



LAND: ADDRESSING CUSTOMARY LAND RIGHTS FOR WOMEN



Addressing customary land rights for women in Liberia

Foundation for Community Initiatives
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Women discuss their rights to land, River Cess County. © FCI

About the Foundation for Community Initiatives

The Foundation for Community Initiatives (FCI) works to promote community based initiatives, especially women and youth actions for advocacy, human rights and sustainable natural resource management and governance in Liberia. This involves advocacy for human rights and sustainable natural resources management. This is done through building the capacity of people in rural areas, especially for women to take self-initiatives toward the improvement of issues affecting their livelihoods.

The FCI was founded in 2004 as a non-for-profit, non-governmental organization. In 2005 the organization was registered and incorporated under the Association Laws of the Republic of Liberia, and accredited as a national non-governmental organization. The key activities of FCI include: • **Researching** the root causes of marginalization and other challenges to the full development of women and mobilizing resources to address these needs. • **Facilitating** and promoting networking and collaboration amongst women and women groups in different parts of the country. • **Providing** loans - Strengthening women and youth economic capacity through the provision of micro loans and other opportunities. • **Assisting** women to organize themselves in local structures and work with them to legalize these structures. • **Working** with women to gain self-confidence and supporting them to pursue leadership roles within community governance institutions.



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Community Meeting, Lofa County. © FCI

"WE ARE PREPARED TO JOIN THE MEN IN EVERY DECISION MAKING AND COMMUNITY DEVELOPMENT PROCESS ABOUT OUR NATURAL HERITAGE AND RESOURCES."

Cover image Kpana Massaquoi (Gainayma Town, Gbarpolu County) has used this 3-acre plot of land for the last six years. From rotating food crops, she now grows sugarcane. She reports that her income has tripled since 2013. © SDI, 2015

Background of the study

Land is a key determinant of rural livelihoods, a central building block for effective economic growth, and a pivotal asset to the social and political stability of a nation. In Liberia insecure land tenure continues to fuel widespread internal conflict, enable land grabs by foreign concessions and local elites, and increases deforestation. Women in Liberia are particularly vulnerable, as they remain the largest marginalized group in their access to land rights and ownership due to traditional norms, inadequate legal rights and weak implementation of existing laws.

Liberia is primarily an agrarian country, with 40% of the population¹ depending on smallholder subsistence farming to sustain their livelihoods. Despite Liberia's wealth of natural resources, including timber, iron ore, gold, diamonds, and an abundance of fertile land for agricultural development,² it ranks 175 out of 187 in the United Nation's Human Development Index.³ Rural poverty across Liberia has complex roots in longstanding social divisions, elite control, government corruption, and resource exploitation that extend back to the founding of the state. Fourteen years of civil war in Liberia, between 1989-1996 and 1999-2003, further exacerbated rural poverty and destroyed most of the county's infrastructure.⁴

Liberian land tenure rights are complex and unclear, partly due to the fact that statutory and customary tenure regimes operate side by side. Since most customary land claims are undocumented, the threat of livelihood instability, food insecurity and forced displacement challenge many rural Liberians.⁵ The majority of rural Liberian women do not have legal ownership rights to their customary land or natural resources, only usage rights are granted to them by their fathers or husbands under customary laws. Customary norms around land inheritance favor the passing of land onto men in the family line, leaving widows, women from outside villages, and orphans particularly vulnerable.⁶

Women comprise the backbone of Liberian society accounting for over 80% of trade and over 60% of smallholder agricultural output,⁷ as well as the majority of household responsibilities such as water collection and child rearing. Property rights determine the access to, and control of,

natural resources on which women depend for their survival, income, status and family wellbeing. Rural agricultural and household practices result in women's dependence on land being typically greater than their menfolk, thus resulting in women being disproportionately impacted by decisions made about land without their involvement.

Women remain marginalized in their access to land rights, and their ability to participate in leadership positions, decision-making processes, and local governance structures related to the use and management of natural resources. These insecurities prevent women from managing land in a manner that protects their interests, restricting their participation in the economy and reinforcing their dependency on male counterparts further rendering them vulnerable to exploitative practices.⁸

Liberia currently has one of the highest rates of land concession in Africa,⁹ with a recent study suggesting that over 50% of Liberia's 9.5 million hectares have been leased or promised to foreign investors.¹⁰ This is a result of the Government of Liberia's national development agenda, which emphasizes large-scale concessions for revenue generation.¹¹ This promotion of concessionary land acquisition can come at the cost of customary land rights and community livelihoods, often resulting in the de-facto eviction of communities from their ancestral lands.¹² Given Liberia's legacy of land grabbing, there is an urgent need to address women's land rights, else women are likely to be further deprived of the natural resources on which they depend for their economic and livelihood survival.¹³

Women are a vital constituency in the agriculture sector, yet despite their vital role in agricultural production, they remain marginalized in their access to and control over land due to insecure land rights. It is vital that future policies and efforts are geared towards protecting and empowering women in their access to land rights and decision-making processes to ensure the equitable distribution of agricultural benefits, increased food security, and more opportunities and incentives for longer-term investments in land.

Objectives of the study

With current attempts by the national government to improve rural land tenure, it is vital that more attention is given to women's land rights and empowering their decision-making capacity. The Foundation for Community Initiatives (FCI) conducted this study to provide a deeper understanding of the actual rights that women have in relation to land tenure, as compared to the legal rights provided by Liberian and international laws. This study provides an analysis of women's customary and statutory land rights, with the intent of highlighting gaps in the current legal land tenure framework. In addition, the analysis looks at social dynamics to identify power relations within communities and decision-making structures, to better understand the social, cultural and political obstacles to reform.

This report has been synthesized from field research in 17 communities within three counties in Liberia - Gbarpolu, Lofa and River Cess - as well as a comprehensive literature review. The findings from this study are intended to help shape advocacy that promotes the land rights of women; inform the current development of laws on the legal gaps which limit women's land rights; more effectively support and empower women in their access to and control over customary land. The conclusion will give recommendations for legal and policy reform governing customary land tenure for the attention of policy-makers, development agencies and civil society.



Women participants at a community forum in Bong Mines. © SDI, 2014

Land tenure in Liberia

History of land tenure

Liberated slaves from the United States of America arrived in Liberia in 1821. These settlers, popularly known as "Americo-Liberians", founded the modern state of Liberia and brought with them a statutory land tenure system of fee-simple ownership that was limited to the coastal regions (the littoral) approximately 40 to 55 miles inland.¹⁴ Liberia's rural interior (the hinterland) remained the preserve of indigenous Liberians and was governed by customary tenure based on local customs and leadership practices, outside of the immediate concern of the Americo-Liberians.¹⁵ In 1839 the Commonwealth of Liberia was formed, minus the state of Maryland, and in 1847 the Republic of Liberia was declared an independent country.¹⁶

Over time, the Liberian government exerted sovereignty over the hinterland through force and coercion, and by 1923 the interior was largely under its legal, judicial and administrative authority,¹⁷ with customary tenure increasingly being transferred to statutory tenure. Despite this transfer, customary land continued to be used as a distinct land tenure system recognized by the Liberian government.¹⁸

Current legal ambiguity in Liberia's land tenure can be linked back to the incomplete consolidation between these dual systems, yet it is customary land rights that have suffered the most degradation in its existence - as seen in the 1956 Aborigines Law that replaced the Hinterlands Law, with altered language giving rural communities land-use rights, rather than ownership, despite historically being held in customary tradition for centuries.¹⁹ Today the basis for customary law recognition in Liberia is found in the 1986 Constitution, necessitating courts to apply both statutory and customary law.²⁰

The Public Lands Law and the Property Law are the main legislations influencing land tenure and ownership in Liberia. The 1956 Public Lands Law provides the basic legal framework for governance and management of public lands, describing customary land as a hindrance on public land and consolidating the status of rural communities as guardians of state owned land.²¹ Similarly, the Property Law considers customary rights as non-proprietary interests on public land,²² stating that land that is free of private land rights would be designated as public land.²³

Land is one of the most important assets that a rural Liberian can have and is a critical source for national economic growth, providing resources on which livelihoods depend, as well as the source of their history, culture and community.²⁴ The underlying principles of land ownership encompasses citizenship, constitutional rights, and nation building²⁵ and, as such, are the basis of reconciliation.

Customary land tenure

Customary land tenure law is based on the indigenous rights of communities to practice their traditional system of land ownership, land possession, access rights, and transferring of community land. Customary land in Liberia is said to constitute all rural land that is not privately owned by proof of deed or leasehold title.²⁶ Customary law is recognized by the Constitution as governing land not brought under common law.

Customary land tenure is governed by a largely unwritten social system of customs, norms and practices known as customary law, which is highly flexible and negotiable resulting in its resilient and location-specific nature.²⁷ Liberian customary law is a dynamic system governing land relations that has evolved and is sustained by the community itself, rather than by statute, thereby creating diverse community-specific laws that vary between different communities and ethnic groups.

Liberian customary land tenure can be compared to two basic principles, (1) that customary group connection to particular land areas is based upon the concept of early and later arrivals, thus can exclude persons from other communities or clans; and (2) that customary land cannot be inherited or sub-divided by individuals, as the land belongs to the “dead, living and unborn” ethnographic lineage. Family members may have the right to access and use the community land, yet these rights are strictly determined by community rules developed over time, and which frequently discriminate on the basis of age, gender, social status and wealth.²⁸

Customary governance is usually controlled by community chiefs, a council of elders, or traditional rulers, who take into account issues of socio-economic change and political influences. It is for this reason that conflicting claims of different social groups or politically powerful elites can interpret or reinvent certain “traditions” in their favor,²⁹ with the common outcome of undermining women’s land rights.

Social pressures of population increases, agricultural intensification, cultural changes such as the spread of religion, and land concession leasing or commercialization, have impacted on many aspects of Liberia’s customary systems.³⁰ There has been a move towards greater individualization of land and with this the patriarchal system of male household control has extended to include more frequent cases of inheritance.³¹ In this context of scarcer land availability and a less flexible system of customary land tenure under family control, women’s land rights have eroded and become more restricted.³²

The process of integrated customary rules into common law by judicial or statutory decision has “hardly occurred in Liberia”³³ and the issue of how customary law fits within the structure of statutory law has yet to be effectively addressed.³⁴ It is vital to ensure these two separate frameworks are integrated in a way that explicitly protects women’s rights, so that both men and women customary landholder rights can be enforced in civil courts.

Women's land rights

Legal pluralism - confusion between customary and statutory law

Land ownership in Liberia is based upon Common Law, which is imposed by central government and requires a land deed, however the parallel system of traditional customary law is also prevalent. Legal plurality results in different land tenure and rights claims recognized under each system, resulting in land tenure insecurity from conflicts or confusion between the two. The dual system is non-integrated, serving separate and distinct legal practices, and it is these blurred models of land tenure that create the opportunity for individuals with decision-making authority to choose a system aligned with their preferences.³⁵

The lack of clarity of the hierarchy between both models threatens to create tension between central government and rural Liberians, as well as marginalize the rights of vulnerable groups such as women.³⁶ Whilst progressive and reformative laws protecting women's rights may be established through national legislation, the reality on the ground is very different. As a predominantly patriarchal society, discriminatory socio-cultural practices are not addressed by statutory law, often due to lack of awareness from geographical remoteness, linguistic barriers, or entrenched behavioral norms within the social fabric.³⁷



Gbarpolu County. © FCI

Despite the atrocities committed against women during the civil wars in Liberia and the pivotal role that women played in demanding peace, in addition to Liberia having the first female president elected to head of state in Africa, Ellen Johnson Sirleaf, advocate for an environment that encourages female empowerment,³⁸ the current state of gender equality within land tenure is disheartening.

Women's property rights are weakened by patriarchal societal norms and discriminatory statutory and customary laws governing land,³⁹ both of which diminish their status within their household and community and renders them especially susceptible to land tenure insecurity. Weak property rights are also associated with increased engagement in exploitative and dangerous methods of obtaining secure shelter, education and food, as well as increased domestic violence, due to women's diminished social power within the domestic sphere.⁴⁰ In order to tackle structural gender inequalities in property rights, equal access to and control over land tenure must be granted.

It is important to note that 'women' is not a homogeneous category and that some women are considerably more vulnerable than others, particularly when considering various customary practices shaped by specific cultural inputs between different communities; it is thus vital to recognize women as a diverse group with many variations.⁴¹ Despite this acknowledgement, there are some generalizations that can be assumed, particularly when analyzing policies and practices that have an outright gender bias. It is possible to address structural and cultural impediments to female empowerment whilst recognizing the varying scale on which different women are impacted.

Sources of Women's international legal status

The struggle to promote gender equality and equity around land tenure has been globally conceived as a human rights issue and the government of Liberia is signatory to several regional and international treaties and conventions that strive to protect and promote the rights of women. Liberia has signed and ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1984) that says both spouses have equal rights in the "ownership, acquisition, management, administration, enjoyment and disposition of property",⁴² as well as an equal treatment in land and agrarian reform.

Other instruments include the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2008), the African Union Solemn Declaration of Gender Equality, the United Nations Security Resolution 1820, United Nations Declaration on Violence Against Women, and the International Conference on Population and Development and the New Partnership for African Development (NEPAD). However, before international treaties and protocols become part of Liberian Law, they must be domesticated and CEDAW nor the African Women's Protocol have yet to go through this process.⁴³

Sources of Women's national legal status

At the national level, the government has enacted laws and adopted policies, such as the 1972 Decedent and Estate Law and the 2003 Inheritance Law, which are intended to advance the equality of women to men in terms of acquisition of property including land. Despite the enactment of these laws and policies, most rural women still face disproportionate impediments to equal access and ownership of land as compared to men. This problem is due largely to two factors. The first is the influence and control of socio-cultural practices that are male-dominated. The second is the inconsistency in some of the laws that are intended to provide equal protection for both men and women.

The 1986 constitution

Liberia's 1986 Constitution (Article 65) states that "the courts shall apply both statutory and customary laws in accordance with the standards enacted by the Legislature". This sets the legal framework for the application of customary land laws, which affect the majority of Liberian's outside of the capital. There is a national amendment of the constitution currently underway, with the primary governmental operations being controlled by the Constitutional Review Committee (CRC). During December 2014, the CRC was signaling that a draft had been written which considered inputs stemming from nationwide consultations that had been conducted earlier in the year.

The current Constitution prohibits any discrimination on the foundation of sex.⁴⁴ However, statutory laws sometimes discriminate against women and, more frequently, there is a lack of specific laws as well as a lack of enforcement to ensure women's rights are protected. The Liberian Constitution includes a number of provisions related to real property rights. Article 22 (a) provides that "Every person shall have the right to own property alone as well as in association with others". The Constitution also recognizes customary laws as part of the country's legal system."⁴⁵

Article 2 of the Constitution allows the Supreme Court to declare all laws and customs that are inconsistent with the constitution to be void, and the adjudication of customary laws to be supervised by regional administration. Yet despite the provision in Article 22, Article 2 and even though the government has signed and ratified the (CEDAW), these provisions have not frequently been exercised, rendering women in rural parts of the country victims of discriminatory practices in terms of access and ownership of land.

In furtherance to the protection of private property rights, Article 23 restrains property that is inherited by a married individual, whether man or woman, from being controlled by the other spouse without the inheritors consent. Article 23 also protects the rights of men and women against the creditors of their spouses, requiring the enactment of a law on the decedents' estates to ensure the protection of surviving spouses under both statutory and customary marriages. Article 23 does not only guarantee women the right to acquire property in isolation, but it further gives them the right to inherit property from their spouses and protects this property from the payment of a spouse's debt. This right extent to and protects spouses from both customary and statutory marriages, as the two are equally recognized by the constitution.

The inheritance law

Women have fewer rights to land under customary law than statutory law due to cultural norms and practices. Women traditionally access land (property) via a male counterpart, usually a relative, which has contributed to lower land tenure security for women. Prior to 2003, an indigenous Liberian woman had no rights to her husband's property when he died, resulting in gender-based economic and social discrimination.

The 2003 Inheritance Law brought an end to this practice, intending to give equal property rights to women married under customary law, as well as the children born from that marriage. Section 2.3 of the Inheritance Law discusses the inheritance of property, stating "immediately upon marriage, the customary wife shall be entitled to one-third of her husband's property - personal or real and vice versa regardless whether or not he/she helped him/her to acquire said property". The land type encompassed within the framework of this law is limited to the private land of the husband and does not include customary land, resulting in a significant gap in customary women's land rights that leaves rural women vulnerable and unprotected.

Domestic Relation Law (DRL)

The 1973 Domestic Relations Law (DRL) describes marriage as a civil contract between a man and woman, where a license has been issued and where polygamy is prohibited.⁴⁶ Under the DRL, property brought into a marriage by a woman may remain under her ownership.⁴⁷ Married women may also have the right of action in a tortuous claim for any injury to her person and property against her husband, as well as against any third party.⁴⁸ Again, this portion seeks to protect the legal rights of women to hold property independent of their husband if they so choose. The DRL gives full protection to women's rights to real and personal property in customary marriages.

Divorce is allowed if either spouse can prove grounds for leaving,⁴⁹ with the court awarding the woman not less than one-fifth nor more than one-third of the defendant husband's personal property outright and not less than one-fifth nor more than one-third of his real property for life. Any property jointly acquired by the married couple must have both spouses consent before any partition occurs of the property that the spouses hold as "tenants by the entireties",⁵⁰ where if one spouse dies the entire interest in the property is transferred to the surviving spouse without probate.⁵¹ If the wife dies, her percentage of the real property will descend to her children begotten by the defendant husband, unless he is still alive in which case it will remain in his control until he dies.⁵²



Gbarpolu County. © FCI

Descendent and Estate Law (DEL)

In section 2.6 of the 1972 Decedent and Estate Law (DEL), a woman has exclusive rights to own property on her own, stating that “The property acquired or owned by a customary woman either before or during marriage belongs to her...and she is therefore free to do any lawful business in her own name, including the right to contract with third parties but to the full knowledge and consent of her husband”.⁵³ However, this right is only valid with the consent of the husband and therefore this law does not challenge the patriarchal norms practiced within much of Liberian society. This point undermines the woman’s ability for absolute control of her property and creates the space for the husband to influence the decision-making.

Section 2.6 (b) contradicts the provision made in section 2.6 (a), by limiting the control of the husband over the property of his wife. It states that: “Any husband who shall control, or attempts to control his wife’s property, or prevents her from operating her lawful business, has committed a felony of the second degree (Theft of Property), and upon conviction in a court of competent jurisdiction, shall be fined the amount of not less than LD\$200.00 nor more than LD\$500.00, including restitution of property of the wife converted to his personal use. The contradictory nature of this law allows for blurred definitions that result in inconsistent legal protection for women’s property rights.

The DEL entitles widow(s) married under customary law to one-third of her/their deceased husband’s property. In a polygamous marriage the wives are collectively entitled to one-third of the deceased husband estate, where a higher number of wives results in a smaller proportion of what each wife will inherit.⁵⁴ On a more positive note, the right of a widow or multiple widows to petition the probate court in the administration of the estate of their deceased husband is protected under Section 3.5, which states that: “A widow or multiple widows collectively, children or collateral heirs shall have the unrestricted right to petition the probate court in their jurisdiction for Letters of Administration to administer the property of said decedent, and which right shall not be denied by probate court within the Republic. Any denial of this right shall en-title the aggrieved party to appeal to the Supreme Court of Liberia.”

This provision gives women in customary marriage absolute legal rights to administer their deceased husband’s property contrary to traditional practices. A customary widow(s) has the right to request the probate court through a letter of administration to manage, control, and direct her dead husband’s property. Whilst the law is progressive, enforceability of it remains a challenge due to the pervasiveness of Liberian male dominated culture. In order to make this provision (the right for women to administer their deceased husband’s estate) stronger, the law should criminalize or impose fines on violators in order to discourage traditional practices that deny women the right to control their deceased husband’s property.

Under the DEL, men and women have equal rights regarding how their property should be distributed upon their death. It states: “Every male and female of legal age under customary or tribal law shall have the right to make his/her Last Will and Testament, describing how his/her property is to be distributed after his/her death.”⁵⁵ This portion of the law gives equal legal rights to women in customary marriage as their male counterparts when disposing of their property through testamentary instrument (will, trusts, etc.). When performed according to the law, this testamentary instrument will be enforced regardless of contrary traditional practices, yet it falls short of clearly stating how such rights can be fully enjoyed by women when the majority of customary land is administered and influenced by men.

1998 equal rights of the customary marriage law

The 1998 Equal Rights of the Customary Marriage Law (ERCM) was enacted to govern the devolution of estates and extend the rights of inheritances for spouses of both statutory and customary marriages. The ERCM was established in line with the constitution, which mandates the legislature to enact laws governing the devolution of estates to provide equal rights to spouses regardless of statutory or customary marriage. According to the ERCM,⁵⁶ upon the husband’s death the widow or multiple widows (in a polygamous marriage) shall be entitled to only one-third (1/3) of the late husband’s property; the balance two-thirds (2/3) of the decedent’s property shall descent to his children, if any, or to his collateral heirs.

THE ERCM LAW REQUIRES A REVISION OF THE LANGUAGE IN ORDER TO STRENGTHEN THE INHERITANCE RIGHTS OF WOMEN AND TO ENSURE FULL PROTECTION OF THEIR RIGHTS TO REAL PROPERTY WHEN THEIR HUSBANDS DIE, REGARDLESS OF CUSTOMARY MARRIAGE NOT CUSTOMARY LAND TENURE.



This provision gives women in customary marriages equal inheritance rights to all property, real and personal (land, houses, monies, cattle, etc.) as women who are married statutorily. By this law, they are entitled to one-third of their husband's marital and personal property, which cannot be denied to them by traditional practices. This amendment supposedly ends the difference between property rights for women who are married under statutory and those under customary law. A close reading of this provision, however, points out that widowed women are still not accorded full inheritance rights in Liberia, even though the widow has liberty to remarry a man of her choice. Section 3.3 of the ERCM states that: "After the death or burial of her/their husband, the customary widow or multiple widows shall be at liberty either to remain on the premises of her/their late husband to administer said estate, or she/they may take another husband of her/their choice and shall vacate the premises of the husband, in as much as the new marriage entered automatically reverses said rights and same property returned to the heirs or children of the late husband."

In essence, if the widow remarries, she loses her rights to own the property of her late husband or to administer his estate.⁵⁷ If the widow enters into a new marriage she automatically reverses her inheritance rights and the property is returned to the heirs or children of the late husband. Most significantly, the ERCM law is only applicable to private property and does not include customary land, as this is owned by the community and thus traditionally cannot be inherited. The ERCM law requires a revision of the language in order to strengthen the inheritance rights of women and to ensure full protection of their rights to real property when their husbands die, regardless of customary marriage.

Sources of Women's customary land tenure insecurity

Customary norms and practices

Gendered social roles perpetuate inequality by restricting women's ability to exercise their land rights under customary law. It is important to recognize the complexity of these defined gendered roles in creating 'social obstacles' to women claiming land.⁵⁸ Liberia's patrilineal society largely bestows men as the head of the family, trusted with the decision-making responsibilities surrounding land issues, whilst women are vested with domestic duties and child-care.⁵⁹ This static cultural representation of men and women reinforces the patriarchal power structures that further influences the self-perception of women, resulting in a lack of confidence or awareness of their rights.⁶⁰

Often women's access to land is limited to avoid losing family or customary land to 'strangers' outside of the community through marriage,⁶¹ in this situation women frequently have 'secondary' rights such as cultivation. In these instances, women's inheritance rights are extremely limited and their access to land is mediated and dependent upon their relationships to their male relatives.⁶² The dependence on relationships with male relatives and their extended family poses a key obstacle to women's land tenure, as it provides a poor guarantee of their rights which further promotes women's vulnerability.

Transferring of land is also shaped by religious practices that have been formalized into customary law, and women may have greater or lesser land rights depending on these norms. The practice of polygamy is an example where wives may be forced to share a portion of their husband's property between themselves, or, if a community deems polygamy illegal, succeeding wives may not have inheritance rights at all.⁶³



Holding group discussions after the women return home late from farming, Lofa County. © FCI

Policy issues within the law

Although statutory laws on women's inheritance and property rights appear to offer high levels of protection, these laws may be discriminatory in practice due to the pervasiveness of customary rules and traditions.⁶⁴ A common example is where statutory law presumes civil married couples have joint ownership of land acquired during the marriage, except for inheritance or gifts, whereas in practice the reality on the ground often finds that women take part in traditional customary marriage rather than civil ceremonies, thereby rendering the law ineffective.

In Liberia there has been some recognition of this issue, which has been addressed through the 1998 Equal Rights of the Customary Marriage Law, yet there are discrepancies within this also, most notably the requirement of a "dowry" or "bride piece" to ensure an official customary marriage.⁶⁵ This lack of recognition of different types of marriage or alternative relationship arrangements will result in many women married under customary law to be denied their rights. Furthermore, there is a gap in the ERCM Law as it is only applicable for customary wives that have a deed to private land and not under customary tenure, regardless of whether the community has a customary land deed.⁶⁶

There are still discrepancies between women in civil marriages and those in customary marriages, with the formal legal-framework recognizing women in joint-ownerships of land as being co-owners of property and thus entitled to fifty per cent of the interests. In comparison, customary wives are only entitled to a third of the property, regardless of whether they contributed more than this to obtain the joint property, and this percentage only exists once the husband is deceased, under the term 'inchoate dower'.⁶⁷ The same policy applies for inheritance, with civil wives obtaining half the property, whereas customary wives are entitled to a third, which must be shared with other wives in a polygamous marriage, yet this third is foregone if the customary surviving spouse remarries.⁶⁸

Unclear laws and policies impact negatively on women as they are open to being understood and applied inconsistently; different actors may resolve gaps or differences in the law by reverting to practices that abide by traditional gendered social norms. In addition, many men in rural areas charged

with the responsibility of controlling customary land tenure have shown considerable resistance to new policies and laws that attempt to protect women's property rights, undermining the effectiveness of their implementation.⁶⁹

Lack of access to justice

Despite women being guaranteed equality in the Liberian Constitution, poor access to justice results in women's legal entitlements being difficult to enforce by courts or police. Even when civil courts are reachable, they are often corrupt, overcrowded and have discriminative decision-making against women.⁷⁰ Customary dispute resolution commonly starts with a meeting with local elders before raising the issue with the chief or "tribal" court, resulting in a number of stages for traditional male-dominated bodies of authority to favor men's land rights over women's, in line with customary practices. Societal pressure from community menfolk compounds the dissuading of women from accessing legal support and, furthermore, if the result of the customary court is not the desired outcome for the male in the dispute, the man can ignore the conclusion with little or no consequences.⁷¹

A key obstacle in the impediment of women enforcing their land rights in a divorce, or in the case of being widowed, arises from the lack of financial independence or availability, as the price of the property or land in question is often lower than the cost of going through a legal dispute.⁷² This financial constraint prevents women from having control over land, which further perpetuates female economic marginalization as ownership and access to land is invariably the most common way to participate in the rural formal economy.⁷³

Limited education resulting from the disadvantaged status of women, as well as the tremendous burden that women shoulder in the household and the field, contributes to the lack of knowledge about justice processes and awareness of rights, further reinforcing the disparities between men and women's customary land rights.⁷⁴ This helps foster a common perception among women that the process of going to court is too difficult and has many impediments to overcome,⁷⁵ as a young community woman in Zorzor, Lofa, commented: "Our lack of knowledge leaves us in darkness and we have no one to help us see the light".



Community Animators in Gbarpolu map threats to their customary land. © SDI, 2015

Methods

In order to conduct a comprehensive review of women's land rights in Liberia, a two-tiered approach was taken. The starting point for the analysis was an in-depth desk review of relevant literature and Liberian laws, as well as interviewing key informants, including (1) government officials from agencies that cover gender issues and land; (2) program staff within civil society and international NGOs that relate to land rights and gender equality; (3) representatives from the Land Commission; (4) lawyers; (5) Liberian academics; and (6) international consultants specializing on land tenure rights.

Field research was then conducted in three target counties, Gbarpolu, Lofa, and River Cess, in which 15 communities were analyzed to define the land tenure situation with regards to women's property rights on the ground. The qualitative legal field survey consisted of a questionnaire, semi-structured interviews and focus groups to research the actual rights experienced by women. This study was interested in identifying the gender-specific roles and challenges in decision-making within natural resource management, and to assess the land tenure context and causes of land insecurity through a gender analysis lens.

Focus groups relied on FCI's women network in the counties, where member numbers averaged between 20-60 women per community. Interviews were conducted both in large groups and one-to-one sessions, where open-ended questions were asked that encouraged participants to discuss their practices, beliefs, personal experiences and expectations on a diverse range of topics relating to women's land tenure rights.



Profiles of surveyed communities

Overview

Each of the groups surveyed in the three counties are part of small agrarian communities, characterized by a composition of extended families, kinship groups, and overall close social networks. Communities in Gbarpolu and Lofa were close to land areas under concession and had heightened knowledge of the importance of community land rights, although showed no increased knowledge in the specifics of these rights.

Lofa county

Lofa County is situated in the northwestern portion of Liberia, with six administrative districts: Salayea, Zorzor, Voinjama, Kolohun, Foya, and Vahun; and one township called Zogolimai. There is also a chiefdom named QuarduGbondi in Voinjama that is currently being transformed into a district by an act of legislation to what will be Lofa's seventh district.⁷⁶

FCI surveyed six communities within the districts of Zorzor and Salayea, these were: Yeala, Fissebu, Zorzor, Sucrumu, Telemu, and Gbonyea communities. Lofa has a diverse range of habitants, with six main ethnic groups populating the country, including Mende, Kisi, Gbandi, Mandingo, Kpelleh, and Lorma.⁷⁷ The two largest tribes are the Gbandi and Lorma, which are mainly Muslim and Christian respectively. In the districts that FCI surveyed, Salayea is predominantly Kpelle speaking, whilst Zorzor district contains mainly Lorma speaking people.

According to the Liberian Ministry of Internal Affairs, the people of Lofa have strong traditional cultural practices that provided a measure of social cohesion in the era before the civil crisis.⁷⁸ Lofa is known as the "bread basket of Liberia" and is renowned for its high contribution to agricultural development, academic excellence, and self-help community initiative spirit. Since the civil wars, Lofa has rebuilt up much of its traditional and cultural practices, often using this as a comparative advantage in agriculture through working in cooperatives known as traditional "kuu".⁷⁹

The vast majority of Liberians depend on their customary land for their survival and livelihoods. Women farmers in northern Lofa County. © SDI, 2015

Gbarpolu county

Gbarpolu County is a densely forested area situated in the western region of Liberia. It is the newest of Liberia’s fifteen political sub-divisions and was also one of the worst affected by the civil wars, due to its close proximity to Monrovia, with mass displacement, extensive damage to infrastructure and basic services, and loss of life.⁸⁰

Gbarpolu has six administrative districts: Bopolu, Gbarma, Kongba, Belle, Bokomu and Gou-Nwolala, in which the Kpelle form the majority ethnic group, followed by Belle and Gola. Kpelle and Gola are the main dialects spoken in Gbarpolu, and whilst the main religion is predominantly Christian, the County has a large Muslim population also. FCI surveyed four communities within Bopolu District, these were: Totoquelleh, Weayamah, Medina, and Gaynimah.

River Cess county

River Cess is situated on Liberia’s southeastern coast and is one of the least developed and most isolated counties. This County suffers from a severe lack of road infrastructure and basic services, as well as high malnutrition rates,⁸¹ yet has vast forestland and fisheries. During the civil war, most households were displaced and the County’s forests were heavily exploited for illegal logging activities. The main livelihood activities today are palm oil production, hunting, and smallholder agriculture.⁸²

River Cess has eight administrative districts: Dodain, Joe River, Fehn, Zarflahn, Nyunwein, Central River Cess, Bear-Wor, and Sangbalor. FCI surveyed six communities within the district of Central Rivercess District, these were: James Town, Whrobone Town, Neezuin, Saryah Town, Charlie Town, and Little Liberia. Indigenous tribes contribute to 99% of the population, dominated by Bassa (78%) and Kru (18%), with 93% of the population speaking Bassa, followed by Kran, Kpelle and Mano (2%, 2% and 1% respectively).⁸³

FCI Communities of Implementation



Types of ownership of customary land

In each of the 16 communities studied, access and rights to land and resources were governed under customary rule, which was shaped differently depending on the tribal ethnicity and lineage systems that dominated in each community. The following sections highlight the similarities and differences in women's customary land tenure found in each of the communities.

Independent acquisition of land

Like men, women can obtain property rights through purchasing land, by gift, or through bequest. Land deeds are the primary source of conclusive evidence of a right to property in Liberia, as customary rights vary widely between communities and are largely based on the relationship between the woman and her community.

The process of acquiring land typically involves the woman seeking assistance from a male family member (husband, brother, father) and approaching the community landlord who would give the woman a plot of the customary land with specific rules under which she can use it. Approaching both the male family members and the landlord must be done respectfully and based upon good relationships, otherwise there is a higher chance of uncooperative responses.

This method of obtaining land was found in River Cess and Gbarpolu, yet there were less restrictions facing women in Gbarpolu, as often the woman did not need a male sponsor at all. The situation in Lofa was significantly different, with women rarely able to obtain land from the community landlord independently, regardless of a male sponsor. FCI was told that in Lofa, in the event that a woman is able to get land from her community she is restricted to what she can grow on that land and cannot plant cash crops such as rubber, cocoa, and oil palm, nor pass this land on to her children when she dies.

Women are generally unable to participate independently in community decision-making regarding communal land. A young woman in Zorzor community, Zorzor district Lofa County, commented: "when the Land Commission came to hold community dispute resolution training they said that there must be woman involved. Only one woman went from our area but many men went. We want to be involved so that we can also have our rights in dispute resolution, but now there are no women who know about dispute resolution we do not know if the men are telling truth or telling false information."

In all 16 communities, women complained of not knowing their rights to land and said they had no where to go to access such information. In Zorzor community, Zorzor district Lofa County, women knew that there was a nearby Land Commission office but claimed they were not permitted to visit by the men in their communities.

In Gbarpolu it was fairly common that women's rights were more respected within their communities. Focus groups revealed that there had been much information awareness raising from NGOs that had come in and given a number of trainings on women's land rights, land dispute resolution, and understanding human rights. It was frequently mentioned that these trainings always included men as an integral actor and that this sensitization had gradually started to change male behavior and attitudes to women having access to and control of land.

Marriage

Marriage was the most common form of access to land for women, resulting in their access being defined by customary marriage traditions. In all of the communities visited, women would relocate to their husband's community upon marriage, or if marrying within the same community, would join their husband on his land.

Often women's access to land is restricted to avoid losing family or customary land to 'strangers' outside of the community,⁸⁴ in this situation women often have 'secondary' rights through marriage. When a woman is a co-owner of land with her husband her access and control over the land is limited, as is her general decision-making and control within her marriage. In Zorzor community, Zorzor district Lofa County, a woman is never permitted to discuss land matters, even within her family or amongst other women else she risks punishment, including physical abuse, from a male family member.

These secondary rights through marriage often leave certain categories of women vulnerable; an example of this is the lack of rights allocated to a woman living together with a partner but who is not married under statutory or customary law. In all communities visited, this would most often result in the woman not being permitted any land rights to her partner's land, nor to the land acquired during their relationship.

Inheritance

Widows

Women in Lofa claimed that since under customary marriage there are no official documents, if the husband dies the community invariably takes the land away from the woman and often this is driven by the deceased husband's family. This was also found in the other counties, but to a lesser extent. To try and counteract this happening, the woman must ensure that she has a good rapport with her in-laws. This dependency on relationships highlights the insecurity of women's customary inheritance rights, and highlights the need for an accessible and fair dispute resolution structure.

Women were compared to 'strangers' in the eyes of their community if their husband died and would be expected to return to their natal land under the control of their father. Other cases showed that women were able to stay on her husband's land only if she had given birth to children from that marriage, however, she would not have the right to pass this on to her children after her death and would also have to forfeit the land if she remarried.

This was commonly cited to be due to the patriarchal inheritance system and to prevent the woman from marrying outside of the community and passing the land into the hands of a stranger man. Sometimes the children born between the widow and deceased husband would automatically be taken by the husband's family and the widow would be allowed access rights only, although there are sometimes exceptions to this rule.

Polygamy

Under polygamy, wives will have no guaranteed rights to land or properties under formal Liberian law, as this type of relationship is not recognized. This practice is tolerated within customary law and in Gbarpolu and River Cess, the first (main) wife be awarded the most land, with smaller portions given out to each successive wife. In Lofa, however, it was commonly found that the wives would not have any rights to their deceased husband's land if their in-laws decide not to share the land. It is estimated that 16% of women aged 15-49 were in polygamous relationships in Liberia,⁸⁵ and that rates of polygamy were higher for older women (over 35) compared to younger women, indicating that the practice is in decline.

Daughters

In Lofa, daughters did not inherit any land under any circumstances, for fear that the daughter would marry outside of the tribal community, thus affirming the customary principle of land being passed on through the male line. In comparison, daughters in Gbarpolu and River Cess enjoyed more rights to inheritance, although generally received smaller portions than their brothers. Since under customary law an individual can only manage land within their own extended family, and when women marry they leave their natal family and become part of their husband's extended family, it was commonly found that daughters would have to forfeit their inherited land when they got married.

Divorce

All communities reported that if a marriage ends in divorce, a woman can return to her natal home to access land, although this practice is based upon having a cordial relationship between the woman and her family. A woman's rights are strengthened if she has children; in Gbarpolu under these circumstances women are able to remain in their ex-husband's community and use their land for farming. Like widow's, if a woman remarries she must forfeit any land, and the proceeds from any crops and trees, that belonged to her and her ex-husband. Any children born from the divorced marriage will not have inheritance rights to the woman's natal land, instead having rights to the husband's family land. This was a contentious point and there were many women in the focus groups who voiced personal complaints about their own experience where their children were disinherited from both families.



Community meeting, Lofa County. © FCI

Disputes

Strangers

The communities in River Cess and Gbarpolu were characterized by belonging to a particular ethnic lineage, which established a natural boundary between those residing in the community and those originating from outside of the area with a different or mixed ethnic lineage; these 'outsiders' were referred to as strangers. In Lofa a stranger was also used to describe someone from outside the immediate town, regardless of their ethnicity.

All towns visited had defined rules governing the acceptance of a stranger into their community. In Gbarpolu it was common that a stranger could move into the community and receive land from the landlord relatively easily, as long as they had a "stranger father". A stranger father is usually a local native man from the community that introduces and facilitates the assimilation of the stranger into the community. Once they had the land they were free to plant whatever they wanted and could even marry outside the community also.

In River Cess the process was fairly similar, although it was more common for women strangers to marry into the community, whereas in Lofa a female stranger's only option to move into a community was through marriage, as there was fear that the woman would marry outside of the community. Furthermore, strangers in Lofa were not able to plant life trees, apart from in Fissebu, Salayea district, where they had to ask permission from the town chief. In all 16 communities, strangers were expected to take part in community activities and respect the residents if they are to be fully integrated.

In each of the communities there were prescribed dispute resolution procedures that a community member would follow in the event of a disagreement over land. The process started with the case being brought to the local landlord who would attempt to resolve the issue through open dialogue with both parties in the disagreement. If an agreement cannot be reached then the case is passed on to the next level in the authority hierarchy, firstly to the elders, who are considered a community jury, and then to the Paramount Chief and eventually the District Commissioner or customary court. In all of the communities visited, men comprised the customary positions of authority, inevitably resulting in various degrees of male bias in the interpretation of customary law.

Customary dispute resolution can offer women a more easily accessible pathway to protect their land rights. This is due to the closer proximity of the resolution bodies in comparison to civil courts, as it is often not feasible for women to travel far distances as their schedules are heavily restricted by farming and household responsibilities. The financial cost is also significantly lower for customary judiciary in comparison to civil judiciary; however, financial constraints will still leave women vulnerable as they are less economically empowered to follow up with dispute resolution.

On the other hand, land disputes often depend on the relationship a woman has to her male relatives, as they are the spokespeople for the dispute in question. Furthermore, marriage is often an essential component in the recognition of a dispute between a couple, as invariably a woman's right to land is not recognized in a customary dispute unless there is this formal partnership. It was reported in the majority of the communities that the social stigma of a woman seeking dispute resolution against her husband was often a cause for her not to pursue her claim. Women in each of the counties told of experiences where their community had negatively judged a woman for undertaking customary legal action through social rejection and the inability to remarry within the community, physical violence in order for her to withdraw her claim, or even eviction from the town.

The nature of customary law and women's land rights varies considerably between locations, with differing levels of gender bias and openness. In Lofa, women said that to challenge a man on land issues was to automatically incite shame and disappointment on themselves, as women were not permitted to discuss land, let alone pursue dispute resolution. This absolute lack of access to dispute resolution contrasts greatly with communities visited in Gbarpolu, where women enjoyed greater social legitimacy.

In Gbarpolu, women were more able to visit their elders or community landlord to place their complaints, sometimes even in the absence of a male representative, and it was commonly stated that women felt their rights would be appropriately considered in a land dispute against a male in their community. The main issue raised in Totoquelle, Gbarpolu, was the lack of respect for customary rulings from men in the disputes, as there were few mechanisms to ensure that both parties adhered to the rulings.



Community meeting, River Cess County. © fci

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TOWARDS THE REALIZATION OF WOMEN'S LAND RIGHTS

The existing framework protecting Liberian customary land rights is marred by severe gaps and inconsistencies that result in a lack of protection for women. Policy makers should be conscious of the complex nature of customary land tenure systems and be aware of how legal terminology and principles can be overlooked in practice.⁸⁶



Will he transfer his customary land to his daughter? The action of the Legislature will significantly impact her future. © SDI, 2015

Government Institution (Land Commission) Recommendations

In 2009, the Government of Liberia established the National Land Commission in an attempt to strengthen Liberia's weak land tenure system, dissipate land conflicts and modernize Liberia's land laws. With its five-year mandate, the Land Commission worked steadily towards developing a Land Rights Policy (LRP), which was adopted 2013. The draft Land Rights Act (LRA) is under review by the Liberian Legislature and makes many progressive policy recommendations to promote land rights. The key policies identified in the following section is also highlighted by the Civil Society Policy Brief,⁸⁷ which outlines key provisions contained within the draft LRA. Despite major advances in the protection of customary land rights within the draft LRA, there are significant oversights that fail to properly secure women's land rights within that same protection.

Land rights act - categories of land

According to the Draft Land Rights Act there are four basic categories of land ownership in Liberia: 1) Public Land, (2) Government Land, (3) Customary Land, and (4) Private Land. The LRA distinguishes between Government and Public Land not by ownership but by how the land is managed, used and transferred.⁸⁸ In keeping with the policy recommendations, all Government and Public Land is owned by the Republic of Liberia and used or managed by government on behalf of the people.⁸⁹

Unlike Protected Areas, Public land may be sold, leased, granted as a concession or transferred to the Government, an individual or private entity.⁹⁰ In contrast, Private Land is land owned by an individual or private entity, in which management and use decisions are based solely on formal law such as statutes, regulations, executive orders and court decisions. Private land owners enjoy the rights to "exclude all others, use and possess, and to transfer some or all of the land through sale, lease, concession, will or other means".⁹¹

Key policies in the draft land rights act that protect community land rights

- Perhaps the most progressive part of the LRA is its explicit recognition of customary rights as legitimate and equal to private land rights for the first time in Liberia's history: "Customary land is owned by and vested in communities

with the same rights of status and recognition as privately held land” (Article 2, Section 22); and customary ownership is automatically formalized, with or without a deed, the moment that the Land Rights Act passes into law: “The existence and ownership of Customary Land shall become enforceable as of the Effective Date of this Act” (Article 32, Section 2). This policy presents new economic, social and political opportunities for Liberians, both men and women, living on customary land, by promoting inclusive and strengthened land governance that defines land rights for all Liberians.

- Communities are empowered to self-identify and define their official boundary demarcation through participatory processes,⁹² keeping in line with cultural and historical traditions.
- Communities have the ability to own all natural resources located on their customary land, including water, forests and carbon credits, and manage these in accordance with customary practices and norms.⁹³ This fundamental shift to legally empower rural Liberians to govern and manage their customary land, including natural resources, as land owners rather than simply custodians will bring land tenure security and economic inclusion to those previously marginalized.
- The land rights of all community residents are equally protected: “All Residents of a community are members of the community with equal rights to the Customary Land and participation in the use of the community’s land, regardless of age, ethnicity, religion, disability and identity.”⁹⁴
- Communities may demand rental fees and other benefits for the lease or use rights of their customary lands: “Any negotiation for any extension of an existing concession, contract or permit on a Customary Land granted by the Government prior to the Effective Date of this Act shall require both the participation and the free, prior, informed consent of the community that owns the Customary Land, and it shall be the right of the community to demand and receive land rental fees, equitable benefits, or other considerations for use of its Customary Land.”⁹⁵ In addition, existing concessions on Customary Lands will revert back to the community at the end of concession period.⁹⁶

Strengthening Women’s rights in the draft land rights act

Through the draft LRA, the state will treat rural communities as landowners for the first time, rather than custodians of the land, which will improve efforts to make natural resource governance more accountable, transparent and provide equitable benefit distribution.⁹⁷ However, it is imperative that these land rights explicitly include women in order for this law to be effective and progressive on issues of gender. If this is realized, it opens the opportunity for communities to be empowered to drive their own development through having legitimate land ownership and governance structures.

Despite the initial progress of the Land Commission and multi-stakeholder input into the draft LRA, there are opportunities and recommendations that should be taken into consideration moving forward:

- By not addressing the patriarchal governance of customary land rights, the LRA does not ensure that women as a marginalized group are entitled to rights within their community. Women need to be explicitly defined as a stakeholder within a community with language that clearly defines their rights;
- The definition of community (within community self-identification and elsewhere) must be made with explicit reference to the full participatory inclusion of women, both as members and in managing bodies;
- Include a provision necessitating that any land documentation must include the signatures of spouses;
- The LRP legislation must include a provision that necessitates women’s participation in local community land governing institutions in order to have legitimacy, including dispute resolution bodies;
- Stipulate, in line with the law, that any community by-law or customary practice be rendered void if it contradicts the Constitution, with reference specifically to the prohibition of discrimination on the foundation of sex and the equal rights to land that every Liberian has, regardless of sex;
- Begin a review process of community by-laws and practices to identify any gender-based discrimination regarding land access and management.

Civil Society Recommendations

Legal reform recommendations

- There should be recognition that increasing women's access to customary land rights is in the interest of the Liberian Development Agenda, and therefore all discriminatory laws against women's property rights should be removed;
 - Laws should explicitly address women's customary land tenure rights, with specific reference to the length and type of land rights, defined as separate from men;
 - Women rights should be recognized explicitly as individuals, regardless of their marital status or relationship to their male relatives;
 - All laws protecting women's land rights must be applicable to customary land, as well as private land;
 - Women should be included in debates over the process of constitutional amendment and their right to access and own land should be a matter of public dialogue;
 - Efforts must be made to increase awareness of relevant laws in the interior that pertain to women's land rights. This information dissemination must be carried out in local languages and in an easily understandable manner;
 - The formal justice system in the interior should be strengthened to ensure increased availability to women, with freely available information on women's rights and access to affordable legal aid.
- An awareness campaign should be established that educates communities living on customary land on the laws and rights that protect women's access to, and management of, land. It is vital to include men and local leaders in this training as well as women, as this will directly target the source of discriminatory traditional practices and increase the awareness of the broader benefits of women's property rights;
 - Encourage the adoption of by-laws at the community and district levels declaring customary laws invalid if they discriminate against women;
 - Support natural resource management and land-governing bodies to include female representatives, both in membership and participation to promote equitable and inclusive land governance. Women representatives in these governing structures should have the necessary training, leadership skills, and legal knowledge of land laws to support their work;
 - Support easily accessible and affordable legal aid for women, through establishing dispute resolution mechanisms that serves both customary and statutory practices. These structures should not work in isolation from local community leaders. By supporting existing customary governance structures, this will allow for more transparent and inclusive customary dispute resolution mechanisms that are not characterized by a predominantly male-bias;
 - Put pressure on the government and legislature to remove sections of laws that are discriminatory against women's property rights and inheritance rights.



Kpana Massaquoi (Gainayma Town, Gbarpolu County) has used this 3-acre plot of land for the last six years. From rotating food crops, she now grows sugarcane. She reports that her income has tripled since 2013. © SDI, 2015

THERE SHOULD BE RECOGNITION THAT INCREASING WOMEN'S ACCESS TO CUSTOMARY LAND RIGHTS IS IN THE INTEREST OF THE LIBERIAN DEVELOPMENT AGENDA, AND THEREFORE ALL DISCRIMINATORY LAWS AGAINST WOMEN'S PROPERTY RIGHTS SHOULD BE REMOVED.

References

- 1 Ministry of Agriculture (MOA) (2007) Comprehensive Assessment of the Agriculture Sector, Volume 1 synthesis report. Republic of Liberia, Monrovia, Liberia.
- 2 Sustainable Development Institute. (2012). UNCERTAIN FUTURES. Available: http://www.sdliberia.org/sites/default/files/publications/2012_Uncertain%20Futures_0.pdf.
- 3 United Nations Development Programme, "Human Development Report, 2014" <http://hdr.undp.org/sites/default/files/hdr14-report-en-1.pdf>
- 4 Richards, P., et al. (2005). Community Cohesion in Liberia. Available: http://www-wds.worldbank.org/external/default/WDSContentServer/WDS/IB/2005/01/28/000009486_20050128102506/Rendered/PDF/317730PAPER0SDP770conflictWPO211web.pdf. Last accessed 19th July 2013.
- 5 Balachandran, Herb, Tirmizi, and O'Reilly (2013) Everyone must eat. Columbia SIPA.
- 6 Ministry of Foreign Affairs (MoFa) (2003) An Act to Govern the Devolution of Estates and Establish Rights of Inheritance for Spouses of Both Statutory and Customary Marriages. Republic of Liberia. <http://www.refworld.org/pdfid/44868b524.pdf> Accessed 4 Sept 2013.
- 7 "Government and UN Joint Programme Gender Equality and Women's Economic Empowerment." Republic of Liberia, Government and UN Joint Programme Gender Equality and Women's Economic Empowerment. Accessed at 10th October 2013. Available at: http://www.unliberia.org/doc/JJP%20GEWEE%20final%20draft%20%20-%2012%20Feb%2009MOGD_signed%20copy.pdf
- 8 Women's NGO Secretariat of Liberia (WONGOSOL) (2010). Liberia Country Report. Rome, Italy: International Development Law Organization (IDLO).
- 9 World Bank Group, Rising Global Interest in Farmland: Can it Yield Sustainable and Equitable Benefits?, (2010) XIV. http://siteresources.worldbank.org/INTARD/Resources/ESW_Sept7_final_final.pdf August 2013
- 10 Rights and Resources Group (2013), Investments into the Agribusiness, Extractive and Infrastructure Sectors of Liberia: An Overview, Washington DC: RRG, p.18.
- 11 Green Advocates (2012) "We who live here own the land".
- 12 Namati, SDI and IDLO (2013) Protecting Community Lands and Resources: Evidence from Liberia.
- 13 World Bank Group, Rising Global Interest in Farmland: Can it Yield Sustainable and Equitable Benefits?, (2010) XIV. http://siteresources.worldbank.org/INTARD/Resources/ESW_Sept7_final_final.pdf August 2013
- 14 USAID (2012) Land Policy and Institutional Support (LPIS) Project
- 15 Lomax, T (2008) Forest governance in Liberia, FERN.
- 16 Wily, L (2007) So Who Owns The Forest, Sustainable Development Institute / FERN.
- 17 See 14.
- 18 Norton, G (2001) Norwegian Refugee Council's Land Dispute Resolution Process in Liberia, NRC.
- 19 Lomax, T (2008) Forest governance in Liberia, FERN.
- 20 1986 Constitution (Art. 65)
- 21 Wily, L (2007) So Who Owns The Forest, Sustainable Development Institute / FERN.
- 22 Jappah, R., Scalise, E., Hannay, L. (2012), Land Policy and Institutional Support (LPIS) Project: Women's Land Rights Study: USAID.
- 23 Ibid.
- 24 Namati, SDI and IDLO (2013) Protecting Community Lands and Resources: Evidence from Liberia.
- 25 Wily, L (2007) So Who Owns The Forest, Sustainable Development Institute / FERN.
- 26 Lomax, T (2008) Forest governance in Liberia, FERN.
- 27 Wily, L (2012) Rights to Resources in Crisis: Reviewing the Fate of Customary Tenure in Africa - Brief #1 of 5, Rights and Resources Initiatives.
- 28 FAO (2002) Gender and law: Women's rights in agriculture, FAO.
- 29 Ranger, T., 1983, The Invention of Tradition in Colonial Africa, in E. Hobsbawm and T. Ranger (eds), The Invention of Tradition, Cambridge, Cambridge University Press, pp. 211-262.
- 30 Bruce, J., (1993), Do Indigenous Tenure Systems Constrain Agricultural Development?, in T.J. Bassett and D.E. Crumme (eds.), Land in African Agrarian Systems, Madison, University of Wisconsin Press.
- 31 Lastarria-Cornhiel, S., 1997, Impact of Privatization on Gender and Property Rights in Africa, World Development, Vol. 25, No. 8, p. 1317-1333.
- 32 Whitehead, A., and Tsikata, D., "Policy Discourses on Women's Land Rights in Sub-Saharan Africa: The Implications of the Return to the Customary," Journal of Agrarian Change 3, no. 1-2 (2003), p91.
- 33 Bruce, J., (2008) Liberia Insecurity of Land Tenure, Land Law and Land Registration in Liberia, World Bank.
- 34 USAID (2012) Land Policy and Institutional Support (LPIS) Project
- 35 See 34.
- 36 FAO (2002) Gender and law: Women's rights in agriculture, FAO.
- 37 Cotula, L., Toulmin, C., Hesse, C. (2004) Land Tenure and Administration in Africa: Lessons of Experience and Emerging Issues, International Institute for Environment and Development (IIED).
- 38 FAO (2002) Gender and law: Women's rights in agriculture, FAO.
- 39 Jappah, R., Scalise, E., Hannay, L. (2012), Land Policy and Institutional Support (LPIS) Project: Women's Land Rights Study: USAID.
- 40 Women's NGO Secretariat of Liberia (WONGOSOL) (2010). Liberia Country Report. Rome, Italy: International Development Law Organization (IDLO).
- 41 Namubiru-Mwaura, E. (2012) Women and Customary Land Tenure in Liberia, Available at: http://www.landandpoverty.com/agenda/pdfs/ppt/namubiru-mwaura_powerpoint.pdf (Accessed: 2nd September 2013).
- 42 CEDAW (Article 16)
- 43 FAO (2002) Gender and law: Women's rights in agriculture, FAO.
- 44 1986 Constitution (Article 11: A, B and C)
- 45 1986 Constitution (Article 65)
- 46 Domestic Relations Law (Section 2.3)
- 47 Domestic Relations Law (Section 3.4.1)
- 48 Domestic Relations Law (Section 3.5 sub-section 1)
- 49 Domestic Relations Law (Section 8.1)
- 50 Domestic Relations Law (Section 3.3)
- 51 Jappah, R., Scalise, E., Hannay, L. (2012), Land Policy and Institutional Support (LPIS) Project: Women's Land Rights Study: USAID.
- 52 Domestic Relations law (Section 3.5)
- 53 Decedent and Estate Law (Section 2.6: A)
- 54 Ibid., Section 3.2 and 3.3
- 55 Decedent and Estate Law (Section 3.6)
- 56 ERCM, (Section 3.2)
- 57 ERCM (Section 3.3)
- 58 Jackson, Cecile (2003). Gender Analysis of Land: Beyond Land Rights for Women? Journal of Agrarian Change 3(4): 453-480.
- 59 Committee on the Elimination of Discrimination against Women (CEDAW), 'Concluding Observations of the Committee on the Elimination of Discrimination against Women - Liberia' Forty-Fourth Session, 2009, CEDAW/C/LBR/CO/6.
- 60 Women's NGO Secretariat of Liberia (WONGOSOL) (2010). Liberia Country Report. Rome, Italy: International Development Law Organization (IDLO). 1
- 61 FAO (2002) Gender and law: Women's rights in agriculture, FAO.
- 62 Bruce, J.W., 1993, Do Indigenous Tenure Systems Constrain Agricultural Development?, in T.J. Bassett and D.E. Crumme (eds.), Land in African Agrarian Systems, Madison, University of Wisconsin Press.
- 63 See 69.
- 64 Women's NGO Secretariat of Liberia (WONGOSOL) (2010). Liberia Country Report. Rome, Italy: International Development Law Organization (IDLO).
- 65 ERCM Section -dowry OSCAR
- 66 Jappah, R., Scalise, E., Hannay, L. (2012), Land Policy and Institutional Support (LPIS) Project: Women's Land Rights Study: USAID.
- 67 ERCM (Section 3.2)
- 68 See 75.
- 69 Unruh, J. 'Land rights in postwar Liberia: The volatile part of the peace process', in Land Use Policy (2009) 26(2) 425-433.
- 70 R Murray, 'Liberia's Land Just for Some, Inter Press Service News Agency <http://www.ips.org/mdg3/agriculture-liberiaaoposs-land-just-for-some/> at 21 October 2013.
- 71 Taken from group discussion in Lofa County, Zorzor district.
- 72 Jappah, R., Scalise, E., Hannay, L. (2012), Land Policy and Institutional Support (LPIS) Project: Women's Land Rights Study: USAID.
- 73 Unruh, J. 'Land rights in postwar Liberia: The volatile part of the peace process', in Land Use Policy (2009) 26(2) 425-433.
- 74 Cole, Samuel. "Increasing Women's Political Participation in Liberia." International Foundation for Electoral Systems. October 2013. Available at: http://www.ifes.org/Content/Publications/White-Papers/2011/-media/Files/Publications/White%20PaperReport/2011/2011_Humphrey_Fellowship_Cole.pdf
- 75 Women's NGO Secretariat of Liberia (WONGOSOL) (2010). Liberia Country Report. Rome, Italy: International Development Law Organization (IDLO).
- 76 County Development Committee (2008) Lofa County Development Agenda, Available at: http://www.mia.gov.lr/doc/Lofa%20CDA_web.pdf (Accessed: 5th September 2013).
- 77 GoL, (2008) NATIONAL POPULATION AND HOUSING CENSUS, Available at: http://www.emansion.gov.lr/doc/census_2008provisionalresults.pdf (Accessed: 5th September 2013).
- 78 County Development Committee (2008) Lofa County Development Agenda, Available at: http://www.mia.gov.lr/doc/Lofa%20CDA_web.pdf (Accessed: 5th September 2013).
- 79 See 86.
- 80 County Development Committee, Gbarpolu County Development Agenda, Available at: http://www.mia.gov.lr/doc/Gbarpolu%20CDA_web.pdf (Accessed: 5th September 2013)
- 81 Comprehensive Food Security and Nutrition Survey, October 2006, Available at: <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp095493.pdf> (Accessed: 5th September 2013)
- 82 County Development Committee (2008) River Cess County Development Agenda, Available at: http://temp.supportliberia.com/assets/31/Rivercess_CDA_web.pdf (Accessed: 5th September 2013).
- 83 Comprehensive Food Security and Nutrition Survey, October 2006, Available at: <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp095493.pdf> (Accessed: 5th September 2013)
- 84 FAO (2002) Gender and law: Women's rights in agriculture, FAO.
- 85 Liberia Institute of Statistics and Geo-Information Services et al (2007) p.78
- 86 International Food Policy Research Institute: <http://www.landcoalition.org/sites/default/files/legacy/legacypdf/angoc/ch4/ch4p03.pdf>
- 87 Civil Society Policy Brief (2014)
- 88 Land Rights Policy (Section 5.1)
- 89 Land Rights Policy (Section 5.1.1)
- 90 Land Rights Policy (Section 5.1.8)
- 91 Land Rights Policy (Section 7.1.1)
- 92 Land Rights Act (Article 2, Section 7)
- 93 Land Rights Act (Articles 35 and 36)
- 94 Land Rights Act (Article 34.4)
- 95 Land Rights Act (Article 48.3)
- 96 Land Rights Act (Article 48.4)
- 97 Liberia Governance and Development Forum (2013) Multi-Stakeholder Dialogue (MSD) on the Land Rights Policy, Sustainable Development Institute (SDI) et al.

