

THE REPUBLIC



OF THE GAMBIA

**REVIEW OF THE STATE
OF IMPLEMENTATION OF PRAIA ORIENTATIONS
(ON LAND TENURE) IN THE GAMBIA**

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1. INTRODUCTION

1.1. Background

1.1.1. Context and Justification

The regional conference on land tenure issues and decentralisation in the Sahel organised in June 1994 in Praia (Cape Verde) under the aegis of CILLS and the Club de Sahel had resulted in the development of an orientation framework for participatory and decentralised management of natural resources in the Sahel, focusing on four main areas:

- Support to the emergence of a civil society for the sustainable management of natural resources in the Sahel
- Support to the States for the elaboration of legislations fixing the general orientations at the national level, while leaving it to the local level to define the enforcement measures
- Taking the gender dimension into account in natural resources management policies
- Capacity-building of stakeholders through the implementation of adequate of adequate information, sensitisation and education programs.

Nine Years after Praia, the overall objective of the Praia +9 forum is to assess the state of implementation of this orientation framework and to define new policy guidelines for the next decade in order to entrench a more secure and equitable access to land resources and for a sustainable management of natural resources in the Sahel and the West Africa region as a whole.

The organisation of the Praia +9 forum in The Gambia was characterised by a participatory process structured around three main lines of action:

- ❑ A review of the state of implementation of the guidelines defined at Praia through a multi-sectoral taskforce,
- ❑ A study of emerging land tenure issues,
- ❑ The formulation of strategic orientations.

The review of the implementation of the Praia orientations is undoubtedly the focus of the preparatory process of the Praia +9 forum.

1.1.2. OBJECTIVES

The basic objective of the review of the implementation of the Praia orientations is to critically assess the state of implementation of the guidelines outlined in the Praia Declaration. More particularly, the review in The Gambia dwelt on the following points:

- Land tenure policy options,
- The state of the land tenure and NRM legal and institutional framework,
- The extent to which the needs and interest of the specific groups (women, young people, pastors, migrants ...) are taken into account in land tenure and NRM policies and legislations,
- The mechanisms for adopting and disseminating the land tenure and NRM policies and legislations,
- The extent to which the land tenure dimension is taken into account in the major national policies and strategies (decentralisation, poverty reduction, environment, etc),
- Emerging land tenure issues, and
- Prospects.

1.1.3. METHODOLOGY

The review in The Gambia was conducted on a resolutely participatory approach, implying consideration for the points of view of the representatives of the main categories of stakeholders concerned with land tenure issues (relevant ministries and public organisations, farmer organisations, NGOs, university and technical establishments, private sector, local communities, co-operation partners).

The National CILSS Committee was enlarged to include the major relevant ministries and public organisations dealing with land tenure and NRM matters and representatives of co-operation partners addressing land tenure issues.

The review was carried out in two main phases:

- **Phase 1: Preparation of the Review:** - the review should be prepared while taking account of the context specific to each country and, at any rate, with the concern of exploiting, as much as possible, the studies conducted on the matter in each country. The review should attempt to assess progress made towards the implementation of the Praia orientations, the constraints noted, the emerging land tenure problems and the prospects at the country level.

The national report sanctioning the preparation of the review must be the fruit of the participation and contribution of the representatives of the various categories of actors involved.

- **Phase 2: Validation:** the national report should be also validated in a very participatory manner, either within a restricted workshop gathering the members of the National CILSS Committee enlarged to the other relevant ministries and organisations in charge of land tenure issues and to the co-operation partners, or more ideally, within the framework of a more open national workshop, with a bigger participation of all the sensibilities concerned with land tenure and NRM questions.

The cooperation partners will be requested, in each country concerned, to sponsor the organisation of such national workshops.

1.1.4 Terms of Reference for the Study

The basic objective of the national report is to review the implementation of the Praia orientations i.e. to critically assess the state of implementation of the guidelines outlined in the Praia Declaration on the land tenure and natural resources management related policies and legislations. The report will have to be conducted in an absolutely participatory approach, implying consideration for the points of view of the representatives of the main categories of stakeholders concerned with land tenure issues (relevant ministries and public organizations, farmer organizations, NGOs, university and technical establishments, private sector, local communities, co-operation partners).

The Study Team will be led by the Coordinator who will assume the overall responsibility for the quality of the output at the end of the Study. He will ensure that the team members contribute their respective quotas in the document within the agreed timeline. He will be responsible for the assigning of task to team members and the compilation of the final document. The specific terms of reference include the;

- ★ land use and land tenure policy options adopted in The Gambia;
- ★ the state of the land use and land tenure and NRM legal and institutional frameworks;
- ★ the extent to which the needs and interests of the specific groups (women, young people, pastors, migrants...) are taken into account in land tenure and NRM policies and legislations;
- ★ the mechanisms for adopting and disseminating the land use, land tenure and NRM policies and legislations;
- ★ the level of enforcement of the efforts and the achievements;
- ★ the extent to which the land use and land tenure dimension is taken into account in the major national policies and strategies (decentralization, poverty reduction, environment, etc.)
- ★ emerging land tenure issues;
- ★ prospects.

1.2 Country Profile

1.2.1 Physical Characteristics

The Republic of The Gambia has a land area of area of just under 11000 km² and a population of 1.3 million (1993 population census). Thus the country is one of the smallest and most densely populated states in Africa. It is divided by The Gambia River and is surrounded on all sides by Senegal except on the Atlantic coast.

The climate is Sudano-Sahelian and is characterised by a short rainy season that lasts from June to October and a dry season for the rest of the year. Average rainfall has been declining from a high of 1100mm in the 1960's to 900mm today. Mean temperature is 25 Degree Celsius with and it generally ranges from 18 to 40 degrees.

1.2.2 Political Characteristics

Except for a two-year transition of military rule (1994-1996), the Gambia has enjoyed democratic traditions since independence with regular free and fair elections held every five years contested by several political parties. The current constitution adopted in 1996 guarantees fundamental basic rights and ensures a separation of powers between the Executive headed by an elected President, the Legislature and an independent Judiciary headed by the Chief Justice.

1.2.3 Social Characteristics

The Gambia has experienced severe demographic pressures over the past three decades (Table 1). Currently, with a human population density of 97 persons per km², the country ranks fourth most densely populated country in Sub-Saharan Africa after Rwanda, Burundi and Nigeria. Population growth rate was estimated at 4.2% (natural growth rate of 2.4% and an immigration rate of 1.7%). About half (48.7%) of the population lives in the capital city of Banjul and its surrounding local government areas. In the event that the current trend continues, it is expected that the population will double in the next twenty years. This fast growth rate is attributed to high fertility rate (mainly early marriage and uncontrolled pregnancies) and immigration.

Table 1: Population Indicators (size, distribution, density and growth rate) of The Gambia by Local Government Area

Local Government Area	Population			Area (Sq km)	Density		Annual Growth Rate	
	1973	1983	1993		1983	1993	1973-83	1983-93
Banjul	39179	44188	42326	12.23	3613	3461	1.2	-0.4
Kanifing	39404	101504	228214	75.55	1344	3021	9.9	8.4
Brikama	91013	137245	234917	1764.25	78	133	4.2	5.5
Mansakonko	42447	55263	65146	1618.00	34	40	2.7	1.7
Kerewan	93388	112225	156462	2255.50	50	69	1.8	3.4
Kuntaur	47669	57594	67774	1466.50	39	46	1.9	1.6
Georgetown	54232	68410	88247	1427.75	48	62	2.3	2.6
Basse	86167	111388	155059	2069.50	54	75	2.6	3.4
The Gambia	493499	687817	1038145	10689.28	64	97	3.4	4.2

Central Statistic Department – Population and Housing Census 1993

The population of The Gambia is divided along different ethnic groups dominant of which are the Mandinka, Fula, Wolof, Jola, Sarahulley, Serere, Manjago tribes. The Mandinkas are the largest ethnic group in the Local Government Areas of Mansakonko, Brikama and Kerewan. The Fulas dominates in the Kuntaur and Georgetown areas. The Sarahulleys form majority of the population in Basse area whilst the Wolofs are the largest group in the Banjul area.

Rapid demographic growth has unfortunately not been accompanied by the requisite investment in social infrastructure thus putting social services under considerable pressure. This situation has adversely affected the country's social indicators particularly when compared to the regional averages.

The agricultural sector in The Gambia is the major determinant of economic activity and it contributes about 25% to the Gross Domestic Product and employs about 75% of the country's labour force. The country continues to be heavily dependent on groundnuts for foreign exchange earnings.

The country struggles against poverty, which is reflected by poor access to drinking water, low life expectancy, low literacy rates, poor access to health services and high child and infant mortality rate.

According to the 1998 National Household Poverty Survey Report, 55% of households and 69% of the population are poor. The incidence of poverty varies widely between households and persons in different geographic locations. Sixty percent of households in the rural areas are extremely poor compared to 13% in the greater Banjul area and 28% in other urban areas.

The lack of social infrastructure and economic opportunities especially in the rural areas has triggered rapid urbanization. Rural urban migration of particularly the youths has left the rural areas under populated and deprived of its labour force and required to produce its food.

2 MAIN LAND USE SYSTEMS

Land is one of our most precious assets. It represents surface, space, and soil. It provides food and serves as basis for urban and industrial development. Land stands for property and is a production factor besides labour and capital. It is an object of immense revenue potentials for Governments and other interest groups and for that reason, it is a target for different competing uses.

Land is finite in extent but the number of people competing for it is still increasing. The Gambia has a total land surface of 1037 million hectares but its population has doubled between 1975 and 1995. With an actual growth rate of over 4% it is expected to double again by the year 2020. Under these conditions of increasing population and competition for land, there is a need for land use planning and regulation in order to avoid future conflicts. Land use systems should therefore reflect the need to optimise the sustainable use of land in line with the legitimate needs of all stakeholders.

The rapid population increase in the Greater Banjul Area (GBA) and in the size of urban settlements necessitated the development of a comprehensive physical Development Plan for the GBA. The major factors affecting urbanisation in the GBA are manly rural-urban migration and the influx of refugees from neighbouring countries.

In 1985, assistance from the German Government helped prepare a Physical Development Plan for the GBA resulting in the GBA Land use Plan 2000. The Plan outlined the problems of urbanisation in the GBA and proposed policies to control and minimise the effects of the rapid urban growth. In this regard, the Land Use Plan provides land uses for different parts of the GBA to ensure a better and sound environment. The Plan also provides measures to redress the uncontrolled residential extensions into agricultural and woodland areas and the encroachments into environmentally sensitive areas.

2.2 Traditional land-use Systems

2.1.1 Agricultural land-use Systems

The agricultural land use systems in rural parts of The Gambia can be divided into two main groups:

1. the **Upland systems** involving the cultivation of such crops as millet, sorghum and maize, horticultural crops and livestock husbandry; and
2. the **Lowlands systems** focusing almost exclusively on rice cultivation.

1. Upland systems

i) The fully mechanised intensive system which is predominant in the North Bank, Central River and the Eastern part of the Western Divisions. In these areas arable land is increasingly becoming a limiting factor to production, meaning that increased production is largely to be expected from higher land productivity rather than expansion of cultivated area. Animal-powered farm operations are a common feature. Fallow period is generally short and early cereals and groundnuts are the main crops with relatively high yields.

ii) The low-input extensive system which is prevalent in the Lower River Division and portions of Western and Upper River Divisions are characteristic for a low resource agriculture. Increase in production can only be expected from an expansion of the cultivated land

iii) The semi-intensive system is mainly found in between the two former systems. This is mainly found in the eastern part of the country specifically in the Upper River Division and the eastern part of Central River Division. This system is characterised by a relatively high cattle population, a limited use of animal traction a relatively important use of manure as a fertilisation source, traditional farming practices use of local variety seeds, and a high proportion of women cultivators. Slopes in these areas are generally steep and soils erosion-prone.

2. Lowland Production Systems

They are primarily rice-based, with some vegetable and fruit production. Production is mainly for home consumption with surpluses being offered for sale in markets. Lowland areas are characterized by depressions, which rely on the accumulation of rainwater into topographically low areas.

Four lowland rice ecologies can be distinguished:

- i) The “*Banta Faros*” (on edges of alluvial plains),
- ii) Mangrove tidal swamps,
- iii) Fresh water tidal swamps
- iv) And water-controlled irrigation.

2.1.2 The Rangelands

They are marginal lands not suited for crop production that are utilised for livestock grazing. However, such areas in The Gambia are increasingly being placed under considerable pressure through encroachment by crop producers. Given that the rangelands are communally owned (meaning that they belong to no one in particular), most improvement programs are unsuccessful since there is a big reluctance to invest in common properties.

2.1.3 State Management of Natural Resources

Until recently by the beginning, the dominant natural resources management system in The Gambia is state management, through which forest parks and protected areas are gazetted, their boundaries surveyed, mapped and demarcated. At that time, the state owned the land and the utilisation rights, and the only body directly benefiting from the revenue that accrues. Outside the forest areas, the government as well enforces stringent forestry law that has to be adhered to by all communities. This law enforcement includes utilisation licensing and permits without any due consideration or even information to the neighbouring villages. Though, land administration and land usage in the provinces is governed by customary laws.

2.2 Impact of Land-use Systems on Agriculture and Natural Resources

Over the years changes in land use pattern has impacted on agriculture and natural resources. A combination of adverse weather conditions (particularly drought) and unsustainable human practices (including poor agricultural practices, a high rate of population growth and a significant rate of rural-urban population drift) led to severe deterioration of the environment. Thus, the alarming rate of environmental degradation caused in large part by the growing imbalance between population and the natural resource base in The Gambia has resulted in a threat to the quality of life for the large majority of the people. Environmental degradation contributes considerably to vicious cycle of poverty. Among others, some of the underlying causes of this degradation are-

- ◆ Soil fertility reduction resulting in declining food production
- ◆ Inappropriate farming practices coupled with a long period of successive drought
- ◆ Increasing extraction of fuel wood without replacement,
- ◆ Pressure on rangeland due to loss of watering points resulting from successive droughts and reduced dry season, open grazing areas due to increased irrigated rice and fruit tree development.
- ◆ Expansion of agriculture into marginal land, resulting in the depletion of vegetative cover causing loss of wildlife and biodiversity.
- ◆ Uncontrolled bush fires destroying vegetative cover and resulting in erosion and,
- ◆ Saltwater intrusion due to over-extraction of ground water and reduced rain fall

However, in specific terms changes in land use pattern, which had and continue to impact on agriculture and natural resources in The Gambia came about as a result of the following among others. These are-

- ◆ Urbanisation
- ◆ Increase in Forested land (e.g. woodlands, Mangroves, Fallow areas, Agriculture with trees, Agriculture with no trees)

2.2.1 Urbanisation

One major phenomenon of land use system that had and continue to have impact on agriculture and natural resources in The Gambia is rapid urban growth or urban development. This is particularly true and visible in the Greater Banjul Area and parts of Western Division. This part of the country over the years has been confronted with an increasingly unprecedented cum exceedingly high rate of urbanisation as a result of accelerated rural exodus due mainly to low returns from agriculture as the major employment for most families and individuals in this part of the country, and the concentration of economic activity in the urban areas. Other growth centres being no exception. Thus resulting in- over-crowding and extension of suburbs, over-stretching of social services, poor environmental sanitation, and increasing air, water and soil pollution. Furthermore, the concentration of more people in the urban areas has and continue to make demand for land for settlement, taking precedence over the use of land for agriculture and natural resources management. Thus making land not only a scarce and expensive commodity in this part of the country, but perhaps most importantly a valuable asset easily convertible to cash. Hence majority of land owners if not all in this area prefer to sell their land to the highest bidder for use as settlement as opposed to maintaining it for agriculture and natural resources management.

The scenario in the rural areas is not very much different from what obtained in the urban areas. What may be different could be the scale and/or the magnitude of the changes. As earlier indicated, the rural growth centres have also overtime been experiencing a slightly unprecedented rate of population increase/concentration. Like in the urban areas, this has invariably put settlement pressure on the available land formerly being used for agriculture or forests. Similar reasons have and continue to impact on agriculture at village or community level in other parts of the rural areas. Land scarcity particularly for agriculture has overtime made bush/land fallow no longer possible or shorter. This, coupled with mechanisation of agriculture, with the introduction of animal traction and other farming implements, and the significant reduction in the use of fertilizer by farmers due mainly to removal of Government subsidy resulting in its unaffordable accelerated price by farmers. Thus, contributing to loss of soil fertility and hence low agricultural production and productivity, with rural poverty and food insecurity as some of its consequences.

Urbanization is a dynamic process, which involves a variety of changes in all aspects of the society and its environment. Although both developed and developing countries have experienced urbanization, the phenomenon is newer and it is occurring at faster rates in developing countries including the Gambia. In the 1963 just before independence the total population of Banjul, Kombo St. Mary and Kombo North (the current Greater Banjul area) was 49,000, in 1973 it was 95,000, in 1983 it was 180,000, in 1993 it was 349,000 and currently close to 500,000. The current annual growth rate of the GBA is 8%, almost double the national population growth rate. Such rapid urban expansion has been uncontrolled, and unplanned, and therefore has had serious adverse implications for the provision of social

services such as waste management and adequate affordable energy supply. Table 2 below confirms the population growth of the GBA with the exception of Kombo South.

Table 2: Population growth in Greater Banjul Area (GBA)

District	Popul. 1963	In% of Total	Popul. 1973	In % of Total	Popul. 1983	In % of Total	Popul. 1993
Banjul	27,809	56.5	39,179	41.1	44,500	24.6	49,426
Kombo St.Mary	12,208	24.7	39,404	41.4	102,900	57.0	221,710
Kombo North	9,245	18.8	16,700	17.5	33,300	18.4	78,496
	49,000	100.0	95,000	100.	180,000	100.	349,632

Approximately 26% of the population of the Gambia by 1984 (700,000) were living in the GBA. Now it is estimated that 40-45 percent of the total population of the Gambia (1.2 million) are living in the GBA, and it is projected that by 2010 about 665,700 People will live in the GBA.

2.2.2 Land Use and Physical Planning

The Land use Plan is divided into different Land use types such as urban residential, mixed use, semi-urban residential, Institutional, Villages, Hotel, Business and Commercial, Industrial, Military, Parks and recreation, cemetery, Transportation and Communication, Dumping site, Agriculture, shrub, forest, water and swamp, quarry, beaches and special areas.

In order to achieve a rational equitable distribution of the resources amongst competing uses, a policy guideline for future urban development and the establishment of an administration machinery to implement such policies became imperative.

The Physical Development Plan aimed at controlling urban development of the GBA, covers the following areas: City of Banjul, Kombo St Mary District, Kombo North and Part of Kombo South District. Similarly physical Development Plans were prepared for the three growth center towns of Brikama, farafenni and Basse. Although these growth centers are located away from the GBA they too were experiencing urbanization.

Moreover, The physical development plan or land use plan for GBA 2000, was based on forecasts and assumptions derived from the then five-year development-plan and was for a period between 1985 and 2000 (a life span of sixteen years).

This plan is no exception to any other long-range plan and thus faced the same difficulty of knowing the future. Hence the G.B.A. is seriously over taken by events and developments have gone far beyond where they were predicted.

2.2.3 Waste Management

The rapid increase in population is accompanied by a corresponding increase in the amount of solid waste generation. However, due to lack of planning and resources, there was no adequate provision for the collection and disposal of the waste generated. The general public still practice the cleaning philosophy. Most people do not understand the concept of waste management. People sweep their homes and bring the waste out for collection, only to be disposed off sby the Councils but rarely think about what happens to it there after i.e. what its impact would be on the the environment and our natural resource base.

Waste management is an endemic problem that has come with rapid urbanization. The municipalities of Banjul, Kanifing and Brikama (the GBA) have tried to tackle over the years but do not seem to be able to bring the issue under control. Though at the moment water quality monitoring figures show that the quality of water at the beaches in Banjul are still within the WHO standards, despite the outfall pipe emptying raw sewage into the sea. In the KMC, apart from a few Hotels connected to the Kotu ponds there is no sewage system. Some households use septic tanks and soakways for managing their sewage and other liquid waste but the majority use local pit latrines and dispose of liquid waste on the street or any available space.

The poor management of waste encourages the proliferation of rats and rodents which can transmit typhoid fever, rabies and other infectious diseases and the prolific breeding of flies, cockroaches and mosquitoes which can transmit diseases such as yellow fever, malaria, dengue etc. The spread of these diseases is compounded by the density of the population in our urban areas.

The production of noxious and offensive odours as a result of ammonia, hydrogen sulphide, amines, indoles and mercaptans produced when organic waste decomposes anaerobically, and the pollution of air by smoke and smog when waste is burnt openly, is also another result of inappropriate waste management.

In Banjul, waste is frequently dumped in the drains thus clogging them causing bad odour and the flow of dirty wastewater onto the streets. In the KMC, waste is often deposited in natural drains, constructed drains and wetlands and streams thus causing serious drainage problems.

Due to the fact that the current two official dumpsites are not well engineered and properly constructed the contamination of ground water by the leachate from them is eminent. Clandestine disposal of waste by burying or disposal in old well and lowlands can also pollute the ground water.

2.2.4 Energy Sector

The energy resources-base of the country is limited. The Gambia relies almost entirely on biomass fuels and imported Petroleum products to meet her energy requirements. The main resources in the country comprise Fuelwood, Petroleum Products, Electricity, Liquefied Petroleum Gas (LPG), and Renewable Energy. According to 2001-energy balance, fuelwood constitute 83%, petroleum products 16%, electricity 1% and Liquefied Petroleum Products and Renewable Energy less than 1%. This trend has been almost the same for the last 4 years with little changes.

Urbanisation also increases demand for the provision of efficient, reliable and affordable energy that is sustainable and environmentally sound, in accordance to the main objective in the overall Government energy policy framework.

2.2.5 Forest and Wildlife management

The traditional land use system and land use practices do not favour the identification of permanent forested lands, as they are considered an obstacle to sustainable farm and village development. In some cases attempts to identify customary village lands for any specific purpose will bring more harm than they do good. On the other hand, the traditional tenure system is flexible enough to allow the conclusion of land tenure agreements provided that all the concerned stakeholders are involved. Local authorities play a key role in facilitating such agreements and in acting as arbiter in the case of disputes and conflicts. Therefore, they need to be involved in all land ownership and land use related issues.

Since after the inception community participation in forest and wildlife management in 1994, it has been found that the opportunity of gaining forest ownership is an incentive strong enough to motivate local communities in forest protection and controlled management even in the absence of immediate direct benefits. Contradict to what is often believed, communities do not see forests primarily as source of income. Rather resource access and use without interference from outsiders is their first motivation because they have realized the importance of preserving the forest in order to meet their own needs and to secure their future.

After a trial and error period of about three years (from 1991 to 1993) during which it was tried to pursue an integrated approach towards community forest establishment, the approach strategy has been focussed down to forestry issues, only, because:

- it was experienced that forestry related issues are always at the bottom of the list of opportunity ranking as a result of participatory appraisals;
- measures generating short-term benefits which contribute to built up confidence are usually not directly linked to the forestry sector and thus deviate from solving the real problems;
- integrated village development is an inter-sectoral issue and task requiring a close inter-sectoral collaboration at local level which could not be achieved;
- the identification of permanent forest land by local communities and authorities is the first step towards village based land use planning; and
- the time is running out to halt up land degradation processes, which soon may become irreversible.

The rate of community forestry expansion during the recent years demonstrates that the straightforward approach works. However, interdisciplinary aspects of village development should be more considered during the process of community forest identification.

3 STATUS OF LAND OWNERSHIP AND LAND TENURE

3.1 Land Ownership and Land Tenure

In The Gambia two main types of land tenure systems can be identified:

1. Informal
 2. Formal
1. **Informal land tenure** is based on traditional customs and practices. The customary laws states that where an original piece of land is cleared by a Kabilo (a collection of families) the ownership of land is vested in the head of the Kabilo. This is the base of the customary land tenure system as has evolved in time. Customary land tenure exists mainly in rural areas. According to this system the village head or ALkALO has the right to allocate land in his area
 2. The **formal land tenure** system on the other hand comprises of leaseholds and freehold tenures. In leasehold land tenure the ownership rights are granted by the State for a term generally 99 years. The right is only legalised through registration of the property leading to the production of a formal title deed or lease document, which is subsequently registered at the Attorney General's Chambers.

On the other hand Freehold land tenure gives no time limit to the ownership of land. The owner of a freehold property can do whatever he feels over his property as long as in doing so, he does not interfere with the right of third parties. Freehold properties are very few in number and are mainly found in Banjul and few parts of Bakau.

3.1.1 Customary Land Tenure in The Gambia

The question of what constitutes “**customary land tenure**” in The Gambia is complex and subject to different interpretations. Customary practices are not enshrined in a fixed body of mutually agreed upon laws. Numerous studies have shown uncertainties in the interpretation of what constitutes customary law. Furthermore customary tenure rules can also be a source of internal conflict as competing interest groups struggle to define rights of access to particular natural resources.

3.1.1.1 Acquisition of Customary Land in The Gambia

Land is the basis of livelihood, something to be owned and utilized but not created by humans. In most communities of The Gambia, it is commonly held that land should not be sold but can be granted forever or subject to a condition or a term. Land cannot therefore be alienated through grants, loans, or sale from the holdings of the family without family consensus.

No family can afford to grant or sell all of its lands for fear of lack of cultivation area for subsistence food production for the family and its descendants. In this sense, land means farmlands on which upland food and cash crops are grown, rice lands on which rice is grown, as well as land for home settlement and for religious purposes.

Upon the founding of a village by any number of families, land is first allocated for homes with due regard to leaving an open space for streets, mosques, sacred areas, the cemetery, and the “**Bantaba**”.

Every extended family owns its own home by mutual understanding and consent from the founding settlers of the village. Behind every family home there are inner fields for growing early millet and maize, as well as vegetables. Outer fields are cultivated in crops such as groundnuts (peanuts) and late millet and sorghum, which are also owned by the families. The outer fields are those often used for livestock grazing during the rainy season. Since fallow lands are family lands left uncultivated, there are latent rights to what might otherwise seem to be unused land. All of the village’s lowland areas, which are cultivated in rice are also owned by families. The family as an entity can, and does, exclude all non-family members from its home, its inner and outer fields, and its fallow and rice lands

3.1.1.2 Land ownership by Immigrants or Late Settlers

Family Host

After the establishment of a village by the founding families and the allocation of lands as described above, other persons may arrive for settlement. These latecomers must choose one of the originating families as their host in order to obtain land to settle and farm. The host family may either give a portion of its own family land to the new settler or request compound and agricultural land from other founding families. If the founding families are convinced that the new entrants intend to remain in the village, their gift of land is regarded as conferring permanent ownership to the new arrivals, who will then exercise the same rights of landownership. When all available lands of the village have been allocated for settlement and farming, the village is said to be fully occupied. At the same time, landowning families can and do give rice-growing lands to their daughters as gifts, even though these women leave the family because of marriage. Such gifts confer ownership to the daughter forever. In case of divorce or lack of offspring, the rice land reverts to the daughter’s family of origin.

If the male members of a landowning family decreases in number through death or migration, the family can bestow custody or use of its farmlands on a yearly basis to others in the village. This bestows custody or use of its farmlands on a yearly basis to others in the village. This bestowed or borrowed land entails no rights of ownership. However, the lending family can regain the land only after harvest, never while the land is under cultivation.

Village Host

Founder villages can become “**host**” to later arriving villages. This means that the host village grants approval to the guest village for settling either on its fallow lands or on lands adjacent to its fallow. The host village’s founding families may agree to grant some swamps for rice and some lands for upland crops for distribution among the guest village’s members. As years go by, the guest village may continue to cultivate the lands. If residents of the guest village leave, their lands revert to the granting, landowning families of the host village. But as long as the guest village stays and remains in good standing with the host village, the lands cannot be reclaimed.

Some families in the host village will refuse to grant land to the guest village for either settlement or farming. This situation can serve as grounds for land disputes between two families from the two villages. Although land from the host village may be located close to the guest village, the newer arrival in some cases still cannot obtain access. At best, the host village lends such lands to some guest villagers on a yearly basis.

Family Land

As stated above, land in all its various uses belongs to the extended family. The male head of the family represents the family's interests to the outside world. The family head allocates all family lands to male members of the family (land here includes rice-growing areas as well), yet remains custodian of the family's territory. He will distribute lands to his younger brothers or, in their absence, to their sons. Upon the death of the family head, he is succeeded by the next oldest brother or, this lacking, by the elders of the sons within the extended family. The land of the next oldest brother or son is thus increased by the addition of land formally held by the deceased family head. Even the house of the family head is taken over by the oldest brother or son. This situation continues until the demise of the last brother or the youngest son.

This system of inheritance is so respected and venerated that land disputes within the same family are rare. But as the family increases in number or male members, half brothers will sometimes dispute over certain pieces of land used by their deceased father. If the appeals of the family head to compromise and reconcile fail, maternal uncles are asked to intervene and settle the difference. In many cases, the uncles may succeed because one brother will give up his claim to use the deceased father's land when his uncle grants him lands of equivalent value. Such land will become the land of the compromising brother and his offspring forever. In cases where the uncle (s) attempt to regain that piece of bestowed land, tension, conflicts, and disputes arise.

3.1.2 Customary Land Tenure and Dispute Resolution

Land disputes occur over a variety of issues. Land disputes are most commonly rooted in disagreements over the location of boundaries. Land inheritance disputes can arise between half brothers of the same deceased father (this pertains as well to rice land).

Land disputes can take place between two villages. These are often cases of conflict between two founding families, and supporters of the respective positions will side with the particular disputant. Tensions leading to serious disputes can break out between two villages because the boundary between villages is marked by nothing more than the limit of each community's fallow land extending toward the forest. Such land disputes can arise, for example, when a guest village is settled on the fallow or farmlands of a host village. Disputes can also occur when there is a disagreement among sons, generally half brothers, over who should take over the house of the deceased ancestor and thus become the head of the family. These types of land dispute are, in fact, now becoming more numerous than they were in the past.

3.1.2.1 Informal dispute-resolution mechanisms

The main characteristic of the dispute resolution process is that compromise and reconciliation should occur at the informal level before the case reaches a formal court. Land disputes are no exception to this customary norm. If a land dispute erupts between members of the same family, the family head, as custodian of the family land, settles it without going beyond the family. If he fails to resolve the dispute, the uncles (*i.e. the brothers of the disputants' mothers and other close kinship relatives*) will appeal to the contesting half brothers to strike a compromise and reconcile. If this also fails (*or cannot take place for a particular reason*), the matter can be brought to the “*kabilo*” (*i.e. head of a group of families absorbed into one of the founder families*) for arbitration on the issue. If the dispute still rages on, disputants can bring the argument to the attention of the *alkalo*, the Imam, and other *kabilos*, as well as other influential leaders.

In case where the disputed land is used for rice cultivation, the women cultivators may wish to keep their affairs apart from the business of the men. In these circumstances, the dispute is referred to the “*ngansimba*” (*i.e. head of the female community*) for advice and reconciliation. In a typical village, no woman will turn down the considered advice of the *ngansimba* regardless of her social status. Any woman of good will can report the dispute to the *ngansimba*. Disputes generally concern disagreements over the boundary of the rice fields during tilling or over the heaping of weeds on another's rice land during weeding.

3.1.2.2 Formal Dispute-settlement Mechanisms

When the informal dispute resolution mechanisms are exhausted or bypassed by one of the claimants, the matter then appears before the district tribunal. The tribunal reviews the case and makes a binding legal decision. The case may be appealed to higher authorities or courts.

3.2 Ownership and Tenure Rights of Natural Resources

All forested land (all categories – forest parks, protected areas, open access forests) are under the management of the state, *i.e.* they are state lands. The identification of community forests by local communities and local authorities means demarcating permanent forest lands which cannot be converted into another land use. Community forest identification thus constitutes the first step in participatory village based land use planning. As next step, the Forestry Department developed the concept of community controlled state forest (CCSF), which aims at bringing the remaining forest on customary village lands under controlled management. CCSFs are no permanent forests; they may be upon request of the concerned community(ies) converted into another land use but also into community forests. Multi-disciplinary facilitation teams could probably better address this issue so that the identification of permanent and non-permanent forest lands is coordinated with other land uses and thus fully integrated into village development plans.

Tenure security is of utmost importance for long-term resource management. Therefore ownership rights should not be limited in time but should be permanent on the condition that the communities are not depleting the forests they own. It has been found that the opportunity of gaining forest ownership is an incentive strong enough to motivate local communities in forest protection and controlled management even in the absence of immediate direct benefits. Contradict to what is often believed, communities do not see forests primarily as source of income. Rather resource access and use without interference from outsiders is their first

motivation because they have realized the importance of preserving the forest in order to meet their own needs and to secure their future.

3.3 Consideration of gender/disadvantage groups in land ownership and land tenure

Gender relations are defined as the social construction of roles and relationships between women and men. These roles are usually unequal in terms of power, decision-making, control over events, freedom of action, ownership of resources to name a few. For this reason, gender is about power, insubordination and inequality.

In another view, gender is also about ways of changing these conditions to secure greater equality and equity in all social manifestations for women. The gender approach recognises vast diversity of relations between men and women, but nevertheless, asserts the lessening of the social inequalities experienced by women as an overriding goal

Desertification constitutes a major constraint to Social and Economic development. In light of these constraints to human development, the Gambia has also subscribed to international and sub-regional conventions on climate change, biodiversity and desertification on sustainable development, the objectives of the millennium development goal and have developed new initiatives at national level to meet the objectives at the international level.

3.3.1 Gender issues in Land Ownership

Land ownership in the Gambia still favours men more than women. This is attested by the recently concluded three-year participatory poverty assessment project under the auspices of Strategy for Poverty Alleviation Co-ordination Office.

It was found that, in all the communities studied land is generally owned and controlled by men. This is so because the Gambia is a patriarchal society with very strong traditions and customs that allowed men to unconditionally inherit land as opposed to women's conditional inheritance. It is in this respect that the Alkalo and Council of elders are responsible for land allocation and distribution at village or community level, while individual family heads (who are mostly men) allocate land at family or clan level.

This kind of arrangement makes it difficult for divorced and widowed women to access land. Land related problems that affect women include salt and lime intrusion, water and wind erosion and access to fertile rice fields. These problems limit women's capacity to produce enough, thereby increasing food insecurity.

The relationship between men, women and natural resource management is complex, diverse and changes according to pressures on livelihoods and the opportunities in the wider economy. Therefore, we would not be doing justice if we only assume complementarities between women's interest and environmental conservation. Men and women's position with respect to rights and control over assets especially land is a critical issue.

Land tenure institutions for instance comprise such determinants of access to land as the ownership structure at a particular moment. Whether this is defined by private freehold title or by customary rights of access, the various tenure contracts that may enable non-owners of land to gain access to land, the social mechanisms for resolving disputes etc, these institutions

may work more or less well. However, there is no guarantee that laws and customs with distinct historical roots are efficient in the sense of optimal resource allocation, nor that they are fair in terms of the way access rules are applied to different types of people (Ellis; 2000).

The ownership by women of property in land is comparatively rare worldwide and may be deteriorating (Ibid). There is no guarantee that organisations that interpret institutions e.g. Village Councils, Local Courts) do so in an even-handed and consistent way across individuals, irrespective of their social positioning.

3.3.2 Access to Land

Historically women's access to land depends on their status within the family and involved right of use, not ownership. In the Gambia like other places, the most prevalent barrier to acquiring real property is inheritance law, which favour male inheritance over female. If a woman inherits property, her husband manages it. This trend is however observed to be changing although the noble aim of equality is still far from fetched. Custom rather than religious practice excludes women from ownership; property is held in a man's name and passed partrilineally with the group.

The majority of women do not have primary rights to land, though some do inherit land and others are beginning to purchase it outright. In this regard, most women are subjected to the general insecurity that is associated with secondary rights. This is particularly a problem when they want to invest in activities such as gardening, which require a multi-year investment of resources. Numerous conflicts have taken place when men have attempted to recall the secondary right after women have already invested in infrastructure (wells, fencing) or planted trees.

While women have only this limited access to land, they do own livestock in particular small livestock (as much as 90 percent in some villages). While their rights to own these animals are not questioned, they are subject to serious tenure insecurity due to theft, which is particularly a problem for small ruminants.

It is apparent under the present land tenure system that women are the most disadvantaged group of people in land ownership rights. Compound lands are ultimately controlled by the compound heads, who have the overall authority to allocate or re-allocate a piece of land. Under the existing customary land tenure system, women can hardly inherit farmland. Farmland is usually handed over to them by older women or sometimes by older co-wives on some conditions as follows:

- Ownership rights to land should not be transferred out of the village
- Ownership rights to compound and lineage land should not be transferred out of the compound or lineage.
- Land should not be sold or rented out

Regarding labour for heavy work in the field, women used to count a lot on the support of village youths for land clearing, building of bridges and causeways in the swampland. However, male migrations coupled with a breakdown in social cohesion in most villages have made it increasingly difficult for women to obtain male help for these tasks. It must be noted that married men are in most cases prepared to help clear additional compound land if this is

needed for maruo crops, but most of them are usually reluctant to expand hard labour in clearing thickly wooded land for women's kamanyango crops since men do not always perceive the contribution of this crop to the family welfare. Rather, they mistakenly believe that it is used primarily for luxuries like gold.

The heavy household workload of a woman is such that most of them hardly have the time to expand their area under cultivation. It is possible that even with the introduction of labour-saving devices, women with many children in addition to heavy household duties may continue to cultivate the same size of land or even prefer to reduce it. Another impediment in women's agriculture is that their farmlands are in most cases fragment and located in different ecologies. However, it must be mentioned that the movement of women in in-between fields is indeed frustrating and time consuming. Therefore a consolidation policy should be adopted by the relevant authorities to make life easy for women (our mothers and our first teachers).

Production implements/equipment are on the other hand owned by men, wives do not have an automatic right to use it. Men will usually help transport the rice harvest or seed their wives' groundnut fields if they have the appropriate equipment and the time. In most cases, women only get help when men finish work on their farms no matter how late the time. More sadly, those women who grow rice do not benefit much from such equipment, because it does not have the right type of accessories such as rice seeder plates for mechanical seeders.

3.3.3 Gender and Environmental Concerns

Gender and environment concerns remain a major challenge not only for the Gambia alone but also for third world countries in general. According to Ellis 2000, three perspectives on gender and the environment that may indicate synergistic relationship between women and the good husbandry of environmental resources have been identified.

First perspective refers descriptively to the wide spread involvement of women in utilising and interacting with environment resources, for example collecting water and firewood, growing food crops, collecting wild plants for nutritional and medicinal purposes etc.

The second perspective theorises that women are closer to nature at a conceptual level than men and therefore women understand the sustainable level of utilisation of natural resources and the need for diversity

The third perspective emphasises women's proactive role in carrying out conservation technologies such as building terraces, planting trees and safeguarding diversity.

Women's concerns have been seen largely in relation to increase economic production to boost the economy and bring about development, not participation in decision making where their role is most crucial and where women are highly under-represented.

In spite the recognition and articulations of various constraints confronting women as agricultural workers in policy documents, women are still constrained by lack of access to land, limited access to credit, and markets, low and untimely access to appropriated technology, relevant research data and timely information, skills training and limited facilities.

Other factors that still affect women's productivity in agriculture are low levels of education, inadequate labour saving devices for food processing and preservation, poor transport systems, the middle person phenomena amongst others.

The activities of women, which contribute to environmental degradation, include cutting substantial amounts of firewood for cooking and processing of food, use of charcoal for ironing and farming practice. Oyster harvesting as women's economic activity also threatens mangrove swamps, which provides an important ecological balance.

3.4 Impact of Land Ownership and Tenure Systems on the Production Systems

3.4.1 Social Organization of Production Systems

In The Gambia, the "*dabada*", the basic agricultural production unit is comprised of members of farm families. The family is the main source of labour supply, supplemented by migrant farm workers from neighbouring countries. Farmer organizations exist along age and gender groupings. Organizations also exist along commodity lines, such as the Maize Growers Association, the Rice Growers Association, the Water Users Association, the Private Dealers Association, Livestock Owners Association, Poultry Producers Association and so on. Land use patterns adopt concentric ring farming, where inner fields, closest to the village, are intensively cropped with maize, groundnuts and vegetables.

3.4.2 Impact on Agricultural Production

In The Gambia, agricultural production/productivity is predominantly at a low level due to the following factors:

1. Production system utilised is still largely dependent on rain-fed agriculture
2. The system is also still predominantly subsistent/traditional in nature
3. Existing land tenure system in some instances makes productive land inaccessible to potentially more productive users.
4. Low levels of mechanisation and input utilisation culminating in low yields and market output
5. Deficient extension service delivery mechanisms accentuated by little technological outputs from agricultural research.

The highlighted problems are further compounded by the fact that agro-industrial activity is mainly limited to low levels of processing of primary produce such as groundnuts, cereals, cotton and fish.

Given the high population growth rate (4.2%) and low level of agricultural productivity and production, there is immense pressure on the available arable land for the production of both food and commercial crops.

In rural Gambia, usufruct rights to land is the predominant land tenure system. However, the major disadvantage of this tenure system is that many users do not have titled to the land and hence no security of tenure. Such a situation strongly militates against long-term investments on such lands.

One of the biggest problem facing rural producers is the access to long-term credit as they lack collaterals for such loans. A possible option for resolving this problem could be the monetisation of land. Such lands will then have a legal title that can then be utilised as collateral for small loans for the procurement of production inputs and other needs.

In recent times the apparent reduction in the length of the rainy season and/or erratic distribution pattern, early crop establishment is essential in order to have a good harvest. This situation is further compounded by the continuing trend in rural-urban migration resulting in farm labour depletion hence the need for mechanisation. Mechanisation helps to modernise agricultural production, removes drudgery and results in high production and productivity. However, the current land tenure system hinders large-scale mechanisation. It is therefore of paramount importance that tenure rights should be permit selective large-scale mechanisation

3.4.3 Impact on Gender

Considering that more than 50% of production labour force are women, their success in meeting daily household needs depends on how well they manage and supplement a limited and delicately balanced set of resources; cropland, pasture and forest. Without adequate land and secure tenure a woman cannot access credit and will also be difficult for her to become a member of agricultural organisations especially those associations responsible of processing and marketing. If tenure is secure, a woman can invest in, rather than exploit, the land's productive potential and will become more likely to adopt environmentally sustainable farming practices. She can plan and quickly adjust resource allocation decisions under changing climate or economic conditions and rely on the productive results of her labour (Bruce et al, 1995).

Control of the product is also an important consideration in examining women's land rights. Security of tenure is often the key to having control over major decisions such as what crop to grow what techniques to use and the decision as to what to consume and what to sell. Given women's tendency to grow food as opposed to cash crops and to spend income on family food, security of tenure for women need to be viewed as a key link in the chain from household food production to national food security. Further, the system of production such as crop rotation, mix farming and mix cropping became major production for Gambian women (Bruce et al, 1995).

As indicated earlier in the appropriate sections of this document, The Gambia like many countries in the sub-region has and continue to witness unprecedented shift in the area of land ownership and hence the utilisation of land among competing alternatives. The Greater Banjul Area (GBA) and parts of Western Division is a case in point. In the area of land tenure, though some little changes had and continue to occur particularly as relates to access and use of land for seasonal production, practices and trends are still customary.

This prevailing scenario has consequently overtime impacted negatively in many ways on the production system. These include;

- Inadequate land for agricultural production as a result of land grabbing particularly in the Greater Banjul Area.
- Loss of soil fertility as a result of non adherence to land fallow system
- To some extent the resort by farmers to the use of inorganic fertilizer and pesticides with their negative repercussions on the environment

4 LEGISLATIVE FRAMEWORK GOVERNING LAND TENURE

There are three main sources of land law in The Gambia. These are the general law i.e. the English common law, customary law, and local land legislation including, the Lands (Registration of Deeds), the repealed Lands (Banjul and Kombo Saint Mary's) Act, the Lands (Provinces), the State Lands Act, and regulations, Land Acquisition and compensation Act and the Physical Planning and Development Control Act.

The rules of land tenure in the Gambia differ as between Banjul and Kombo Saint Mary's area on the one hand, and the provinces on the other. Whereas in the former, the system is influenced to a significant extent by rules of English land law, the latter enjoys a predominantly customary system.

Prior to the enactment of the State Lands Act in 1991 the holding and management of land in Banjul and Kombo Saint Mary's Division was regulated by the Lands (Banjul and Kombo Saint Mary's) Act. The Act gave the Minister (now Secretary of State) responsible for Lands power to make leasehold grants within Banjul and Kombo Saint Mary. Even though the Act did not stipulate the maximum term for which grants could be made, administrative practice had been to grant leases of twenty-one years renewable for a further term of twenty-one years for residential purposes. Grants of land in fee simple i.e. for an unlimited period of time could only be made with the consent of Parliament, except where the State had previously acquired the grantee's freehold land, in which case the Minister could compensate such a dispossessed owner with a similar freehold estate.

There was no provision in Lands (Banjul and Kombo Saint Mary's) Act vesting lands in Banjul and Kombo Saint Mary to the State. However, it made the State the paramount owner of land in the area, even though this operated side by side with lands held under customary tenure and a few freehold titles pre-dating the Act.

4.1 The State Lands Acts

This system of land tenure was revamped in 1990 when the state Lands Act was enacted providing that,

“All land in Banjul and Kombo Saint Mary excluding such land as is held in fee simple and subject any grant which has been or may hereafter be made, shall vest in the State absolutely”.

This Act therefore clearly and unambiguously makes the State the owner of all land in this area excluding fee simple estates and lands subject to grants from the Minister thereby repealing the Lands (Banjul and Kombo Saint Mary's) Act. The Act further empowers to the Minister to designate any provinces land as State land and where any area is so designated, all such land shall, except for lands held in fee simple, “*vest in and be administered by the State for the use and common benefit ... of the community in which such land is situated*” thereby excluding the application of the Lands (Provinces) Act to such areas .

Another significant provision of the State lands Act is that where customary land is designated under the act, occupiers of such land shall be deemed to be lessees of the land for a renewable term of 99 years subject to the payment of rent and to the conditions and covenants stipulated by the Minister. Provision is also made in Section 7 (3) for “deemed lessees” to apply for title deeds.

With respect to leases granted under the provinces lands (Banjul and Kombo Saint Mary’s) Act, section 6 of the State Lands Act provides that such leases which were subsisting at the date the latter came into force, are deemed to take effect as if the term granted thereby was a period of 99 years from the original date of the lease.

It is evident therefore, that the objectives of the State Lands Act are to introduce a unitary title system for land in the country and to inject greater security of tenure, hence the increase in the term of years granted from 21 to 99 years, with provision for renewal for a like period.

4.2 Physical Planning and Development Control

In 1991, Government enacted the Physical Planning and Development Control Act, which is intended to introduce a system of national planning and land use of the country’s land resources. The plans are intended to provide guidelines for the spatial development and effective use of land to ensure a well-balanced environment and good living conditions. In this regard, section 8 (1) provides for the preparation of both national plans and divisional plans.

The purpose of the plans is to complement the national socio-economic plans of the country and are intended to provide guidelines and policies at the national and divisional levels for the development of urban and rural settlements, traffic and transportation, resource utilisation and economic activities and for the preservation of national and environmental reserves.

With respect to development control, the act provides that any new development in a designated area where there is a development plan shall be in accordance with the provisions of such plan. However the Act upholds the validity of all lawfully existing land uses, provided that where it is necessary to change a lawful existing use, the Minister may direct that such existing use be discontinued.

4.3 Impact on the Agriculture and Natural resources

A colonial forestry service for The Gambia was set-up in 1950 and at the same time the forestry adviser under the protectorate was appointed to deal with forestry and forestry related matters. The main management function the protectorate pursued was only protection and production, mainly in the 66 forest parks demarcated and gazetted in 1952. At the same time, the Provinces Lands Act of 1966 provided for the exclusive access and user rights to the colonial government in the forest parks.

The plantation establishment began at independence in 1965 in few of the parks and no other management activity in the others. The Provinces Lands Regulation of 1966 accorded all forest parks a special protection and as well made the local authorities responsible of their protection. The local authorities (chiefs) were only interested in the collection of forest revenues for the area councils. The money collected was used for development programmes outside forestry activities.

In respect to the above, forest management in The Gambia was characterized by extensive state involvement, which started with the state owned forest park concepts in the 50s. Government ownership of all naturally grown trees became statutory law with the enactment of the forest legislation in 1977 and the forestry department was entrusted with the overall management responsibility. Likewise, the Wildlife Act of 1977 gave the department of Parks and Wildlife Management the same status over protected areas. Prior to the designation of the Department of Forestry in 1976, the then post independence forestry and wildlife units under the Department of Agriculture concentrated only on the protection of the natural forest and parks and the establishment of plantations.

Although the department was entrusted with the mandate of the protection of forested lands under their management, they were unable to accomplish the task due to the tense relationship with the population and also because of lack of human and material resources. As a result of government interference in the traditional tenure systems of forested lands, the local population that claimed traditional ownership of the forests on customary village lands developed a feeling of alienation and of being policed which finally resulted in their unwillingness to protect and manage what used to be 'their forests'. The forest destructive behaviour was further enhanced by the restrictive Forest and Wildlife Regulations of 1978, lack of public concern and illegal forest operations such as misuse of exploitation licenses and permits and the killing of trees.

As most of the forest reserves are located on customary village lands. Thus, the government has no other option, but to fully support the participation of local communities and the private sector in the management of the country's forest resources which is expressed by passing a new forest policy and legislation in 1995 and 1998, respectively.

The management systems applied in The Gambia based on the recommendations of the GFMC are:

1. Forest Park management
The government is the proprietor and the manager of the forest through the Department of Forestry.
2. Co-management sometimes called Joint forest park management
The government is the proprietor of the gazetted forest parks, but manages on agreement bases for mutual benefits with the adjacent community (ies).
3. Community forest management
A none gazetted forested land's ownership and management is stepwise permanently handed over to a community or communities.
4. Community controlled state forest management
A none gazetted forested land under the mandate of Forestry Department and adjacent to a community forest(s) can be jointly managed by the government and the community(ies).
5. Protected area management
The government is the proprietor and the manager of the forest through the Department of Parks and Wildlife.
6. plantation management

7. private forest management

5 LOCAL (TRADITIONAL) LEGISLATIONS, PRACTICES AND INSTITUTIONS

Subject to the provisions of the State Lands Act and leases granted under the Lands (Provinces) Act, land tenure in the provinces is governed predominantly by customary law through the Lands (Provinces) Act. “Predominantly” because under section 5 of the Lands (Provinces) Act the application of customary law is limited to occupation and use of provinces land by “indigenes.

However, Section 5 of the Lands (Provinces) Act provides that,

- *“the occupation and use of provinces land by indigenes shall be governed and regulated by the customary laws obtaining in the localities where such lands are situated.”*
- Persons who are not indigenes can only hold 50-year leases of provincial land renewable for a further term of the same period at the option of the parties.

For administrative purposes, it is important to note that the Act vests all provinces land in the District Authorities to be held and administered for the use and common benefit of the communities concerned.

Studies have shown that there are three main systems of land holding in Gambian customary law. The first and most predominant is the family or kabilo type of land holding. Here, the paramount title to land is held by the family unit (Kabilo), and the Kabilo-head (family head), holds the land in a representative capacity for the use and common benefit of members of the family. Such members hold a usufructuary right over the land. It follows from such rights that family land is not freely alienable or otherwise encumberable by individual members of the family.

Second, there is also a system of communal ownership of land. This is restricted to those portions of land which are appropriated or set aside for the general benefit or use of the community as a whole such as prayer grounds, burial grounds, bantabas (traditional meeting and relaxation spots), schools, seed stores and hospitals. It is the duty of all traditional rulers, elders, local political leaders and district officers to preserve and maintain such communal lands. No allocation whether for residential or agricultural purposes can be made from such lands.

The third system of customary land holding is individual ownership. Such individual title can be acquired by original discovery, for example by a hunter or by the clearing of a virgin forest by an original founder. It is worth noting that in such cases, the original founder or settler owns the relevant piece of land although as time passes and especially after his death the land descends onto his family or community thereby becoming group owned land.

6 LOCAL GOVERNMENT REFORM AND DECENTRALISATION AND LAND TENURE

In a drive to entrench the principles and practices of good governance and multi-party democracy in the Gambia on the one hand, and on the other to ensure people's enlightened participation in the process, the Government of the Gambia has undertaken a wide range of activities aimed at ensuring community participation in democratic pluralism, community development, human resources development (including capacity building) and control over development resources. In this regard, government has, after exhaustive consultations at all levels and involving all stakeholders, come up with a Strategy and Action Plan for Local Government reform and decentralisation.

Local Government Reform and Decentralisation derives its basis from the 1997 constitution of the Gambia. Specifically, chapter XV Section 193 (1) states: "Local Government Administration in The Gambia shall be based on a system of democratically elected councils with a high degree of local autonomy". Similarly, chapter **XX** of the Constitution calls for decentralisation and devolution of governmental functions and powers to the people at appropriate levels of control to facilitate democratic governance.

The primary objectives of the decentralisation process is two fold:

- to extend the process of democratisation to the local level by promoting direct participation of the population in the management of their own affairs
- to promote a spatially integrated approach to development which starts from the people themselves

In terms of achievements, the Local Government Act was enacted in April 2002 and Local Government elections held in the same month. In addition to this, the Finance and Audit Bill is currently awaiting cabinet endorsement before it is tabled before the National Assembly for enactment. This Bill, when enacted will together with the Local Government Act provide the legal framework for the decentralisation process in The Gambia.

The process of decentralisation is bound to have a major impact on customary land tenure in The Gambia especially within the context of Ward Development committees (WDCs) and Village Development Committees (VDCs). These committees oversee the affairs of wards and villages respectively. They are recognised by law and are also responsible for the approval of ward and village plans respectively. Given the evolutionary nature of land tenure, the impact of decentralisation on customary land tenure is bound to gradually evolve over time.

7 IMPLEMENTATION OF PRAIA ORIENTATION

From 1994 to date, some achievements have been made in respect of Praia agreements. However, much remains to be done especially in the area of land ownership and land tenure systems.

The Gambia had embarked on the implementation of actions such as community forest management through the empowerment of local communities to manage their own forest resources to combat desertification. Other areas of interventions in particular legislative reforms include the following amongst others;

- Participatory soil and water retention, management and erosion control by communities through the Department of Agricultural Services. The lowland reclamation water project focussed on addressing salinity and water erosion problems while woodlot schemes have been developed as part of reforestation programme. Women were provided with information on environment education as part of training and information programme of the environment (TIPE).
- Participatory consultations with local communities as well as NGOs and bilateral and multilateral donors to bring about a reversal on the trend of desertification and drought in the country, particularly through the environment award scheme has been an interesting approach to gender awareness.
- Increase awareness of communities about the conventions at all levels through decentralization, by involving local communities in the identification of issues that need to be considered in the preparation of our National Action Programmes.
- Called for the review of policies and legislation to enhance wider public participation in natural resource management
- Review of the forestry policy, the forest Act and regulations, which now include community and private sector participation and ownership in forest management.
- Review of the agricultural sector policies and strategies to ensure an integrated and coherent natural resources management
- Developed a comprehensive national Biodiversity Strategy (1999) with the aim to *“creating a society that sees itself as an integral part of nature, recognises different life forms, sustainably uses natural resources and maintains for posterity a nurturing and dynamic world rich in diversity”* To enhance the achievement of this vision, guiding principles, goals and strategic objectives, and priority strategies were developed as part of the action plan.
- Formulated and adopted the National policy for the advancement of Gambian women in 1996. The policy aim at eliminating all forms of discrimination against women at all levels on one hand, and on the other ensure gender sensitivity in projects and programmes.

In spite of the noble initiatives in terms of projects and programmes relating to desertification and environment protection, the plight of Gambian Women and the disadvantage groups remain a major challenge especially when issues relating to land, land tenure and desertification issues are concerned.

8 GAPS/DEFICIENCIES IN THE SYSTEM

The Gambia Government has articulated comprehensive agricultural and natural resources management policy frameworks to guide the formulation of sound developmental, production, protection and conservation strategies, however, the achievements of these objectives are constrained by key strategic policy gaps as mentioned below;

- Access to production factors of land, capital and labour to achieve the desired production levels
- Developing input/output markets and marketing infrastructure appropriate to the needs of small scale resource poor farmers country wide
- Stimulating sustainable private sector investment in agriculture
- Fostering shared sense of responsibility for natural resource conservation
- Creating a common understanding of the linkages between population growth, food supply and natural resources degradation and depletion

Major problems associated with desertification that affect women and women's productivity are identified as follows: -

- Salt and lime intrusion
- Water and wind erosion
- Access to fertile rice fields

Land ownership and land tenure systems in the Gambia have some gaps/deficiencies as follows:

- Lack of sufficient land for every body to participate fully in farming.
- It favours men more than women who are the major participants in agriculture.
- Permanent insecurity for immigrant farmers in the use of borrowed farmland.
- It is a contributing factor to the country's lack of self-sufficiency in food etc.

9 Recommendation

- There should be sufficient and unconditional use of farm land for equitable access by both women and men,
- There exist still the necessity to improve the advisory service provided to the local communities in identifying both community forest and community controlled state forests (CCSF),
- Government to continue pursuing the achievement of objectives set in the overall energy policy framework,
- Create opportunities for women to acquire appropriate farm implements and equipment to boost their productivity
- Include women in all relevant communities of Praia + 9
- Incorporate women in all land allocation committees at all levels national and decentralisation
- Gender is a cross-cutting issue and thus, all guidelines and TORs should reflect this fact
- Consolidated policy be adopted by relevant authorities to make life easy for women.

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