types of training required to upgrade the skills of the staff of these agencies as well as personnel of the customary land councils will be identified, using skill gap analysis” (p. 22). Since the results of the project were questionable, there could be wondered whether these trainings were sufficient

Furthermore, critical assumptions in the Land Administration Project documents were quite strongly presented; “Public land management institutions and traditional authorities will collaborate effectively” (p. 37), which is notable because there is considerable evidence of traditional authorities abusing their powers. As Ubink (2018) also underlines, not much emphasis in the document was laid on the fact that customary powers may show opportunistic behaviour and the project lacks a wide and open discussion of chiefs in traditional land administration, or possible screenings that could be done in order to limit opportunistic behaviour (Ubink, 2018). It seems that the cooperation of these traditional chiefs is of such importance that the World Bank might be afraid of the possibly of scaring them off. What also endorses this suspicion, is the fact that the Project Appraisal Document of 2003 does not make specific provisions on how customary lands should be managed by traditional authorities (Ubink, 2008).

#### *The 2020 end report: overall positivity*

In spite of these observations, the 2020 Results Report of the World Bank spoke of a successful establishment and strengthening of CLSs. While multiple researchers criticize the negative consequences of increasing the power of chiefs, the World Bank continues to perceive the role of traditional authorities as a key factor in the success of the project (WB 2020 p. 17). The World Bank claims to have registered the customary laws that are used in the land systems by documenting and then validating with the community and customary authorities (WB 2020 p. 16). There is no clear notion of abuse of power in the report, even though this is widely set out in independent researches. Instead, the World Bank states in its report that “it is still an early stage for assessing the longer-term impact of CLSs and they cover only a small proportion of the country, but it appears that a sustainable and practical model has been developed” (WB 2020 p. 17). In its last report, the World Bank briefly mentions the opportunities for elites to abuse their role, and it does admit that methods to ensure the social equity are not robust and should be monitored better. However, it does not elaborate on how this should be done (WB, 2020). So, the document does acknowledge the doubts that the World Bank first had about the CLSs, however they do now emphasize the positive impacts they are starting to have, claiming they have good

evidence that CLSs are supporting people to solve disputes, regularise their rights and helping chiefs to manage land for which they are responsible through leasing and assignments (WB 2020 p. 17). Demand by customary authorities to establish a CLSs continues to grow. Trainings and manuals given by the project team were perceived as very effective, wherein outcomes actually exceeded expectations (WB 2020 p. 24).

Again, it is notable that there are only few lines written about opportunistic behaviour, despite scientific evidence and acknowledgement of this behaviour by the IEG. Instead, The World Bank states that it is still an early stage to assess whether the CLSs will continue to move into the right direction. It shortly mentions the importance of monitoring, but does not provide clear solutions and leaves the issue mostly in the middle (WB 2020). Thus, the project did not elaborate on what kinds of checks on the power of the traditional authorities were specifically needed to prevent them from such behaviour (IEG, 2013). It seems that the World Bank underestimated these risks and overestimated the understanding the local chiefs had of the implementation of CLS (IEG, 2013).

### 4.3.3 Discourse 3. Women remain in the background

A third pattern that was being recognized in the World Bank's documents seems to show goodwill towards improving the position of the Ghanaian women, and also acknowledge their fragile position. As stated in the Project Appraisal Document of 2003, land ownership of women is heavily depending on the customary laws that are exercised by different ethno-cultural groups (WB 2003 p. 26). According to the PAD, several actions are therefore necessary in order to secure their fragile positions. First of all, a social development expert should be assigned in order to protect the social development objectives. Furthermore, the World Bank states that several studies should be conducted in order to provide feedback on the social impacts of the project.

Additionally, involved NGOs should actively participate in the program in order to inform, educate and assist the communities in the reforms. This involvement of NGOs should make sure that no vulnerable parties are disadvantaged by the project (for example, being excluded from their rights to receive a title). Thereby, the World Bank emphasizes that independent supervision and monitoring is necessary in order to measure project performance in terms of social development: "One social development outcome in relation to titling and registration is ensuring that women's rights to land are respected, including recording of the names of both spouses on the title of joint family properties" (World Bank 2003 p. 26).

Besides the fact that the project would sponsor specific studies into the phenomena of gendered access, it also pursued to work together with customary authorities to help them adopt new procedures to attend to the land rights of women (World Bank 2003 p. 11). To realize this goal, traditional authorities will be assisted to develop formulas which ensure that poorer members of the community are not made landless when rural lands are converted into urban housing plots (p. 12). Furthermore, an action plan would be developed to sensitize project and partner staff on gender issues in order to "ensure greater understanding of the need for participation of women in project activities and decision-making", and "moreover, it is expected that women will be encouraged to participate and be represented in a meaningful way in staffing and decision-making as these relate to project activities" (World Bank 2003 p. 26).

This quite elaborate action plan seems to reveal that the World Bank is informed about the possible loss of land for vulnerable groups as a result of project activities such as titling. They acknowledge how in general the poor and vulnerable are "most likely to lose rights through this process" (World Bank 2003 p. 27). Therefore, the former ideas show how they would like to solve these issues.

It is valuable to mention that clearly changes have taken place over the last decennia. As wherein a World Bank report from 1975 did not even mention ‘gender’, ‘female’ or ‘women’ at all, we can no longer speak of a complete gender-blindness in World Bank projects (Ravnborg et al., 2016). Despite this positive development, truly practical interventions with clear indicators and evaluations are lacking in the documents. In the additional annex of the Project Appraisal Document, a small piece is written about the issues women face in Ghana considering land tenure. However, the World Bank does not suggest any clear interventions. Instead: “In the absence of any empirical evidence, the Rapid Social Assessment (RSA) could not conclude the relative incidence and severity of gender biases regarding ownership and of land landed properties in Ghana. It is recommended that a special study addressing this issue be conducted as a matter of high priority under the project to guide policy and legislative considerations and implementation of the project” (p. 92). However, it leaves open the question when this should happen, by whom and how. Furthermore, it seems that in the analysed LAP reports the matter around women is always placed last on the list, while economic benefits are placed as number one. On first notice, this might seem of no relevance, however, it does send a signal on how social matters are perceived as less important than economic gains. Within the ‘hierarchy of objectives’ (p. 40), gender study and analysis on land rights is placed as one of the last on the list.

#### *The final results*

In its final report, the World Bank clarifies that the project’s gendered approach included gathering gender-disaggregated data using appropriate participatory appraisal tools and incorporating this into the monitoring processes. Additionally, resources and training programmes have been put in place to support the goals of gender equity, and five Gender Equality Desks were established at the regional offices of the Land Commission. Finally, twenty civil society organizations (CSO) have been involved in training on gender equity issues (WB 2020 p. 23). However, no clear, practical targets were provided.

The World Bank expresses its pride over the achieved results, and states that the project has satisfactorily helped women to understand their land rights and be recorded as right holders at the LC and CLSs (WB 2020 p. 23). The implementation of the gender strategy led to the inclusion in the Ghana Land Bill of some specific gender provisions to protect the interest and land rights of women and vulnerable people in Ghana. Although it is difficult to measure the impact, the percentage of women within these registrations during the project were 20 percent of a total of 82,438 registered land transactions. Fifty-seven percent was male, twelve percent joint and eleven percent institutions (WB 2020 p. 48). Therefore, the World Bank states that “the training program and public awareness campaigns have helped to keep those at CLSs and in the implementing

agencies aware of the social impact of land reform and tenure arrangements, and it is considered to have had a positive impact.” (WB 2020 p. 23). Additionally, the World Bank emphasized how work visits have helped to monitor the female participation, and concludes that the project has satisfactorily helped women to understand their land rights. Thereby, the World Bank claims that the Customary Land Secretariats thoroughly understood the female rights and the need to ensure the protection of their rights (WB 2020 p. 76). Also, the fact that the management of the CLS always includes one woman should contribute to the gender equality within the administration project (WB 2020 p. 76).

Overall, there can be a difference observed in approach of women’s issues in the second project of the LAP, as there seems to be more attention towards gender disparities in land ownership. In the results report of 2020, the World Bank presents an increased focus on the share (or percentage) of women involved within the project. This can for example be seen by emphasizing how many females are involved in training programmes. This does show a shift of mindset wherein the importance of female inclusion is acknowledged. However, hard numerical conclusions are not drawn. In the end report, the World Bank mentions how it is still difficult to measure the true impact of the interventions on the position of women. Despite this, the organization does emphasize how “the percentage of women being registered has been maintained at about thirty percent of cases and knowledge sharing appears to have been successful” (WB 2020 p. 23). Thereby, the training programmes and public awareness campaigns have been “truly helpful” to make people aware of the issues (WB 2020 p. 23).

It is clear that this discourse clearly leaves us with some puzzling outcomes with contradictory results and questionable effectiveness. If we refer to fairness and transparency within the project, there seems to be mixed evidence about the increase in female registration, and we see conflicting reports about numbers and overall a lack of monitoring and delivery of evidence of registration outcomes. Even though the World Bank claims to emphasize the importance of women’s land tenure security and despite promises to reform, the LAP lacks practical plans, goals and policy changes to help women with their inability to obtain land. Without these goals, true effects cannot be expected. And indeed, as Spichiger (2013) mentions, there does not seem to be significant practical achievements. Even though gender equality and women’s rights have made their way into the policy documents, implementation are much less prominent in real outcomes. The effects are very slow and difficult to measure, so it could be that the World bank has a preference for reforms that are much more faster visible (Spichiger et al., 2013).

#### 4.4 Implementation of the Land Administration Project in Ghana: what it shows about the World Bank discourse

According to the World Bank, Ghana would experience an improved confidence among investors, an overall higher level of land security for all users of land and more secure tenancy agreements for land use, if the project would be successful at meeting its goals (IEG 2019 p. 5). This theory of change also indicated that these outcomes would lead to long-term benefits such as increasing land security for local people, private sector investments, a higher number of transactions and therefore a higher revenue from property- and transaction taxes. This would therefore lead to improved land services. However, it turned out that there was a lack of clarity about the specific issues that this theory needed to address. It was not clear what factors caused the limited confidence to obtain land, what compromised land security and prevented efficient land use. Without such clarity (and therefore also a lack of evidence in the end reports), it turns out that it is practically impossible to generate proper end results.

After analysing the Land Administration Project policy documents and performing a discourse analysis, there are several remarks that can be made about this project and the role of the World Bank.

##### *A focus on economic prosperity and modernization*

The World Bank's mission is to reduce extreme poverty, so naturally a focus on economic prosperity is quite understandable. However, the organization does seem to forget cultural differences between Western countries and Sub-Saharan Africa, or does not seem to completely understand the extent of its role. As Easterly (2006) argues, the World Bank should not have all power in deciding reforms, since it will never truly understand the country's dynamics and complexities (Easterly, 2006).

Throughout the LAP reports, modernization was greatly emphasized and can therefore be identified as a reoccurring pattern. Referencing to Amanor and Ubink (2008), the LAP fits within the image of transforming a poor, less developed country into a modern market state (Amanor & Ubink, 2008). By describing the current land laws and regulations as "outdated and/or irrelevant", which has "bedevilled land administration" (WB 2003 p. 6), the image of an underdeveloped country is again presented, while modernisation is idealised. Using the terminology of Easterly, these choice of words could suggest a ladder of development, ranging from underdeveloped to Western standards (wherein the 'Western' standard is a so-called end station of prosperity), which creates a dichotomy of North and South. By using words such as 'modern state', a form of duality

is presented, wherein the other option (customary land law) is automatically defined as outdated, unmodern and not relevant.

This somewhat patronizing tone is also applicable for the following sentence: “To educate the populace on the social and economic advantages of land title registration to pave the way for systematic land titling in areas where it is deemed suitable” (World Bank 2003 p. 31). However, the World Bank does not seem to be open towards alternative views towards development. As economic anthropologist Hill (1966) stated, the sophistication of the available tools and the high level of local knowledge about farming points towards the conclusion that Ghanaian people *chose* to live that way. Even though considered as economically inefficient, Hill defined it as efficient in a social view since it avoided monopolization of the commons by few people. So, while land may have been used not in its most optimal way economically, this was not without a purpose. For example, reserve land was seen as land for families’ future generations, not for speculation (Hymer 1970 in: Obeng-Odoom pp. 664). Even though the World Bank does acknowledge the importance of customary traditions and law, the organization still tends to have an overall economic focus. Thereby, external actors such as the World Bank often lack knowledge about the different versions of customary law and the negotiable nature of customary justice (Ubink, 2018).

It also has to be kept in mind that modern technologies and workflows might work well in one society, but do not necessarily work in others. This idea of simple transfers of technology is still a widespread misconception among policy makers (Lemmens, 2019). This results in aid doing often more harm than good in cases wherein the aid giver does not only provide the financial support, but also decides the way this money is spend (Lemmens, 2019). Indeed, the World Bank seems to perceive Ghana as a so-called ‘tabula rasa’ (‘clean slate’) while implementing this project. The organization does not seriously consider how a country’s history may greatly affect the politics in respect to reform. This creates an image of the World Bank as being rather naïve. It seems to be forgetting the past, including its own past in Africa and appears to be impatient for a better future (Harrison, 2005).

#### *High level of trust in traditional authorities*

Furthermore, critical assumptions in the Land Administration Project documents were quite strongly presented: “Public land management institutions and traditional authorities will collaborate effectively” (World Bank 2003 p. 36), especially because there is considerable evidence of traditional authorities abusing their powers. As Ubink (2018) also underlines, not much emphasis in the document was laid on the fact that customary powers may show

opportunistic behaviour. The project lacks a wide and open discussion of chiefs in traditional land administration, or possible screenings that could be done in order to limit opportunistic behaviour (Ubink, 2018). It seems that the cooperation of these traditional chiefs is of such importance that the World Bank might be afraid of the possibility of scaring them off. What also endorses this suspicion, is the fact that the PAD of 2003 does not make more specific provisions on how customary lands should be managed by traditional authorities (Ubink, 2008). Therefore, the question rises why there is so much focus put on these traditional authorities. After close reading, it seems that the involvement of the Ghanaian government was mainly perceived as a hurdle and part of the problem of underdevelopment (Williams, 2003). Weaknesses of the Ghanaian state, such as bureaucracy and corruption issues are mentioned several times. Therefore, it could be the case that the World Bank shifted their focus mostly towards traditional authorities for this reason. However, it is the question whether this negative motivation could ever achieve the aimed results.

While the importance of customary justice systems has been recognized and the World Bank's willingness to engage with customary systems has been increased, the implementation has shown to be quite problematic. According to the Independent Evaluation Group, there has been found proof that chiefs have exploited overlapping claims for their own enrichment. For example, there have been allocations of land to outsiders without consent of the local people (IEG, 2013). However, in the implementation, completion and results report (ICR Report 2020), these negative effects of elite authorities are not mentioned. This is remarkable, since reality thus shows that the project was not spared from these opportunistic practices. While CLSs are supposed to register and map individual land rights, in many cases this does not happen, such as in Ghana's Volta Region. Rather, the chiefs used the increased recognition by the state to strengthen their position as landowners in various cases (Lanz et al., 2018). So, in the context wherein families historically hold land, customary authorities were able to use the CLS to change the structure of land governance and to increase their power and control over land (Lanz et al., 2018 p. 1538). While the Independent Evaluation Group does acknowledge the possible effectiveness of CLSs, the evaluation report shows that the implementation has not been properly communicated to the chiefs (IEG, 2013).

As Ubink (2018) argues, this case study shows us that when programmes ignore issues of power, these will not have the positive impact on vulnerable groups. This also became apparent in the discourse analysis wherein the perception of the World Bank on land security became more clear. It turns out that the expectations of the World Bank are not in accordance with the true complexity of the customary tenure systems. Despite research conducted by the World Bank, there is still a

lacking knowledge present about its negotiable and unwritten nature, and it seems that this complex nature of customary tenure has been highly underestimated. As can be observed in the discourse analysis, the World Bank strongly relied on the capacity of customary institutions and the trustworthiness of CLSs, which seem to result mostly out of distrust with state land administrations. This caused a neglect of attention towards the incapacibilities of customary institutions to provide fair land tenure. As a result, local elite interests were nurtured and could lead to an increase of corruption. The term ‘corruption’ is barely mentioned in the project documents, even though this is a very significant issue in Ghana’s land administration systems. Relating words such as ‘unfair’, ‘fraud’, ‘dishonest’, ‘clientelism’, ‘bribe’ and ‘bribery’ were absent as well, even though these are all quite significant aspects that undermine the positive effects of the LAP (Akwensivie et al., 2019). According to Akwensivie (2019), the level of corruption in Ghana is still rising, which is also shown by the Global Corruption Barometer, which was set up by Transparency International Organization. Its statistics showed that more than fifty percent of the respondents experiences the level of corruption in Ghana as severe, whereas fifty-seven percent of the respondents admitted that they or a household member had paid bribes at least once in their lifetime to a public institution (Akwensivie, 2019 p.3).

It seems that the World Bank has the tendency to simplify customary land tenure and the overall situation in Ghana’s land systems. This simplification leads to an overly optimistic attitude towards the difficulties in Ghana’s land systems. Therefore, there could be argued that one of the most important causes of this outcome is the fact that the donor and the government actors that were involved in the project over-engaged with traditional leaders. The administration- and regulation power of the chiefs were enhanced by the project without many restrictions, causing that the participation (and thus representation) of vulnerable smallholders was not sufficiently emphasized.

Additionally, a lack of the chiefs’ accountability caused an elite capture of increasing land revenues (Ubink, 2018). This displays what happens when underlying power relations are being ignored. As Ubink (2018) argues, it is almost as if development practitioners see involvement with customary systems as automatically empowering and bottom-up. However, focusing on traditional leaders (which are mostly men) easily leads to an acceptance of elite power, causing a backwards effect. Therefore, there could be stated that the implementation of the Land Administration Project mainly reinforced the power of elite authorities. This ignorance towards the customary system could be explained by the amount of research that is necessary to adequately assess the customary systems and local power relations. This labour-intensive and time costly approach is not likely to sit well with expectations of the World Bank (Ubink, 2018). They

might strive towards faster results and view towards customary tenure as a technical issue. There has to be realized that this system consists of social interventions, which is not the same as clear and practical projects such as building schools or installing water pumps.

Concludingly, the powerful position of the traditional authorities should not be underestimated by the World Bank. Chiefs have always played a key role in the Ghanaian state; during colonialism and after independence (Amanor 2007; Boamah 2014; Cotula 2013 in: Lanz 2018). By the implementation of this project, they gained power through statutory recognition and formalization of their role. Through the LAP, they have become acknowledged members of the Ghanaian state system (Lanz et al., 2018). Therefore, it may seem that the land titling within the LAP has created an even bigger power asymmetry.

#### *Despite efforts, women remain in the background*

The World Bank has been quite positive towards the results of the Land Administration Project. The report describes how the first LAP included multiple studies on issues such as vulnerability, gender and equity. The second Land Administration Project continued with such studies, in order to assess the gender and social impacts of the program (World Bank, 2020). The World Bank describes how titles held by women increased from 228 to around 47.000 in LAP1, however there was no major increase in LAP2. This remained around one third of the number of men registering their title or deeds (World Bank, 2020).

The World Bank makes in its reports substantial amounts of claims to integrate issues of women's inclusion. However, the organization seems to fail to properly recognize the persisting discrimination of women in customary land practices. Despite academic evidence of the extremely complex systems of customary land practices, the World Bank still seems to have an over-simplified view of these systems and offers no solutions to battle these difficulties. As Collins & Mitchell state, Ghana is therefore "left without a road map for how to harness the potential and mitigate the pitfalls of customary practices in the governance of land", including women's land security (Collins & Mitchell 2018 p. 113).

Despite this, it is interesting to observe that there is a great amount of goodwill apparent in order to improve their performances. This is also illustrated by the request for an independent evaluation by the IEG in 2013. However, this criticism was not taken into account sufficiently since LAP2 was already designed when the evaluation report was written. Therefore, criticism on evaluation and monitoring was not corrected.

Furthermore, the project had ambitious goals, and there can be questioned whether these goals were too ambitious as it aimed to achieve an increase of fifty percent in title and deeds registrations by women. While the project did actually exceed this goal, it is not completely clear if this also truly increased land security for women. As turns out, a separate study concluded that the project did not increase women's land registration and the disparity between man and women did not narrow at all (Mohammed & Banuoku 2012 in: IEG 2013).

In conclusion, there seem to be signals that the World Bank does not realize how truly complicated the situation is. Additionally, limited staff has been assigned to gender issues in the LAP document. It seems that the World Bank is still mostly focused on economic outcomes and better efficiency. Since gender issues do not produce immediate efficiency gains, there is a risk is that gender concerns are increasingly forgotten and side-lined (Spichiger et al., 2013)

## Chapter 5. Conclusion and implications of findings

Loss of land, an overflow of land disputes and even physical violence show that a lack of land security is not only a problem for Ghana's national economic development, but also an issue for the livelihoods of millions of individual people. This thesis disclosed the underlying assumptions that are at the base of the World Bank's vision towards land tenure policies in Ghana. There has been aimed to answer the following question: *What discourses on customary tenure guide the World Bank's Land Administration Project in Ghana and what effect does this programme have on women's land security in Ghana?* This question has been answered with the means of a discourse analysis.

In the academic field, there is an ongoing debate on the subject of customary land tenure. This causes a variety of perspectives on this topic. There appears to be a range of academics who explore the possibilities that customary land systems create, while others tend to focus on negative effects such as exclusion of vulnerable groups, including women. Whereas there is emphasized that in some cases women actually profit from customary systems, it has to be kept in mind that this depends on the system and that there is a broad range of different localities. Presumably, this debate will not be settled anytime soon.

In this thesis, multiple discourses were unravelled based on the analysis of the World Bank's policy documents. It seems that the World Bank continues to express an overall focus on economic development and modernization. While there is an acknowledgement of customary tenure systems and an aim to increasingly include customary systems, Customary Land Secretariats would mainly contribute to efficiency, lower costs, increased land security, investments by farmers and therefore lead to positive economic effects. Second, the analysis revealed a discourse wherein the World Bank presents an optimistic level of trust in traditional authorities. Third, by introducing women's councils, evaluations and inclusion of women in CLS, the World Bank aimed to bridge the gap between women's land rights and customary land practices. However, this third discourse showed an overly optimistic expectation of the effects of this strategy on women's land security.

Needless to say, as this research is based on a single project, there cannot be made hard conclusions to contribute significantly to this long-lasting debate. However, some remarks seem appropriate. First of all, there must be acknowledged that the World Bank's policy reforms in this program are quite revolutionary. After decades of rejection of customary tenure, there has been a

legitimate attempt to acknowledge and include customary land practices in its programmes. Therefore, it seems that the World Bank has given attention to the ongoing debate in the scientific field. Academic literature suggests that giving local groups more active roles in land reforms could give several advantages, such as capacity, efficiency and cost-effectiveness (Peters 2009; Toulmin 2008 in: Collins & Mitchell 2018). Thereby, customary practices are often perceived as more legitimate in the eyes of the local people (Sikor & Muller 2009 in: Collins & Mitchell 2018). However, it can be stated that the World Bank has underestimated the amount of research that was necessary to properly assess these customary tenure systems, and their possibly negative effects on women's land security. As turned out, there were still opportunities for customary authorities to manipulate the reforms to their advantage.

Therefore, there is a seemingly insurmountable challenge present in the current Ghanaian land policies. On the one hand, there is a clear ambition to create more accessible land tenure for the rural masses. On the other hand, there seems to be a genuine intent to protect and improve women's land accessibility. These difficulties of trying to both promote gender equality and enhancing customary tenure reveal that the World Bank has been unsuccessful in considering where precisely gender equality measures and customary practices come into conflict, which was also acknowledged by Collins & Mitchell (2018). Even though the World Bank claims that it is aware of the many challenges that are involved with this project concerning women's accessibility, there still seems to be a blind spot in its concrete policies. This has resulted in multiple implementation issues. It seems like a never-ending issue in Ghana, wherein two overlapping systems are clashing; an inefficient bureaucratic state system and a customary tenure system wherein chiefs regularly express opportunistic behaviour.

While it is noteworthy to observe that the World Bank has been more open towards customary systems and aims to improve its reform strategies, this should not overrule the negative consequences of these reforms and the controversial aspects that are involved with customary tenure, such as traditional hierarchies that privilege rights of certain groups. By formalising these structures with the means of official projects, more power is given to these hierarchies. As turned out, which was also recognized by the World Bank itself, the program did not have sufficient checks on the power of chiefs and the possible misuse of this power. It is therefore surprising to see that the World Bank continued these practices in the Second Land Administration Project. Even though the World Bank did explain that the second Land Administration Project was already initiated after the publication of the evaluation of the first project, this does not contribute to the believe that the World Bank understands the complexity of the Ghanaian local contexts.

Based on the analysis in this thesis, it seems that the Land Administration Project presents an oversimplified view of customary practices and local land governance. There was no sufficient attention paid to the opportunistic politics that are often involved with customary land systems, which undermined women's accessibility to land. No sufficient practical plans were made to support women in overcoming their fragile position or these plans were not monitored properly. Therefore, the blind spot remains and no clear pathways are constructed to overcome these difficulties. This shows that policymakers have failed to consider where these gender equality measures and customary systems come into conflict. However, to further complicate the situation, shifts from customary to statutory ownership does not automatically improve their position either, referring to research of Peters (2010) and Whitehead & Tsikata (2009). So, the question remains: how can policymakers reconcile equal treatment, within the context of individual registration and promoting customary systems, even though women's positions might be compromised?

I would like to suggest that the influential power of the World Bank should be recognized. World Bank's policy reforms are increasingly copied by other global institutions without much critical attention, which was also observed by Collins & Mitchell (2018). Through worldwide partnerships with state development agencies, the World Bank has a significant power to shape land reform processes and therefore can influence states through their policy reports (Collins & Mitchell, 2018). There may be a risk of organizations mindlessly taking over World Bank's policies, resulting in similar issues. Given its organizational power, the World Bank has a certain responsibility as well. Therefore, several recommendations could be made based on this analysis. First of all, there should be placed more effort into studies to thoroughly understand the variety of customary land systems in Ghana prior to the implementation of a program. As for now, there seems to be a lack of knowledge and expertise to effectively anticipate. To ensure a livelihood for all people, more attention needs to be paid to secure Ghana's vulnerable groups and the complexities of local politics. Even though the debate remains whether customary or state-led policies will be more effective in enforcing land security, it became clear that critical analysis is always necessary to acknowledge the position of women.

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