

LAND CORRUPTION IN WEST AFRICA

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Policy paper

Land Corruption in West Africa

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INTRODUCTION

Despite the progress recorded over the years, corruption in Africa remains a major challenge to the continent's economic, social and political aspirations.¹ The average regional score of Sub-Saharan Africa in Transparency International's 2023 *Corruption Perceptions Index* (CPI) was 33 out of 100, and the region's consistently poor performance has persisted for many years.² While corruption cuts across various sectors, the land sector is particularly vulnerable to corrupt practices. All over West Africa, women and men from poor communities see their lands taken over by powerful politicians and international investors – yet relevant actors, such as governments, business, and civil society, put forward few ideas for how to protect vulnerable populations.

Research by Transparency International shows that nearly four out of five people in low-income countries consider corruption in the land sector a serious problem.³ Rural and poor women are especially vulnerable to land corruption and are also disproportionately exposed to other forms of corruption, such as sextortion, that are enabled by gender and social norms feeding inequality.⁴

Corruption in the land sector can materialise at three levels: in the management of state-owned land, in land administration and in land-use planning.⁵ Given that most land on the continent is held customarily with little documentation,⁶ African land governance is neither resilient against corruption, nor strong enough to confront and handle the global demand for land. Only 1 per cent of land in Sub-Saharan Africa is registered in a cadastre,⁷ heightening corruption risks in the sector.⁸

LAND CORRUPTION: DRIVERS AND ENABLERS

Dual system of land governance

West Africa's dual system of land governance, based both on statutory and customary law, makes accessing land services challenging.⁹ Citizens can find it easier to bribe their way through bureaucratic processes, rather than comply with the exhausting and complicated procedures. Excluded from land ownership by customary heritage laws in most West African societies, women face specific forms of discrimination and are especially exposed to corruption, as they are the primary caregivers and rely on land for their economic and social security.¹⁰

Large scale land-based investments

Large-scale land acquisition is a major concern of civil society organisations (CSOs) and food security experts. In a 2022 report, the Land Matrix Initiative,¹¹ a platform monitoring large-scale land acquisitions, stated that more than 78 per cent of the land deals assessed in Africa showed unsatisfactory levels of uptake and implementation of international land tenure policy guidelines – the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGTs).¹² The report also showed that 20 per cent of deals did

not comply with any of the VGGT principles, including transparency, accountability and participation. Among the areas of concern identified were weak or non-existent consultations with landowners and users, disregard of national land and investment laws, and unlawful expropriation. The report, which included seven countries in West Africa,¹³ also noted that for a decade, the “dire state of transparency” has been a recurring issue in investments. Large tracts of land in West Africa have been sold to foreign investors.¹⁴

As in other parts of the continent, most farming in West Africa is small-scale, with an average farm size of 1-3 hectares.¹⁵ Large-scale land-based investments therefore translate into local communities losing access to land. Buyers use corrupt means to overcome obstacles to acquire land, including circumventing community consent.¹⁶ In Sub-Saharan Africa, many local communities have faced challenges in achieving the application of free, prior, and informed consent (FPIC) over land and natural resource rights, due to insufficient protections by most states.¹⁷

Limited data

Limited data is available about the widespread corruption in West Africa's land sector. Lack of trust in the justice system means that victims of land corruption are reluctant to complain and seek redress.

This regional policy paper highlights corruption risks and challenges in the land sector in West Africa. It also provides civil society and regional bodies with the arguments and background information to propose stronger transparency, accountability, and anti-corruption measures. These are needed to address the identified risks and challenges at regional level, in line with internationally agreed standards and practices.

The Africa Union (AU) has been spearheading the development of a comprehensive continental land policy which clearly denounces corruption, but far more needs to be done to address land corruption in the region. The Economic Organisation of West African States (ECOWAS),¹⁸ founded in 1975, has been crucial in the development of the AU Land Policy and subsequent frameworks. ECOWAS has also enabled the domestication of international agreements to combat corruption and launched initiatives to address it. This paper provides recommendations for the 15 ECOWAS member states to implement these obligations and monitor progress.

LAND MATRIX INITIATIVE

A coalition of sustainable development and academic organisations launched Land Matrix as a land observatory in 2012. By 2020, the crowd-sourced platform had documented 1,865 completed deals worldwide, covering 33 million hectares.¹⁹ In West Africa, seven of the 23 countries assessed by 2020 recorded a dismal performance in transparency. Since the financial crisis of 2007-08, the region has been one of the leading targets for major agricultural investments, covering 12 per cent of all reported deals worldwide. Planned deals target a further four million hectares – yet only 13 per cent of the land acquired so far has been developed to a level where it can be productive.

“ Nearly four out of five people in low-income countries consider corruption in the land sector a serious problem.

Transparency International, 2018

ANTI-CORRUPTION POLICIES

In 2016, Transparency International called for corruption-free land governance worldwide.²⁰ Effective land governance aligns with several international frameworks and is essential for the achievement of the Sustainable Development 2030 Agenda,²¹ being critical for poverty eradication, food security, tenure security, gender equality, decent work, reducing inequalities, water management, sustainable cities, ending climate change and protecting biodiversity.²² As such, tackling corruption in the land sector is imperative.²³

While financial enrichment, embezzlement and bribes are well known criminal offences across Africa, land corruption is rarely punished and is widely considered a trivial offence. Irregular flows of money in the form of “drink money” or “transport money” are widespread, as is the silent acceptance of “greasing the wheels” of bureaucracy through financial or other favours and services. The worst cases involve the extortion of sexual favours in exchange for land or related services.

Over the years, demands for improved transparency and integrity in the land sector have gained momentum in Africa. Yet direct tools and advocacy to combat corruption and strengthen accountability are still missing.

Most ECOWAS countries have ratified the UN Convention against Corruption (UNCAC).²⁴ Only Liberia, Niger and Guinea Bissau have “accessed” status, but have not yet ratified the convention.²⁵ The African Union Convention on Preventing and Combatting Corruption²⁶ has been ratified by all ECOWAS member states, except Cabo Verde.²⁷

Both introduced in 2003, the AU and UN Conventions provide clear anti-corruption policies and practices in the form of preventive anti-corruption bodies, and obligations such as public reporting, access to information and whistleblower protection.²⁸ The related ECOWAS Protocol on the Fight against Corruption²⁹ stipulates member states’ obligations and enforces the regulation through the ECOWAS Community Court of Justice and the Council of Ministers.

The AU Convention and ECOWAS Protocol contain similar articles, but stipulate different procedures in reference to private-sector corruption. Accordingly, the Intergovernmental Action Group against Money Laundering in West Africa (GIABA) follows a comprehensive approach, to include Designated Non-Financial Businesses and Professions to implement Anti-Money Laundering mechanisms.

Money laundering and the financing of terrorism are closely linked to and enabled by corruption. ECOWAS launched GIABA³⁰ in Dakar, Senegal, in 2012, as a regional body equivalent to the Financial Action Task Force, equipped with a financial intelligence unit and powers to investigate and prosecute. GIABA also supports the ECOWAS Whistleblowing Strategy of 2016. In the same year, ECOWAS also launched its Civil Society Platform on Transparency and Accountability in Governance³¹ to implement the strategy.

While these measures are not necessarily land-specific, they can be applied in the land sector. For example, the real-estate sector is often involved in money laundering schemes in countries such as Ghana and Nigeria.

ANTI-CORRUPTION POLICIES: TACKLING CORRUPT PRACTICES

ECOWAS adopted its Whistleblower Protection Strategy in 2016. Technical stakeholders gathered in Liberia and issued the Monrovia Statement on Whistleblower and Witness Protection in West Africa, which includes a country-specific list of actions and recommendations.³²

Land corruption can be investigated and prosecuted in accordance with all three legal instruments of the UN Convention against Corruption (UNCAC). In cases of corrupt land allocation and registration by public institutions such as land commissions, for instance, prosecutors could apply Article 17 (Embezzlement, misappropriation, or other diversion of property by a public official), Article 19 (Abuse of functions) and Article 20 (Illicit enrichment).

Land and real estate acquisitions are among the ways organised crime launders money and terrorist organisations finance their activities.³³ For example, Boko Haram in Northeast Nigeria and the Lake Chad region, Al Qaeda in the Islamic Maghreb, and other Islamic terrorist groups in the Sahel build their support systems with the help of local businesses.³⁴ Tackling these issues is increasingly urgent. UNCAC provides regulations to combat such activities, with Article 23 (“Laundering of proceeds of crime”) and Article 31 (“Freezing, seizure and confiscation”) providing the legal framework for effective action.

Given that women, smallholder farmers and poor urban populations are disproportionately affected by land corruption,³⁵ regional and national bodies should strictly apply UNCAC Article 53 (Measures for direct recovery of property: mechanisms for return of assets/property and compensation for land users). The most vulnerable people rely on their lands for daily survival and shelter and cannot afford to wait for a court decision issued months or even years later.

WEST AFRICAN ECONOMIC AND MONETARY UNION

In 2011, the Francophone West African Economic and Monetary Union (UEMOA in French) adopted an approach based on the public sector to tackle corruption. UEMOA estimates that corruption costs Africa between 25 and 50 per cent of its GDP, depending on the country and level of public-sector corruption. Anti-corruption measures have been included in UEMOA directives³⁶ related to public-sector reform. National governments have launched hotlines for reporting corruption, known as *téléphone vert* (“green telephone” in French) in Burkina Faso (2011), Chad (2018), Togo (2019) and Morocco (2015).

TRANSPARENCY AND ACCOUNTABILITY IN THE LAND SECTOR: POLICY FRAMEWORKS

REGIONAL OBLIGATIONS

African Land Policy Centre

Tackling land corruption is intrinsically linked to improving governance in the land sector. Africa has stepped up efforts to improve land governance since the early 2000s. In 2006, the AU and partners established the African Land Policy Centre (formerly the Land Policy Initiative).^{37,38} This resulted in the endorsement of the Framework and Guidelines on Land Policy in Africa³⁹ by the African Union Summit of Heads of State and Governments in Sirte, Libya, in 2009. The framework underscores the need for popular participation in land policymaking, emphasising contexts where land can be used as “a means of accumulating and dispensing political and economic power and privilege through patronage, nepotism and corruption.”

Guiding Principles on Large-Scale Land-Based Investments (LSLBIs)

In 2014, to counter land grabbing in Africa, which increased after the global financial crisis in 2007-08, the AU launched the Guiding Principles on Large-Scale Land-Based Investments (LSLBI).⁴⁰ Based on the VGGTs and the 2007 UN Declaration of Indigenous Rights, the principles emphasise the need for transparency and accountability in land-based investments, and provide for mutual accountability, good governance and transparency in decision making. Africa’s leaders have thus provided a strong mandate to address transparency and accountability for good land governance, especially in relation to large land deals.

African Union Land Governance Strategy

In 2023, the AU launched its Land Governance Strategy,⁴¹ which recognises corruption as one of the challenges in land administration and service delivery. It describes corruption as a “multi-faceted problem” which manifests in many forms, including “hidden deals between private investors and local authorities”. Other given examples of corruption include sextortion and payment of bribes for land services.

Framework & Guidelines on Land Policy

The roadmap to implement the land policy Framework and Guidelines was elaborated by the African Land Policy Centre (ALPC). In 2011, a consortium of the African Union Commission (AUC), the United Nations Economic Commission for Africa (ECA) and the Africa Development Bank (AfDB) carried out a survey of all land policies in Africa. The resulting West African Regional Assessment⁴² formed the basis for the ECOWAS land policy, which was accepted by member states. Among the key land governance challenges and issues identified via the assessment was that almost all West African countries “suffer from vested interests, rent-seeking behavior and corruption, compounded by the use of land as a tool of political patronage”.⁴³

The ECOWAS Commission formulated a policy aimed at harmonising land issues within ECOWAS, followed by a draft directive. This was validated by member states’ land and cadastral experts in 2013 at Abuja, where it was subsequently submitted to members for amendments and comments.⁴⁴ However, member states rejected the directive, with the recommendation that it should be discussed further in the ECOWAS Parliament. This has yet to happen, and neither the policy nor the directive have been shared with civil society.

In a parallel effort, the West African Economic and Money Union (UEMOA) is in the process of establishing a Regional Land Observatory, in line with the ALPC West Africa Assessment Report. The observatory is envisaged to “monitor land tenure policies and log lessons learned and best practices to inform policy makers”. While it was operationalised in 2022, it has not yet been integrated into ECOWAS, despite its willingness to expand to anglophone countries. This limits the observatory’s jurisdiction to UEMOA, excluding countries such as Ghana, Nigeria, Liberia, Sierra Leone and Gambia.

INTERNATIONAL OBLIGATIONS

Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests (VGGTs)

The Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests⁴⁵ (VGGTs) provide standards by which civil society at both national and international levels can hold governments to account in land governance. Transparency, including disclosure of policies, laws and procedures, as well as of all transactions in tenure rights, features prominently as an essential implementation principle.⁴⁶ By passing and enforcing legislation mandating transparent administration and transactions of tenure rights, governments can support efforts to reduce rent seeking, corruption and mismanagement in the land sector.

UN-HABITAT/ Global Land Tool Network

While the Africa Land Policy and the VGGT focus on land grabbing in the rural sector, UN-Habitat has developed policies and tools to protect slum dwellers and irregular settlements in the urban sector. UN-Habitat launched the Global Land Tool Network in 2007 and developed several practical tools⁴⁷ in a joint venture with International Institute for Geo- Information Science and Earth Observation to promote transparency in land administration. While these tools have been popularised in East Africa, ECOWAS countries are lagging and face serious problems with real estate corruption in urban areas, due to unregistered land. In the Global Real Estate Transparency Index,⁴⁸ which shows the increased land corruption risks in urban settings, West African countries such as Ivory Coast and Angola were ranked “opaque”, while Ghana and Nigeria were ranked “low”.

Sustainable Development Goals (SDGs)

In 2015, UN member states endorsed the 2030 Agenda, a set of 17 global goals to be achieved in a 15-year period. The Sustainable Development Goals (SDGs) include land-related targets and indicators under SDGs 1, 2, 5, 11 and 15. Many land organisations and stakeholders are committed to fully implementing the SDGs and to monitoring land-related indicators to promote responsible land governance, land being a cross-cutting and critical resource for achieving the SDGs.

UN General Comment 26/2022

The need to strengthen land governance, and its relevance to achieving broader development goals, has also been highlighted in different global and regional contexts, including the United Nations Committee on Economic, Social and Cultural Rights (UN CESCR). In 2022, UN CESCR issued a General Comment⁴⁹ on land and economic, social, and cultural rights (ESCRs). This recognises the centrality of land to the realisation of ESCRs such as housing, a clean environment, water, food, health, cultural life, and self-determination, among others. The General Comment acknowledges the prevalence of corruption in the land sector, especially in land registration, demarcation, leasing, and compulsory land acquisition processes. It demands that member states establish “proper accountability mechanisms to prevent corruption”. States should additionally monitor and review the efficacy of these mechanisms, as well engage with civil society to improve the provision of land services by enhancing transparency.

RECOMMENDATIONS TO ADDRESS LAND CORRUPTION

Transparency International strongly recommends that the following:

The President of the ECOWAS Commission and the Chairperson of ECOWAS and the Commissioners of Peace and Security, Agriculture and Environment, Trade, Macro-Economics

1. Extend the Whistleblower Strategy to include land corruption and harmonise it with the efforts of UEMOA, the West African Development Bank, the African Development Bank and other stakeholders, as well as the Monrovia Declaration.
2. Establish a whistleblower mechanism at the UEMOA/ ECOWAS land observatory, with powers to investigate, prosecute and punish corruption in cooperation with GIABA and the ECOWAS Court of Justice for cases of Large-Scale Land-Based Investments (LSLBI), with support from international investors, governments, ECOWAS investment agencies and international donor organisations.
3. Work with traditional chiefs and religious leaders to increase awareness of land corruption, the Whistleblower Strategy and anti-corruption laws, via the West Africa Civil Society Forum, the ECOWAS Civil Society Platform on Transparency and Accountability in Governance, and other relevant platforms.

The ECOWAS Commission and the Council of Ministers and national parliaments

1. Encourage the application of UNCAC Chapter III criminalisation and law enforcement on land corruption. Domesticated and harmonise related clauses and regulations, and empower relevant bodies to investigate, prosecute and punish violations.
2. Establish a code of conduct for land commissions and a reporting system on large-scale land acquisitions, enabling them to be scrutinised by the media and civil society.
3. Implement legal redress procedures and institutions for corruption cases.
4. Train judicial staff on land corruption and its impacts on women and other

marginalised groups.

The ECOWAS Summit of Heads of State and Governments and the ECOWAS Parliament

1. Form a multi-stakeholder working group on land governance, accessible by the media and civil society, to improve transparency at the ECOWAS level.
2. Domesticate at ECOWAS level the AU Land Policy and its Framework and Guidelines, along with the VGGT, AU Guiding Principles on LSLBI, and the AU Land Governance Strategy, and include lessons learned and best practices from member states.
3. Harmonise the application of the VGGT in land governance across sectors – agriculture, trade, gender, and human rights – and transform it into a comprehensive ECOWAS Land Policy.
4. Review and ratify the abandoned ECOWAS directive to implement the VGGT and the AU Africa Land Policy, especially articles concerning land corruption and transparency. Monitor implementation and publish progress reports.
5. Develop and implement a tracking system to monitor the ECOWAS Land Policy and publish results.
6. Start an Open Data initiative on LSLBI in West Africa via the ECOWAS Investment Agency and call on member states to join. Ask donors for assistance based on experiences from the mining sector (the Extractive Industries Transparency Initiative, the Open Contracting Partnership, and the ECOWAS directive for the mining sector).
7. Conclude negotiations to integrate the UEMOA Land Observatory with ECOWAS and transform the observatory into a civil society monitoring tool, with complaint and whistleblowing mechanisms.
8. Undertake dialogues with civil society, including women and marginalised communities, on the ECOWAS draft Directive on Land,⁵⁰ and the harmonisation and implementation of the AU guidelines on LSLBI and the VGGT. Use the African CSO Platform on Land to conduct dialogues.⁵¹

The Governments and national parliaments of ECOWAS member states

1. Develop protection mechanisms for women and communities who denounce land-related abuses and corrupt practices, and introduce ombudsmen and whistleblowing mechanisms at local level, to enable bottom-up accountability.
2. Review land laws to implement the AU and ECOWAS Land Policy and its Framework and Guidelines, VGGT, AU Guiding Principles on LSLBI, using lessons learned from best practices in other member states to improve land governance and integrity in land administration.
3. Institutionalise VGGT standards for all forms of land acquisition, especially large-scale investments.
4. Start codification, simplification, and registration of customary land rights of both men and women, and include the land-use rights of herders, fishing communities and local residents.

5. Introduce alternative land registration, such as the Social Tenure Domain Model, as well as an alternative dispute resolution mechanism, or establish an independent grievance redress mechanism to support complainants and address their fears of reprisals or victimisation.
6. Introduce a formal cadastral and land-use information database for state, private and customary lands. Include land-use rights and a land valuation mechanism. Allocate sufficient budget for this purpose.
7. Review land administration institutions to include a digital system of registration of titles, cadastral mapping, and land information, and harmonise unclear tenure forms under customary and statutory law, as well as overlapping jurisdictions for statutory and customary law.
8. Ensure land allocation and adjudication processes are transparent and equitable. Publish available lands and make sure that community consultations take place according to established international and regional standards, such as the VGGTs and the land policy Framework and Guidelines. Harmonise allocation and adjudication processes of different institutions, such as investment agencies, land commissions, ministries, and local land bodies.
9. Include women and other marginalised groups in all steps of the decision-making process, considering the social, and economic barriers they encounter in land governance.

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⁵⁰ The ECOWAS Directive on Land was put forward in 2013 to ensure the harmonisation of ECOWAS members' land policies,

https://old22.ecowas.int/?page_id=229

⁵¹ The [African CSO Platform on Land](#) was established in 2014 in Dakar, Senegal, with support from the African Land Policy Centre. It is made up of a range of civil society organisations from across the continent, working on land issues. The platform aims to ensure ongoing, organised civil society engagement to support implementation of the AU Agenda on Land, with a focus on strengthening the voice of marginalised groups and advocating for stronger women's land rights. See p.4.

https://cicoddev.org/cloud/Foncier/STUDY%20ON%20LAND%20POLICY%20IN%20AFRICA.pdf?_t=1653386292

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