When ‘property cannot own property’: women’s lack of property rights in Cameroon

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Abstract: In most of Africa, women constitute the majority of small holder farmers. They are overwhelmingly involved in food production on land leased to them or acquired through family bonds or purchase. This paper examines how the institution of customary marriage connives with Cameroon’s gender neutral statutory land tenure legislation to deprive women of access to land. Additionally, the bureaucratic land registration procedure, the gendering of the land tenure legislation, the skewing of the Land Consultative Board in men’s favour and farmer/grazer conflicts further undermine women’s land rights. To ensure women’s collective wellbeing and socioeconomic progress, gender-sensitive, rather than gender-neutral policies are recommended.

Keywords: women’s land rights; small holder farming; farmer/grazer conflicts; gender; socio-economic development.


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Africa is witnessing the effects of the huge pressure on land and shortfalls in yields. Apart from these drivers of land shortage, there are differences in the levels of, and relative inequalities in land ownership, access, and control by sex between women and men on the continent [Doss et al., (2013), p. v]. This paper seeks to demonstrate that in Africa the cultural meaning of marriage also structures women’s land access and tenure as well as property rights in general. Land tenure is the set of rules established by the state or by custom that lays down how land is used, possessed, leveraged, sold, or in other ways disposed of within societies (Garvelink, 2012). Rights may accrue to individuals, families, communities, or organisations. The customary rules of land tenure that are predominant in Africa may or may not be recognised by the state since the state may privilege only statutory land tenure arrangements. “Tenure security refers to the assurance that the land one owns or holds for an agreed period of time or purpose is certain. Tenure security requires property rights that are clear in purpose and duration and accepted as legitimate and legal” (Garvelink, 2012). Otherwise stated, “tenure comprises rights and duties of use, transfer and control, administration of access, occasion and reversionary control” [Flaherty, 1989; Hamilton, 1998; Shipton, 1994; Sorrenson, 1967; cf., Njoh, (2006), p.71]. Statistical figures regarding access to land seem to suggest that individuals own land whereas in reality, aggregate numbers alone do not capture African reality. Without further qualification, it is not clear how land that is collectively owned is classified. The notion of land ownership is antithetical to the communal ethos in African societies where groups — extended families, clans/communities of people related by ancestry collectively own land (Njoh, 2006, 2000; see also Fisiy, 1992). Tenure security is often equated with land-related investment while weak rights, including the usufruct rights often enjoyed by disadvantaged groups such as women or outsiders, can undermine investment and reduce productivity [Ali et al., (2011), p.6; Garvelink, 2012]. Commentators have warned that determining property rights alone can present opportunities for individuals with more financial resources and political connections to take advantage of the rural poor, particularly women. This may lead to large concentrations of rural land and inequitable development (Garvelink, 2012). Eurocentric land reform measures imposed land registration as the crucible of property rights. As the mantra of ownership, registration led to the commodification and privatisation of land. This was in stark contrast to the overlapping and interlocking rights to land and was also a travesty of land as a collective property belonging to lineage groups and not to individuals (sees Njoh, 2000, 2006).

This paper examines the differential impact of customary and statutory land laws on women’s access to, and control of, land in Cameroon. It is interested in promoting understanding of women’s property rights (or lack thereof) in the country. The remainder of this paper is structured as follows. First, a brief discussion of the cultural meaning of marriage in African societies. Secondly, an examination of how the nexus between formal colonial land tenure policies, particularly the injection of the individualistic notion of private property into the communal land tenure system has tended to curtail women’s access to land. Land, a collective treasure is considered an intergenerational property under the custodianship of males. Closely related to this cultural norm, and also militating against women’s access to land is the symbolic meaning of land and women’s lack of ritual locus standi (power). Despite the existence of gender neutral laws governing the land certification procedures, bureaucracy, women’s lack of social capital,
the slanting of the Land Consultative Board (LCB) in men’s favour, the gendering of compensation for land expropriated for development projects, and accentuated resource use conflicts (farmer/grazer conflicts) constitute impediments to women’s access to land.

2 Women and the institution of customary marriage

Women constitute 52% of Cameroon’s 23,130,708 people (Central Intelligence Agency, 2015). Although women produce 80% of the country’s food needs, they own just 2% of the land (Cameroon Gender Equality Network, 2011). This section examines how the institution of customary marriage that allegedly represent women as part of their husband’s estate instead tend to undermine women’s property rights. The view of women as ‘assets or chattels’ [Pemunta, (2011), p.85] suggests that men enjoy a hegemonic advantage in customary land tenure arrangements.

The Cameroon national chapter of the International Federation of Female Lawyers (FIDA) reports that under Cameroonian customary law, the wife is defined as the property of the husband (Pemunta, 2011): so what happens ‘when property cannot own property’? The fact that ‘property[women] as members of the groom’s entire kinship group] cannot own property’ seems to be a gross, self-interested misinterpretation of the cultural meaning of marriage in African societies (see also Mbilinyi, 1988). Although a woman belongs to the lineage group into which she gets married, and although widow inheritance takes place ‘wife-sharing’ is not sanctioned by any communities in Cameroon. The misinterpretation of the institution of customary marriage speaks to how customs may reinforce social justifications for inequitable land rights for men and women. For example, among Acholi in Uganda, husbands pay a bride price to their wives’ fathers (see Burite, 2007). This payment erroneously supports the traditional belief that women are the ‘property’ of the husband, since a payment was made for her. This belief underlies the customary land tenure rule that prohibits women from having rights to land independent of their relationship with their father or husband. Acholi men say, ‘property can’t own property’, and the notion of women having independent land rights is an anomaly to them [Scalise, (2013), p.53, see also Burite, 2007]. The plank of the institution of customary marriage is the payment of the bride price. Contrary to Western statutory marriage, customary marriage is an alliance between two kin groups as opposed to a contract between two individuals. It is sealed through the payment of the bride price – a sum total of (endless) valuables that are transferred from the groom and/or his parents/kinship group to the parents/kinship group of the bride [Njoh, (2006), p.66]. Writing about the Acholi of Uganda Joseph Bruite (2007) intimates:

Once the items to be delivered as bride price (Nyom) (which is a practical way of saying thank you to the girl’s mother) are discussed and a specific date set. For the delivery, delivery in instalments may be accepted. After this ceremony, the girl becomes part of the boy’s clan. Although it might take a while to complete dowry payments, the girl’s status changes from nyako (girl) to dako ot (wife) immediately. Dowry can take the form of cattle, goats, sheep, household items or money. Often, the girl’s dowry is not consumed/spent but saved to offset her brothers’ dowries when it is their turn to marry and pay. Dowry refunds are made in the event of a divorce, although the value refunded depends on the terms agreed upon when the dowry is paid.
In line with patrilineal descent, once bride-price has been paid, the bride becomes a member of the groom’s family (Scalise, 2013; Njoh, 2006; Ngwafor, 1993). As a member of her husband’s family, a woman and her children are culturally entitled to care by members of her husband’s family even upon his death. Similarly, the communitarian ethos dictates that property including land belongs to the whole kin group. In other words, extended families, clans, communities of people related by ancestry collectively own land (Njoh, 2006). Independent of her financial contributions towards the acquisition of immovable property, a woman cannot lay claims to property upon divorce or death of her husband.

Customary law does not countenance the sharing of matrimonial property because property always belongs to the kin group. In the case of Achu v. Achu, the court ruled that “customary law does not countenance the sharing of property, especially landed property between husband and wife on divorce. The wife is still regarded as part of her husband’s property” (see Awasom, 2012). To compound matters, estate letters of administration are invariably issued only to male relatives and not to the widow and children of the deceased. Most often, exclusion from property inheritance usually results in the expulsion of the widow from the marital home of her late husband. This is particularly the case when a widow refuses to remarry from within her late husband’s kinship group. The Cameroon Chapter of the Inter-African Committee for the fight against harmful traditional practices (IAC) and the Federation of Female lawyers (FIDA) have rightly characterised this inheritance law as a ‘harmful traditional practice’ [Pemunta, (2011), pp. 85–86]. Research suggests that widows are the most likely sector of society to lose their land and other assets – a deprivation that further disadvantages them and their children and push them into deeper poverty. The supplantation of African cultural norms with European varieties through modernisation efforts including land reforms as well as the resilience of African cultural norms governing land tenure has led to legal dualism (Mamdani, 1996) in most African societies. Despite this legal dualism, the traditional land tenure system predominates and continues to curtail women’s land tenure rights.

3 Legal dualism and women’s lack of property rights in cameroon

This section examines how the co-existence of the colonial and the modern and a multiplicity of customary land tenure arrangements (legal dualism) (Mamdani, 1996) tend to undermine women’s property rights. In Cameroon, former colonial policies (German, French and British), customary practices as well as post-independence land reform measures influence access to land, ownership and the enjoyment of associated rights. The conjuncture among Cameroon’s huge ethnic diversity (over 240 ethnic groups) and associated traditional tenure systems as well as the colonial legacy and post-independence land reforms measures have led to a multiplicity of land tenure regimes in the country. Through land registration, the colonial masters instituted the notion of private property. In the process, collective parcels of land were taken and registered as titled land.

Framed in terms of modernisation through land reform, colonial authorities supplanted the customary land tenure with the Western land tenure system that advocates the individualisation of land ownership and the commodification of land. This was the case even when people often enjoyed overlapping and interlocking rights to land [Njoh, (2006), p.80]. Although the postcolonial state adopted the ‘modern’ land tenure system
When ‘property cannot own property’ from the colonial state, a multiplicity of customary land tenure arrangements continues to exist. Among the myriad problems created by the substitution of African land tenure with European varieties alongside bureaucratic forces is the concentration of land in the hands of a few social actors – politicians and businessmen (Pemunta, 2014a, 2014b; see also Njoh, 2000, 2006). In line with Njoh (2006), I argue that modernisation efforts and related strategies have instead accentuated the systematic socio-political and economic erasures and injustices that have been visited upon African women since colonial times. Western ideological, political and cultural domination has been achieved through the infusion of new meanings and the decontextualisation of several cultural practices, such as customary marriage and the bridal price. I will denote the inherent misrepresentation as the troublesome principle of cultural equivalence. This, and cognate attempts at modernisation, were part of a broader strategy of outright domination of African societies through their transformation ‘into facsimiles of Western societies’ [Njoh, (2006), p.72].

Prior to the colonial encounter, the notion of land ownership, with its individualistic ethos, did not exist: people controlled the right to use land. According to the International Centre for Research on Women (ICRW), in most of Sub-Saharan Africa, women have historically enjoyed access to land and related resources through a father, brother or husband, depending on a community’s lineage system [ICRW, (2005), p.4, cf. Njoh, (2006), p.93]. ‘Access’ is however not analogous with ownership. Rather it entails only the right to use land (usufruct rights). It is therefore untenable to conclude that women’s access to land in pre-colonial Africa was mediated by men. Efforts to supplant indigenous African culture with Western varieties during the colonial and postcolonial époques, including land reform, have instead constrained and led to the mediation of women’s access to land by men (husbands, fathers and brothers). Stated otherwise, women have lost direct control over real property and chattel (Njoh, 2006).

The postcolonial state subsequently adopted the colonial notion of land registration, with its concomitant developmentalist ethos of ‘effective occupation of land as evidence of development’. However, the modern system of land registration co-exists with customary tenure arrangements. The co-existence of customary and statutory tenure arrangements infused with the colonial developmentalist paradigm of ‘effective occupation’ of land as evidence of development has led to contradictory rules, laws, customs and traditions, perceptions and regulations governing people’s rights to use, control and transfer landed property [see also IFAD, (2008), p.6; Gyau et al., (2014), p.24]. The contradictions between customary and statutory land tenure often culminate in competing claims over the same piece of land by different actors with different quantities of rights and powers. The end result has been the exclusion of women and the poor from enjoying their constitutionally guaranteed land tenure rights. The multiplicity of overlapping tenure regimes and therefore of governmental regimes and power fields embedded in the “co-existence of state law, traditional (pre-colonial), colonial and national land codes” (Mope Simo, 1997) is often appropriated by corrupt traditional and modern authorities for their own self-interests [Pemunta, (2014a), p.10]. In Cameroon, women and the poor (small holders) are increasingly being dispossessed by a national and international capitalist alliance comprised of urban elites, politicians and large-scale agro-business consortiums. In fact, smallholders are gradually being pushed to the most arid land, which is a bane on their productivity and livelihood, by powerful and better connected local and national elites and their transnational partners who have higher stakes and leverage in ‘negotiation’ processes. According to Pauline Peters, “the positive
aspects of ambiguity and indeterminacy in Africa’s ‘land question’ may be overemphasised to the point of ignoring or deflecting research and policy away from growing inequality in access to land and use of land” [Peters, (2004), p.56]. Natural resources (land and forests), like other public resources of the state, constitute part of the symbolic and material resources state elites can easily lay hands on for their own selfish interests [see also Moritz, (2006), p.108; Pemunta and Mbu-Arrey, (2013), p.10]. The competing interest between various local and international actors over land is most accentuated in the Littoral and various regions of Cameroon (see Pemunta, 2014a, 2014b; Gyau et al., 2014). Next, I examine how a conjuncture between socio-cultural norms and socio-legal factors are shaping women’s access to land.

4 Gender and the control of land: socio-cultural norms and socio-legal factors structuring women’s exclusion from access to land

This section will demonstrate the gap between theory and practice as instantiated in Cameroon’s land tenure legislation in relation to access to land between the sexes. It will further examine the socio-cultural and socio-legal factors that structure women’s exclusion from access to and/or land ownership. In theory but not in practice, women and men have equal rights to land access, tenure and property ownership in the country. First and foremost, the 1996 Cameroon Constitution is gender neutral. It provides a legal framework for both sexes (individually or in association with others) to enjoy equal access to and control over land and other properties:

> The human persons without distinction of race, religion, sex or belief possess inalienable rights. Where “ownership shall mean the right guaranteed to every person by law to use, enjoy and dispose of property. No person shall be deprived thereof, save for public purposes and subject to the payment of compensation under conditions determined by the law. [cf. Endeley, (2010), p.156]

No individual can be deprived of property unless it is taken in the public interest, in accordance with applicable law, and subject to the payment of compensation as required by law (Republic of Cameroon, 1996). This seemingly gender-neutral thesis is, however, antithetical to women’s welfare. In Cameroon, customary law opposes equality between men and women. The inheritance law reproduces the patriarchal mindset by explicitly favouring male children as opposed to female children. In fact, in customary law, the focus of property rights is on men or kinship groups dominated by men, and thus the ability of women to claim or inherit land is extremely limited. While statutory law may be gender neutral, customary law prevails and is based on a patriarchal system (Garvelink, 2012). The issuing of estate letters of administration is often the prerogative of male relatives and not that of either the widow or of the children of the deceased [Pemunta, (2011), p.85]. Secondly, the Cameroon Land Tenure Ordinance No. 74–1 of 6 July 1974 guarantees all persons and corporate bodies with landed property the right to freely enjoy and dispose of such lands. Article 9 of Decree No. 76–165 of April 1976, which modified the Ordinance of 1974, establishes the conditions for obtaining land certificates. It provides that customary communities and their members, or any other person of Cameroonian nationality, shall be eligible to apply for land certificates for obtaining national land that they could occupy and develop if they show proof of effective occupation or exploration before 5 August 1974. Any land registered becomes
unassailable (Art 1(2) of 76–165 of April 1976), thus making the occupant the landowner [Samalang, (2005), p.134]. This article emboldens members of any community, irrespective of gender, class or ethnicity with equal rights to access and own land. However, because of the high level of legal illiteracy and poor efforts by the government to inform its citizens, it is not clear if a majority of rural dwellers, the poor and women, are aware of these provisions or can afford the basic costs of obtaining land titles. Besides, how many women can withstand the cultural prejudices that prevent them from pursuing their land rights?

5 Factors structuring women’s exclusion from access to land

In this section, I examine the conjuncture of socio-cultural and socio-legal factors that structure women’s exclusion from access to land and ownership. This paper argues that customary laws – the institution of customary marriage, the cultural perception of land as an intergenerational property, the symbolic meaning of land, women’s lack of ritual power, as well as social stereotypes, have connived with gender neutral land tenure laws to deprive women of access to land. Furthermore, the cumbersome and bureaucratic land registration procedure as well as the gendering of the land tenure legislation and the skewing of the LCB in men’s favour, the hierarchical classification of chiefs, the gendering of the amount of compensation for land appropriated for development projects and resource use conflicts (farmer-grazer conflicts) are other obstacles undermining women’s land access rights.

Table 1 Summary of total number of applicants for land certificates in the Anglophone regions of Cameroon from January 1980–June 2010

<table>
<thead>
<tr>
<th>Applicants</th>
<th>Total number of applicants for land certificates from each region</th>
<th>Total number of applicants in Anglophone regions</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>West</td>
<td>West</td>
<td>Anglophone regions</td>
</tr>
<tr>
<td>Men</td>
<td>6,635</td>
<td>3,692</td>
<td>10,327</td>
</tr>
<tr>
<td>Women</td>
<td>572</td>
<td>859</td>
<td>1,431</td>
</tr>
<tr>
<td>Joint ownership</td>
<td>233</td>
<td>233</td>
<td>466</td>
</tr>
<tr>
<td>Total</td>
<td>7,440</td>
<td>4,784</td>
<td>12,224</td>
</tr>
</tbody>
</table>

Source: Fonjong (2012, p.97)

Despite inconsistencies, in 2000, Cameroon’s national land register (livre foncier) listed 150,000 land certificates, while the National Cadastral Survey Project estimated that there were 2.6 million registered plots of land in Cameroon [African Development Bank (AFDB), 2009; cf. Javelle, 2013]. In 2009 alone, 60% of land titles on record were held in urban areas. 50% of titleholders were civil servants, while women held only 3.2% of certificates registered in the populated NorthWest Region [Fisiy, 1992; cf. Javelle, (2013), p.4]. While men own most of the land, most of the registered land is the monopoly of civil servants. Available data suggests that between January 1980 and June 2010 in Anglophone Cameroon (the Northwest and Southwest regions), 12,224 applications for land certificates were received. A total of 11,796 land certificates were issued to men (86.6%). Furthermore, out of 11,796 land certificates granted,
1,128 were issued to women (9.6%). Simultaneously, 452 land certificates were issued as joint ownership to applicants, giving a total of 3.8% land certificates controlled by applicants [Fonjong, (2012), p.97].

Unequal access to land is deeply entrenched in the Anglophone region of Cameroon. Despite the fact that women are the main agricultural producers, they own less than 10% of the total number of land certificates. The gender blindness of land tenure laws is antithetical to women’s welfare. It has instead led to the superimposition of customary practices that determine rules of land access at the expense of women.

Table 2  Land certificates acquired in the Northwest and Southwest Cameroon

<table>
<thead>
<tr>
<th>Beneficiaries</th>
<th>Total number of acquired land certificates from each region</th>
<th>Total number of beneficiaries in Anglophone regions</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Northwest region</td>
<td>Southwest region</td>
<td></td>
</tr>
<tr>
<td>Men</td>
<td>6,630</td>
<td>3,586</td>
<td>10,216</td>
</tr>
<tr>
<td>Women</td>
<td>471</td>
<td>657</td>
<td>1,128</td>
</tr>
<tr>
<td>Joint ownership</td>
<td>220</td>
<td>232</td>
<td>452</td>
</tr>
<tr>
<td>Total</td>
<td>7,321</td>
<td>4,475</td>
<td>11,796</td>
</tr>
</tbody>
</table>

Source: Information compiled from both the Northwest and Southwest Regional Delegations of State Property and Land tenure [Fonjong (2012), p.97]

6  Land as communal property and exogamy

In most of Cameroon, land is a common pool resource that is often entrusted to male authorities, Chiefs, village elders or family heads, as custodians (Njoh, 2006). As custodians, individual males and in their capacity as family heads, village elders or Chiefs are vested with control over land to the detriment of women, who are simply considered ‘strangers’ because of exogamy. Contrary to males, who are considered permanent members of the kinship group, women are non-permanent members, and will be married off into other lineages. Social and economic power, including over land and other natural resources, is therefore vested in men. In many communities, the lineage authorities allocate land to the male household head. Women, on the other hand, have secondary cultivation rights that they obtain through male family members. In general, therefore, the hierarchical nature of rights and responsibilities over land that emerge as a result of gender differentiated rights and roles are skewed against women and girls in favour of men and boys. As one elder stated:

Women’s limited access to land and natural resources is because women move out of the family for marriage. You can cultivate whatever you want on the land but you (woman) cannot sell the land.

The perception of land as an intergenerational property and males as custodians has led to son preference at the expense of girls and women. Whereas women will eventually get married, sons are capable of guaranteeing protection and granting access to land. There is, for instance, the reluctance to sell land in Kom, Cameroon to married native women out of fear of their husbands’ wrath. Women are capable of inheriting family land only insofar as they are single – divorced or separated [Fombe et al., (2013), p.79]. Although
women face cultural and administrative bottlenecks, some women, however, circumvent obstacles by using male relatives to buy land.

The payment of the bridal price is sometimes derogatorily interpreted as the ‘purchase price’ of the wife by the husband and his kinship group and the woman as their ‘chattel’. In reality, the payment of the bridal price symbolises the transfer of productive (labour) and reproductive rights and responsibilities within and between kin groups (see Njoh, 2006; Scalise, 2013). A woman has only usufruct rights to land and is perceived as ‘a factor of production for the husband’s farm’, which she has to continue to work in order to ensure access to her husband’s land, but never as an equal who can own land in her own right [Scalise, (2013), p.163]. See for example Ekema J in Kumbongsi V Kumbongsi (see Awasom, 2012). Although in most of Cameroon “women are considered property and ‘property cannot own property’” [Pemunta, (2011), p.86], they often control crop production and any income accruing thereof, but they remain largely land users. Similarly, in Goheen’s (1996) analysis of the intricate relations of gender to state-building projects in Africa, she concedes that in Nso-Northwest Cameroon, women’s labour in the production of both crops and children has long been the incontestable basis of male status and power. According to her, although Nso men obviously dominate their society at both the local level and nationally, women have had power of their own by virtue of their status as women. Men may own the land, for example, but women control the crops through their labour. The idea of land ownership, Njoh (2006) intimates, should be seen as limited to products or harvests from land and not to the land itself. Most recent figures on land registration suggest that the percentage of titled women land holders varied from 3% in the Northwest to 15% in the centre region (Endeley, 2010; USAID, 2010).

A woman’s access to her husband’s land is seen as a privilege, not a right. In the same light, the female spouse’s contribution to the acquisition of the property is not considered a right to that property. See the case of Teneng Lucas v Nchang Irene (see Awasom, 2012). Independent of matrimonial regime, women may still run into problems when their husbands die and in-laws move in to assert ownership rights over the woman and her husband’s property. This has often resulted in acrimonious legal battles and even ostracism should the woman win the ensuing legal battle. Customary law rarely countenances property inheritance by women in their capacity as daughters or wives. In the case of Zamcho Florence Lum V Chibikom Peter Fru and Others (see Awasom, 2012), the Bamenda Court of Appeal, in line with the 1925 Administration of Estate Act, which gives the female child the right to succeed only in the absence of the male child and their issues, maintained that:

It is common ground that the respondent at all times material to these proceedings was, and still is, a married woman. She belongs to a family different from the one in which she was born. She cannot inherit from her father in accordance with the customary law, and a fortiori she cannot be her father’s next of kin. The respondent was doubtless aware of her disability when she applied to the Mankon Customary Court for a declaration of temporary next of kin.

This decision was however quashed by the Supreme Court on two grounds:

a violation of the preamble of the 1996 constitution

b that it was repugnant and antithetical to natural justice, good conscience and equity.
This case comes with far reaching repercussions on women’s land tenure rights [Walker, (2012), p.3] and ought not to be limited to instances of inheritance.

7 Symbolic meaning of land

Land is a source of socio-cultural well-being of a people, a deity and a spiritual link between a people and their god. Land is embedded in African customary practices – religion and ritual; it provides for the basic needs of sustenance and production. It is not regarded simply in terms of the economic value it commands. As an intergenerational possession, the living are duty-bound to hold land in sacred trust for future generations [Njoh, 2006; see also West African Land Commission, (1912), p.183; cf. Fonjong et al., (2010), pp.156–157]. The sacred nature of land explains why it cannot be alienated through sales for fear of depleting the family or village patrimony. Land is a symbol of authority that can easily be translated into wealth. [Land] “…is the traditional and/or customary seat from which most family decisions and consequently developmental issues take root” [Ngwa, (2012), p.1]. Land goes beyond soil and sand. It constitutes a source of material satisfaction, an instrument of wealth, status and socioeconomic power, a piece of map, a political power base and/or an aspect of divinity, a source of religious power as well as an inspiration for traditional Africans (Njoh, 2006). Closely related to the above is women’s perceived lack of ritual power.

8 Women’s lack of ritual power

Land is often allocated to men in their capacity as traditional village authorities or lineage heads to hold in trust and not to women. According to the Fon of Kom, such allocations cannot be made to women because they lack the customary legal capacity to perform customary symbolic ownership rites, whose apogee is the pouring of libation. The exclusion of women from property ownership, including land, is a deeply entrenched customary practice. Scepticism still looms over women’s property rights even from so-called progressive chiefs:

…most Fons prefer to provide education to their daughters and land to sons because if the woman gets married to a man from another tribe, the latter’s village can claim the land. Girl children who are married cannot be given land, while those who are single can be given land to take care over.” “Justice Ngassa (2010) pointed out that no matter what judgment or Law is passed in court, it will need time to thrust into traditional practices and customs. In other words, tradition remains one of the major challenges women would face in their attempt to enjoy their human right to land.” As an example, she quoted the case of Achu Vs Achu where the court judged that “a woman is property and property cannot inherit property.” [Fombe et al., (2013), p.81]

9 Social stereotypes

Although socio-cultural obstacles stand on the way of women’s ownership of property and inheritance, a woman’s attempt to get official title threatens her social standing. Within a village, customary land ownership rules still consider a woman’s land title as a
threat to family property and identity [Pemunta, (2013), p.13]. Women who are in possession of property are stereotyped as being self-assertive and unruly, and therefore not marriageable. In Uganda, for example, the ownership of a house is seen as desirable only for women who are helpless: those that will never get married, widows, prostitutes, senior spinsters and divorcees [Quansah, (2012), pp.141–143]. The various socio-cultural obstacles shaping women’s access to land are reinforced by gender neutral land tenure laws and procedures that further alienate and exclude them from both access to and ownership of land, since they generally lack the social capital with which to circumnavigate the system.

10 Bureaucratic and costly land titling procedure

The high cost associated with the land registration procedure, bureaucracy and the lack of social capital by most women have turned the land titling procedure into a mechanism for the reinforcement of men’s control over women’s land rights. Enshrined in Cameroon’s 1974 land law (see GoC, 1974a, 1974b), land registration has remained an act of exclusion and dispossession. Apart from regulating transactions in land, the 1974 Land Ordinance was also meant to ensure through legal enactment a system of land registration that provided security of tenure to customary landowners. This was in line with the principal missions of ‘Operation Green Revolution’ launched in 1973 by President Ahmadou Ahidjo with the overall aim of jump-starting the economy of this agrarian nation by converting customary farmers into bourgeois planters with secured tenures [Fonjong et al., (2010), p.161]. According to one commentator, “the road to registration turned out to be long, arduous and a very expensive one, and one that was impassable for individual small-scale and mostly illiterate farmers. Those who register are mainly bureaucrats, highly ranked civil servants, and traders, but male, let alone female, farmers” [Van den Berg, (1997), p.192; see also Noorduyn, (2005), p.80]. An evaluation undertaken by Fisiy (1992) showed that after seven years, the LCBs had dealt only with half of the total number of applications, 900 in the English speaking zone (Northwest and Southwest Regions). In the north, the number was far lower. On the overall, titles were granted only to 6% of applicants. The non-registration of land explicitly implies that the land is national land and therefore subject to expropriation for national interests at any time. Simultaneously, even being in possession of a land certificate does not preclude state encroachment [Fisiy, (1992), p.52]. Individual farmers as well as local communities have come to lose their ownership rights in favour of the State through what can be aptly called the ‘collective interest racket’ (see Pemunta and Fonmboh, 2010). As Cyprian Fisiy rightly points out, “The corporate nature of customary land rights cannot be legally enforced under the 1974 land law reforms... any sale or alienation of unregistered land by the customary community is illegal” [Fisiy, (1992), p.52].

Despite state monopoly over all parcels of land and natural resources, land registration, however, gives women more land tenure security than customary rules. It has been observed that, “Since 1974 Cameroon has adopted a land tenure regime that guarantees access to land ownership for everybody, including women and the poor” [Anonymous, (2000), p.30]. Since the registration rules that are in tune with Eurocentric developmentalism require actual improvement on the land, women stand a fair chance of obtaining ownership. This is contrary to when women gained access to land by proxy,
meaning that their rights were precarious. Although a marriage certificate entitles a woman to property inheritance, it is optional for a man to register his marriage [Noorduy, (2005), p.83]. In Rwanda, although the land law accords equal rights to married spouses in monogamous unions, it however fails to protect indigenous women from the Twa tribe, whose marriages are hardly ever registered in the civil status registry. By recognising only monogamous unions, the law excludes them from the provision of equal property rights [Scalise, (2013), p.53].

Closely related to the deeply entrenched bureaucracy surrounding the land registration procedure is women’s lack of social capital. They are unable to circumnavigate the complex, formal and informal official and unofficial legal processes involved in land titling. They therefore encounter difficulties in trying to have their lands registered. On average, it takes 6.5 years to complete the registration process. Property titling through the 1974 Land Ordinance has instead undermined women’s land claims while strengthening those of men [Fombe et al., (2013), p.75]. Evidence from South Africa suggests that when courts are capable of reaching decisions in women’s favour, the verdicts are often unknown to women as the abused parties (Undry, 1994).

11 The Gender Imbalance of the LCB

Although statutory land regulations and institutions are gender neutral, there is a lack of an enabling environment for all those who have land to be able to register it. The LCB, an organ formed by the government to manage national lands in all sub-divisions (Subsection 14 and 15 of Ordinance No. 74-1 of 6th July 1974) is a gendered institution dominated by men. It is the primary organ in the process of land registration in that it attests to the ownership rights of individuals who had been exploiting national land before 5th August 1974 (the time when the ordinance came into force). The Board (Decree No.76-166 of 27th April 1976) is composed of the Divisional Officer, a representative from the Department of Lands, a representative of the Surveys Department, a representative of the Town Planning Service, a representative of the ministry concerned with the project, the traditional ruler and two village notables from where the land is situated. From this composition, it is clear that statutory law recognises the importance of the traditional ruler in endorsing the Board’s decisions [see also Fombe et al., (2013), p.81].

12 Classification of chiefs and the curtailment of women’s land rights

Decree No. 77/245 of July 15, 1977, which among other things classified chiefs into 1st, 2nd, and 3rd class chiefs and reduced them to mere auxiliaries of the administration, seriously curtailed women’s land rights. This move demystified the sacred nature of customary royalty. In a bid to have better ranking, prestige and leverage, chiefs worked with the administration to appropriate indigenous lands, which in turn reduced the land available to women, whose mainstay was agriculture (Fissiy, 1992). Traditional leaders (chiefs) are largely in control of significant rural survival strategies: allocation of land, natural resources, communal labour practices and in some instances law and order. The 1974 Ordinance instead concretised men’s hegemony over land at the expense of women. Women could not register the lands that they did own even though they might have been
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on the land before April 5, 1974. In fact, given the unprecedented hike in the economic value of land and the dynamic concept of customary land ownership, ownership by women is only likely through land purchase or inheritance. Otherwise their rights over land remain precarious.

As per section 1 of Decree No. 76/165 of April 27, 1976, the land certificate is the only official certification of land ownership. Since women exercise only usufruct rights, they could not take advantage of the law to register their titles even though they had access to and occupation of the land long before August 5, 1974, the day of the coming into force of the Ordinance on land tenure and for the registration of titles as per section 9 of Decree No. 76/165 of April 1976. This resonates with Mungwe’s (2012, p.89) view that ‘The contemporary land tenure systems in Cameroon... are embedded in unequal and discriminatory power structures and procedures’ based ‘on inequality of class, gender and other forms of social hierarchy’. Similarly, Braun (2010, p.460) notes, “the intersection of poverty, class, and gender serves to render poor women most vulnerable to fluctuations in food security” [Braun, 2005b; cf. Braun, (2010), p.460]. Against the backdrop of legal bottlenecks and the ensuing cacophony, land rights are defined and legitimated at different scales that may subvert official land tenure regulations. Since women do not have security of tenure, there is a disincentive to conserve and protect the land [Njoh, (1998), p.414]. If women’s land titles were registered, the number of land disputes, which has become a perennial problem and is interfering with their land rights, especially in the Northwest Region of Cameroon, would be reduced to a minimum (Barrow and Roth, 1990). The Western-centric framework on which the modern land tenure system is based de-emphasises communal in favour of private ownership of land. It simultaneously makes ‘effective occupation’ (improvement on the land) the mantra of ownership. Although the colonial and postcolonial agrarian reforms were gender neutral, as a unit of production, the male household was taken as an equitable channel for the distribution of land to all household members (Razavi, 2007).

13 Gendering of compensation for the appropriation of land

During compensation for development projects, including the Chad-Cameroon pipeline project, more men than women received higher individual compensation packages for destroyed farmlands, crops and or other property, such as buildings and economic trees; expropriated land was considered either as personal or private property. Unlike women, men are involved in the cultivation of highly valued export crops such as cocoa and palm oil trees, while women are more into food production, primarily for home consumption and the local market. The differences in global market prices for traditional export crops and local market prices for food crops explain the enormous differences in compensation. This was because of the differences in the nature of the crops they grew and the location of their farms. Men’s export crops had a higher market value than women’s food crops. In addition, men had much larger farms that were located further away from dwellings, closer to the pipeline, which was located as far away from settlements as was possible. Men’s hegemony in land and other natural resources impacted gendered land relations and the payment of compensation for destroyed land properties. Similarly, during the construction of the Lesotho highlands water project (LHWP), women’s access to food security was affected by the implementation of the development programme through the
project’s compensation policy. Households lost arable land with different and often deeper implications for women and men. The LHWP compensation policy reinforced and exacerbated existing gender inequalities and negatively affected women’s ability to secure food for their households, leading to increased vulnerability and the risk of food insecurity [Braun, (2010), p.453]. Women’s land use rights are largely for the growing of crops or the harvesting of non-forest products. Even crops are gendered. Food crops are the domain of women, while cash crops belong to men. Simultaneously, men are selling more land, and given the higher cost of land, men are making more money out of land sales, thereby widening the gender gap in wealth [Quan, (2007), p.52].

14 Resource use conflicts (Farmer-Grazer conflicts)

Another significant obstacle to women’s access to land is the farmer-grazer conflict. They are caught up in farmer-grazer conflicts over land that have been accentuated by climate change and negatively affect their farming activities and output. While the farmers are mostly women, the grazers are mostly men. Herds damage crops, and farmers block cattle routes and access to water, leading to resource-use conflicts. Herdsmen are more financially powerful than women and their peasant husbands. Women do not have the time and the financial power of herdsmen to engage in lengthy and endless legal procedures. Apart from climate change that exacerbates farmer-grazer conflicts, women face land scarcity due to land grabs by politicians and multinational corporations for large scale agriculture for the growing of export-oriented cash crops [whitehead, foreword, Ali et al., (2011), p.2; Deininger et al., 2013]. To compound matters, the system is mired in bribery and corruption. For instance, in Far North Cameroon, both traditional and modern authorities collude among themselves and render farmland productive through the exploitation of competing interests between farmers and herders over natural resources by creating, mediating, and perpetuating conflict through the mechanism of ‘permanent conflict’. They ‘eat’ from both parties but never resolve the conflict [Moritz, (2006), p.117]. Similarly, Mungwe (2012, p.84) points out that on the one hand, the powerful (herders) benefit, while on the other, the rights of the powerless (farmers, mostly women) over land are trampled upon with impunity. In the semiarid northern Cameroon region, apart from farmer-grazer conflicts that result in crop damage, prolonged dry spells and drought affect output and economic development. The mobility of herds due to droughts fuel conflicts and exacerbate women’s tenure insecurity, which is further compounded by competition and power struggles between customary and modern tenure systems affecting land management and access to resources [Pemunta, (2013), p.1]. Climate variability disproportionately affects women more than men because of social and cultural conditions that influence access to resources and division of labour. Most women’s roles are dependent on natural resources such as water and fuel wood. Women perform the roles and responsibilities in female-headed households. Their elder children sometimes assist them. This renders female-headed households more vulnerable when resources are scarce. These findings resonate with those of similar studies conducted in other developing countries, for example, Nelson et al. (2002), Babugura et al. (2010) and Ribeiro and Chauque (2010) [cf. Kakota et al., (2011), p.301].

Women have, however, not taken their socio-cultural and socio-legal exclusion from property ownership lightly. Wealthy women are surreptitiously purchasing and registering land in the name of their male relatives or their sons so as to circumvent the
obstacles that dispossess them of their right to own property. Despite male hegemony over land, some women have taken advantage of opportunities to purchase or rent plots in urban and peri-urban areas. In some rural areas, smallholder women farmers are developing multiple avenues (e.g., church membership, cooperatives) through which to access land. This implies that they will eventually become less dependent on their husbands and other male relatives for land access. Women farmers are facing increasingly insecure access to land and tenure rights. Additionally, climate change in conjuncture with farmer-grazer conflicts, land grabs by wealthy and powerful individuals as well as multinational corporations have constrained women’s access to land. At the same time, many women are realising that land scarcity has led male authorities to withdraw rights that they previously held. This is happening against the backdrop of women’s greater vulnerability to household food insecurity because of inadequate alternative ways of adaptation. They suffer from “increased work pressure at [the] household level and overdependence on agriculture and natural resources which are highly affected by climate variability”. Furthermore, women are faced with unequal distribution of resources at the household level, an inequality influenced by culture (Kakota et al., 2011).

15 Conclusions

Women in Sub-Saharan Africa are responsible for 80% of the food production and 60% of the cash crop production. Although “secure property rights offer a way forward for the majority of the developing world’s smallholders – mostly women – to achieve independence and begin to escape poverty”, they own less than 1% of the land in Africa (Garvelink, 2012). They do not only need land, but power over the land they work on. Colonial development policies as well as their replication by the postcolonial state, particularly the commodification of land, negatively and disproportionately affect women. The perpetuation of women’s dependency on men has eventuated into the curtailment of the freedoms that contemporary, as opposed to pre-colonial, African women enjoyed (see Njoh, 2006). As the case of Cameroon illustrates, despite the gender-neutral language in which land tenure laws are framed, they remain gendered in their implementation. There is a need for the adoption of land tenure policies that recognise gender, rather than those that are gender neutral. Women’s land tenure insecurity drives them into deeper poverty and dependency, leads to lack of high returns, and compromises their ability to secure bank loans since they lack collateral. Women’s lack of access to land is further compounded by their inability to cultivate cash crops, which generally fetch higher income [UN Habitat, (2010), p.82]. The overall effect of this gender inequality is the lack of sustainable land use and management. Land for cash crops (cocoa and coffee) attracts higher rents, and men generally receive higher rates of compensation when the land is taken over for any development project. These so-called male crops are associated with more financial value than so-called women’s crops (food crops). Simultaneously, men are increasingly selling more land and making more money out of land sales, thereby widening the gap in wealth [Quan, (2007), p.59].

The adoption of joint titling would protect women’s rights and entitlements. As an antidote to the patriarchal system of inheritance practiced in most of Cameroon, land certificates should be instituted in the joint names of the husband and wife. Such a
requirement as it is now applied in the Latin American context would make it difficult for women to be dispossessed of their land by other family members when their spouses pass away.

The gender imbalance in the LCB must be addressed (see also Fonjong, 2012) through the equitable representation of men and women on the commission. This would avoid the prevailing situation where women’s voices are consistently silenced in the adjudication of land disputes. Besides their inclusion in all committees that deal with land issues, the rather long and cumbersome procedures for acquiring land certificates should be streamlined, and the cost of acquiring land titles reduced to levels affordable for women who are typically impoverished over time by existing policies. To improve women’s wellbeing and to ensure gender equality, local institutions such as the LCB must include women in land management and allocation decisions and in dispute resolution mechanisms to build social legitimacy for the role of women, and the institutions’ actions and decisions must be transparent, must be seen as legitimate, and must be accorded legality (see Garvelink, 2012).

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