



The root of inequality? Customary Tenure and Women's Rights to Land in West Africa

Webinar Report | Country Insights Series





In much of West Africa, women are considered breadwinners responsible to provide food for the family. However, women do not only own less land but also face manifold obstacles in accessing land through transfers, inheritance, or lease. The tenure security of this group has been threatened by large-scale land deals, state appropriation in the name of the public interest, and the often-discriminating practices of customary tenure systems. There is much evidence that women are disadvantaged by customary law even in cases of existing inclusive statutory laws. At the same time, women tend to be largely underrepresented in decision-making positions on local or national level as a result of patriarchal views, lack of knowledge and confidence, as well as high workloads. The importance of women's tenure security and its socio-economic benefits have gained increasing awareness and momentum in West Africa over the past decade.

This webinar held on 24th March 2021 had two aims. First, it brought attention to newly released country portfolios from Land Portal for Ghana, Liberia, and Nigeria. These portfolios introduce a spectrum of information on the land system in each country, covering fields such as law and regulations, land use trends, investments and acquisitions, and women's land rights. They offer the user an entry-point through which to learn more about land in each country, and where they can find further detailed sources of data. Second, the webinar explored how women's land rights are affected by customary tenure through presentations from Liberia, Nigeria, and Ghana.

Moderator:

- **Renee Giovarelli, Resource Equity Institute**

Panellists:

- **Akua O. Britwum, Associate Professor at the University of Cape Coast, Ghana**
- **Oluwakemi Udoh, Researcher at Covenant University, Ota, Nigeria**
- **Justine N. Uvuza, Senior Land Policy Advisor and Gender, Landesa, UK**

Presentation of the Country Portfolios:

- **Anne Hennings, Local Knowledge Engagement Coordinator, Land Portal**

A complete recording of the webinar is available on YouTube: <https://www.youtube.com/watch?v=tKB61c0jGyg>



Key Takeaways

- Understanding women tenure issues and insecurities demands a deep understanding of customary, religious, and statutory law at play. Legal pluralism and the poor implementation of statutory law tends to undermine the realisation of women's land rights.
- The reasons for women's limited access to land are complex. Notably, patriarchal norms and practices play a key role in land tenure insecurity and secondary access for women in West Africa.
- There are a number of gender-sensitive legal and policy developments especially in Ghana and Liberia, which may be able to enhance women's land rights. The challenge is to encourage legislation and the conversion of policy into tangible actions that support women's access to land.
- The double vulnerability of youth and women in accessing land seem to be extremely relevant as is the intersection with class, education, and the marital status. While women in urban areas tend to be better educated and vocal, women in rural areas face even more challenges in accessing land.
- Enhancing women's access to land requires efforts on all levels and equal political representation of men and women in government institutions.
- The issue of how to recognize co-habitation in formal, customary, and informal marriages is critical to women's land rights. Although addressed by Ghana's new land law and Liberia's Land Rights Act, the question of practical implementation and maintaining the marital relationship remains when women acquire property in their own names.
- Commercial or State land acquisitions add to women's tenure insecurity as women tend to receive usufructuary rights to land that is rather likely to make way for plantations, mining, or urban development projects.

Webinar Summary

1) WHAT ARE KEY OBSTACLES FOR WOMEN'S ACCESS TO LAND AND TENURE SECURITY IN WEST AFRICA? WHAT ROLE DO CUSTOMARY LAW AND PRACTICES PLAY?

- The situation of women's land rights in Ghana is highly determined by patriarchal customary norms and practices. The country's legislation provides for gender equality including in land matters but in practice women face the following obstacles:
 1. Access to land is determined by the position of married women within the family, their number of children, or whether they are divorced, separated, or widowed.
 2. In their natal homes, women are seen as transient members and have thus no access to land.
 3. Women with access to land are not necessarily allowed to make changes to the land or transfer it.
- In addition, land in **Ghana** is under increasing pressure from large-scale and artisanal (gold) mining, rural-to-rural migration, and urbanization. In rural areas, tenure insecurity for women in particular is rising as land holding communities prefer allocating plots to incoming male (married) farmers.
- In **Nigeria**, patriarchal beliefs that women should not own land are common in rural and urban areas. The Federal Constitution and the Land Use Act guarantee every citizen access to land. However, many women are not aware of their constitutional right to immovable property. On the other hand, women who stand up for their rights tend to face intimidation from family members. Furthermore, the acquisition of communal land is associated with high levels of aggression which is why women often seek support from male family members to negotiate land deals for them.
- The Land Rights Act in **Liberia** provides equal tenure rights for men and women. The Act also aims to increase the number of women in land governance institutions. Yet, women often lack time, knowledge, or confidence to join committees or speak up in public meetings. In addition to the uneven distribution of gender responsibilities and labour, language barriers, and low education impede women's representation. Civil society and the government underwent various efforts across Liberia to create awareness on the Land Rights Act. This process showed the challenges of changing a deep-rooted system of patriarchal practices and norms that have evolved over many generations. 1980s – under a wave of nationalism, land was acquired by the government for projects run by state-connected corporations.

2) WHAT ARE THE LATEST DEVELOPMENTS OF WOMEN'S LAND RIGHTS IN YOUR COUNTRY?

- The **Nigerian** government has not turned its attention yet towards protecting women's rights to land. There are initiatives from NGOs and activists who call for

more gender-specific laws and policies that empower women and strengthen their tenure security. Moreover, education and knowledge are key to enforce women's rights and protect (not only) women from land grabbing. In urban areas, educated women seem to be less affected by tenure insecurity and are more likely to access land at the same time.

- In **Liberia**, NGOs along with government partners such as the Land Authority have created awareness on women's rights. While conservative customs are not likely to change immediately, some women in the rural counties started to speak up and claimed access to land successfully. With funding support from USAID, the UN, and other donors, the government has been implementing its gender-sensitive legislation at the local level. This includes the setup of local land administration structures with male and female representatives.
- The idea of the new land act in **Ghana** was to bring together the 166 existing legal instruments on land and ensure consistency with related laws and the constitution. Women's rights to land and environmental concerns – both lobbied by civil society – became important aspects in developing the act. The new law now provides that both spouses own any property acquired during marriage. However, there are a few factors that continue undermining equal access to land for women, such as limited (financial) resources, lower levels of education, lack of awareness of legal provisions, courage, or conservative notions of womanhood.

3) WHICH LESSONS CAN WE LEARN FROM POSITIVE CASE STUDIES OR MEASURES THAT HAVE CONTRIBUTED TO IMPROVING TENURE SECURITY FOR WOMEN?

- During the process of legislating the Land Rights Act in **Liberia**, a Women's Land Rights Task Force was formed and brought together government and civil society partners working on women's rights. The Task Force's rigorous gender mainstreaming at every stage, i.e. by sending representatives when the bill was debated and presented, largely contributed to improving women's land rights. For example, the bill provides that everybody who has lived in a community for seven years, including women and their children.
- In **Ghana**, the Network for Women's Rights aimed to get a deeper understanding of how women navigate tenure insecurities. In this vein, the network also discussed possible changes to enhance women's tenure security with customary authorities. As a result, some rulers agreed to transform oral agreements of usufructuary rights between the community and women into legal documents in the matrilineal communities in southern Ghana. In other patrilineal communities in the north of the country, the network could successfully raise awareness on women's role as farmers and the necessity to get access to land. Eventually the customary authorities agreed to provide land to groups of women which, in turn, also functioned as a protection mechanism for them.
- **Nigeria's** legal system provides various instruments that may help individuals enforce their rights. Recently, for example, some widows took their land dispute cases to court successfully. Yet, there are lengthy and costly bureaucratic procedures at place which may stop women particularly in rural areas from filing a suit.

Notable Quotes from the Panelists



“THE IMPORTANCE OF WOMEN’S TENURE SECURITY AND ITS SOCIO-ECONOMIC BENEFITS HAVE GAINED INCREASING AWARENESS AND MOMENTUM IN WEST AFRICA OVER THE PAST DECADE, AND IN GHANA AND LIBERIA THE LAND LAWS PROVIDE SOME POSITIVE STEPS FORWARD, CREATING A SPACE FOR CHANGE.”

- RENEE GIOVARELLI, RESOURCE EQUITY INSTITUTE



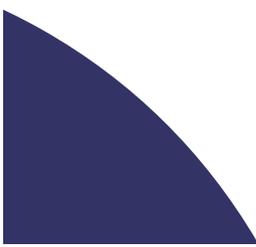
“WE SHOULD NOTE THAT THE MATRILINEAL SYSTEM IS NOT MATRIARCHAL. IT IS STILL PATRIARCHAL, AND PROPERTY AND OFFICE IS PASSED ON FROM MEN TO MEN. SO, ONCE WOMEN ENTER MARRIAGES, THEY LOSE ACCESS, EVEN WITHIN THE MATRILINEAL SYSTEM, THEY LOSE ACCESS TO THEIR LAND. THEY GET SECONDARY ACCESS BECAUSE THE LAND THEY CAN ACCESS IS THROUGH THEIR HUSBANDS.”

- AKUA O. BRITWUM, ASSOCIATE PROFESSOR AT THE UNIVERSITY OF CAPE COAST, GHANA



“THE LEVEL OF AGGRESSION OFTEN DISCOURAGES WOMEN FROM EVEN WANTING TO ACQUIRE COMMUNAL LAND BECAUSE THEY FEEL THEY CANNOT MATCH FORCE WITH FORCE.”

- OLUWAKEMI UDOH, RESEARCHER AT COVENANT UNIVERSITY, OTA, NIGERIA





“WOMEN ARE NOT SEEN AS CARRYING THE FAMILY TREE, SO THEY DON'T INHERIT PROPERTY. IF THEY DO, THEN THAT PROPERTY IS GOING TO BENEFIT THEIR HUSBAND'S FAMILY.”

- JUSTINE N. UVUZA, SENIOR LAND POLICY ADVISOR AND GENDER, LANDESA, UK



“WHILE THE CONSTITUTIONS IN ALL THREE COUNTRIES PROVIDE WOMEN AND MEN WITH EQUAL RIGHTS IN ACCESSING PROPERTY, WOMEN'S ACCESS TO AND DECISION-MAKING POWER OVER LAND AND RESOURCES HAVE REMAINED HIGHLY VULNERABLE AND LIMITED IN PRACTICE. NOTABLY, PATRIARCHAL CUSTOMS AND LEGAL INCONSISTENCIES MAKE PROGRESSIVE LEGAL FRAMEWORKS DIFFICULT TO APPLY.”

- ANNE HENNINGS, LAND PORTAL'S LOCAL KNOWLEDGE ENGAGEMENT COORDINATOR



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