Coalition des ONG et OCB du Cameroun oeuvrant dans le domaine des établissements humains

Land Consultation Clinic

ADVOCACY

GUIDE

ON WOMEN’S HOUSING AND LAND RIGHTS
Land Consultation Clinic

ADVOCACY

GUIDE

ON WOMEN’S HOUSING
AND LAND RIGHTS
1. GENERAL INFORMATION

A couple of questions to ask myself...

Do I have a land title?

- I do. I am within my right. This means that I own a valid land title that recognizes that I am the owner of my land and of the buildings that are built on it.
- I don’t. I am NOT within my right. The State only recognizes the owners who occupy AND own a valid land title for their land.

How can I get a land title?

- By issuance, upon request;
- By purchase, from a person who owned a valid land title;
- By donation or legacy (donation in effect upon the death of the donator);
- By inheritance (I inherited a land which has a valid land title and the court has recognized my inheritance right).
Do I have the right to occupy the land on which I live?

Am I living on a land with or without buildings bought from or received by the State as a donation or legacy according to the law? Am I living on a land where there are buildings, constructions, works and development projects built and maintained by the State? Am I living in properties that were given to the State according to specific arrangements?

☑️ I am. This means that I am living on a private State property. I have NO right to live there and I cannot get a land title for this land. I can be evicted at any time.

☑️ I am not. This means that my land is part of the national estate. I am in either one of these cases: a land occupied or used by a person or a community and not registered (a land title has not been issued yet) or a land free from any form of occupation or
use. In both cases, I need to get a land title otherwise I can be evicted at any time.

- Did I get all the necessary permits to build or demolish buildings on my land? Did I respect the urban planning rules and regulations in place?
- It is only when I have answered all these questions that my land rights are secured. This, in turn, will allow me to claim my rights in front of a court if they are being violated.

How can I become the owner of my land to maintain / protect my rights?

- By registration. This is the procedure under which a land title is issued with my name on it.
- This land title recognizes me as the full and complete owner of my land and the buildings that are built on it. Being an owner means that I can use my land freely.
- Being an owner gives me more rights than
being a tenant, a user or having usufruct rights because only the law can prevent me from fully taking advantage of my land and the buildings that are built on it.

How can I get a land title?
First, I need to know when I started occupying the land (alone or as part of a community).

- If it is before the 5 August 1974: my land is part of the national estate, first category. I will use the direct registration procedure.
- If it is after the 5 August 1974: my land is part of the national estate, second category. I will use the 2-steps registration procedure. First, the provisional concession and then the definitive concession. However, I can only obtain a land title on this type of land if the State lends me or my community the land as a domain concession for the implementation of a project of general interest (social, cultural or economic).
Can I get a land title with my partner / husband / spouse?

- Yes. This is called co-ownership. A land title will be issued with the names of all the people who want to legally own it and all of them will be full and complete owners of the land and of the buildings that are built on it.
- This means, however, that everyone (my partner / husband / spouse and I) agree to be co-owners.

What can I do if I want to add my name on a land title that has already been issued?

- It is possible to add my name on a land title that has already been issued. The owner will have to agree to give me “half” of the land and that will make me a co-owner.
- The “half” is a symbolic way to say that we will share the ownership: I will be full and complete owner of the whole land, not just “half” of it.
- To add my name on the land title, the owner and I need to go see a notary in order to
legalize the transaction.

What can I do if someone tries to evict me when I own a land title or when I am in the process of getting one?

- I can form an opposition through
  - An **amicable settlement**, with the consultative commission or
  - A **contentious procedure** in front of a court.

The land title will be issued under the name of only one person, who will be determined by the consultative commission or the court. This person will become the sole owner of the disputed land.

I didn’t register my land. What will happen to me if I don’t do it?

- The State can **evict** me, which means that I will lose my home **without** compensation because I am illegally occupying the national estate.
- I can also be **fined** and/or be sentenced to **imprisonment**.
- It might seem expensive and complicated to
get a land title but it is the only way to make sure that I will not get evicted.

Will I be the owner of my land forever if I have a land title?

- **Yes and no.** To the State, I am the legitimate owner which means that if I am *expropriated for public utility* (for example if the State needs my land for a development project), the State will *compensate* my loss before expropriating me.

- The compensation offered needs to cover the value of the land plus the costs of the buildings, materials and crops.

- If the State does not pay me such compensation, I can follow the procedure established by the law to bring the matter before the *administrative tribunal*.

- Also, if the Minister in charge of the State Property and Land Affairs notices that the administrative procedure of issuance of my land title was *irregular* (thus illegal), she could
2. THE IMPACTS OF MY MARITAL SITUATION ON MY LAND RIGHTS

I am a woman living in an informal domestic partnership (cohabitation)

- Living with a man does not protect me should my partner die.
- I need to be **legally married** (as opposed to a customary marriage that is not registered) to my partner in order to benefit from the protection of the law in regards to our property (including the land where I live and the buildings that are built on it). The protection will vary according to my matrimonial regime.
- Each person keeps their own property. If I am the owner of the land, I need to register that land under my **own name** to secure my rights.
- The fact that I am living with a man is not
enough to secure my rights because the law does not recognize factual situations. Whether I am living with my cousin, my brother or my partner, the law is the same since I am not legally married.

➤ SOLUTION:

✓ My partner can write a will leaving me the land and the buildings that are built on it. However, in the event that the total value of this legacy exceeds the freely disposable portion set by the law, I may not have the right to keep the land. This portion represents the total value that the law authorizes people to bequeath (leave), depending on their family situation and the total value of the inheritance.

✓ The best way to remedy that problem is to make sure that the land title has my name on it.

I am a married women
I am a women married under a traditional or customary marriage:

- If the customary marriage is **not registered**, the marriage has no effects. My husband and I are considered to be solely cohabiting by the law. Therefore each person keeps their own property.
- If the customary marriage is registered, it is a valid legal marriage. My property and my husband’s are governed by the default matrimonial regime, the partnership of acquests. In this case, I could inherit from my husband upon his death.

I am legally married:

- If I am legally married, my property and my husband’s are automatically managed by a **matrimonial regime** which determines how they are going to be distributed in case we divorce or one of us dies.
- This matrimonial regime is by default the **partnership of acquests** unless I have
chosen another one upon signing the marriage certificate before the mayor (in which case it will either be the **community matrimonial regime** or **separation as to property regime** that will apply).

- However, neither of these matrimonial regimes protects me completely when it comes to the land where I live and the buildings that are built on it because not all of them provide me with ownership rights.

- **SOLUTION:**
  - I need to make sure that my customary marriage is **registered** with the court. However, even if it is the case, I will **not** become the owner of the land and the buildings that are built on it upon my husband’s death. I will only have **usufruct rights**.
  - The best way to remedy that problem is to make sure that **the land title has my name on it**.
I am a widow

- The notion of « widow » presupposes that I was legally married. A woman who cohabited with her partner cannot be a widow.
- Before the opening of the succession, there will be a liquidation of the matrimonial regime. This will determine the value of the property that belongs to the surviving spouse.
- As the wife of the deceased, I have a right to inherit. However, the law has set an order of devolution of succession which places the woman in the fourth rank. Therefore, the probability that I inherit depends on whether or not there are other people in the ranks before mine.
- When there are people in the ranks before mine, the law only gives me usufruct rights. This means that I am allowed to appropriate the fruits, revenues and others on a determined portion of my deceased husband’s assets.
- However, the court has ruled that, in every case, the married wife is allowed to remain in
the house of her husband upon his death. If the other heirs refuse that I continue living in the house, I have to bring the matter before the court.

- But be careful! The usufruct rights never give me ownership of the land and do not allow me to prevent the real owners (the heirs) to enforce their rights. Furthermore, the usufruct rights cease as soon as the spouse is able to support herself.

- If the deceased left a will, my rights in the land and in the buildings that are built on it will depend on my family situation and will vary.

- SOLUTION:
  - I have to make sure a land title was issued for the land where I live. If there is not, I have to take the necessary steps to obtain one as soon as possible. If there is, I have to respect the rights of my deceased husband’s heirs who are now the owners, subject to the rights the law may give me in
my particular situation.

✓ I have to know now what my rights are if my deceased husband wrote a will leaving me the land and the buildings that are built on it.
✓ I can enforce my usufruct or usage rights in front of a court if I am harassed by my deceased husband’s family.

In conclusion…

➢ It is better if I am **legally married** (meaning that my customary marriage needs to be registered) because my property (including the land where I live and the buildings that are built on it) will be protected by a matrimonial regime.
➢ Furthermore, I should take the necessary steps to add my name on the land title to become **owner** of the land where I live and the buildings that are built on it.
➢ Having my name on the land title (with or without that of my partner / husband / spouse)
is the only way to secure my housing and land rights. It is the only way that guarantees me to remain owner of the land and the buildings that are built on it even if my partner / husband / spouse dies.

If I am living on a land that is already registered, I need to verify with my partner / husband / spouse whether my name appears on the land title. If it does not, I have to discuss with my partner / husband / spouse the importance to add it to protect me in case he should die.

3. LET’S NOT FORGET…

Reminder: being the owner of a land requires that I have a land title whereas to have the right to build on a land requires that I have a building permit. The latter is issued by the town hall or urban community.

As a woman, I have the same rights as a man
when it comes to having a land title. The law does not discriminate against women in regards to the registration procedure and the issuance of land titles.

- The law in Cameroon recognizes the equality between women and men. If I am discriminated against by a State official whilst registering my land, I can bring the matter before the court. I am also entitled to be compensated for the harm that was done to me.

- If my partner / husband / spouse or myself are infected by HIV and aids, it is even more important that we follow the advice provided in this guide so that we can live a happy life and avoid unnecessary complications.

- When I purchase a land, I have to make sure that it is registered and I need to ask to see the land title. Otherwise, the sale could be null if the person who sold it to me was not the real owner.
The owner also needs to have the minutes of the determination of the boundaries of the piece of land sold, done according to the law.

When I verify that the land title is valid, I have to ensure that all the people whose names appear on it agree to the sale and sign the act of sale. Otherwise, the sale will be null.

When I purchase a land, I always have to make sure that I am aware of the charges payable (mortgages, hypothecs and other debts) granted to secure a loan as they affect the land and/or the buildings that are built on it. A mortgage / hypothec provides the creditor (the person lending the money) the right to take the land and/or the buildings that are built on it in payment if the debtor (the person to whom the money was lent) does not pay.

My partner can write a will leaving me the land.
and the buildings that are built on it. However, in the event that the total value of this legacy exceeds the freely disposable portion set by the law, I may not have the right to keep the land. This portion represents the total value that the law authorizes people to bequeath (leave), depending on their familial situation and the total value of the inheritance.
4. REFERENCES

For more information on what is discussed in this guide, see:

- Civil Code
- Ordonnance de 1981 relative au droit de la famille
- Ordonnance no. 74/1 du 6 juillet 1974 fixant le régime foncier
- Décret no. 76/165 du 27 avril 1976 fixant les conditions d’obtention du titre foncier, modifié et complété par le décret no. 2005/481 du 16 décembre 2005
- Décret 79/017 du 13 janvier 1979 relatif aux transactions immobilières privées
- Loi no. 80/22 du 14 juillet 1980 portant répression des atteintes à la propriété foncière et domaniale
- Loi no. 85/29 du 4 juillet 1985 relative à l’expropriation pour cause d’utilité publique et aux modalités d’indemnisation