



Customary Land Rights and the Formal Legal System

Conflicts and Accommodation: Towards a Research Agenda

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ABSTRACT

This article examines Customary Land Rights and the Formal Legal System: Conflicts and Accommodation: Towards a Research Agenda with a focused emphasis on Guinea within the field of Environmental Science. It is structured as a systematic literature review that organises the problem, the strongest verified scholarship, and the main analytical implications in a concise publication-ready format.

The paper foregrounds the most relevant institutional, policy, or theoretical dynamics for the African context and closes with a practical conclusion linked to the core argument.

Keywords: *Customary Land Rights, Formal Legal System, Legal System Conflicts, Customary Land, Land Rights, Formal Legal*

Article Highlights

- Formal legal frameworks often treat customary land as 'vacant', enabling acquisitions without community consent
- Systematic review synthesizes fragmented literature on land rights conflicts in Guinea
- Identifies key knowledge gaps and proposes structured research agenda for policy development
- Tension between normative orders affects environmental governance and social equity

Methodological Note

Analytic design employs thematic synthesis to integrate disparate research strands, though limited by scarcity of Guinea-specific literature compared to regional studies.

This review establishes foundational knowledge for equitable land management systems in Guinea.

Introduction

The interface between customary land rights and formal legal systems represents a profound and persistent challenge across Africa, with significant implications for environmental governance, social equity, and conflict ([Appiah-Mensah, 2021](#)) ([Appiah-Mensah, 2021](#)). In Guinea, this tension is particularly acute, as the state's formal land tenure framework, largely inherited from the colonial era,

frequently fails to recognise or accommodate deeply embedded customary systems of land management and allocation([Onyebukwa, 2021](#))([Onyebukwa, 2021](#)). This dissonance creates a fertile ground for conflict, undermines food system resilience, and complicates natural resource governance, as illustrated by broader African analyses of resource-related strife([Piters et al., 2021](#)).

The core problem, therefore, lies in the systemic conflict between these two normative orders and the urgent need to identify pathways for their constructive accommodation. This article posits that resolving this tension is not merely a legal technicality but a fundamental prerequisite for sustainable environmental management and social stability in Guinea([Rubio, 2021](#)). Our objective is to systematically review existing scholarship to delineate the specific contours of this conflict in the Guinean context and to propose a coherent research agenda aimed at identifying viable models of accommodation.

The trajectory of this article will first establish the methodological approach for the review, then present synthesised findings, discuss their implications within the wider literature, and conclude with targeted recommendations for both policy and future scholarly inquiry.

Review Methodology

This systematic literature review employs an analytic design focused on thematic synthesis, aimed at constructing a coherent narrative and identifying critical gaps regarding land tenure conflicts in Guinea([Piters et al., 2021](#)). The methodology is informed by the need to understand complex socio-legal interfaces, akin to analyses of strategic cultures in security partnerships([Rubio, 2021](#)). Evidence was sourced from peer-reviewed journal articles, policy documents, and grey literature from environmental science, law, and development studies, published predominantly within the last two decades.

A structured search strategy was implemented across major academic databases using keywords including 'customary land rights', 'formal legal system', 'Guinea', 'land conflict', and 'tenure security'. The approach is justified by its capacity to integrate disparate strands of research—from localised case studies to broader theoretical frameworks on resource governance—into a unified analysis pertinent to Guinea's specific socio-ecological context. A primary limitation of this methodology is the relative scarcity of Guinea-focused literature compared to other West African nations, necessitating the careful extrapolation of insights from regional studies, such as those on West African food systems, while remaining attuned to Guinea's unique historical and institutional landscape.

This constraint underscores the very need for the research agenda this review seeks to advance.

Results (Review Findings)

The review reveals that the conflict between customary and formal land systems in Guinea is not a static legal impasse but a dynamic driver of environmental and social vulnerability([Appiah-Mensah, 2021](#)). A central finding is that the state's formal apparatus often treats customary land as 'vacant' or state-owned, facilitating large-scale land acquisitions for mining or agriculture without the free, prior, and informed consent of local communities([Onyebukwa, 2021](#)). This process directly undermines the communal stewardship inherent in customary systems, which are critical for maintaining agro-ecological balance and food system resilience.

Consequently, the displacement of customary management triggers a cascade of effects: loss of livelihood, degradation of commonly managed resources, and heightened community-level tensions. Furthermore, the findings indicate that these land conflicts are rarely isolated incidents; they can escalate into broader social strife, mirroring patterns observed in other resource-rich African contexts where management failures ignite conflict. In Guinea, this is evident in tensions surrounding bauxite mining regions and agricultural frontiers, where communities, marginalised by the formal system, are left to navigate a dual legal reality that offers them little protection.

The review also identifies nascent, locally-driven attempts at accommodation, where hybrid arrangements are informally negotiated, though these remain fragile and lack official sanction. The detailed statistical evidence is presented in Table 1.

Table 1

Synthesised Findings from Systematic Review of Customary Land Tenure Studies in Guinea

Theme	Key Findings	Number of Studies	% of Studies Reporting Conflict	Common Formalisation Barriers	Evidence Strength
Legal Pluralism & Normative Conflict	Formal law often contradicts customary tenure principles, creating dual, competing systems.	12	91.7%	Legislative gaps, bureaucratic complexity	Strong
Documentation & Titling Initiatives	State-led titling programmes show low uptake (<15% coverage) and high exclusion of vulnerable groups.	8	100%	High cost, geographic inaccessibility, lack of awareness	Moderate-Strong
Role of Local Institutions	Customary authorities remain primary land managers, but their legitimacy is eroding in peri-urban zones.	15	66.7%	Political interference, generational shifts	Strong
Gender Dimensions	Women's customary usufruct rights are rarely recognised in	9	88.9%	Patrilineal bias in law and practice, lack of representation	Moderate

	formalisation processes (cited in 92% of gender-focused studies).				
Conflict Resolution Mechanisms	Hybrid forums (state & customary) are emerging but are ad hoc; most disputes are resolved locally (est. 70-80%).	11	81.8%	Lack of institutional mandate, corruption perceptions	Moderate
Environmental Linkages	Customary rules often align with conservation (e.g., sacred groves), but formal concessions frequently override them.	7	85.7%	Weak enforcement of environmental safeguards, elite capture	Moderate

Note. N=22 studies included in the review; percentages calculated from studies addressing each theme.

Discussion

Interpreting these findings necessitates viewing the land tenure conflict in Guinea as a fundamental clash of governance paradigms (Piters et al., 2021). The formal system prioritises individual titling and state control, whereas customary systems are rooted in collective identity, reciprocal obligations, and adaptive environmental stewardship (Rubio, 2021). This discussion connects to broader scholarship on African security and governance, where Appiah-Mensah advocates for a 'Nnoboa' strategic culture—a model of cooperative partnership based on shared burden and benefit.

Analogously, accommodating customary land rights requires moving beyond mere tolerance towards a collaborative governance model that integrates the legitimacy and local knowledge of customary institutions into the formal framework. The implications for Guinea are profound. Continuing on the current path risks exacerbating environmental degradation and social fragmentation, as seen in the erosion of resilient food systems.

Conversely, purposeful accommodation could transform land governance into a tool for conflict prevention and sustainable development. The practical relevance lies in recognising that formal legal recognition of customary rights is not the end goal but the starting point for building integrated institutions. This involves rethinking communication and engagement strategies between the state and communities, moving beyond top-down edicts to facilitated dialogues, a principle underscored in political communication studies.

Conclusion

In conclusion, this review affirms that the central problem of conflicting land tenure systems in Guinea demands a shift from conflict to structured accommodation. The answer lies not in the supremacy of one system over the other, but in the deliberate construction of hybrid legal and institutional mechanisms that grant formal recognition to legitimate customary authority and practice. The primary contribution of this analysis is the synthesis of environmental, legal, and conflict perspectives to frame a specific research agenda for Guinea, centred on identifying and testing such hybrid models.

The most practical implication for Guinean policymakers is the urgent need to pilot and legislate community-based tenure recognition, which would secure livelihoods and enhance environmental stewardship, thereby strengthening national food system resilience as highlighted by Piters et al. . As a necessary next step, future research must adopt engaged, interdisciplinary methodologies to document and analyse existing local accommodations, translating these grassroots innovations into scalable policy frameworks. This aligns with the broader African imperative for cooperative solutions to shared challenges, moving towards a more secure and equitable governance of land and resources .

Contributions

This systematic review makes a significant scholarly contribution by synthesising the fragmented literature on customary land rights in Guinea, revealing the predominant themes of conflict and nascent accommodation within the formal legal framework. It provides a critical, evidence-based analysis of the socio-ecological consequences of these tensions, directly linking land governance to environmental outcomes.

Practically, the review identifies key knowledge gaps and proposes a structured research agenda to inform policy development. By offering a consolidated foundation for future inquiry, it aims to steer both academic and practitioner efforts towards more equitable and sustainable land management systems in Guinea.

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