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Land Conflict, Migration, and Citizenship in
West Africa: Complex Diversity and
Recurring Challenges
A Desk Study

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Abbreviations

ADR	alternative dispute resolution
AfDB	African Development Bank
ALC	African Leadership Centre
AOPP	Association of Professional Farmers' Organisations
AU	African Union
AUC	African Union Consortium
CoFo	<i>commissions foncières</i>
CNOP	National Coordination of Farmers' Organisations
DFID	Department for International Development
ECA	Economic Commission for Africa
ECOWAS	Economic Community of West African States
EU	European Union
FAO	Food and Agriculture Organization
GDP	gross domestic product
HDI	human development index
IDMC	Internal Displacement Monitoring Centre
IDP	internally displaced person
IFAD	International Fund for Agricultural Development
IIED	International Institute for Environment and Development
ILO	International Labour Organization
IOM	International Organization for Migration
IUCN	International Union for Conservation of Nature
LDC	least developed countries
MBSA	Mali Biocarburant SA
MCC	Millennium Challenge Corporation
MDGs	Millennium Development Goals
MINUSMA	Multidimensional Integrated Stabilization Mission in Mali
MNLA	Mouvement nationale pour la liberation de l'Azawad
NRC	Norwegian Refugee Council

OECD	Organisation for Economic Cooperation and Development
SEXAGON	Union of Farmers in the Office du Niger
SoSuMar	Markala Sugar Company
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
UNHCR	United Nations High Commissioner for Refugees
UNODC	United Nations Office on Drug and Crime
USAID	US Agency for International Development

1. Introduction

1.1 Background context

Land and property rights, migration, and citizenship are complex issues that cut across all social, economic, and political spheres of West Africa. These issues are at the core of regional integration and economic development, but are also key drivers of conflict and fragility.

In the Gulf of Guinea, the interplay of these issues resulted in devastating civil conflicts that spilled over to neighbors and destabilized economic growth across the region. The Sahel is marked by low-intensity but escalating violence caused by decreasing access to quality rangeland, competition for resources, poverty, and social marginalization. Tensions around river basins in Senegal and the Gambia, respectively, have been highly politicized under simmering conflict.

There is an abundance of literature on land conflict, migration, and citizenship, both individually and on different aspects of how they intersect. Being generally descriptive or extremely technical in detail, the literature paints a highly complex, overwhelming, and even contradictory picture of mutually reinforcing cause, causality, and consequence of fragility and conflict.

Nevertheless, the hallmark challenges throughout the literature remain the same: legal pluralism in land governance; ineffective management; unequal distribution; discriminatory policies; and the consequences of artificial boundaries, all of which stem from colonial periods. Similarly, there is no shortage of articles that point to the contemporary challenges of population growth, land scarcity, urbanization, environmental degradation, and climate change. The varying impacts and prioritization of these concerns expressed in the literature depends on the lens worn by the economists, environmentalists, agricultural and livestock management sectors, development sectors, and the humanitarian sector, which has more recently joined the discourse.

Regardless of the sector, the challenges in understanding these issues in relation to the West African context, specifically in terms of conflict and fragility, is compounded by the region's historical, geographical, cultural, economic, and sociopolitical diversity. Moreover, programmatic implications vary significantly according to the different situations and conditions of each of the main migratory groups: pastoralists; economic and labor migrants; and forcibly displaced persons.

Despite the broad and long-standing recognition of the need to address these issues, little progress has been made. The region therefore faces continued risks of further escalations of violence.

1.2 Purpose of the report

This paper provides an overarching scoping of the most pressing contemporary issues related to land, migration, and citizenship, including how they intersect in various contexts and locations in West Africa. While the information presented here is not based on new research, the way issues are analytically framed captures structural challenges and sets them against the regional and global “meta-trends” of which policy makers and practitioners should be aware for conflict-sensitive planning. The paper points

to some of the effective practices in managing and mitigating these issues and also raises several questions on areas for future research.

1.3 Structure of the report

Part I lays out the migratory context in West Africa. It points to the type, nature, and extent of mobility that characterizes the region. Given the region's commitment to regional integration and free movement of persons, high levels of migration will likely continue, heralding benefits but also pressures that intensify certain state weaknesses and fragilities, including with respect to citizenship and social marginalization.

Part II sets out West Africa's land tenure and management systems, including structural challenges, general management policies, and key issues related to land tenure and migrants. It then continues to highlight the most significant land conflicts that have occurred in the region. Although the conflicts involve a range of drivers, there are common characteristics regarding land grievances before, during, and after the conflicts.

Part III frames the key land and migration meta-trends in the context of fragility. Its purpose is to highlight how contemporary global and regional trends relate to the land and migration nexus and how their impacts may be experienced across the region. It then points to the typical recommendations that come out in the literature for addressing the nexus and also highlights certain positive practices.

Part IV concludes with an overall exploration of the paper's results and puts forward a series of research questions that are necessary in order to discern the most effective and realistic operational approaches.

1.4 Report parameters

The terms of reference limit this report to desk research and consultations. Thus the first task in preparing this report involved an extensive literature review of key concepts and principles.

It is important to note that despite the plethora of literature on each of the subject matters and country cases, many of the most comprehensive comparative studies are dated. Furthermore, with certain exceptions, most of the literature relies on general recycled data and sweeping generalized statements—despite the diversity of culture, policies, and climate across the region. This is partly due to the lack of up-to-date documentation, the often limited state capacity, slow administrative progress, and the limited availability of data associated with low-income and so-called fragile states. It also stems from the nature of irregular migration, transhumance mobility, and unwritten customary practices. Indeed, Adepoju et al. (n.d.) state, “There is a profound lack of access to accurate migration information in the subregion, which is neither centralized in an ECOWAS database nor readily available at the national level”; and quote an International Labour Organization (ILO) report stating “existing statistics on international labor migration in the subregion are generally agreed to be scarce, unreliable, and subject to problems of comparability and availability” (p. 4). The desk-based literature review conducted for this study has aimed to use and fact-check the most recent data, though gaps may remain, particularly with respect to the most current laws, regulations, and administrative procedures. The author welcomes all

updates and corrections.

Given that Economic Community of West African States (ECOWAS) member states have a distinct regional integration policy that also significantly impacts how they approach mobility, the study limits its country focus to the fifteen ECOWAS member states: Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, the Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, and Togo.

These countries cover a vast ecological landscape where land and migration issues manifest differently even within the same country. These range from the super-arid pastoral area across Mali and Niger; the Sahelian arid pastoral area that stretches along Cape Verde, Senegal, Mali, Burkina Faso, and Niger; the Sudano-Sahelian semiarid pastoral area that follows from western to eastern Africa, including Senegal, Mali, Burkina Faso, Togo, Benin, Niger, and Nigeria; the Sudano-Guinean subhumid pastoral area that includes Senegal, the Gambia, Guinea, southern Mali, Côte d'Ivoire, southern Burkina Faso, and central Nigeria. Country cases and examples are weaved throughout the report.

Box 1. Key terminology

Citizenship—for the purposes of this paper, citizenship is addressed in both formal national terms and informal and customary notions of “foreigner” and “outsider,” all of which have implications for land access and local tensions that fuel conflict and fragility.

Conflict—disagreement that arises within a group when the beliefs or actions of one group are either resisted by or unacceptable to one or more members of another group (UNDP, 2003).

Fragility—a continuum of various stages of state weakness particularly expressed in lack of institutional capacity and lack of resilience in the face of instability (ALC, 2008).

Internally displaced persons (IDPs)—persons or groups of persons who have been forced or obliged to flee or leave their homes or places of habitual residence, in particular as the result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights, or natural or human-made disasters, and who have not crossed an internationally recognized state border (IOM, 2011).

Irregular migration—the migration of people across national borders or the residence of foreign nationals in a country in a way that violates the destination country’s immigration laws.

Migration—the movement of a person or a group of persons, either across an international border, or within a state. It is a population movement, encompassing any kind of movement of people, whatever its length, composition, and causes (IOM, 2011).

Land disputes—competing claims between or among individuals, communities, and state authorities about access to, control of, or use of certain pieces of land. All types of land can be subject to such competing claims, including urban land, rural land, constructed land, and land containing high-value natural resources (Van der Auweraert, 2013).

Land grabbing—denotes the illegitimate or illegal appropriation of land, often by economically or politically dominant actors (often national elites) (IFAD, 2011).

Labor Migration—movement of persons from one State to another, or within their own country of residence, for the purpose of employment (IOM, 2011).

Land tenure—the system of rights, rules, institutions, and processes under which land is held, managed, used, and transacted. It relates to all natural resources, including trees, forests, freshwater lakes, rivers, and groundwater overlay. Land rights include ownership and a range of other land-holding and use rights (leasehold, usufruct, servitudes, grazing rights), which may coexist over the same plot of land. Land rights may be held by individuals, groups, or the state (Cotula and Toulmin, 2004).

Land tenure security—the degree of reasonable confidence to not be arbitrarily deprived of the land rights enjoyed and/or the economic benefits deriving from them, including both “objective” elements (such as nature and enforceability of the rights) and “subjective” elements (such as landholders’ perception of the security of their rights) (Cotula et al., 2004).

Pastoralism—any predominantly livestock-based production system that is mainly extensive in nature and uses some form of mobility of livestock (IUCN, 2008).

Refugee—a person who is outside their home country because they have suffered (or feared) persecution on account of race, religion, nationality, or political opinion (IOM, 2011).

Remittances—money transfers from migrants to their countries of origin; grown to surpass official international development assistance (IOM, 2011).

Transhumance—the seasonal movement of people with their livestock between pastures, often over long distances (Abdoul, 2011).

2. Intra-regional migration in West Africa

Today, West Africa boasts one of the most mobile populations in the world. About 7.5 million, or 3 percent, of its population are migrants; most originate from and remain within the region (Bossard, 2009).

The region’s migratory culture begins with its long nomadic history and borderless sociocultural connections. Local chiefs relied upon migrants to cultivate their land and populate their villages. Colonialists later imposed forced labor practices that pushed entire families, particularly from Burkina Faso, Guinea, Niger, Mali, and Sahelian countries to the cocoa and coffee plantations in Ghana and forestry industries in Côte d’Ivoire. These practices left generations to build their livelihoods as “outsiders” in other lands. Males from Mali and Guinea were also sent seasonally to the groundnut production areas of Senegal and the Gambia. Following colonialism, in the first decade after independence in 1957, Ghana’s cocoa and gold attracted a high number of migrants. From the 1970s, migrants were drawn to Ghana and Côte d’Ivoire, where they played an important role in building the

respective cocoa and coffee economies; to Nigeria for its petroleum and spin offs from the oil boom; and to Senegal for the trade and groundnuts.

Today, migration can take very different forms, depending on who is migrating (individuals or entire households), the motivations to migrate (seasonal, economic, conflict, political changes) and the duration of their stay (seasonal, short term or long term) (Cotula and Toulmin, 2004). Among West Africa's migrant populations are pastoralists (or herders) in the Sahel; cross-border labor and economic migrants (skilled and unskilled); and those displaced by conflict and insecurity within the region (see Table 1).

Table 1. Number of emigrants and immigrants in West African countries

Country	Stock of emigrants (1,000s)	Stock of emigrants (% of pop.)	Stock of immigrants (1,000s)	Stock of immigrants (% of pop.)
Benin	532	5.8	232	2.5
Burkina Faso	1,576	9.7	1,043	6.4
Cape Verde	193	37.6	12.1	2.4
Côte d'Ivoire	1,171	5.4	2,407	11.2
The Gambia	65	3.7	290	16.6
Ghana	825	3.4	1,852	7.6
Guinea	533	5.2	395	3.8
Guinea-Bissau	111	6.8	19	1.2
Liberia	432	10.5	96	2.3
Mali	1,013	7.6	163	1.2
Niger	387	2.4	202	1.3
Nigeria	1000	0.6	1,128	0.7
Senegal	636	5.0	210	1.6
Sierra Leone	267	4.6	107	1.8
Togo	369	5.4	185	2.7

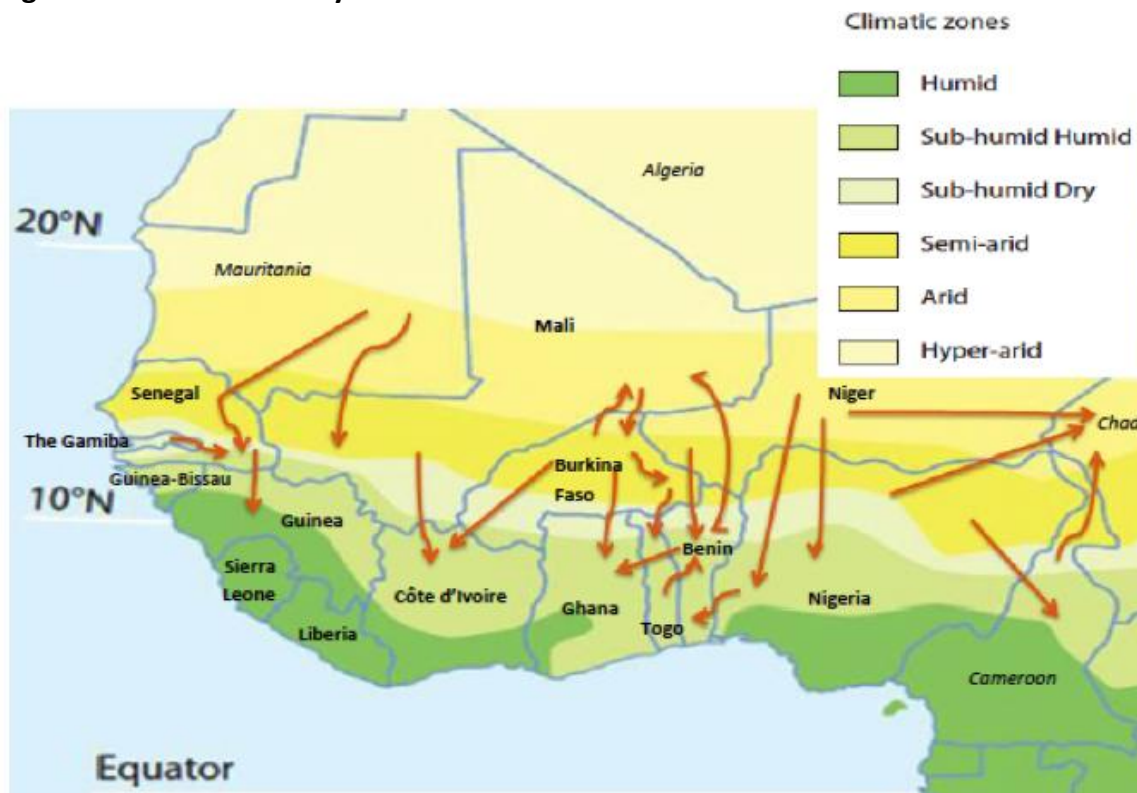
Sources: World Bank, 2011; UNDP, 2013.

2.1 Migrant groups

Pastoralists. In the arid and semiarid and subhumid regions of West Africa, movement is a way of life for the pastoralists and a necessary strategy for coping with seasonal and climatic variations. Centuries of practice have refined the pastoralist's innate ability to survive and even sometimes prosper despite the extreme adversity of an otherwise impossible environment. Pastoralism supplies the bulk of livestock for domestic meat markets and makes up to 10–15 percent of the GDP in Burkina Faso, Mali, Niger, and Senegal (OECD–SWAC, 2006).

Nomadic pastoralists (or herders) follow livestock resources; Transhumant pastoralists follow specific corridors of grazing and water areas, often circular in nature and eventually returning to a home base; Agro-pastoralists are semi-sedentary groups that participate in smaller livestock rearing as they also tend their own farms.

Figure 1. Pastoral mobility in the Sahel



Source: Climatic zones: WMO 2001 in Bossard, 2009; Mobility drawn from OECD, 2007a.

Throughout the region and across the Sahel, the pastoralist population reaches over 20 million.¹ It is comprised of the mainly Muslim Fulby (also known as Fula, Fulbe, Fulani, Peuhl), scattered throughout Burkina Faso, Nigeria, Niger, Mali, Guinea, Cameroon, and Senegal, as well as the Tuareg (Mali, Niger)

¹ This figure represents the full Sahel area, which includes Mauritania, Chad, Sudan, Somalia, and Kenya, among other countries not included in this study (FAO, 2001). A specific figure for just the ECOWAS countries has not been documented in the literature and is difficult to ascertain, as overall it is difficult to track due to pastoralists' mobility and the fact that many births are not registered with government administrations and rarely constitute a categorized statistic in registers (World Bank, 2014).

and the Moors (Senegal). The migration flows are mainly north-south and west-east. The type and duration of the mobility vary depending upon the local environments and types of livestock reared.

Pastoralist communities generally live in isolated, underdeveloped, and conflict-prone areas associated with high vulnerability. In addition to typically having limited political representation—which is exacerbated by their remoteness and mobility, being far from political and economic centers (African Union, 2013)—they are often socially and politically marginalized.

Economic and labor migrants (skilled and unskilled). Among the nonpastoralists, about 5.5 million economic emigrants are working in other countries across the region (World Bank, 2011; UNDP, 2013). However, this neither includes undocumented migrants nor accounts for the considerable national rural-urban labor migration.

Previously, mobility was associated with the short-term migration of young single males as part of adulthood initiation or adventure.² They would return a few years later to marry or takeover as head of a household following the death of an elder (Konseiga, 2005). As part of a broader family or community strategy, the villages would send younger replacements for the returning migrant (Charrière and Frésia, 2009). The migratory flows involved out-migration from the north or inland regions, especially Burkina Faso, Mali, and Togo, toward the resource-rich coast, especially Nigeria and Côte d'Ivoire. In Mali, large portions of the active labor force would leave to work on cocoa farms in Côte d'Ivoire, and return home to cultivate cotton and grain during the short Sahelian rainy season (Konseiga, 2005; Shaw, 2007).

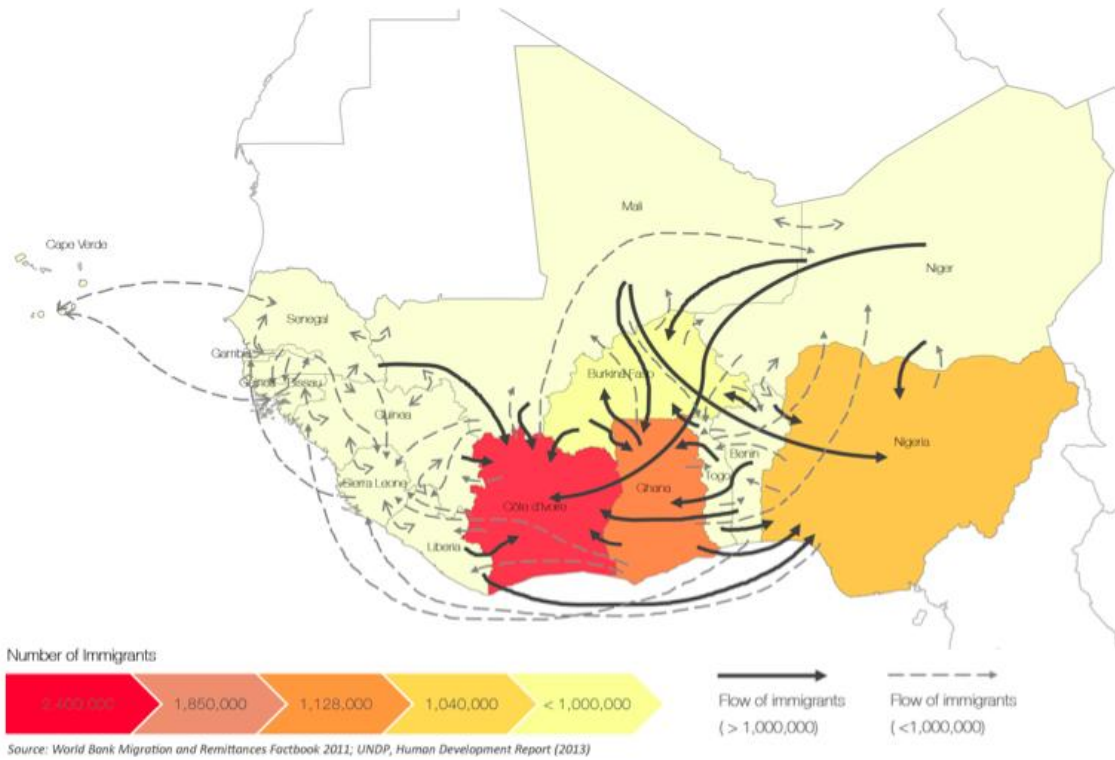
Mobility patterns, however, are shifting. Economic fluctuations and instabilities, high unemployment (particularly among the youth), the search for higher education, population growth, land scarcity, and climate change, among other factors, all drive migrants further afield. This is compounded by globalization and advances in technology and remittance mechanisms that enable migrants to explore alternative destinations for medium-to-longer-term migration opportunities while retaining stronger economic, social, and political ties than ever before (Page and Plaza, 2005). Families, particularly among the pastoralist and rural populations, will sponsor adult male members to go to the cities to secure stable salaried jobs as alternative sources of income (Adepoju, 2006). Furthermore, increased education has been correlated with the increase in the number of skilled women entering the migration streams, especially skilled women from Ghana who migrate to Côte d'Ivoire, Togo, and Nigeria (Cotula et al., 2004). As a consequence, many traditionally sending or receiving countries now simultaneously contain a notable mix of immigrants, emigrants, or transiting migrants (Adepoju, 2006), commonly with individuals who migrate multiple times to different destinations. In 2009, the OECD highlighted Côte d'Ivoire's increasing role as a transit country, notably "a stepping stone for wealth accumulation before proceeding to other regional or international destinations" (Bossard, 2009, p. 75). Senegal in particular has steady levels of in- and out-migration for economic reasons.

Forced displacement. West Africa has also been severely affected by forced displacement. While pockets of low intensity and pastoral violence have always characterized the region, its recent past has

² Between the ages of 17 and 35.

seen an increase in the severity of low-grade conflict, as well as the crippling effects of major war and civil strife in Liberia (1989–1996, 1999–2003), Sierra Leone (1991–2002), Côte d’Ivoire (2002, 2010), Guinea-Bissau (1998), and, to a lesser but noteworthy extent, Togo (2008). In 2013, insurgencies in the Sahel have surfaced in Mali and Niger, while parts of otherwise stable Ghana, Nigeria, and Senegal (Casamance) continue to grapple with simmering and sporadic low intensity conflicts (Annan, 2014).

Figure 2. Intra-regional migration among ECOWAS countries



With the exception of Cape Verde, each of the West African countries simultaneously host refugees while also having at least some of their nationals classified as refugees in other countries (see Figure 1). In the past three years, the crisis in northern Mali (2012) has produced the largest flow of refugees (175,000) and IDPs (353,455). Following Côte d’Ivoire’s postelection violence in 2011 in, 93,738 refugees remain outside the country and another 24,000 are still considered internally displaced. Flows of refugees have also turned to West Africa from Libya, north Cameroon, the Central African Republic, Chad, and western Sudan (Darfur).

While many pastoralists are not classically classified as refugees or IDPs, the same causes of forced displacement severely constrain their migration, livelihoods, and the coping mechanisms; these can still be seen as a form of “displacement,” as pastoralists can no longer access their normal resources or follow typical patterns. The limited access to pastoral corridors also means they “move into areas where they face new tensions as they compete for resources with resident farmers” (World Bank and UNHCR, 2013, p. 6). They have consequently suffered significant losses in livestock and risk falling into deeper poverty (World Bank and UNHCR, 2013).

Figure 3. Displacement figures for West Africa, 2014

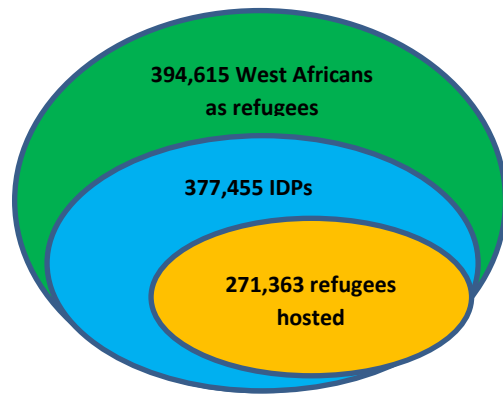
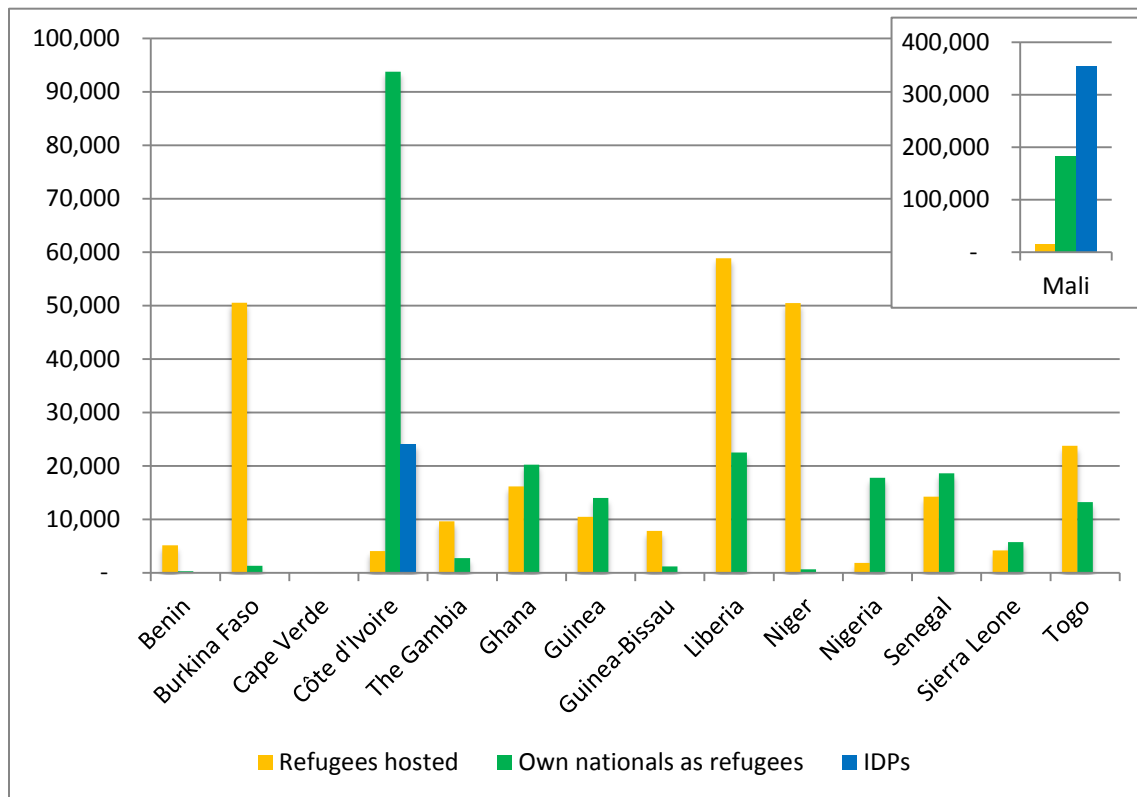


Figure 4. Breakdown of forced displacement in West Africa



Source: UNHCR, 2014.

Moreover, returning displaced populations, particularly in Côte d'Ivoire, Liberia, and Sierra Leone, number over 120,000. As will be discussed below, questions, uncertainty, and insecurity over land ownership is one of the biggest factors impeding their return and reintegration.

2.2 Impacts of migration

The benefits of migration to economic development are well reported. Migration enables pastoral livestock to contribute to the region's agricultural GDPs, ranging from 5 percent in Côte d'Ivoire to 44 percent in Mali (African Union, 2013); and to enable employment in the Sahel for about half of the economically active population.³ Indeed, half the meat and over two-thirds of the milk consumed in the coastal cities of West Africa come from the Sahelian region (World Bank, 2013a). The expansion and successes of the cocoa and coffee industry in the Gulf of Guinea is closely linked to the presence of migrant farmers and laborers, with many others drawn to the cities and finding employment in the informal sector (IIED, 1999).

Indeed, for destination countries, migration helps maintain stable labor market conditions that are conducive for economic growth. It positively impacts the economy of origin through the flow of remittances, and in some cases skill and knowledge transfer. In Senegal, 30 to 50 percent of active men are absent from their villages, and remittances are estimated to account for 30 to 70 percent of the family budget (Cotula and Toulmin, 2004). Inflows of remittances may be channeled toward community development projects such as schools, health centers, and wells (Cotula and Toulmin, 2004). Migrants also send out secondhand goods, spare parts, vehicles, and other items to support their relatives' businesses (Cotula and Toulmin, 2004).

In contrast, although remittances boost out-migration countries' economies, migration is also linked to worsening socioeconomic conditions. In particular, a substantial outflow of skilled and educated migrants leads to a decrease in the quality of public service. Similarly, the loss of a large portion of young labor may produce shortages in agriculture-based economies. Some development actors raise the concern that economies become overly and unsustainably dependent upon remittances, which makes them vulnerable to external shocks and reliant upon family members (particularly their descendants) who feel less and less obliged to send home remittances (Cotula and Toulmin, 2004).

Migration also adds pressure to areas suffering from high unemployment and urbanization, land scarcity, and social resistance to higher numbers of "outsiders." It can burden meager resources and limit hosting areas' ability to deliver services and carry out other responsibilities. Particularly in difficult economic times, nationals often target migrants with hostility, blaming them for the country's economic, social, and political problems; as youth unemployment grows, migrants are also accused of taking jobs from nationals (Adepoju, 2005).

³ However, the regional supply of meat and dairy products is far lower than demand, resulting in a large net importation livestock products; this trend is expected to increase in future the (African Union, 2013).

Table 2. Remittances as a percentage of GDP (2010)

Country	% of GDP
Benin	3.78
Burkina Faso	1.08
Cape Verde	8.36
Côte d'Ivoire	.78
The Gambia	11.02
Ghana	.42
Guinea	4.28
Guinea-Bissau	5.76
Liberia	2.71
Mali	4.63
Niger	1.63
Nigeria	5.1
Senegal	10.47
Sierra Leone	3.01
Togo	10.49

These figures include remittances from all West African migrants abroad and do not include national rural-urban remittances.

Source: UNDP, 2013.

2.3 Regional migration policies

Similar to the European Union (EU), ECOWAS member states share a regional external border with essentially free mobility across national borders. In 1980, member states ratified the Protocol on Free Movement of Persons and the Right of Residence and Establishment. In addition to the right to enter countries within the region for 90 days without a visa, the Protocol entitles community citizens to enjoy the right of stay, residence (including the right to seek and carry out income-earning employment), establishment (establish enterprises) and access to the Community Court of Justice. It includes provisions in favor of equal treatment, protection against “collective and arbitrary expulsion,” and protection of the fundamental human rights of all migrants, regardless of status (Addy, 2005, p. 2). As such, while still requiring a residency permit, community citizens have the right to integrate into member states’ territories and to own land and properties in accordance with national legislation.

However, Article 4 of the Protocol gives states a considerable exception: the “right to refuse admission into their territory any Community citizen who comes within the category of inadmissible immigrant under its [national] laws” (ECOWAS Protocol A/P.1/5/79). This provision continues to give member states the ability to discriminate based on very restrictive and for the most part severely outdated domestic inadmissibility laws (Adepoju et al., n.d.). In particular, Adepoju et al. (n.d.) observe that while the dated nature of these domestic laws may account for the “discriminatory language of some of the provisions (idiots, epileptics, lepers)” it does not, however, “render them inoperative” even if they contradict the principles of nondiscrimination in the Protocols (p. 3).

Indeed, the Protocol is riddled with unqualified language, giving states wide room for interpretation and manipulation (Adepoju et al., n.d.). For instance, in contradiction to the aims set out in the regional ECOWAS policies, several countries have periodically enacted laws that essentially restrict “foreigners”—including nationals of member states—from participating in certain economic activities. As detailed in this report, Côte d’Ivoire restricted Burkinabés’ land rights, which fueled tensions and was a key trigger of conflict (see Box 4). Moreover, in response to worsening economic conditions and rising employment in Nigeria in the 1980s, the Nigerian government revoked articles of the Protocol in 1983, expelling around a million irregular migrants, mostly from Ghana (Adepoju, 2006), and doing the same in 1985 (Adepoju, 2005). Moorish traders were expelled from Senegal in 1989. In addition, border disputes between Senegal and Mauritania, and Ghana and Togo have also resulted in expulsion of Community citizens (Adepoju, 2005). Therefore, despite member state agreement across the region over the treatment, conditions, and protection of migrants, there is little enforcement of the policies or sanctions against states that randomly apply and revoke the provisions to suit their own purposes.

Overall, there have been different levels of progress in the Protocol’s national implementation and it has had limited monitoring at the Community level due to:

- poor linkage between migration and development processes;
- inadequate administrative and institutional capacity for effective migration policies and management;
- lack of protection for migrant workers; and
- poor quality of migration statistics and faltering political support that hinders effective intraregional mobility of labor (Robert, 2004).

Particularly with respect to the rights of residency and establishment, as well as issues of the mutual recognition of qualifications, gaps have also undermined the mobility and development objectives of the Protocol (AfDB, 2013b). Another layer of ambiguity relates to the status of the Protocol in relation to refugees, particularly in terms of residency and establishment. In theory, refugees from ECOWAS member states would be entitled—as Community citizens—to secure residence and the right to seek and carry out such work (Adepoju et al., n.d.). However, the Protocol is not a refugee instrument and was not drafted with refugees in mind, particularly as the most significant intraregional displacements have taken place since the Protocol was established. While the United Nations High Commissioner for Refugees (UNHCR) and ECOWAS “appear to believe that they do” apply to refugees, many member states are sensitive and equivocal to the issue (Adepoju et al., n.d., p. 15). Given the exceptions stated in

the Protocol, states have the discretion related to inadmissibility and expulsion for “those determined to be dangers to national security or public order” (Adepoju et al., n.d., p. 15). Adepoju et al. write:

“The principal fears of host states appear to be twofold: first, that large numbers of refugees pose a threat of instability through --the perception of--disproportionate involvement in common crime or in support for dissident political factions in their countries of origin; second, that recognizing an entitlement of refugees to remain in the host states on the basis of the ECOWAS protocols will ipso facto terminate the status of the refugees and result in a withdrawal of support to the refugee communities from UNHCR and other actors” (p. 16).

While many of the security concerns (particularly those related to crime) are not quantitatively founded, states nevertheless remain empowered to apply the exceptions in the Protocol to deny refugees the rights and privileges of Community membership. Given the overall challenges to the Protocol’s implementation, in 2014 ECOWAS launched a process for its review. In particular, the residency permit has been identified as a source of discrimination and harassment, and thus the review process aims to, among other things, eliminate the permit requirement (Osayande, 2014).

2.4 Citizenship

As seen, ECOWAS’s regional integration policies aim to establish both a normative and legislated identity of the “Community citizen,” which in principle, albeit limited in practice, aims to give migrants equal rights and protections as national citizens. Indeed, the process to eliminate the need for residency permits removes another hurdle for establishing livelihoods in other countries. Another significant measure aimed at creating a regional identity was the establishment of the ECOWAS passport in 2000, with a view toward replacing national passports.

However, many West African nationals, particularly rural dwellers, do not possess national passports due to reasons such as illiteracy, poverty, and reportedly the corruption of officials (Adepoju, 2006). Given the limited institutional presence in many areas, many also are unable to (or do not see the need to) travel the distance to major centers and pay the costs associated with obtaining a passport, residency permit, or visa longer than the 90 days. In the same way, few are aware of the existence of the ECOWAS passport, and far fewer have access to or incentives to use it.

Another notable complication for obtaining passports relates to the fact that many West African births are unregistered. Therefore, significant portions of the population lack identity and citizenship documentation, making it impossible for them to obtain a passport, access services, or, as is relevant to this paper, register/title land. Given the porous borders and weak migration management, many migrants’ movements are undocumented, and/or they have or end up with an irregular migration status in the host country. This leaves them vulnerable to exploitation and outside the protections warranted to them as Community citizens; and on the other hand it gives them little legitimacy and protection in their home state if and when they return.

The lack of national registration and identity documentation raises several difficulties relevant to this

paper. It fuels the political and social marginalization of transhumance pastoralists. It also means that undocumented citizens (and migrants) are unable to purchase, register, or title property or land. This has facilitated corrupt sales of land, where vendors use forged paperwork or unwritten customary practices to wrongfully claim rights; while those unable to purchase land formally (undocumented citizens and migrants) are more prone to purchase land informally, which leaves them without actual legitimate rights or vulnerable to exploitation in rental and leasing agreements (see Section 3.4).

Apart from the political application of citizenship, the context in West Africa is further complicated by historical and cultural notions of “foreigner” and “outsider” that have equally marked the character, migratory trends, and inter-ethnic conflicts across the region. As Section 3.1 points out, customary rules and policies are governed by the local land chiefs, and their authority over their customary land is recognized at the state level, including in Liberia, Sierra Leone, Burkina Faso, Ghana, Nigeria, and Niger, among others. Ownership of customary land typically follows lineage inheritance, and anyone from another village or outside the immediate region, is deemed an outsider or foreigner, regardless of whether they are nationals of that country. As such, foreigners and outsiders, being composed of both national and cross-border nationals, are expected to follow the norms and practices set out by the land chief, and their ability to secure land tenure is severely constrained (Section 3.4). Therefore, in principle, regardless of one’s national status, notions of citizenship itself have little relevance in much of the land area that remains under customary ownership (which is most of rural West Africa).

The impact of the notions of “foreigner” and “outsider” has underscored most of the land conflicts that have taken place in West Africa. For instance, in Liberia, the Mandingo are a Muslim group widely regarded to be of Guinean origin. They are commonly referred to as newcomers or foreigners, even though they may have been in Liberia since the 18th century. They could only access land by entering subordinate relationships through the *tutorat* institution, which kept them subordinate to their patrons despite their general wealth. When Samuel Doe came to power in 1980, as the first indigenous head of state he politically affiliated himself with the Mandingo while cleansing the indigenous Gio and Mano from the political elite. This outraged many Liberians, who regarded the Mandingo as foreigners. Inter-ethnic conflict was one dynamic that shaped civil war violence. Members of ethnic groups claiming first-comer or indigenous status attempted to expel members of the “foreigners” or migrant ethnic groups from their land, and in particular members of the Mandingo. The Mandingo claimed they too were indigenous to Liberia, at least in some regions. Inter-ethnic land disputes were a significant conflict driver in the lead-up to the Liberian civil war (NRC, 2012). Similarly, Sierra Leone is home to about sixteen ethnic groups, the largest being the Temne, Mende, Limba, and Fula. The Fula, Muslim traders, are often portrayed as “foreigners” by other Sierra Leoneans, which results in frequent struggles over property and land access. However, the application of “foreigner” and “outsider” exists to different degrees in every country throughout the region, especially among the transhumance pastoralists.

The impacts of citizenship, formal as well as cultural notions of outsiders, are explored in greater depth in Section 3.5 on land conflict. Most notably is the case of the Côte d’Ivoire conflict (see Box 4), which embodies all elements of land, migration, and citizenship before, during, and after the conflict.

2.5 Regional pastoral migration policy

With a view toward regulating transhumance, in 1998, ECOWAS heads of state agreed on a regional framework (Decision A/DEC.5/10/98) for regulating cross-border transhumance among its fifteen member states. The decision was then backed by Rule C/REG.3/01/03 (adopted in 2003). Together, the decision and rule define the conditions for movement of livestock; looking after animals; and hosting transhumant cattle. Notably, they:

- affirm the strategic importance of pastoral mobility;
- recognize the viability and economic efficiency of a pastoralist livelihood;
- support the need to provide a secure environment for pastoralism;
- assert the importance of policy reforms and pastoral legislations; and
- promote risk management, particularly related to drought and calls for governments to mainstream risk management into policy frameworks (Abdoul, 2011).

The chief outcome of the Decision was the establishment of an International Transhumance Certificate. The certificate indicates the number and types of animals, vaccinations received, and the itinerary planned. The purpose of the certificate and the regulations more broadly are to:

- allow a control of departing livestock herds;
- assure the protection of animal health of local herds in the host country;
- inform in good time the populations of “welcoming areas” of the arrival of herds from neighboring countries;
- calls for herders, farmers, local government representatives, and other concerned parties to form dispute settlement commissions (African Union, 2013).

While host country legislation must protect the rights of nonresident mobile herders, the herders must also abide by the laws of the host country in relation to forests, wildlife, water points, and pastures (African Union, 2013).

Despite the policy developments, difficulties and conflicts continue over the movement of herds in the region. The bureaucratic procedures and administrative red tape hinder the cattle migration. Further, many are faced with illegal taxes per animal, and a fee, depending on whether one is demanded at police, customs, or gendarme checkpoints (OECD-SWAC, 2007). Furthermore, frequent reports surface over serious incidents, including violence, in pastoral areas due to failure to comply with national and regional regulations, damage to fields and harvests, grazing in protected areas, and loss of animals (OECD-SWAC, 2007). There have been no assessments conducted on the impact of the regional policy on pastoralism.

3. Land tenure and management in West Africa

Land and natural resources are key assets for economic development, food security, and poverty reduction. Most West African economies still rely heavily on land, agriculture, and resources for a significant share of their GDP, employment, and export earnings (Cotula et al., 2004; African Union, AfDB, and ECA, 2011). Likewise, land and resources are vital for the livelihoods, income, and employment of a large portion of the population.

In many areas, however, land is becoming increasingly scarce. A variety of pressures, including demographic growth, migration, and climate change (which will be explored below), have increased the competition for land among multiple land users (farmers, pastoralists, and so on), government municipalities, urban elites, and foreign investors. The scarcity has also increased the value of the land, making its ownership—and clarity therein—all the more desirable. These tensions have major political and social implications, as they involve issues of broader resource control and exploitation and the distribution of wealth and power in society (Cotula et al., 2004).

As Cotula et al. (2004) write, land rights are the backbone of a land tenure system. Land tenure is the system of rules, rights, institutions, and processes that govern the way in which land is held, managed, used, and transacted. Land rights include ownership as well as the coinciding range of other land holding and usage rights, such as leasehold, usufruct, servitudes, and grazing rights, among others (Cotula et al., 2004).

The complexity of land issues in West Africa stems from the coexistence of several formal and informal systems that govern much of the same areas: customary and statutory land tenure, Islamic Sharia law, informal arrangements, and a hybrid of them all. This legal pluralism often leads to overlapping rights, contradictory rules, and competing authorities (Cotula et al., 2004). Generally, statutory systems govern urban areas, while rural areas—which constitute the majority of West Africa’s land area—are covered under customary systems. The peri-urban lands fall between the two, creating opportunities for those who are better connected and informed (Cotula et al., 2004).

3.1 Land tenure systems

Customary systems. In customary systems, access to land and resources is an integral part of social relationships. Historically, land ownership was determined by first clearance of the land. Common principles hold that land belongs to a community (family, lineage, village) as opposed to individuals; there are often spiritual or sacred dimensions to the land imposed by that social group; and theoretically, it is inalienable, meaning it cannot be “sold” (Zongo, 2010, p. 1).

Land is connected to:

- ⇒ basic needs—shelter, livelihood, food
- ⇒ identity, emotional, cultural and social
- ⇒ power, politics and governance
- ⇒ public spaces, infrastructure and development
- ⇒ strategic socioeconomic assets
- ⇒ environment protection and conservation

Source: IOM, UN-Habitat, and NRC, 2014.

Beyond these historical commonalities, the content of customary systems is based on extremely diverse—even incompatible—localized practices and norms.⁴ Being largely unwritten, customary systems are flexible and negotiable and continuously evolving to accommodate external influences, such as Islamic law,⁵ economic factors, and other cultural and political interactions (Cotula et al., 2004). Land chiefs typically derived their authority from original occupancy (descendants of community founders), conquest, or from the magic/religious alliance with the *genii loci* (spirits of the place) (Delville, 1998).

Land chiefs have the right to accept or refuse the settlement of a new household on the land. Family landholdings have cultivation or administration rights, and they can then lend those rights to “outsiders” in the form of leasing, tenancies, and share contracts, as well as short-term or often unlimited leases that are conditional on the outsider conforming to local norms and customs (Cotula, 2007, p. 36). Tenants thus typically have secondary or derived rights (IIED, 2001). Outsiders may be able to change their landholding status and become full members of the community through marriage. However, regardless of who is using the land, the primary rights holders usually remain along the family/community/lineage. As explained below, this principle of lending or renting land to outsiders for a long duration becomes a particular point of contention between different land tenure systems. Significantly, many migrants may have thought they purchased land that indigenous populations consider as on long-term loan or lease. In Ghana during the 1980s, for instance, traditional authorities attempted to re-appropriate lands that had previously been sold outright to migrant populations, and consequently even now many migrants “have felt that they have been swindled or defrauded by chiefs who have reneged on contracts and demanded increasingly arbitrary extractions” (Mitchell, 2012, p. 5).

Statutory systems. The colonial period gave rise to state/statutory systems of land tenure, the principles of which derive from citizenship, nation building, and constitutional rights. Land rights are allocated and confirmed through the issuance of titles or other forms of ownership registration (Cotula et al., 2004). Unlike its customary counterpart, state systems are based on written laws and regulations, acts of centralized or decentralized government agencies, and judicial decisions.

Colonial policy in the francophone countries adopted another principle referred to as “land to the tiller” or *mise en valeur*, whereby rights are obtained by putting land to use for a certain period of time, which is a principle also found in Sharia law. Several countries have since affirmed this principle in government policy and legislation. While on the one hand this reaffirmed many customary claims of “first clearance” rights, on the other hand it opened the gate for government expropriation of unused (or underused) customary landholdings. In particular, this has negatively affected pastoralists, as “grazing” is not considered to be land cultivation and thus there is no limit to agricultural settlement and commercial

⁴ There can be competing customary claims between, for example, the descendants of “firstcomers” and those of “latecomers,” between maternal and paternal lines, and between those who worked the land at different periods throughout history. Dispute settlement in these cases often depends on the relations of power (IIED, 1999).

⁵ Sharia law has influenced the customary systems in parts of Guinea, Guinea-Bissau, Niger, Nigeria, the Gambia, and Mauritania. Sharia law recognizes universal land rights for all Muslims. Private rights are established via 10 years of continuous occupation and land use, and landholders who do not cultivate their own land are obliged to have it worked on by others, otherwise their ownership lapses. Women may own land, but do not inherit it, leading to conflict with some other customary principles of succession, notably among matrilineal societies.

ranching upon pastoral corridors. Only two countries, Mali and Niger, provide protection for pastoral land by recognizing grazing as a legitimate use of land (Cotula et al., 2004).

The statutory land tenure and management systems introduced in the colonial period have generally limited coverage (African Union, AfDB, and ECA, 2011), which is reinforced by the states' often absent or ineffective management of its resources (Cotula et al., 2004). As a consequence, the local populations continue to turn to informal and customary practices, especially as customary systems are generally better able to recognize multilayered rights—of usage, seasonal passage, and sacred areas, which may be undermined by a formal ownership system. However, migrants and women may feel that the formal statutory system better protects their rights over land than would be possible under certain discriminatory customary norms.

In countries such as Liberia and Côte d'Ivoire there is a movement to regularize and title customary land. While this offers the advantages of tenure security, it also poses challenges, especially for women. As such, formalizing customary rights consolidates the discriminatory norms on the one hand without compensating for the subtle use rights that do exist within the customary system on the other (Isser, 2014).

Informal arrangements/systems. Land tenure can also be arranged informally, or as in Burkina Faso, Benin, and Côte d'Ivoire, through processes of “informal formalization” (Zongo, 2010, p. 3). Land transactions are recorded on written documents signed by the parties and by witnesses, and validated by either local administrative or customary authorities. Farmers trust that having the agreements in writing gives their land rights more stability; however, while sometimes accepted as legitimate, they often they have little or no legal value, particularly under formal statutory law. Given their informal and unregulated nature (in addition to a lack of paralegal skills at the local level), the written documents are often incomplete, and their full terms and conditions unclear. This gives rise to exploitable loopholes and misunderstandings. Moreover, the informal written agreements may conflict with previous landholders' preexisting, unwritten agreements.

3.2 Dimensions of legal pluralism in land tenure

On the one hand, legal pluralism is not necessarily a problem. It provides management and dispute settlement for those who otherwise do not have the means to access formal systems (or in a timely manner). In many instances, customary arbitration is the first line of dispute settlement and only if it fails does the case pass through to the formal systems. This is especially true in postconflict settings, where the process of developing new or modified legislation is slower than the social dynamics and changes taking place on the ground (Unruh, 2009). Legal pluralism enables individuals to settle their issues through the quickest and most suitable system at that moment (Unruh, 2009). In post-war Sierra Leone, “customary law officers” served as an interface between the legal fields (Unruh, 2009). In postconflict Liberia, the formal system was perceived as failing in terms of affordability, accessibility, timeliness, and cultural relevance in terms of reflecting local values, principles, and belief systems. It was also widely regarded as impartially skewed toward the interests of the wealthy, powerful, and socially connected individuals or groups (Isser, 2009).

On the other hand, customary systems also carry with them layers of discrimination against “outsiders” from other communities, particularly when there is ethnic or religious diversity or among specific groups such as migrants and women (see Box 9). Further, confusion and tension is inevitable when there are too many competing authorities claiming legitimacy in overlapping jurisdictions.⁶ This leads to, as many authors claim, “forum shopping”—seeking out the system that is most likely to side in their favor (Delville, 1998). Being unaware of the terms of different systems and often unable to afford to travel to present their claims in towns and cities, the less-educated and poorer populations are more likely to fail. Moreover, losing parties will appeal to alternative systems, and thus rulings are likely to be challenged and cancelled. Therefore, it has been argued that the challenge is not legal pluralism per se, but the lack of authority and conviction of the decisions made (Delville, 1998).

Box 2. Competing land claims between two systems

In 2000, the mayor of a commune close to Bamako, Mali (Dialakologi) claimed that the municipality owned some 300 peri-urban plots. He sold several of the plots for residential purposes. However, a local landholding family claimed customary rights over the same area, and argued that municipality’s land title was forged. The family also sold some plots within the area. Despite the competing claims, those who had bought the land from both sides began to build on it. In August 2003, the Tribunal of Kati decided in favor of the municipality, and ordered that the houses built by those who had purchased the land from the landholding family be demolished. However, in November 2003, the Court of Appeal in Bamako reversed the decision, decided in favor of the landholding family, and ordered the demolition of the buildings of those who had bought from the municipality. The dispute’s resolution is not recorded.

Source: Cotula and Toulmin, 2004.

3.3 General land management policy

During the colonial period, French efforts to convert public land to leasehold and freehold, and to have the indigenous population register their land, had little effect. Large parts of land were declared as public domain. Customary systems persisted (and continue to persist) with little intervention. In contrast, the British sought to establish territorial control by forming alliances with senior customary rulers. They introduced a system of freehold tenure in particular regions (such as Sierra Leone), with a juxtaposed adaptation of land administration based on customary law. Regardless of the system, enforcing land law has been difficult, and decisions about land claims have more often reflected the power, influence, and vested interest of the various stakeholders (IIED, 1999).

Government policies over other renewable natural resources (forest, inland, marine fisheries, pastures, and so on) were also (and for the most part remain) “state-centric.” In countries such as Guinea and Côte d’Ivoire, the state had centralized control notably over forests, irrespective of established customary use and land rights. This continues to have particular ramifications over use of specific forest resources, including rights to harvest commercial use timber, non-timber forest products (NTFPs), and

⁶ Land chiefs, village chiefs, administrative executives, regional customary authorities, religious authorities, local government bodies, judges, or various village/inter-village or communal committees.

minerals (IIED, 1999; USAID, 2013e).⁷ Often, despite customary claims of those who reside in the forests, governments grant concessions or designate protected areas, backed by statutory law or disregard of customary claims (USAID, 2013e). In Guinea, farmers have no incentives to conserve timber trees on their farmland, since they are the property of the state (IIED, 1999).

In addition, colonial regimes appropriated prime agricultural and urban land resources to foreigners, their descendants, and investment companies. Postcolonialism, substantial assets were passed on to political elites, their affiliates, and multinational corporation. Moreover, land grabbing was particularly rampant and abused (IIED, 1999). Consequently, across West Africa land was, and in many ways continues to be, unequally distributed; the number of people who are “land poor” in both rural and urban areas has increased. Unfarmed land, which may actually be fallow, grazing land, or a community agricultural reserve, is viewed as unoccupied and thus the state’s “*eminent domain*” (IIED, 1999, p. 10). However, as noted, given the state’s limited intervention in these areas, they have often become *de facto* open-access regimes (IIED, 1999). However, this open access is increasingly insecure for users as land becomes increasingly scarce.

Following the weakening of the central state in many of the countries, the 1990s witnessed a wave of democratization processes (notable exceptions being the Togo, Guinea, Liberia, and Sierra Leone). Particularly in the francophone countries, there was a shift toward increasingly decentralized government structures, and in many countries (such as Ghana, Senegal, and Burkina Faso) smallholders started to set up farmers’ associations, national networks, and federations (Nelen et al., 2013). Decentralization has been underway most notably in Senegal for some time, which has raised the need to amend statutory systems to provide more room for local level governance and land management (IIED, 1999). An approach known as the *gestion de terroirs villageois* has increasingly gained traction since the 1980s in a large number of francophone countries. The approach, which usually emerges as part of supported development projects, aims to place decision making over land use, natural resource management, and socioeconomic planning at the local level under village-level authorities. However, legal recognition of the village-level authorities for this has yet to occur. Certain challenges have also emerged in some cases. For example:

- The approach has enabled rural communities to assert largely exclusive rights over their territories to the detriment of non-permanent residents and mobile populations (IIED, 1999), a notable example is pastoral herders in Burkina Faso, a situation that gave rise to local tensions and rivalries (Cotula et al., 2004).
- Several areas may rely upon the same resources (such as wetlands), but these may be situated under another area’s jurisdiction. This requires and depends upon reliable cooperation in managing and settling disputes over such resources (IIED, 1999).

⁷ USAID (2013e) writes: “Even where laws on carbon rights may be present, they may not distinguish between rights of local communities to sequestered carbon (actually stored carbon); carbon sinks (natural entities that retain the carbon, including land (above and below ground); subsurface carbon; tree ownership when separate from land ownership; carbon sequestration potential; carbon credits (the right to pollute an amount equivalent to the carbon sequestered in, or emissions avoided from, a natural sink); and use rights (e.g., easements, leases, profits)” (p. 18).

- The initiatives have typically depended on international assistance, and there has been a tendency for them to fall aside once funding has finished (IIED, 1999).

Currently, less than 5 percent of West Africa’s land area is held under a formally registered title. These areas are mainly urban or within high return projects, such as in irrigation. The challenges to registration include:

- the high cost of mapping and registering titles to many small plots;
- maintaining an updated register;
- the fact that titling processes tend to favor the literate and wealthier groups; they tend to register primary rights holders and exclude secondary or derived rights, particularly women who gain land through marriage and herders who may be allowed to graze their animals on crop residue;
- the social impact of breaking down the social and cultural connections to land;
- resistance in areas with a strong customary practice; and
- conflict where resources are of considerable value and thus subject to substantial competition and dispute (Cotula et al., 2004).

Alternatives to titling have been tested in a number of countries, including community land use planning projects and pilot registration schemes in Côte d’Ivoire and Benin. However, the impact of these schemes is yet to be understood.

Table 3. Current land management in West Africa

	Land policies	Sources*
Benin	<p>Top of political agenda since the 1990s and reforms have been under review. Consultations have been underway since 2005. The goal is to integrate statutory and customary land tenure arrangements.</p> <p>The 2007 Benin Rural Landholding law recognizes customary rights in land as equal to civil law property rights. It identifies written documents such as the rural landholding plan and rural landholding certificate as recognized instruments for asserting and protecting these rights.</p>	<p>Ouedraogo et al., 2006</p> <p>MCC, 2013a</p>

<p>Burkina Faso</p>	<p>Several reforms were undertaken, notably in 1960, 1984, 1991, 1996, and 2005. All policies reflect the duality of statutory and customary systems.</p> <p>Revisions have been underway since 2006. These aim to produce a document that addresses the land rights of rural actors, particularly poorer small farmers; decentralizes rural land management systems and local participation; and promotes alternative land dispute resolution mechanisms, among others.</p> <p>The 2009 Rural Land Tenure law enables local recognition of customary land rights. The law also reinforces the devolution of authority over land issues and provides for the formalization of user rights and the possibility of transforming such rights into private titles.</p>	<p>Ouedraogo et al., 2006</p> <p>USAID, 2010a</p>
<p>Cape Verde</p>	<p>There are no preexisting systems of indigenous tenure since it was uninhabited prior to Portuguese occupation.</p> <p>Land tenure has not been a key concern and the country largely relies on preindependence legislation. An important exception is the 1981 Agrarian Reform Act which sought to distribute unproductive landholdings over 5 hectares.</p> <p>In 2012, the government financed the scanning and digitizing of record books that guarantee existing land property rights in the capital Praia and on the island of Sal, and built a software system to computerize transactions at the land registry offices on both islands.</p>	<p>IIED, 1999</p> <p>USAID, 2007</p> <p>MCC, 2013b</p>
<p>Côte d'Ivoire</p>	<p>Since the colonial period through today, all vacant and uncultivated land has been deemed state property.</p> <p>The 1998 Rural Land Law stipulates the transformation of customary land rights to private property rights regulated by the state. The 2000 Constitution guarantees the right of property to all.</p> <p>In August 2013, parliament extended implementation of the 1998 Rural Land Law by 20 years. As of yet, however, no money has been allocated to its full implementation.</p>	<p>USAID, 2013a</p>
<p>The Gambia</p>	<p>Land legislation is underlined by legal pluralism.</p> <p>During the 1990s, several changes were simultaneously underway related to “the conversion of customary tenure to leasehold tenure; the centralisation of the planning process and powers of the State; the devolution and decentralisation of land management; and the reinforcement of customary tenure” (p. 6).</p>	<p>Ouedraogo et al., 2006</p>

Ghana	<p>The policy and administration changes were occurring at different levels and have strained the land tenure situation.</p>	Ouedraogo et al., 2006
	<p>Over 80 percent of land in Ghana is customarily owned. The country is plagued by conflicting and overlapping land legislation, and there are more than 150 pieces of legislation that directly relate to land administration.</p>	USAID, 2007
	<p>The 1992 constitution upholds the authority of local chiefs to manage and allocate land, and divides land into both public and customary tenures (the latter has substantial differences between the north, south, and west of the country). It allows foreigners to lease land for terms of up to 50 years.</p>	USAID, 2013b
	<p>A dual tenure and management systems prevails, running in parallel rather than in coordination with each other, producing contradictions and insecurities. A government and donor-led large-scale land reform project was launched 2003, culminating in the Land Commission Act in 2008. Established by merging the country's major land sector agencies, the Ghanaian Land Commission is now the dominant land management institution.</p>	
Guinea	<p>The 1990 Constitution guarantees its citizens the right to private property and the unalienable right to benefit from the country's natural resources.</p>	Ouedraogo et al., 2006
	<p>The 1992 Guinea Land Code (<i>Code Foncier et Domanial</i>) affirms the rights of individuals to obtain land ownership. Vacant sites without owners belong to the state. The code is strongly oriented toward the urban environment.</p>	USAID, 2010b
	<p>The Pastoral Rights Law of 1995 (<i>Loi du 29 Août 1995 Portant Code Pastoral</i>), grants herders open and free access to pastoral areas and natural resources in pastoral areas.</p>	
	<p>Land legislation has remained ineffective in rural areas. Most of Guinea's land is unregistered, governed by customary law, and vulnerable to transfer by the state or privatization.</p>	
Guinea-Bissau	<p>The Portuguese colonialists permitted land expropriation out of public interest, and local dispossession of land increased following certain decrees in the 1960s. The decrees classified the lands (urban, shared use according to local custom, vacant lands) and as the colonial authorities were the sole decision makers, many abuses were reported during this process.</p>	Ouedraogo et al., 2006
	<p>Following independence, all land was nationalized under state</p>	

Liberia	<p>ownership, but the 1961 decree remained. Revisions were attempted in the 1980s and 1990s.</p>	
	<p>The Land Law of 1998 sets out to guarantee farmers access land; integrate customary rules and practices into the new law; and stimulate the development of the land market.</p>	
	<p>Based on a double land system. Americo-African settlers occupied the coastal area. All other land belonged to the state. The inland remained indigenous and followed customary practices.</p>	<p>Rincon, 2010 USAID, 2010f</p>
Mali	<p>A customary authority on behalf of the community manages local land resources in the rural area. Access rights under the customary regime are restricted to village inhabitants who are members of a certain lineage, which are under the chief's authority. The system penalizes youth, who are historically marginalized regarding access to land resources. Women and migrants are in an even more precarious position.</p>	
	<p>The Land Commission was created in 2009 to review and analyze Liberia's land laws and formulate a new land rights policy, which was adopted by the Republic of Liberia in May 2013. It clearly defines the various categories of land (public, government, customary, and private land, as well as protected areas) and addresses historic inequalities by giving customary and private lands equal protection with a specific emphasis on gender equality.</p>	
	<p>The 1992 constitution guarantees citizens the right to own property and provides for the protection of property.</p>	<p>Djiré, 2006</p>
	<p>Legislation (the 2000 Land Code) stipulates that all land is nationally owned, and that customary and so-called vacant land enters into private state domain. It is a highly centralized piece of legislation with no domains assigned to local government.</p>	<p>USAID, 2010c LANDdac, 2012</p>
<p>The Pastoral Charter of 2001 (implementation decree in 2006) recognizes and explicitly protects the mobility of pastoralists in the country. However the Pastoral Charter has not been fully implemented and the extent to which local governments enforce the charter's mandates remains unclear.</p>		
<p>As of May 2014, consultations are underway to discuss final changes to the country's new land policy (<i>Politique Foncière Agricole</i>), to be adopted later this year. The draft policy foresees the creation of special land management committees that have to play a leading role in mediation and resolving land-related conflicts. It also promotes positive discrimination, as for each new state land development, plots must be allocated to women.</p>		

Mauritania	<p>Currently, customary practices—and especially in the north, also Sharia law—continue to dominate Malian land tenure systems.</p>	Ouedraogo et al., 2006
	<p>With the Land Reform Act of 1983, customary land management and administration officially ended. All land that was not in public domain or private property was declared covered under Islamic law.</p>	USAID, 2008
	<p>Production from pastoral activities contributes to 80 percent of the country’s GDP, and pastoralists exert considerable political influence. Law governing land tenure is primarily enshrined in the 2000 Code Pastoral (implemented in 2004). A combination of traditional and Sharia legal instruments, the Code Pastoral is deemed to be one of the most far-reaching examples of national codification of customary tenure of nomadic pastoralists in Africa.</p>	
Niger	<p>The Rural Code (1993) recognizes customary rights and allows them to be registered. Both statutory and customary land rights benefit from equal protection of the law and judicial institutions. The Rural Code also established land commissions on the department, commune, and village level, which are tasked to allocate and register land claims, control regional land use, and offer land dispute mediation. However, the legislation has not been effectively implemented in much of the country.</p>	Ouedraogo et al., 2006
	<p>The Rural Code also grants pastoralists common use rights in grazing areas and “priority use rights,” which give clear recognition of their rights to pastoral lands without excluding other users.</p>	USAID, 2010d
Nigeria	<p>The controversial 1978 Land Use Act (revised in 1990 and 1997) vests all land in each state (except for federal land) exclusively in the state governor, who holds it in trust for the population and administers it on behalf of and for all Nigerians.</p>	Ouedraogo et al., 2006
	<p>The governor has the power to grant land to any person with occupancy statutory rights, as well as with customary rights of occupancy for agricultural, residential, and other purposes.</p>	Shen and Sun 2012
	<p>It is commonly argued that the law has contributed to further distortions and abuses of citizens’ rights to access and own land.</p>	USAID, 2010e
	<p>In 2010 the Lower House of the National Assembly rejected President Umaru Musa Yar'Adua's bill to establish a National Land Reform Commission to restructure land matters across the country.</p>	

Senegal	<p>The first postindependence land legislation is the 1964 National Domain Law, which introduced decentralized management mechanisms. It renders all non-registered land before 1964 as state-owned, which applies to 97 percent of all land in Senegal.</p> <p>Locally elected officials in rural communities can allocate land according to customary practices as long as lands are productively used. Pastoralism is not recognized as a viable form of land use, though a 1980 decree allowed certain grazing areas to be reserved. However, the areas were not clearly defined and continue to be a source of tension.</p> <p>The 2004 Framework for Agro-Sylvo-Pastoral Development recognizes the importance of supporting family farming, developing commercial agriculture, protecting the country's forests water resources, promoting social equity, developing the livestock sector, and establishing the need for secure land tenure. Implementing legislation has not yet been enacted.</p> <p>A land law commission has been established with a view toward reviewing the 1964 law and to prepare a land reform law.</p>	<p>Ouedraogo et al., 2006</p> <p>Faye, 2008</p> <p>USAID, 2010g</p>
Sierra Leone	<p>Land in Sierra Leone is classified as state, private, or communal. The capital, Freetown, and its surroundings (Western Area) are governed under statutory law, while customary law governs the provinces.</p> <p>The 1960 Provinces Land Act and the 1966 Non-Citizens (Interest in Land) Act provide for a strong customary basis in land law. They stipulate that customary land is overseen and administered by paramount chiefs. Land rights of nationals of other communities, youth, and women are limited and submitted to decisions under this chieftaincy structure. Local chiefs' legitimacy and power was reaffirmed after the Civil War (1991–2002) through the 2009 Chieftaincy Act.</p> <p>The 2005 National Land Policy supports the inalienability of land with regard to the landowning families, and the role of descendants in claiming rights to land. Hence, the evolution toward freehold tenure in the rural areas appears to be discouraged, instead focusing on leasing arrangements for investment.</p> <p>The 2007 Devolution of Estate Act criminalizes preventing a woman from inheriting her husband's property after his death, and also recognizes the property rights of polygamous spouses.</p> <p>The government is currently in the process of streamlining land</p>	<p>Unruh and Turray, 2006</p> <p>USAID, 2010g</p> <p>IRIN, 2012</p>

Togo	<p>sector agencies to establish a permanent Land Commission as the central agency for land management in the country. Many observers point to the increasing insufficiency of current legislation to manage the complex land issues currently facing the country.</p>	Ouedraogo et al., 2006
	<p>The law (1974) recognizes local communities' customary land rights under the condition that they are effectively in use or possible to use. Unused lands (including through absenteeism) become part of the national domain of lands.</p>	
	<p>Customary land rights are largely unregistered because the local population deemed the process complicated and costly.</p>	
	<p>The 1974 law is considered positive, even though its implementation is patchy. No implementation regulations have been established, and agricultural development projects have never come to fruition. Recommendations have called for an assessment of the 1974 reform to enable effective land tenure security for rural producers.</p>	

*Sources are based on what was available in a desk-based literature review as of May 2014. The author welcomes any information on further updates or amendments in land laws, regulations, and administrative policies.

3.4 Land tenure and migrants

Throughout West Africa, and particularly in Ghana, Côte d'Ivoire, and Senegal, customary chiefs traditionally sought migrants to help cultivate their land and to populate villages under their control as a way to build their political and economic power (Cotula et al., 2004). In return for access to the land, typically tenancies (known also as tutorships) required that the migrants comply with local traditions and customs, refrain from getting involved in political affairs, and pay their respects to the landlord's family through regular gifts (Zongo, 2010).

However, this relationship between the landholders and the migrants is not only eroding but increasingly prone to disagreement and conflict due to the conflicting tenure systems, divergent interpretations over monetary transactions, sociogenerational changes, and increasing land scarcity.

Indigenous populations rely on the rights of first occupancy, but this means that migrants—even after they have farmed the land for generations—will never accede to full rights and will always depend on their patrons. Migrants thus appeal to the “land of the tiller” principle, which is espoused in many government policies as well as Sharia law. This principle gives migrants the right to acquire full land rights after cultivating a plot for a certain length of time. In particular, descendants of migrants who have been working the land for generations question the land transactions concluded by their parents and press for the “land to the tiller” principles of formal systems. Descendants of natives may also question the arrangements to which their elders have agreed, calling for higher rates and cash payments that the migrants must pay to avoid eviction (Cotula et al., 2004; Zongo, 2010). The contentions

between the two principles are well studied across diverse settings “ranging from cocoa and plantation crops in southern Ghana and Côte d’Ivoire, to irrigated plots in northern Nigeria and Senegal, areas of large in-migration in south west Burkina Faso, and high density and peri-urban zones in southeast Nigeria and Southern Benin” (IIED, 2001).

Furthermore, whereas the indigenous landholders consider monetary payments to be part of the lending transaction (Zongo, 2010; Cotula et al., 2004), for many migrants the transaction confers them irrevocable ownership. In many cases, the sellers—including family members of the original landholding family—did not have the authority to sell the land deeds. In Ghana, for instance, in order to profit from growth in the cocoa frontier, many local chiefs bypassed paramount chiefs in order to sell lands directly to migrant populations (Mitchell, 2012). Indeed, this is common throughout West Africa and has posed significant challenges for returning displaced populations in Côte d’Ivoire (see Box 4) and Liberia (see Box 5). Moreover, informal sale arrangements may have been unclear over their precise details: “in the bush,” “at some distance south of the village,” or even unspecified delimitation of the boundaries of the land sale (Zongo, 2010, p. 3).

Large domestic landholding units are fragmenting into smaller family units for external and internal reasons that change customary practices. Sons may have no choice but to migrate, as they no longer have the security of gaining land from their fathers due to land shortages and sales of land outside the lineage (IIED, 2001). Younger generations, meanwhile, also choose to migrate for economic opportunities elsewhere. Those left behind thus sharecrop or lease land belonging to their immediate kin, and may sell parts of the land out of economic necessity or, in many cases, personal profit. As family or community members return, they consider sales illegitimate given their own inalienable rights to the land (see Box 3).

Out-migration is a significant economic strategy within the Sahel. Whether they have been gone for a matter of months, years, or decades, returning migrants often come back to their land and settle into farming (IIED, 1999). However, this strategy is only possible by virtue of their membership in landholding families or community lands, and the confident knowledge that they have inalienable access to the land upon their return (IIED, 1999). Migrants, along with women, are among the most vulnerable to landlessness. Farming out-migrants may be unable to maintain their rights in their homelands during their absence, because of a break-up of holdings among members of the same families; the unauthorized sale of land by the immediate kin; or their inability to contest encroachment and competing claims. If the same farmers were unable to purchase land as in-migrants, they are left landless and increasingly vulnerable (IIED, 1999).

Box 3. Illegitimate land sales to migrants

In Banko, a village close to Bamako, Mali, a migrant purchased ten hectares of land for the equivalent of some €4,500. However, the land was part of an area used communally by the village, and the seller had no right to sell it. The buyer met with resistance from the local community when he tried to occupy the land, and was unable to attain the required authorization to legitimize the sale. The fraudulent seller vanished with the money.

Source: Djiré, 2004.

3.5 Land conflict

Section 3.4 highlighted the multifarious tensions that can rise regarding land tenure and migrants. However, as Alden Wily notes, “even in peaceful agrarian societies land disputes account for 40–60 percent of cases entering the courts” (quoted in Pantuliano, 2009, p. 32). It is when tensions and insecurity over land and property rights are interconnected with other unaddressed or neglected issues, stresses, or events that the tensions escalate to violence or lead to wider-scale conflicts (OECD, 2005).

Moreover, as Berry notes, “Land conflicts reflect more than economic and demographic pressures. In post-colonial societies of West Africa, land is also seen as a form of political space” not only at the state level but also by the families, village authorities, and chiefs that control land under customary systems (Berry, 2009, p. 29). In addition, for dissident or insurgent groups, it is a key platform for challenging state power (ousting the current leader or gaining political participation), forcing concessions, or negotiating access to resources. Other factors—such as the access and availability of weapons and the spillover effects of previous or neighboring conflicts—further escalate the intensity of the violence and destruction.

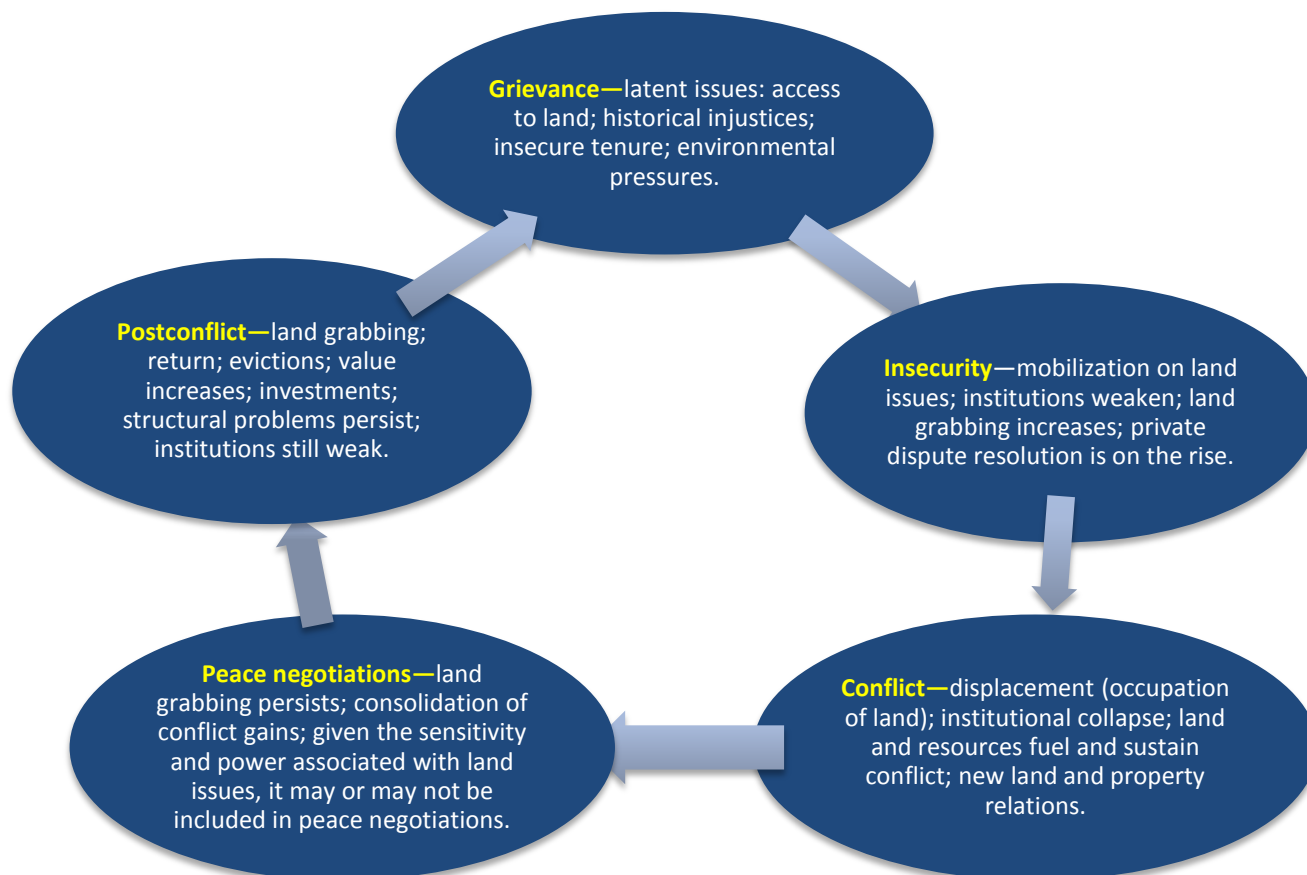
Land conflict scenarios

- Territorial disputes between two sovereign states
- Competition over land between distinct ethnic, religious, and cultural groups, and/or between different elite groups (such as national vs. local elites)
- Land occupation following large-scale displacement and/or breakdown of law and order
- Illegitimate, illegal, or contested large-scale dispossession, such as for political or economic development reasons
- Inequalities and lack of access to land for significant population groups
- Generational conflicts: the traditional vs. the modern
- Weak(ening) or collapse of land management institutions and structures

Source: IOM, UN-Habitat, and NRC, 2014.

As the case studies in this section demonstrate (see Boxes 4, 5, 6 and 7), actual or perceived injustices related to land can all be leading or contributing causes of conflict. These can also surface or be intensified during a conflict, and manifest again postconflict if there has been significant levels of occupation of displaced populations’ land; if changes to the status quo affect access to resources and its associated wealth; and if preexisting land tensions were among the root causes of conflict.

Figure 5. Land and conflict: Before, during, and after



Source: IOM, UN-Habitat, and NRC, 2014.

As a contributing trigger to conflict, the perceived or real injustices can include historical imbalances or inequities in land distribution, competing systems of land tenure, tenure insecurity, and social exclusions to land rights, especially among youth (Sierra Leone, Liberia), transhumance pastoralists (Sahel region) or migrants (Côte d’Ivoire), as well as corrupt transactions and sales (OECD, 2005). Significant changes to land’s socioeconomic value or sudden shifts in its use (such as large-scale land acquisitions and natural resource investment, environmental factors, or when there is a sudden rise in crop demand) can also exacerbate land grabbing, expropriations, efforts to clarify or increase tenure security, and overt manipulation of gaps between customary and formal system (such as in Liberia, Sierra Leone, Guinea and Ghana). Frustrations mount against those who are considered to have undeserved (and often profitable) control of or access to land, possibly going back generations (OECD, 2005).

Even if land issues were not a leading factor in the outbreak of the conflict, as the conflict proceeds—and even more so the longer it continues—issues surrounding land and resources take on a number of forms. It may give space for latent frustrations or inequities to surface, especially if opposing forces use such grievances to score political points, rally support, or build up their alliances (such as in Côte d’Ivoire). Control over land and resources during conflict can also become highly politicized—serving as

a symbol of power or war gains (such as in Liberia and northern Mali); be critical to funding the war efforts (such as in Côte d'Ivoire, Liberia, Sierra Leone); or be geographically strategic for hosting forces (throughout). While land, property, and assets can be severely damaged, belligerents may also use the land for opportunistic personal enrichment or as a spoil of war (Sierra Leone and Liberia are particularly renowned examples). The longer the conflict continues, the more difficult it is to resolve issues related to dispossession and occupation, especially given the breakdown of norms and systems during the conflict; customary ownership is often undocumented, and what is documented may be lost or destroyed during the conflict.

Following a conflict, land disputes usually center around a clash of rights between the returnees and the current occupiers of the land (Van der Auweraert, 2013), and can be a major obstacle to building sustainable peace (Pantuliano, 2009). In particular, the risks depend on whether land had already featured among the root causes or drivers of conflict, and the underlying issues remain unaddressed; if there is a sudden return of numerous displaced persons; whether the displaced populations' land and property have been significantly occupied; if the damage of homes, properties, and land is significant and widespread so that large segments of the population are unable to reestablish their livelihoods; and if the postconflict state lacks the means and infrastructure to manage and settle land and property disputes (Van der Auweraert, 2013).

Some of the most common postconflict land and property rights challenges include (Pantuliano, 2009):

- overlapping rights and claims to land and natural resources
- lack of a relevant land policy in a context of rapid change
- a dysfunctional land administration system
- destroyed or lost documentation
- land grabbing
- weak or divided security agencies and difficulty enforcing laws
- lack of shelter due to destruction of housing stock
- large numbers of female- and child-headed households, and other vulnerable households
- a political focus on emergency actions (such as shelter for IDPs) rather than reestablishing systems
- vested interests in maintaining a certain degree of chaos amongst stakeholders engaged in illegal activities
- ambiguous, controversial, or unenforceable laws

Box 4. Land conflict, migration, and citizenship in Côte d'Ivoire

Once considered a beacon of political stability in postcolonial Africa, Côte d'Ivoire has struggled with an internal crisis for more than a decade. Exclusive citizenship laws that restrict access to resources—particularly land in the forest regions of western Côte d'Ivoire, the heartland of the country's cocoa economy—featured prominently among the main triggers of war and continue to challenge the country's recovery.

From the 1930s, the French colonial government heavily recruited farmers from other regions of Côte d'Ivoire, Mali, and Burkina Faso. By independence (1960), 700,000 internal and cross-border farmers provided a steady labor force to the plantations (Manby, 2009). As part of a broader political encouragement of economic migration, the 1961 constitution granted citizenship to every person born in Côte d'Ivoire regardless of their parents' nationality (Dorman et al., 2007). Then-President Félix Houphouët-Boigny famously proclaimed that Ivorian land belonged to those who agriculturally develop it, irrespective of origin; local village authorities were instructed to not seek rent payments from migrant farmers (Dorman et al., 2007). Until the 1980s, Côte d'Ivoire experienced sustained economic growth lauded as *le miracle ivoirien*.

Coinciding with Houphouët-Boigny's death in 1993, global cocoa prices fell and Côte d'Ivoire experienced a pronounced economic recession. Faced with harsh urban prospects, well-trained youth increasingly returned to their communities in the plantation areas. However, as most failed to secure land access (Ouedraogo et al., 2006), land disputes proliferated, as did xenophobic sentiments toward the migrant farmers (Geschiere, 2009). Presidential successor Henri Konan Bédié exploited the growing resentment with the ultranationalist concept of *Ivoirité*, and in 1994 decreed that only those whose father *and* mother were of autochthonous Ivorian origin could obtain citizenship. This change in legislation rendered 30 percent of Côte d'Ivoire's 16 million inhabitants foreign (Africa Files, n.d.). The new citizenship laws created a division between the mainly Muslim north, where most of those considered "foreign" were living, and the mainly Christian south. The 1998 Rural Land Law further politicized citizenship and land issues by only allowing Ivorian citizens to own rural land (Ouedraogo et al., 2006). Under president Laurent Gbagbo, who was elected in 2000, the concept of "foreigner" gradually also incorporated second-generation immigrants born in Côte d'Ivoire (Bovcon, 2009).

The government's National Identification Operation (NIO), which called on all Ivorians to return their village of origin in order to register as lawful citizens, became the direct trigger of an armed rebellion in northern Côte d'Ivoire in 2002. For the rebels, the war became a means to fight for their identity cards (Manby, 2009). During the uprising, 200,000 Burkinabes, 70,000 Guineans, 48,000 Malians, and 44,000 Liberians fled the country, and 3,000 people lost their lives (Nyce, 2003). Fighting split the country into the rebel-held north and the government-controlled south. A proposed peace agreement (the Ouagadougou Agreement) in 2003 failed to end hostilities, but it set a first framework for revising the country's citizenship law. Ivorian citizenship was now granted to anyone who could prove that their father *or* mother were of Ivorian origin. When the next election scheduled for 2005 finally took place in 2010, xenophobic rhetoric nonetheless powerfully reemerged. President Gbagbo called to exclude non-Ivorians from the electoral roll, which he suggested numbered up to 400,000 individuals. In the aftermath of the election, in which Gbagbo did not accept defeat against his rival, current President Alassane Ouattara, violence erupted countrywide. The 2010 postelection crisis in Côte d'Ivoire internally displaced 700,000 people, while more than 250,000 sought refuge in neighboring countries (NRC, 2012.)

President Ouattara has made revising the citizenship law a priority. From August 2013, foreigners can now acquire citizenship upon marrying an Ivorian national, while foreign-born residents who have lived in Côte d'Ivoire since

before independence can now attain Ivorian citizenship along with their descendants (Aboa, 2013). Yet, the postelection violence and breakdown in law and order has contributed to a renewed increase in land conflicts between migrants and local communities, especially in protected forest regions of western Côte d'Ivoire (UNDP and IOM, 2013). According to Human Rights Watch, subprefect authorities have received thousands of land dispossession complaints since the crisis. In particular, land disputes and occupation/dispossession are the major reasons why many of the displaced populations, primarily from the Guéré ethnic group (natives of western Côte d'Ivoire), are reluctant to return home (NRC, 2012).

In particular, following the postelectoral crisis, over 200,000 Guéré were displaced. Upon their return (or as the stated reason why they cannot return), many found their land had been occupied. Indeed, in a minority of cases Burkinabés used force to take over the land; they justified this by the fact that they had been previously expelled in 2002 and were unable to rightfully recover their land. However, in the majority of cases, the land was purchased from other Guérés, often youth in neighboring villages or even by the same family pretending to be the real owners of the land. Human Rights Watch (2013) notes, "While some Burkinabé buyers purchased in good faith, others were complicit, clandestinely buying enormous parcels of land from young Guérés whose legal authority to sell such land [especially given the youthful age] would have been questioned by any reasonable person."

In August 2013, the Ivorian parliament extended implementation of the 1998 Law on Rural Land Tenure by 20 years to ease local tensions over land. As of yet, however, no money has been allocated to its thorough implementation. Adding to land tensions are the government's recent attempts to evict cocoa farmers from protected forests in the western region (Voice of America, 2013), suggesting that half the 4.2 million hectares of protected forest reserves are illegally occupied (Reuters, 2013).

Box 5. Land, displacement, and returning populations in Sierra Leone

The principle laws and policies governing land access and tenure in Sierra Leone are the Provinces Land Act (1960), the Non-Citizens (Interest in Land) Act (1966), and the National Land Policy (2005). Statutory tenure is recognized only in the Western Area (which includes the capital, Freetown), while in all other areas, land is legally governed through customary systems. As decreed in the Provinces Land Act, customary land is overseen and administered by local chiefs. Customary law prohibits the sale of chieftaincy land to non-family or non-community members.

In the provinces, chiefs are the sole authority for deciding whether a newcomer may access land. Those who are outside the chieftom are considered strangers and are often excluded from equitable land access (Unruh and Turray, 2006). Although "outsiders" may be invited to settle and farm, they cannot resort to customary courts to report and settle land disputes. Furthermore, even if allowed to farm within a chieftom, they are prohibited from making improvements to the land (such as planting trees) to which they are temporarily given access (Unruh, 2008b).

During the Sierra Leonean Civil War from 1991 to 2002—which was prominently fueled by social exclusion to land rights of the country's bulging youth—50,000 people were killed and up to 3 million were displaced. Many who were forced to abandon their land continue to face a process fraught with difficulties and which threatens to impede post-war recovery. These difficulties primarily stem from the fact that the war has severely impacted the social fabric: paramount chiefs have been displaced or killed during the war, and local land authorities have often ceased to function. During the 11-year-long war, the widespread destruction of evidence of land ownership is

another major obstacle to reclaiming one's property. Furthermore, for those displaced for longer periods of time, secondary occupation of their plots has frequently become a real obstacle to a durable return.

While the Sierra Leone Civil War resulted in a near-complete breakdown of customary authority structures, the authority of paramount chiefs was restored through the 2009 Chieftaincy Act in order to reestablish stability in the rural areas. However, this has been met with resistance from migrant communities, and youth in particular. In the face of increased official lobbying efforts to grant refugees and IDPs access to land, this has led to an increased reluctance to allow strangers onto land over the long term. Land issues hence remain controversial, and in some areas continue to obstruct postwar rehabilitation efforts.

Box 6. Land conflict, displacement, and returning populations in Liberia

The Liberian Civil War (1989–1996 and 1999–2003) claimed the lives of 200,000 people and led to widespread displacement. Liberia is currently plagued by severe land disputes between returnees, which often play out between Mandingos and other ethnic groups in Liberia (Rincon, 2010). Questions regarding autochthony are particularly acute in Lofa and Nimba county, which were hit hardest by the war and are the most populous and heterogeneous counties (NRC, 2012).

Land tenure in Liberia is based on a double system. Historically, the coastal areas are under statutory land tenure, while the inland areas are largely governed under customary land tenure. Local chiefs manage customary land according to family lineage, which puts migrant “newcomers” as well as women and youth at the risk of marginalization.

During the Liberian civil war, about 750,000 people fled the country and abandoned their land. Reestablishing land access has thus become very explosive in the postconflict return period. In particular, the conflict focused attention on historic grievances regarding land in and around Ganta, the second largest city. Gio combatants learned about historical grievances and came to consider the area as wrongfully taken over. They captured the land during the conflict and remained, with many others joining as squatters after the war. For them, the rebels used the land as a “reward” for supporting the government during the war. At the same time, displaced members of the Mandingo ethnic tribe—a tribe of Guinean origin who were typically considered “outsiders,” presented papers that they claimed legitimized their ownership of the land. The papers’ legitimacy and the process to resolve the issue remain serious obstacles to the country’s postconflict recovery.

The war also disrupted the already weak bureaucratic administration system, and the destruction of written records has rendered the administration system vulnerable to manipulation (NRC, 2012). In a context where settlement patterns and customary authority have been significantly altered from their prewar forms, land conflicts increasingly feature an ethnic dimension (Rincon, 2010).

The 2010–2011 postelection crisis in neighboring Côte d’Ivoire brought many refugees into southeastern Liberia, which further increased land pressure (NRC, 2012). Land disputes remain a major obstacle to building sustainable peace, and as Liberians commonly say, “the next war will be about land” (Sawyer, 2009). In this charged context, between 2006 and 2011 the government nonetheless granted concessions for about one-third of Liberia’s land to investors (Provost, 2012), which carries further potential for unrest.

President Ellen Johnson-Sirleaf has expressed concern over the proliferation of land disputes as a major obstacle

to postwar recovery (Global Land Tool Network, n.d.). A Land Commission was created in August 2009 and a land rights policy was presented in 2013. The policy officially recognizes public land, government land, customary land, and private land. It is the first policy to recognize customary ownership as legitimate and equal to private land claims (Kaba, n.d.).

Land conflict and pastoralism. Conflicts between pastoralists and farmers, and between different pastoralist groups, have long been endemic to the region. On the one hand, pastoral and farming livelihoods have typically depended on mutually beneficial negotiated, nonexclusive access to water and reciprocal land use agreements. During the dry season, pastoral livestock graze the fallow lands and land unsuitable for cropping, and move further away during the rainy season until after the harvest. Often in exchange for manure to fertilize the field, pastoral livestock benefit from the post-crop residue (fodder) and the farmers and pastoralists benefit from trading between livestock and food products and more robust market interactions (Van Driel, 2001; African Union, 2013; Bello Tukur, 2005). However, conflicts arise when crops are damaged, or access to corridors, water points, and other resources are blocked. Until the 20th century, the prevalence of livestock diseases such as tsetse and low settlement densities kept the clashes limited and sporadic (Bello Tukur, 2005). Increased herd sizes and access to veterinary drugs that prevent and treat diseases, in addition to environmental degradation, have broadened the landscape for herders; meanwhile, agriculturalists (especially large-scale agri-business) increasingly encroach upon transhumant corridors and access to resources. Political and social marginalization, the spillover from regional ethnic, religious, and political tensions, and the intensification of traditional cattle rustling practices due to the influx of weapons have thus increased not only the frequency but also the intensity of the confrontations, turning many of them violent (Bello Tukur, 2005).

Box 7. Land conflict and the Tuareg rebellion

The Tuareg are semi-nomadic pastoralists who traditionally migrated throughout the western Sahel, criss-crossing the countries of Algeria, Burkina Faso, Libya, Niger, and Mali. Before colonialism, the Tuareg ruled much of northern Mali, yet under French colonialism and in postcolonial Mali, they were faced with extensive state repression. They were coerced into forced labor situations; conscripted as soldiers; and dispossessed of grazing lands. The precolonial customary system of land tenure in Mali was based on collective ownership; although it did not grant automatic land rights to everyone, it was adequately flexible for both pastoralist and farmer livelihoods (Abdalla, 2009). The French colonial government was swift to introduce a policy of land registration, causing many Tuaregs to lose their customarily negotiated access to grazing land. In 1959, legislation was passed that allowed the Malian state to use land held under customary tenure for large-scale development projects. As such, vast tracts of land were considered public property, and commercial agriculture on such land was strongly encouraged by the state. Through these modernization and sedentarization policies, the Tuareg—defined by their pastoralist livelihoods—have been socially and economically marginalized (Benjaminsen, 2008).

Land grievances and state repression triggered increasing calls for statehood among Mali's Tuareg population, and culminated in armed rebellions in 1960, 1990, and 2007, respectively. These conflicts are fueled by the Tuaregs' lack of political and social integration, due to their traditional nomadic and pastoralist life style (M'Cormack, 2011), and are rooted in the tensions regarding the control over natural resources, especially land (Abdalla, 2009). The situation is further exacerbated by increasingly precarious environmental conditions: northern Mali has been drastically affected by the Sahel's desertification and increasingly plagued by protracted droughts. This has led to

local conflicts among Tuareg for diminishing resources, and increased tensions between Tuareg pastoralists and local non-nomadic populations (Abdalla, 2009). Indeed, among the main causes of Tuareg discontent are limited access to arable land during and after the colonial period; the degradation of the land; and the resulting threat to their nomadic livelihoods (Jalali, 2013).

With the fall of Muammar Gaddafi and the influx of weapons and militants from Libya, several Tuareg factions formed the National Movement for the Liberation of Azawad (Mouvement nationale pour la liberation de l'Azawad, the MNLA) and launched a rebellion against the Malian government in January 2012. The Tuareg proclaimed their own country Azawad in northern Mali in 2012 after capturing the three northernmost provinces of Timbuktu, Gao, and Kidal. However, the Tuareg rebellion was effectively hijacked with the influx of radical groups linked to al-Qaeda that took over most of the conquered territories (IRIN, 2013a). By early 2013, there were around 300,000 refugees as a result of the Malian crisis. This figure includes between 200,000 and 230,000 IDPs, 40,000 Malian refugees in Burkina Faso, and 50,000 in Niger (UNHCR, 2013).

In mid-2013, a French-led military operation drove back the fighters and quelled down the insurgency. In April 2013, the United Nations deployed its Multidimensional Integrated Stabilization Mission in Mali (MINUSMA). As of May 2014, Tuareg separatist still hold the city of Kidal. Prime Minister Moussa Mara has said his country is at war with Tuareg separatists, yet the Mali government has in theory agreed to grant more autonomy to its Tuareg population. (Al Jazeera, 2014). By April 2014, just over 137,000 people continued to be internally displaced, roughly half of whom have been left behind in urban centers in southern Mali (Internal Displacement Monitoring Centre, 2014). The conflict's land issues, including with regard to pastoral livelihoods, remain unaddressed, fueling the potential for future unrest.

4. Land and migration (meta-) trends and fragility

The previous section made clear the link between land and conflict as well as challenges that migrants face in terms of land and property rights, tenure insecurity and landlessness, the notions of “outsider,” and tensions that can escalate to conflict.

However, as also noted, while the land and migration nexus may be a contributing factor to conflict outbreak, much depends on other social, economic, and political dynamics juxtaposed within weak infrastructure, governance, and capacity to settle disputes peacefully. In this way, “fragile” and low-performing states are considered more likely to have disputes and tensions escalate into broader conflict.

In reference to case studies conducted in Africa, including Burkina Faso, Senegal (Casamance), and Niger, the authors observed: that “there is no mechanical link between factors of tension (demographic pressure, land and natural resources scarcity, environment degradation, economic inequality, social exclusion, political instability) and the outbreak of conflicts. The mutation of tensions into conflict has its own dynamics, as well as the very process of conflict unfolding.”

Source: Le Meur et al., 2006, p. 84.

The following section thus underlines certain existing fragilities in West Africa that land and migration pressures could intensify. The section then turns to several overarching trends, or meta-trends, pointed out in the literature such as population

growth, urbanization, growing agri-business and new forms of “land grabbing,” climate change, environmental degradation, and cultural and generational shifts. These trends will increasingly bring tensions surrounding land and resources to the fore. Moreover, these trends will influence migratory patterns that will further alter socioeconomic balances between in- and out-migration countries and potentially intensify and exacerbate existing tensions and fragilities, especially in already fragile or low-performing states.

4.1 The context of fragility and human and economic development in West Africa

Broadly defined, ten of the fifteen ECOWAS members are considered to be fragile: Burkina Faso, Côte d’Ivoire, the Gambia, Guinea, Guinea-Bissau, Liberia, Niger, Nigeria, Sierra Leone, and Togo.⁸ The label “fragile state” is an evolving and somewhat controversial term applied to countries facing particularly severe development challenges, high socioeconomic inequalities, weak institutional capacity, and poor governance (UNECA, 2012, p. 9). Such states often feature areas with high levels of violence or slow recovery from armed conflict. Simply put, they are states with low capacity and poor performance with respect to security and development (Cilliers and Sisk, 2013). Lack of access to natural resources (water, land, and forestry, among others), demographic stress and proximity to fragility and conflicts in neighboring countries and conflicts can also incite and perpetuate fragility (UNECA, 2012). These factors are neither exhaustive nor fixed determinants of the outbreak of conflict, but they do speak to how vulnerable a state is to conflict triggers in the face of external and internal shocks.

From a development perspective, the UN classifies eleven of the fifteen countries in the region as “least developed countries” (LDCs): Benin, Burkina Faso, the Gambia, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Senegal, Sierra Leone, and Togo. Moreover, West Africa as a region scores low on the human development index (HDI). Depending on the source, most West African states face difficulties in meeting the Millennium Development Goals (MDGs), though four countries (Cape Verde, Ghana, Mali and Liberia) are considered on track to meet the goals by 2020.⁹

The HDI sets out indicators related to health, education, and living standards as a way to measure the gaps between a country’s material wealth and its population’s well-being. Ranked at 135 out of 187, Ghana ranks the highest in the region and along with Cape Verde fall within the “medium human development” range. The rest of the countries in the region are classified as “low human development.” Niger rounds up the bottom of the list, ranked as 186 out of 186 in 2013 (UNDP, 2013).

⁸ Although most institutions use similar fragility indicators, their interpretation and ranking of the criteria often differ. This paper explores land and migration issues in the context of fragility as a whole and thus has included all of the states listed as fragile one way or another by the World Bank, the African Development Bank, and the OECD, the most prominent and frequently sourced institutions on the subject. The World Bank and African Development Bank include Liberia, Sierra Leone, Togo, Côte d’Ivoire, the Gambia, Guinea, and Guinea-Bissau, while the OECD includes these countries along with Burkina Faso, Niger, and Nigeria. For an excellent overview of how different institutions determine fragility, see Table 1.3 in UNECA (2012, p. 21).

⁹ Latest statistics available on www.MDGtrack.org.

While a full analysis of country-level indicators of fragility and economic and human development is beyond the scope of this report, such indicators reveal important points of consideration regarding the push-pull for migration. Table 4 lists selected human development indicators that have implications for migration. The table also lists indicators related to natural resources, including natural resource depletion, percentages of the population living on degraded land, and availability of forests, agricultural land, and freshwater withdrawals. It does not however, account for the aggravating tensions surrounding access and ownership of land resources, which are already a challenge and which increased migration could exacerbate. A more in-depth study of these indicators in relation to the land and migration nexus would be useful not only to better understand how future land and migration trends and pressures could affect the different countries, but also to help incorporate key land and migration issues within early warning mechanisms and conflict prevention measures.

Table 4. Selected human development indicators for West Africa (2013)

Country	HDI ranking (out of 187)	Population (in millions)	Population annual growth 2010/2015	Urban in 2012 (% of population)	Median age (2010)	Life expectancy at birth	Multi-dimensional poverty index	Population (%) below national poverty line	Population living on < US\$1.25 a day	Labor force participation (male/female)	Youth unemployment (%)	Adult literacy (%)	Trust in national government	Perception of safety (% answering yes)	Agricultural land (% of land areas)	Forest land (% of land area)	Freshwater withdrawals (%) of total renewable water resources	Natural resource depletion (%)	Population living on degraded land (%)
Benin	166	9.4	2.7	45.6	17.9	56.5	0.412	39.0	47.3	78.2 / 67.4	N/A	42.4	78.0	58.0	29.8	41.2	0.5	0.3	2.0
Burkina Faso	183	17.5	3.0	27.4	17.1	55.9	0.535	N/A	44.6	90.4 / 77.5	4.6	28.7	55.0	62.0	43.7	20.6	7.9	4.3	73.0
Cape Verde	132	0.5	0.9	63.4	22.8	74.3	N/A	N/A	N/A	83.3 / 50.8	N/A	84.3	N/A	N/A	21.8	21.1	6.8	0.1	N/A
Côte d'Ivoire	168	20.6	2.2	52.0	19.2	56.0	0.353	42.7	23.8	81.2 / 51.8	N/A	56.2	42.0	47.0	63.8	32.7	1.7	3.9	1.0
The Gambia	165	1.8	2.7	57.9	17.8	58.8	0.324	48.4	33.6	83.1 / 72.4	N/A	50.0	N/A	N/A	66.5	48.0	0.9	0.8	18.0
Ghana	135	25.5	2.3	52.6	20.5	64.6	0.144	28.5	28.6	71.8 / 66.9	N/A	67.3	68.0	78.0	68.1	21.7	1.8	8.0	1.0
Guinea	178	10.5	2.5	35.9	18.3	54.5	0.506	53.0	43.3	78.3 / 65.4	N/A	41.0	77.0	62.0	58.0	26.6	0.7	14.3	1.0
Guinea-Bissau	176	1.6	2.1	44.6	19.0	48.6	N/A	N/A	N/A	78.2 / 68.0	N/A	54.2	N/A	N/A	58.0	71.9	0.6	0.5	1.0
Liberia	174	4.2	2.6	48.5	18.2	57.3	0.485	63.8	83.8	64.4 / 57.9	6.6	60.8	54.0	38.0	27.1	44.9	0.1	6.4	N/A
Mali	182	16.3	3.0	35.6	16.3	51.9	0.558	47.4	50.4	70.0 / 36.8	N/A	31.1	71.0	80.0	33.7	10.2	6.5	9.8	60.0
Niger	186	16.6	3.5	18.1	15.5	55.1	0.642	59.5	43.6	89.9 / 39.9	N/A	28.7	78.0	81.0	34.6	1.0	7.0	2.4	25.0

Nigeria	153	166.6	2.5	50.3	18.5	52.3	0.310	54.7	68.0	63.3 / 47.9	N/A	61.3	55.0	69.0	81.8	9.9	3.6	22.0	12.0
Senegal	154	13.1	2.6	42.8	17.8	59.6	0.439	50.8	33.5	88.4 / 66.1	20.1	49.7	30.0	55.0	49.4	44.0	5.7	0.8	16.0
Sierra Leone	177	6.1	2.1	39.6	18.4	48.1	0.439	66.4	53.4	69.1 / 66.3	N/A	42.1	58.0	50.0	47.7	38.1	0.3	2.1	N/A
Togo	159	6.3	2.0	38.5	19.7	57.5	0.284	61.7	38.7	81.4 / 80.4	N/A	57.1	51.0	52.0	62.1	5.3	1.2	3.4	5.0

Source: UNDP, 2013.

4.2 Meta-trends, land, and migration

Land scarcity. Increasing scarcity of land is one of the most frequently mentioned drivers of land tensions, competition, and conflict. And yet, only 36 percent of West Africa's cropland is actually cultivated (Bossard, 2009). The OECD points out that major valleys of the Senegal and Niger rivers have a future as irrigated farmland, but are still very much under-used (Bossard, 2009). The issue is thus not simply about less availability of land but rather one of land access and distribution, where fewer people own larger tracts of land, or the land that is available cannot be purchased. Moreover, much of the land across the subregion is held by the state, where the state has been largely absent and the land remains uncultivated. This land becomes treated de facto as open access, with populations utilizing it and its resources. Consequently, if and when the state makes claims upon it, landlessness and displacement are likely to ensue, particularly in light of the region's growing agri-business sector and urban speculations.

As noted in Table 4, large segments of the population are living on degraded land, most notably in Burkina Faso (73 percent), Mali (60 percent), Niger (25 percent), Gambia (18 percent), Senegal (16 percent), and Nigeria (12 percent) (UNDP, 2013). Land quality is likely to deteriorate over the next 30 years on account of population growth, landholding fragmentation, and climate variability (UNDP, 2013).

In the Gulf of Guinea, long natural fallow periods are increasingly shorter and the cultivated plots are ever exploited, resulting in soil deterioration and thus lower productive capacity and a reduction in yields. Farmers must use more inputs and in some cases temporarily or permanently abandon certain plots (Bossard, 2009). Projections in the subregion assert that by 2020 there is unlikely to be any new unfarmed land available. Rising populations and urbanization are also going to increase the demand for energy, which is already the leading cause of deforestation (Bossard, 2009).

Pastoralist rangelands are also facing severe environmental degradation and deterioration due to erosion, soil fragility (Kandji et al., 2006), the limited mobility to allow pastures to regenerate, and the effects of dam construction and irrigation projects. For instance, in the now overcrowded and degraded "peanut basin" of eastern Senegal, the groundnut monopoly has led to the large-scale clearance of forests and rangelands, prohibiting pastoral access. Likewise, in the Senegal River Valley, irrigated agriculture has occupied floodplain pastures and obstructed pastoral watering points. Irrigation development along the Gambia and Casamance rivers has imposed similar difficulties (IIED, 1999).

Rising land values is a key repercussion of land scarcity. When land was abundant and local landholders sought migrants to populate their land, they were able to negotiate mutually beneficial arrangements including the outright "sale" of land, leasing, and rental arrangements and sharecropping (whereby the sharecroppers often ended up effectively owning land), as well as wage labor contracts. In the Gulf of Guinea, much of the coastal forest is farmed under a mix of arrangements. With rising populations and less available land, migrants' negotiating powers are greatly reduced. Moreover, landholders are increasingly aware of the value of their land, leading them to renegotiate the arrangements. This thus

brings the focus back to the legitimacy of migrant farmers' land claims under the complex mixed systems (IIED, 1999).

Modern "land grabbing" and agri-business/investment. In the 1960s–1970s, governments across West Africa attempted to promote large-scale industrial farming, for which land was expropriated from communities (Hilhorst et al., 2011). Most of the state farms failed and many caused long-term natural resource degradation, the effects of which remain apparent to this day. This approach was further complemented by intense efforts to sedentarize pastoralists. However, this too failed, and most ranches were abandoned after the droughts of 1973 and 1984. The failures of large-scale farming and sedentarized livestock management experiences led to a renewed interest in supporting livestock mobility and promoting smallholder farming for food security and economic development. In the 1990s, smallholders started to set up farmers' associations and national networks (Hilhorst et al., 2011).

Since 2000, a new trend in agri-business and investment has emerged. Promoters view the trend as modernization and professionalization that will create opportunities for a new type of investment and access to markets, and generate employment for the host community and support community development (Hilhorst et al., 2011). Foreign and domestic investors buy, lease, or otherwise acquire concessions to large tracts of land with a view toward accessing cheap land for food or fuel production (Lund, 2011). Indeed, the importance of food cropping is rising due to the growing demand from urban centers, and in many areas is likely to surpass commercial tree crops (cocoa, coffee, palm oil) in importance (Bossard, 2009).

In contrast, many firms have been criticized for allegedly buying up the bulk of fertile land and marginalizing small-scale rural farmers while focusing on productions of little contribution or relevance to West Africa (that is, as opposed to food production). Indeed, many see it as a new form of agricultural colonialism, a return to the failed large-scale efforts of the 1960s–1970s that will spur new conflicts where competing land claims are already a source of conflict. **Results of a case study conducted in Benin, Burkina Faso, Niger, and Mali revealed:**

- marked lack of transparency in the transactions;¹⁰
- groups with secondary rights, particularly pastoralists and migrants, lost land;
- lack of clarity in the terms of the agreements, particularly in relation to the longstanding contention between purchases and loans;¹¹
- increase of formalized "land grabbing" by unspecialized city-based dwellers and elites (giving rise to the term "weekend farmers"), where much of the land goes unused;¹²
- occurrences of displacement;¹³

¹⁰ Landholding families neither kept records nor did they share the information within the community, let alone with the local government. Most transactions had not been formalized.

¹¹ Most agro-investors were of the opinion that they have purchased the plot (58 percent) or that the land was leased to them (36 percent). However, these perceptions may not be the same for those who transferred the land.

¹² Among the study sample, 45 percent of the investors were based in the local government area or in the province, 37 percent lived in the capital city, and 10 percent were living abroad.

- loss of reciprocity in access to ranch resources;
- few gains for the community members, as promised infrastructure and other benefits did not materialize and few jobs were created for locals;¹⁴
- growing fear of lack of farm land in the future;
- the smallholder sector is losing control over a large part of its main productive assets (land, natural resources, and water) to domestic investors in land; and
- pastoralists have suffered from restricted access to resources; between pastoralists and agro-investors, evictions have become more common and violence has surfaced.

The precise magnitude of rural land under the control of agro-investors outside the community is unknown, as the majority of transactions have been unwritten and conducted under customary systems. In many instances, the procedures for formalizing the full property title are considered “lengthy and fastidious” and implicate taxes based on the investment. In Burkina Faso, many investors are thus not overly concerned about formalizing the titles, and instead accept what is known as *procès verbal de palabre*, which is a written account of the minutes of a discussion held in the presence of an authority and without technical and administrative services. Others obtain provisional land allocation certificates that are valid for a five-year period.¹⁵ As agri-business grows, investors will likely seek stronger tenure security by obtaining statutory of freehold rights, which again could bring the underlying tensions of conflicting systems to the fore (Le Meur et al., 2006).

As land is sold, inequalities in land distribution between the rich and poor become increasingly pervasive. Given the region’s weak legal systems and rule of law, elites and other powerful individuals can manipulate purchases and neglect to adequately compensate the communities and families who reside on the land. The majority of the rural populations in the region depend upon agriculture for their livelihood and may have little or no legal recourse once they are evicted. Without fair and adequate compensation, the communities and families—especially those with secondary rights—suffer significant losses in assets and livelihoods, both for their families and future generations (USAID, 2013d). As the head of the Millennium Challenge Corporation (MCC), an organization focused on strengthening rural land governance in Burkina Faso, has pointed out, “We have noted underhand land transactions done in a manner in which the one with the money acquires large land reserves to the detriment of the villagers, who depend on the land for their survival” (IRIN, 2013b).

¹³ The number is not officially quantified, but in 28 percent of the cases, the land was already (partly) in use for farming, which implies displacement for the former land users.

¹⁴ The study noted that the yields of agro-investors are comparable to or less than those obtained by family farmers in the same area.

¹⁵ In the case of Burkina Faso, many villages lack clarity regarding the nature of sales (whether it be a gift, loan, or purchase) by those who cede the land. However, children of those who have ceded land nevertheless have the right to renegotiate the transaction with the new actors, and convert a loan of indefinite duration into a sale. While the new actors insist that they have bought the land, customary authorities and other family members may claim that the lands are only under loan. When sales are recognized, it happens that not all members of the family are informed of or associated with the transaction, and “in such cases, the sale may be negotiated by only one person, who tends, equally, to be the only person to pocket the money” (GRAF, 2011, p. 7).

River basins in the Gambia and Senegal, including in Casamance, are a limited example of areas that will continue to be key targeted for land development, settlement, and enterprise development. This has already led to an increase in disputes in these areas. Questions over access to land in the Senegal River Valley has become highly politicized with Mauritania. The already fragile Casamance area has seen an immigration of northern farmers who claim statutory rights to plots of land found on state-sponsored irrigation schemes, which conflicts with indigenous claims (IIED, 1999).

As noted, the rise in investments and large-scale acquisitions will herald the construction of dams for hydropower and the extension of the electricity network, further altering the pastoral landscape and affecting access to water points.

Box 8. Risks and opportunities of large-scale land acquisition in Mali

Mali has been experiencing a global wave of land acquisition for agri-business, particularly in the Office du Niger area, where its significant irrigation potential has attracted particularly intense investor interest. Previously, all schemes in the area were publicly funded. However, following the food and financial crisis and a boom in biofuel interest, private investment has risen dramatically—over 2004–2009, 871,267 ha were allocated to investment projects, which covers an area almost 10 times the size of the irrigation schemes set up since colonial times.

A study by the IIED on agri-business and investment in Mali provides two examples of positive practice amidst the broader criticisms. Among the leading criticisms associated with large-scale land acquisitions for agri-business are the increase in tenure insecurity, equity concerns, and small-scale producers' economic marginalization. The study aimed to test the emerging line of recommendations that call for more inclusive investment models that "involve smallholders in production and benefit-sharing, or engage them in related activities that provide opportunities to minimise the risks and maximise the benefits of agricultural investment" (Djiré et al., 2012, p. 7).

Overall, many of the investment projects have reportedly side-stepped or ignored legal requirements on managing environmental and social impacts, while leases and "letters of intent" were transacted in the absence of strategic planning. The government has taken steps to address these challenges. However, "many provisions of national law are incomplete, ineffective and out of touch with the local socioeconomic reality, particularly in rural areas. Some national law norms are so ambiguous that they lead to confusion, resulting in conflicts and abuses, and in the ensuing tenure insecurity and poor land governance" (Djiré et al., 2012, p. 67). Moreover, multiple pressures from the competing land claims and conflicts have created "fertile ground for land speculation and corruption, abuses of all kinds and insecurity of tenure for the most disadvantaged groups" (Djiré et al., 2012, p. 67).

The study focused on a biodiesel project run by Mali Biocarburant SA (MBSA) in the Koulikoro Region and a sugarcane plantation and processing facility run by Markala Sugar Company (SoSuMar) in the country's Office du Niger area. The first is an example of agricultural investment that does not involve land acquisitions and has made the inclusion of small-scale producers a central pillar of its business model; and the latter is an example of "public-private-community" partnership.

Although both projects are still in their early stages, they have laid the groundwork for benefiting local groups through development opportunities. Their institutional models promote the inclusion of local farmers and address social and environmental issues, such as combatting soil erosion. In MBSA, the farmers are organized in a co-operative that has an equity stake in the company's Malian subsidiary, and thus also have representation on the

company board. Seeds are sourced from local farmers on the basis of contract farming and, through a profit-sharing principle, smallholders have potential to earn additional income. The Markala Sugar Company is positioned to provide benefits such as job creation and development of processing capacity, and open opportunities to smallholders and local businesses, such as improved access to energy.

However, neither project is without challenges. These range from delays caused by opposition groups, to slow-pace implementation, disagreements between members of the farmer cooperatives, and production difficulties, which have undermined the impacts of the anticipated benefits.

The study concludes that agri-business presents both opportunities and risks. To optimize the former and minimize the latter, the study points to several recommendations related to the Mali case and agri-business in general. These include:

- filling gaps in governance of land tenure and agricultural investments at both the local and national level;
- accelerating the implementation of the provisions set out in its Framework Law on Agriculture;
- strengthening institutional arrangements to monitor and ensure compliance with existing legislation, especially in terms of environmental and social impact assessments and management plans; and
- strengthening mechanisms to promote accountability in decision making that affects land relations, such as strengthening and mirroring the *espace d'interpellation démocratique*—a forum that enables civil society and citizens to bring concerns to the government and hold decision makers to account.

In terms of large-scale land acquisitions, the study recommends the following actions:

- Subject land allocations to the free, prior, and informed consent of local landholders, beyond current consultation requirements.
- Establish a coherent and comprehensive policy regarding agricultural investment, which among other provisions should set limits to the amount of land area that can be acquired; and that the duration of leases are tailored according to the economics of investment projects.
- Beyond compensation, consider arrangements to ensure local landholders' equity participation so as to enable them to benefit from the project in the medium and long terms.
- Promote transparency by publishing contracts above a certain size.
- Promote cooperatives and national farmers' associations, such as the National Coordination of Farmers' Organizations (CNOP), the Association of Professional Farmers' Organizations (AOPP), and the Union of Farmers in the Office du Niger (SEXAGON), which help farmers access leases for new lands.
- Ensure members whose land rights are threatened have access to legal support.

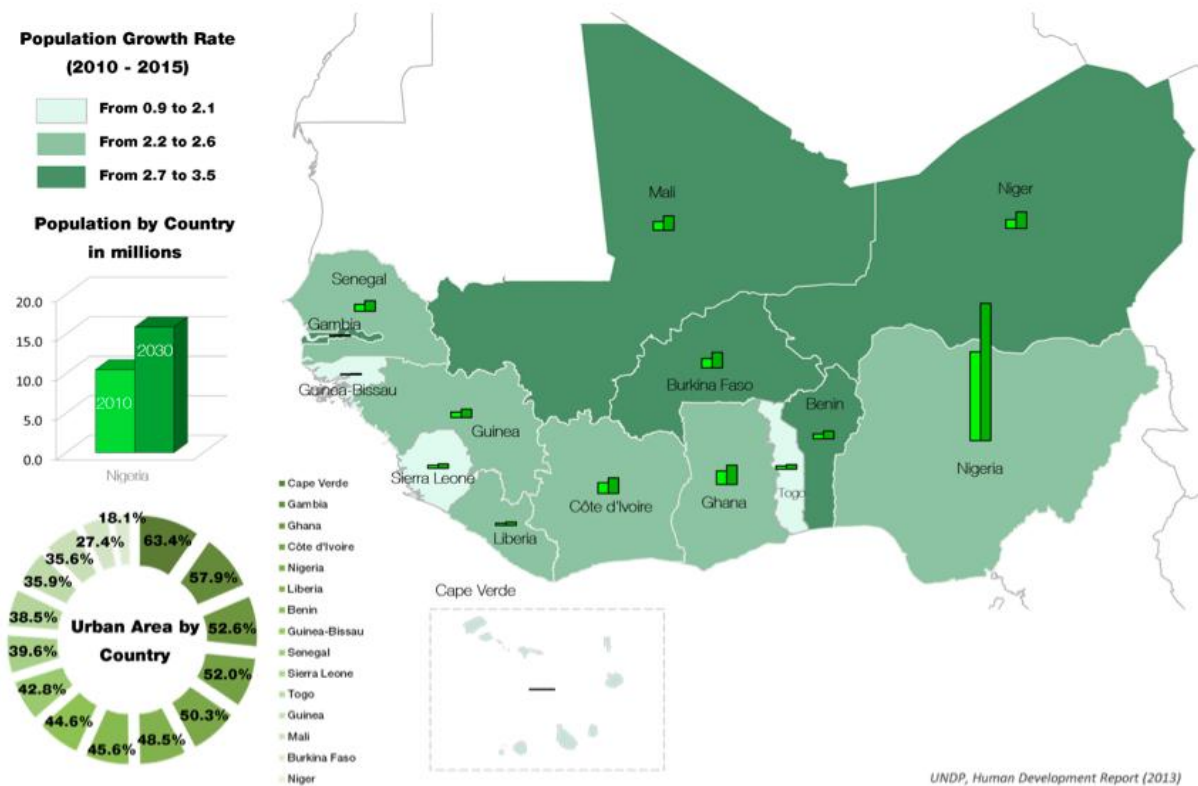
Source: Adapted from Djiré et al., 2012.

Population growth and urbanization. The last thirty years have witnessed rapid population growth and the expansion of urban centers and migratory flows throughout the region (IIED, 1999). In 2010, the population of West Africa was 320 million, a ten-fold increase over the previous decades; by 2030, it is predicted to reach about 500 million (Bossard, 2009).

While half the population is currently urban, it is likely to hit about 60 percent by 2030 (Bossard, 2009). Migration and urban growth has been (and is likely to continue to be) particularly prominent in Nigeria and in the coastal countries along the Gulf of Guinea. In contrast, the Sahelian region will remain one of the least urbanized areas. Nevertheless, the Sahelian national capitals are expected to double in size

within the near future, and it is estimated that by 2020 some 40 percent of the population will live in towns of 5,000 or more. Their domestic energy needs will likely continue to rely on fuel wood, and thus depend on increased forest exploitation (Bossard, 2009).

Figure 6. Population growth and urbanization in West Africa



The changes in demographic structures are expected to generate huge labor market imbalances between emigration and immigration countries (Shimeles, 2010). Migration would compensate for an estimated 15 percent of the shortage, but with amplified effects on both in- and out-migration countries (Shimeles, 2010). These could range from increased pressures on public services (and declining public services in out-migration countries); land scarcity and reduced size of landholdings; disputes over migrant rights in land and property ownership; increased dependency on remittances for family incomes and national economies; rising land values, especially in urban and peri-urban areas; to potential rivalries over resources, housing, and employment and negative targeting of foreigners.

It is estimated that by 2020, some 14 million francophone Sahelians, or 15–20 percent of the countries' total projected populations, will be outside their countries of origin. This continued outflow of migration from the Sahel will create complications around its own labor shortages, as those remaining will have difficulty meeting the rising demand for animal products. While this may entice some migrants to return, many will no longer have access to their family/lineage lands due to sales and the splintering and fragmentation of land (as explained in Section 4.2) that went on during their absence.

Furthermore, as cities continue to grow, peri-urban issues will intensify and rural groups are likely to lose control over land. Urban settings fall under statutory systems, and peri-urban rights are a confused mix of the two. As land values rise, the short-term benefits of selling plots of customary land for housing and other urban developments may be tempting, but will negatively impact the family and descendants who do not share in the earnings. Alternatively, governments will expropriate rural land for urban development, and as experience has shown, developers and governments have often failed to adequately compensate the land owners. Villagers (and their descendants) will thus find themselves without the land they farmed under customary arrangements.

Overall, West Africa's population growth and urbanization will significantly increase demand for livestock products, and the demand is expected to grow by more than 250 percent by 2025 (OECD, 2008). This points to an extreme gap, given the fact that the expected animal product growth rates are only estimated to be 4 percent a year. The Gulf of Guinea is projected to reflect the higher demand and ready market for foodstuffs from the near and further agricultural hinterland. Land issues, access to and competition over resources, and conflicts over tenure rights will take center stage with the dramatic increase in food demand.

Another relevant aspect to this trend is reverse urban-to-rural migration, which rises during economic crises and in areas of high unemployment, especially among youth. With increasing fragmentation and splintering of land, loss of access, and land scarcity, returning youth (who are often well-educated but landless) could severely strain land tenure systems. Indeed, in Côte d'Ivoire, when the economy suffered a severe recession in the 1990s, a high number of youth returned to their communities in plantation areas, hoping to begin or rebuild a land-based livelihood. However, many found they no longer held rights or access to family holdings. This was a significant variable in the outbreak of the war (see Box 4).

Cultural and sociogenerational issues. Youth marginalization from land was a serious grievance that fueled conflicts, particularly in Sierra Leone, Liberia, and Côte d'Ivoire. Furthermore, youth unemployment is a grave concern across West Africa, where the average age of 17.8 (in 2005) creates a significant youth bulge (Bossard, 2009). As noted, migration has traditionally been a widely practiced initiation to adulthood, or an exercise in adventure among youthful populations. However, traditional mobility patterns are changing given the added pull factors associated with rising urbanization, higher education, and opportunities in the informal sector, and compounded by push factors such as land scarcity, environmental changes and degradation, and family rifts over land splintering and fragmentation.

Moreover, as noted, relationships to land are also changing. The younger generations have questioned the land arrangements agreed between their elders and the tenants who have occupied the land for generations. Likewise, the descendants of migrants dispute the terms of their access rights. Reports also proliferate of youth selling land, often without authority, for individual material gain (motorcycles are a notable motivating purchase) (Human Rights Watch, 2013; Hilhorst et al., 2011).

While few empirical studies exist of the cultural and generational impact on migration and land in West Africa, broader globalization trends suggest the effects will be intensified. Certainly, youth are a formidable force, and their role in migration offers many positive returns to families and communities in the form of remittances, establishing potential market networks, and transferring skills, experience, and education obtained abroad. In contrast, this paper has noted the high rates of “brain-drain” emigration and its effects on the northern, inland, and poorer areas; and the decreasing sense of family or community obligation among the migrants’ descendants, which will hurt the families and communities that depend on their remittances. Disputes over family rights and the running of landholdings are also likely to increase insecurity and intensify the clashes between tenure systems.

Under customary systems, women are marginalized from owning land. However, in the face of increasing land values and scarcity, and as gender equality discourse continues to shape development and policy reforms, a growing number of women are pushing to strengthen their land claims.

Advantageous not only for gender equality and female empowerment, the literature continues to show that women’s active engagement in the market force yields valuable dividends for economic development. As documented in Ghana and Côte d’Ivoire, women engage in sharecropping arrangements or turn to collective appropriation, often promoted under development type projects, to facilitate individual access later (Koné, 2011). In many areas, women have formed Women Land Access Trusts to more effectively advocate for their land rights and pool their resources. Recently, a new trend in which fathers donate land to their daughters has been observed in many West African countries (Koné, 2011). A complicating repercussion, however, is that it essentially doubles entitlements and the subdivision of land, generating scarcity, especially smallholders.

Box 9. Women and land

Even though land legislation often prohibits sex discrimination, the law is rarely implemented and customary systems govern the rural areas. Women’s rights to land under customary systems vary from one area to the next, and also depend on patrilineal or matrilineal societies but also between matrilineal systems. For the most part, however, women’s land rights are derived from those of their husbands or male relatives and she may lose those rights in the event of a breakdown in family relations, divorce, or widowhood. Her rights may also change if the husband remarries within a polygamous arrangement; a woman will often see her rights weaken in the face of rising land value or investments. When access to a plot is granted, it may be on land that other male relatives find unsuitable.

Discrimination is also evidenced by their exclusion from decision making, and community decisions are made without explicit reference to women’s priorities, even on the management of common property resources, which is where most women engage in the land.¹⁶

Source: Cotula et al., 2004, p. 14.

¹⁶ Women and children are often in charge of harvesting resources from common lands, such as grasses, fuel wood, certain medicines, fruits, nuts, and berries.

Around the world, youth are highly responsive to the technological innovation that connects them with urban and global youth cultures. In West Africa, cultural shifts as a result of education, urban experiences, and technological globalization will increasingly alter how youth respond and interact with the traditional frameworks and shape how they perceive or (dis)trust formal systems. Increasingly educated and with greater access to innovative Internet-based opportunities and learning, youth will inject new land management approaches and uses, and may be more prone to reject or resist systems—traditional and statutory—that they may see as unjust or corrupt. Youth-based perception surveys could provide important insight into their beliefs or frustrations in the ability of customary or formal systems to address the mobility and land issues that directly affect them.

Although many advances in communication technologies are still slow to reach pastoral areas, the expansion of mobile phone networks and ownership will provide highly beneficial dividends for pastoralists, particularly with respect to better access to market information and competitive pricing, enacting remittances, and engaging other financial transactions; and facilitated communication and engagement with traders within broader regional, even international, networks. Investment in the communication sector is thus a highly relevant development component of the pastoral area (African Union, 2013).

Climate change. Climate change predictions warn that global warming will be felt more intensely in Africa than most elsewhere in the world, with temperatures rising between 3 and 4°C. In fact, West Africa and particularly the Sahel have been experiencing global warming at a faster pace than was predicted (Bossard, 2009). The Western Sahara will experience the greatest impact and the coastal and equatorial areas less so (Bossard, 2009).

In the Sahel, droughts occur with varying degrees of severity on average about two out of every five years. Climate variability thus already affects food security and poverty reduction (Kandji et al., 2006). Indeed, rainfall deficits leading to droughts in 1972–1973, 1982–1984, and 1997 had particularly devastating humanitarian consequences. However, long before climate change was recognized as a global phenomenon, pastoralists adapted their herd composition and migration according to drier and wetter periods, livestock disease risks, and so on. Remittance incomes were always part of the risk diversification and resilience mechanisms to overcome climate variability. The challenges in the face of climate change are less about rainfall and more about the accompanying variables that hinder their coping mechanisms, such as population growth; cultural shifts due to urban pull factors; degradation (and low regeneration) in rangelands in the face of increasingly constricted options for grazing by agricultural and commercial encroachment; and tenure insecurity.

West Africa's extreme ecological diversity means that the effects of climate change will also differ. With growing desertification on the one hand, climate change and increased rainfall along the Sahelian-humid zone lines will make agricultural space more available. Indeed, by 2080, the African continent as a whole will have the largest potential agricultural land area, and much of this will be expanding into Sahelian areas (Bossard, 2009). In relation to population growth, urbanization, and economic investments, this will be a somewhat welcomed development, as it responds to increasing market demand and urban food security. However, for pastoralists, it also means more agricultural settlements encroaching upon

land as well as the broader infiltration of livestock diseases such as tsetse (the avoidance of which is a leading factor for pastoralists' seasonal northern returns) and new areas of insect pest distribution (Bossard, 2009). The frontlines of locust invasions that cause severe damage to crops and vegetation and that regularly sweep West Africa may become more unpredictable and widespread (Bossard, 2009). The practice of transhumance has been proven to be more efficient than agro-pastoralism in protecting livestock from external and seasonal risks; however, if pastoral land rights are not secured and high levels of out-migration or spontaneous sedentarization continue, its ability to meet domestic demand will be increasingly hindered.

Water, irrigation projects, and dams add further complexity. Countries in the region share their surface water resources, which are concentrated primarily in Niger, Lake Chad, Senegal, the Gambia, and the Volta (Bossard, 2009). Since the 1970s, these watershed areas have seen a drop in their stream flows.¹⁷ Along with climatic issues, wider population distribution and growth further factor into the resource's depletion. In response, dams, irrigation, and hydroelectric projects have led to rising tensions and potential conflicts over shared river basins and questions over access to and ownership of the resources. Rainfall-related climate projections and scenarios for West Africa are largely uncertain. However, taking the region as a whole, climate experts predict that "it does not face a mid-term renewable water shortage threat, although some challenges may emerge locally" (Bossard, 2009, p. 260), particularly for the pastoral and agro-pastoral region. It is thus essential to better use and integrate regional management of available renewable water supplies.

All of these factors will alter the quantity and quality of natural pastures and cultivatable land. Regardless of the more and less favorable consequences resulting from climate change, the pressing issues related to land and resource access and ownership will only grow in intensity, as will the push-pull factors related to migration.

4.3 Common recommendations to address the land and migration nexus

Despite the wealth of literature on land conflict and/or migration in West Africa, all point to a relatively standard set of policy options and recommendations. While varying somewhat in the modalities and technical detail put forward, the literature centers largely around resolving the challenges associated with legal pluralism; promoting decentralized land management to democratize land policy and law; supporting actions, legal reforms, and framework development aimed at protecting marginalized groups (including pastoralists, women, and migrants); encouraging local, national, and regional-level capacity-building in land management; and supporting livelihood programs both within and outside the agricultural sectors, tailored especially to youth as well as to returning displaced populations (which includes incentives for the return of educated youth). Other recurrent themes include a strong call for climate change adaptation planning, which integrates land issues and enhanced transparency in the business sector. Box 10 summarizes the most common recommendations found in the literature.

¹⁷ The OECD notes, "The Niger River's (Onitsha) stream flow fell by 30% between 1971 and 1989; those of the Senegal and Gambia Rivers fell by almost 60%".

Box 10. Example of general recommendations put forward in the literature on addressing the land conflict/migration nexus

Establishing or reviewing legislation, regulations, and policy frameworks and mechanisms

- **Clarify the lines between customary and statutory tenure systems** and the need to resolve legal pluralism and resulting “forum shopping” is perhaps the most frequent policy recommendation. Government (short-term) recognition of customary land tenure systems is almost universally encouraged. Alternative dispute resolution (ADR) mechanisms are also necessary at the local level to address the backlog of claims and to make resolutions more accessible (see Cotula et al., 2004; OECD, 2005; Dyer et al., 2007; Pantuliano, 2009; Elhawary, 2009).
- **Increase and protect land tenure security** by supporting local authorities to undertake intermediate forms of land registration. Such recommendations emphasize written documentation of land transactions for customary land transfers, especially in areas that experience intense competition over land (such as emerging urban centers). However, there must be caution to not provoke land grabbing that favors elites and exploits the poor (see Cotula et al. 2004; Ubink et al., 2009).
- **Improve transparency in land administration** via increased capacity-building among land government institutions. This should be done in tandem with an increased effort to decentralize and devolve decision-making power to local levels. This also applies to *agri-business and large-scale land acquisitions* in which there is a need for public tenders and a transparent, consultative process prior to large-scale land sales. There is also a need to facilitate public scrutiny to hold governments accountable for monitoring and enforcing environmental protection. This includes specific policies and strategies for urban and peri-urban areas (Le Meur et al., 2006; USAID, 2007; Pantuliano, 2009).
- **Undertake legal reforms** to eliminate political and social exclusion in citizenship and immigration laws (Manby, 2009; Lund, 2011; Human Rights Watch, 2013) and recognize and protect *pastoralists’ rights* to access adequate land, water points, and corridors (DFID and ECOWAS, 2006; Dyer et al., 2007; Dong et al., 2011; African Union, 2013).

Supporting and promoting sociocultural/economic and environmental dimensions

- **Support networking, research, and raise awareness** among researchers, government officials, and civil society, such as the LandNet West Africa (Cotula et al., 2004; Cotula, 2007; Le Meur et al., 2006).
- **Focus on youth integration, employment, and livelihood** both within and outside the agricultural sector to preempt land conflict and the challenges associated with land scarcity (Ubink et al., 2009; AUC, ECA, and AfDB, 2010; Human Rights Watch, 2013).
- **Enhance commitments to gender equity in land law and management** through gender-sensitive project design, and by providing women with additional resources (such as agricultural loans) to increase tenure security (USAID, 2007; NRC, 2012).
- **Reintegrate refugees and returnees in postconflict situations**, which requires the establishment of land

access and restitution programs and alternative livelihood options for affected populations (Rincon, 2010; AUC, ECA, and AfDB, 2010).

- ***Integrate land and migration issues into climate change adaptation***, which calls for regional vulnerability screenings, identifying mitigation schemes, and instituting resettlement programs for those threatened with displacement due to climate change (Freudenberger and Miller, 2010; FAO, 2011).
- ***Invest in appropriate land-surveying technology***, especially GPS, GIS, and spatial planning software, coupled with technological capacity-building among implementing state and civil society institutions (IFAD, 2009).
- ***Protect smallholder development and market access***, as smallholder farming has proven to be resilient and flexible in food production, arguably more so than large-scale initiatives (Le Meur et al., 2006; Lund, 2011).

Very few research reports advocate for promoting either the statutory or customary land tenure system; instead researchers point to the contradictions and tensions arising from their lack of clarity, competing jurisdictional authorities, and lack of conviction in decision outcomes. Nevertheless, international and state actors tend to continuously define justice and rule of law within the narrow parameters of Westernized structures. As Isser (2011) states, “These [customary] systems are the primary, if not sole, means of dispute resolution for the majority of the population, but post-conflict practitioners and policymakers often focus primarily on constructing formal justice institutions in the Western image, as opposed to engaging existing traditional mechanisms.” Several authors thus suggest that West African states should, at least in the short term, clearly recognize and protect customary tenure systems by also ensuring that discriminatory principles within the traditional land management structures are addressed.

The literature often raises concerns that implementing such recommendations without understanding the bigger implications can produce unintended negative consequences, especially given the weak governance and pervasive corruption (in both statutory and customary systems) found throughout the region. For instance, titling and tenure clarification regimes can spur land grabbing that has a tendency to favor elites and induce landlessness among secondary rights holders. Another example is how supporting one tenure system over the other fails to consider the multiple uses and users within mixed arrangements, or where there is a lack of enforcement of appropriate compensation.

In reviewing the recommendations, however, it becomes evident that they have not significantly changed over the past 20 years. As such, this illustrates that there has been an enduring lack of progress, if not stagnation, in resolving the region’s long-standing land management issues.

Nevertheless, it is important to take note of several positive developments. The decentralization and localization of land management to local authorities is a growing trend in several francophone countries, which has brought desirable development outcomes, especially in pastoralist areas (African Union, 2013). A community radio initiative in Mali has launched a highly successful program during which customary tenure rules and harvesting times are broadcast to prevent clashes between farmers and herders in the area (Hilhorst et al., 2011). Guinea, Mauritania, Mali, Burkina Faso, and Niger have all passed legislation that specifically supports pastoralism (see Boxes 11 and 12). Furthermore, the

government of Mali created a ministerial-level post aimed at assisting the return of Malians abroad and promoting remittance sending, and has expanded consular positions in major receiving countries to address issues related to Malian immigrants (Adepoju, 2005). Senegal has also taken steps to facilitate the emigration and return of thousands of its nationals abroad, and also promoted remittance sending. The Ministry of Foreign Affairs and Senegalese Abroad was restructured in 1993 to enhance the welfare of nationals abroad, and articulated programs for their repatriation and rehabilitation. The new orientation encourages emigrants to be actively involved in Senegal's socioeconomic development (Adepoju, 2005). Furthermore, as noted, the AU has laid the groundwork for a pan-African pastoralist policy, and ECOWAS has implemented the Transhumance Certificate aimed at facilitating pastoral migration.

Among its activities are a region-wide exercise to document existing land laws and policies (and currently incorporating them into an online database); disseminating land policy briefs through their website; executing trainings in land policy and law for implementing officials; organizing national and subregional dialogue forums and thematic workshops; and successfully lobbying governments to integrate land issues in key strategic development documents such as Poverty Reduction Strategy Papers (PRSPs). Indeed, LandNet West Africa is increasingly recognized as one of the most powerful civil society resource groups on regional land issues. Consultations with the Burkina Faso chapter, for example, decisively shaped the government's proposed changes to a major World Bank proposal on land tenure security, which were fully incorporated into the final document (LandNet West Africa, 2001).

Box 11. Mali's Pastoral Code

In Mali, the 2001 Pastoral Code recognizes and explicitly protects the mobility of pastoralists in the country. Coordinated through Mali's Regional Office for Rural Development and Amenities (DNAER) and realized with technical and financial support from FAO, the Pastoral Code further grants pastoralists the right to manage their own lands (African Union, 2013) and includes a decree that protects designated pastures from farmland clearance (Konaté, 2003). In this regard, the Code clearly spells out the local authorities' responsibility to work with pastoralists, traditional authorities, and farmers to maintain pastoral tracks, paths, and transhumance corridors. It also foresees the publication of calendars of natural resource use to coordinate farmer and herder activities and minimize intercommunal tensions (LANDac, 2012). However, its implementation remains hampered by top-down technocratic planning, a general lack of information dissemination, and a fragmented, poorly organized pastoral constituency. Nonetheless, Mali's Pastoral Code is a promising step toward an explicit protection of pastoralist livelihoods.

Box 12. Introducing community-embedded land commissions (*commissions foncières*): Niger's Rural Code

In the 1980s, the government of Niger launched a consultation process to develop rules for sustainable land management, which led to the establishment of the 1993 Rural Code. At the core of the Rural Code is a focus on participatory consultation and land management by devolving decision-making powers to villages, communes, and regions. Local land commissions (*commissions foncières* (CoFos)) are comprised of state and local government officials, customary chiefs, and user groups' representatives. The Rural Code equips CoFos with the mandate to

allocate and register land claims, control regional land use, and offer land dispute mediation. By clearly demarcating shared resources through community involvement, CoFos have been credited with considerably reducing farmer/herder conflicts in the country (AGTER, n.d.).

From 1993 to 2004 more than 2,500 CoFos were created nationwide and coordinated by regional CoFO secretaries (Hilhorst et al., 2011). However, the process is greatly hampered by insufficient administrative capacity and weak governance structures. Most villages are still without a CoFo, and the majority of existing CoFos are constrained by a lack of resources. Further, CoFos are essentially powerless if land transactions are agreed at the national level or with regional state authorities, although “consent” of CoFo is required on paper to legalize these transactions (Hilhorst et al., 2011).

5. Conclusion

This paper has examined the overall picture of land conflict and migration issues, including their murky intersection with discriminatory practices as result of formal citizenship, cultural notions of foreigners and outsiders, and traditional customary systems. However, each element of the paper is part of a much bigger and more technical reality that cannot be adequately addressed here. Each element also requires its own set of operational considerations that are equally tailored to the different migrant groups, landholders and users, political cultures, levels of development, infrastructural capacity, and climatic areas found within the region.

The local, national, and regional challenges facing West Africa within the land, migration, and citizenship nexus are significant. The experiences of past conflicts and increasing frequency and intensity of pastoral conflicts provide unfortunate proof of the realities, risks, and vulnerabilities that can arise from this nexus. Moreover, the lack of progress in addressing several facets of the known structural challenges paints a worrisome picture, especially when viewed against the inevitable surmounting pressures of regional and global trends. The oft-heard Liberian sentiment, “the next war will be about land,” is a stark reminder of how urgent it is to prioritize this nexus across government, regional, development, and assistance community agendas.

That being said, the symbiotic relationship between land and migrants has also proven to be historically economically fruitful. On the one hand, it has helped develop several areas and sectors within West Africa; on the other, it has enabled the exploitation of an otherwise impossible land area in the Sahel. While climate change, youth bulges, generational differences, population growth, urbanization, and rising agri-business can pose challenges, managed well, they each in turn provide tangible and substantial opportunities for the region. Climate change may expand agricultural potential; youth coupled with secondary education and access to technological innovation can bridge the knowledge and positive practices of their elders with the demands of a globally connected world; population growth can stimulate market demands; and agri-business (if it is sustainable and community-development centric, focuses on domestic priorities, and aims to keep a significant share of the gains in West Africa) can help engage communities and stimulate employment. Creating the conditions necessary to exploit these opportunities, however, requires concerted, long-term, and cross-sectoral approaches that are

cognizant of the sensitivities and structural challenges related to land, migration, and citizenship, which is no easy task.

Legal pluralism is another area that presents simultaneous challenges and opportunities. While legal pluralism can provide a form of checks and balances on each of the systems and facilitate locally tailored and often appropriate (as well as accessible) dispute settlement mechanisms, confusion and tension are inevitable when too many competing authorities claim legitimacy and when rulings can be easily overturned by the other authorities. Further, corruption and self-interest exist within both systems, fueling a lack of conviction therein. However, customary systems have often proven to be the best and only governing alternative in the face of low formal institutional presence across the region; as this is deeply socially, culturally, and politically embedded in society, it cannot be dismissed. Nevertheless, land scarcity, rising land values, population growth, urbanization, and rising agri-business will call for increased tenure security and clarification of land tenure. This is bound to bring new and old competing claims to the fore. Simply formalizing customary ownership or authority in response, however, raises its own set of complications, especially for women, migrants, and other vulnerable groups.

Even before ECOWAS's approach to regional integration, its member states have had a long history of being highly mobile and distinctively remaining within the region. Its vision of community citizenship aims to foster a common identity that in principle provides the same rights and protections to all West Africans. However, the practical realities of implementing this vision reveal challenges not only in terms of regional and national capacity but also, in many ways, national political will. Certain articles allow for exceptions and interpretations that renege on what the Protocol aims to achieve. Furthermore, there is little means to hold member states accountable for disregarding it. Weak governance, corruption, and limited capacity are unfortunately endemic across the region. This not only undermines effective governance and management of land, migration, and citizenship issues, but also carries significant ramifications for those who can be easily exploited by gaps and inconsistencies invoked by the legal pluralism, including the poor, migrants, women, and other vulnerable groups.

Given their significance to wealth, power, livelihoods, social status, and community belonging, disputes over land and resources are inevitable. However, such disputes occur in even the most peaceful societies (Van der Auweraert, 2013), and even in postconflict contexts can be (and often are) resolved peacefully. The key consideration is thus to determine how and when the specific fragilities, vulnerabilities, and risks for such disputes could escalate into violence; derail or undermine peacebuilding and recovery efforts; or ignite or re-ignite conflict (adapted from Van der Auweraert, 2013).

5.1 Ways forward

Despite the plethora of literature and recommendations that have emerged over the past decades, the primacy of these issues not only remains equally pressing and unresolved, but they also risk escalating in the face of growing demographic, economic, environmental, social, and climatic pressures. The systems in place to address the land and migration issues have largely been inadequate, and when good policies exist, they remain for the most part unenforced. West Africa is riddled with development projects gone

awry that have inadvertently caused environmental degradation or created false hope through aid-dependent short-term pilot projects, as evidenced by various pilot projects associated with the *gestion terroirs*.

For this reason, in order to overcome the seeming gridlock, new approaches are needed. These should be locally grounded but also formally compatible with governing systems and should not rely upon unrealistic variables such as decapitating under-resourced mechanisms and weak governance (see Section 3.3). Both land and migration are at the core of economic potential and growth, but badly managed, are highly volatile. For this reason, this paper asserts that while operational approaches can continue to try and fulfill the persisting general recommendations, real progress can only stem from additional work in the following areas:

- Updated assessment of country-level land policies; this should be done in relation to migration and citizenship policies, given that the most comprehensive analyses of land policies in West Africa were conducted between 1999–2006.
- Assessment that focuses in-depth on the land and migration nexus in relation to fragility indicators and meta-trends. This would be an invaluable contribution to better incorporating these issues in early warning and conflict prevention strategies. Starting with a comparative analysis of the impact of the 2007 food crisis on migration and land issues, a range of scenario models could be useful in relation to the economic changes that could be foreseen as a result of climate change.
- Impact assessment and best practice analysis of projects that have been attempted, in order to develop specific and targeted operational recommendations. This should include a thorough mapping of donor funding and assistance that has taken place in the past decade. Such an exercise will help shed light on which projects addressed particular elements of the land and migration nexus and inform the assistance community of which geographical and substantive areas are most in need and where they should focus their attention.
- Analytical literature has very recently focused on large-scale land acquisitions, mostly from a risks perspective. However, given rising urban market and food demands, it is also important to understand if and how agri-business and smallholding farms can mutually benefit and even complement each other. It is also important to encourage the development of a framework for ensuring land rights access and protection; mitigating environmental impacts on pastoralists and smallholders; seizing (and insisting upon) opportunities for community economic development and livelihood support; and monitoring transparency and compliance.
- Promote the development of a high-level multistakeholder task force aimed at addressing specific key issues at a regional level to overcome many of the obstacles that have yet to be resolved despite the long-standing recognition of the issues.
- It would be useful to conduct a comparative legal assessment of legal pluralism, including case studies where the systems worked compatibly together in land conflict resolution; take stock of case results where there was a discernible bias toward specific groups; and review complicated cases where mixed arrangements and multiple users with different rights worked and/or lived on the same land. Such a study would be helpful in rethinking typical Western rule of law

approaches and put forward a harmonized approach that offers the region's changing contexts legitimacy and tenure security.

- Customary systems are fluid—cultural shifts that stem from education, urban experiences, and technological globalization will increasingly alter how youth respond to and interact with the traditional frameworks, and in turn significantly impact land issues and dispute resolution mechanisms. Youth have already been frequently implicated in selling land for short-term material gain, while the alienation of their land rights contributed to the conflicts in the Gulf of Guinea. However, increasingly more educated, youth will also inject new opportunities and approaches for land management and use. An increasingly prominent issue for study would be to focus specifically on youth, cultural changes, and tenure systems. This would also help shape policies and programs to promote sustainable non-land based return migration to support return brain-gain and transference of knowledge and skill.

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