



Land Governance in an Interconnected World

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PROTECTING LIBERIA WOMEN'S LAND RIGHTS IN THE LAND REFORM PROCESS

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ABSTRACT

Liberia has a pluralistic land tenure system based on statutory and customary laws. Customary law, derived from local lineage-based governance systems, dominates in most rural areas. While the government has introduced policy and land reforms to strengthen the rights of women, men, and communities in recent years, significant gaps remain in recognizing, legalizing and enforcing women's land rights in the land policy reform process.

Although rural women play a significant role in agricultural production and the family's wellbeing in Liberia, their rights and access to land are often not equal to those of men. Rights to customary land are passed down through male lineage, women access customary lands through their male relatives, usually via fathers or husbands. This study aims to highlight gender disparities affecting women's land rights (WLR) in Liberia in the process of Liberia's land reform in order to ensure an inclusive and gender-responsive land reform.

Key Words: *Customary Land Tenure, Marriage/de facto unions, Land Governance, Access to Justice/Dispute Resolution, Women's Land Rights.*



Land Governance in an Interconnected World

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 19-23, 2018



ACRONYMS

ADR	Alternative Dispute Resolution
AFELL	Association of Female Lawyers of Liberia
CSO	Civil Society Organization
DEL	Decedents Estates Law
DRL	Domestic Relations Law
ERCM	Equal Rights of Customary Marriage Law
FGD	Focus Group Discussion
FPIC	Free, Prior and Informed Consent
GoL	Government of Liberia
IA	Investment Act
INGO	International Non-Governmental Organization
LGSA	Land Governance Support Activity
LPIS	Land Policy and Institutional Support
LRB	Land Rights Bill
LRP	Land Rights Policy
LSLBI	Large Scale Land-based Investment
NGO	Non-Governmental Organization
OECD	Organization for Economic Co-Operation and Development
PPCA	Public Procurement and Concessions Act
RRA	Rapid Rural Appraisal
TC	Tribal Certificate
USAID	United States Agency for International Development
VGGT	Voluntary Guidelines on Responsible Governance for Land, Forestry and Fisheries
WLR	Women's Land Rights
WONGOSOL	Women's NGO Secretariat of Liberia



INTRODUCTION AND CONTEXT

In recent years, the government of Liberia (GoL) has introduced policy and land reforms to strengthen the rights of women, men and communities. This is in line with the Constitutional provisions guaranteeing that *“all persons, irrespective of ethnic background, race, sex, creed, place of origin or political opinion, are entitled to the fundamental rights and freedoms of the individual...”* Furthermore, the Liberia Land Rights Policy (2013) acknowledges that *“women’s land rights are often less protected than those of men”* and *“aims to give equal protection to the land rights of men and women.”* However, land users in both customary and formal systems in rural Liberia continue to face entrenched challenges associated with land tenure insecurity, and women within these communities face additional gender-related discrimination and barriers, exacerbating land rights insecurity. Although both women and men in Liberia have land rights, these rights differ in terms of their origin, nature, duration and scope. Land rights for women and men may also differ depending upon which land tenure regime (e.g., statutory law or customary law) applies. Significant gaps remain in recognizing, legalizing and enforcing women’s land rights in the land policy reform process.

Pervasive issues in the areas studied include: varying land access depending on women's relationships with male relatives; the prevalence of *de facto* unions; gender discrimination in land inheritance; male-dominated land governance; gender-inequitable access to justice; and the high incidence of gender-inequitable and socially irresponsible large-scale land-based investments (LSLBI).

Liberia’s 2013 Land Rights Policy (LRP) calls for far-reaching reforms in land tenure relationships, including transferring ownership of public land to the customary communities that have traditionally occupied and used it. The LRP also calls for the conversion of some land within customary areas to private, fee simple ownership, establishing for each resident of a customary community the right to up to one acre of land in private ownership. Socially responsible and gender-responsive implementation of these changes will fundamentally alter customary land tenure and will offer more land rights security to both men and women in the interior. This study explores the current state of women’s land rights (WLR) in order to suggest ways to address gender perspectives in the process of land reforms across the four objectives of the USAID’s LGSA project:

- to strengthen policy, legal and regulatory frameworks for land governance;
- to improve the functionality of GoL land governance institutions;
- to strengthen protection of customary land rights; and
- to strengthen stakeholder engagement in land governance.

[Landesa](#) is one of the implementing partners for USAID's LGSA project, led by [Tetra Tech](#). The four-year (2015-2020) project supports the Government of Liberia in strengthening its institutional, policy, legal and regulatory framework for land governance. Landesa plays a leading role in providing technical assistance around the implementation of gender-equitable land rights, as embodied in policy and legal frameworks. Within this context, Landesa conducted a women’s land rights study with particular focus on customary land tenure. The findings will help to inform the government and its stakeholders in



Land Governance in an Interconnected World

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 19-23, 2018



implementing Liberia's Land Rights Policy (2013) in a gender-responsive way, and to develop advocacy initiatives related to the promotion and protection of women's land rights in Liberia.

METHODOLOGY AND SCOPE OF THE STUDY

The research incorporates three major sources of information: 1) fieldwork, 2) literature review, and 3) legal analysis (covering both statutory law and Supreme Court decisions). Fieldwork interviews were conducted over a two-week period in April/May 2017 in five communities in three interior counties: Pleebo in Maryland County (South East), Zolowee and Ganta in Nimba County (North Central), and Buchanan and Geebeor in Grand Bassa County (South Central), and in Monrovia. In its choice of counties, the research team sought to fill gaps in existing research on women's land rights in Liberia.

The team used gender-responsive Rapid Rural Appraisal (RRA) research techniques, including focus group discussions (FGDs) in large mixed groups followed by smaller, separate focus groups with women, men, and customary governance authorities. Additionally, the team conducted Key Informant Interviews with selected individuals. The team selected an RRA-based methodology to maximize its understanding of the issues within the limited period of time available.

Additionally, the research involved consultants from local women's groups that have representation in the wider areas of the country, thus bringing their experience to the research. The study objectives included:

- ascertaining areas where land rights for women and men diverge;
- identifying areas where customary practices do not reflect current legal rights; and
- making recommendations for addressing gender disparities in land reform.

The research covered six primary thematic topics related to women's land rights and participation in land governance: 1) land tenure systems; 2) marriage/informal marriage; 3) inheritance; 4) land governance; 5) access to justice and dispute resolution; and 6) gender, women, and concessions. This paper will focus on the latter five of these, after a discussion of women's access to land within customary systems of land allocation and control.

GEOGRAPHY AND POPULATION

[Liberia](#) is situated in West Africa, bordering Guinea, Ivory Coast, Sierra Leone and the Atlantic Ocean. Liberia's landmass is approximately 111,300 square kilometers, with an estimated population of 4.73 million, and a fairly even split between men and women.¹

Liberia has 16 recognized indigenous ethnic groups: the Gio (or Dan), Mano, Bassa, Kpelle, Grebo, Vai, Gola, Kru, Krahn, Mandingo (or Mandinka), Fante, Dei (or Dewoin), Bella, Mende, Loma, and the Americo-Liberians or Congo people. Liberia also has a sizable population of Lebanese, Indians, and West African nationals. According to the [CIA World Fact Book](#), 70% of the population depends on agriculture and, as of 2017, the population growth rate was estimated at 2.6%.

STUDY FINDINGS PER THEMATIC AREA

¹ See <http://worldpopulationreview.com/countries/liberia-population/>, accessed 04/01/2018.



Land Governance in an Interconnected World

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 19-23, 2018



This study found that communities face land tenure insecurity, especially as it relates to community-occupied public lands, lands impacted by concessions, and also land held under tribal certificates, and that these insecurities disproportionately affect women. Social realities on the ground, customary norms, and lack of awareness of gender-positive laws contribute to serious land tenure insecurities for women, despite existing national-level legal protections.

While land under each form of tenure is acquired, managed, and transacted in different ways, most land in the areas visited is held within the customary system, although slight variations on customary tenure norms may exist. In the following section we go on to briefly describe the gender perspectives in the customary land tenure system.

Traditional/ customary lands (Quarters)

A hierarchical system of chiefs and elders governs land decision-making among communities in the focus areas. Chiefs and elders exist at each level of the administrative/customary hierarchy: from the Quarter level (local level, comprising a group of families with shared customs), to the town level (includes several Quarters), to the clan level (includes several towns and communities), to the paramount chief, who reports to the District Commissioner who, in turn, reports to the County Superintendent. Chiefs hold administrative positions,² and are advised by elders chosen from within the customary system. The degree of influence chiefs have varies; in some instances they have little to no influence, while in other instances they are the authority with power to allocate the land.

Under the customary system, a male member of the Quarter in need of land discusses these needs with the chief and his elders, pays a nominal fee, and is allocated a corresponding portion of bush land. Land is held in long-term use rights rather than formal legal ownership, as it is technically owned by the state, and is also considered to ultimately belong within the customary system to a greater tribal or clan group. Rights to customary land are passed down through patrilineages, and there is a very strong emphasis on keeping family land intact for future generations.

Women access customary lands through their male relatives, usually via fathers (before marriage) or husbands. Women do not generally approach chiefs directly for land, though the team heard of one instance where a group of women successfully requested some land to farm collectively. Widows may request land to farm, but go to the chief accompanied by a male relative. One official in Harper said that women were allowed land to farm within their respective Quarter in Maryland County. This perspective was not corroborated through other responses by any other participants.

Rules for land allocations to strangers may depend on whether the stranger is male or female. Male strangers (those migrating into an area for long-term or permanent residence) may request land from the chief and elders. In most cases, strangers are not allowed to plant “life trees” on any allocated land, as these are considered to bestow long-term, ownership-like rights. However, the Town Chief in Nimba stated that if a stranger adheres to the rules and practices of the male secret society, he would be allowed to use the land allocated to him in the same ways as would other community members. Unique from other

² Under the Constitution (art. 56(b)), the positions of Paramount, Clan and Town Chiefs must be filled through election by registered voters. They serve for a six-year term and may be re-elected. However, at the time of this study chiefs were still appointed by the President.



Land Governance in an Interconnected World

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 19-23, 2018



counties studied. In Grand Bassa, an official from the Ministry of Gender, Children and Social Protection told the team of a case where two women and two men accompanied by a community male member approached a chief for land and were granted it without consideration as to gender.

Conclusion

Tenure insecurity on community lands impacts both women and men differently largely due to traditional understandings of gender roles and related gender power dynamics. Rural women heavily depend on accessing and using community land for their housing, livelihoods, and well-being. However, they face gender-related discrimination and barriers, not experienced by men, which render their land and property more insecure, particularly in customary settings. To address these tenure insecurity issues, it is critical to pass a version of the Land Rights Bill (LRB) (and implementation regulations) that reflects the Land Rights Policy (LRP) (2013) in its recognition of women's land rights.

A. MARRIAGE/DE FACTO UNIONS

Basic Legal Framework

People in Liberia may be married under three categories of formal marriage regulated by three corresponding laws: statutory marriage - covered by the Domestic Relations Law (DRL), customary marriage – covered by the Equal Rights of Customary Marriage Law (ERCM), and presumptive marriage – covered by the Civil Procedure Law (CPL). Marriage is legally regulated by the constitution, statutes, regulations, and common law. Article 23 of the Constitution establishes the marital property regime as a separate property regime, and mandates the legislature to enact laws governing inheritance for spouses of statutory and customary marriages to give adequate protection to surviving spouses and children. The DRL in section 2.1 defines marriage as a civil status arising out of a civil contract between a man and a woman with attendant marital rights and duties.

Civil marriages and statutorily recognized customary marriages establish separate property regimes. Specifically, the DRL section 3(4) provides that:

[a] married woman has all the rights in respect to property, real or personal, and the acquisition, use, enjoyment and disposition thereof, and to make contracts in respect thereto with any person, including her husband, and to carry on any business, trade or occupation, and to exercise all powers and enjoy all rights in respect thereto and in respect to her contracts, and be liable on such contracts, as if she were unmarried.

The ERCM in its preamble acknowledges the constitutional guarantee to protect all persons equally before the law. In *Whisnant vs. Whisnant*, the Supreme Court stated that the law “was promulgated to eliminate certain traditional practices meted against female spouses and ensure property rights of widows under customary marriage.”³ For customary marriages, the man and woman must be married “according to the tribal tradition of their locality.” The ERCM Law defines “tradition” as “those values, norms and customs which a tribe of a locality has practiced over the ages and is considered their way of live [sic].”⁴ The respondents mentioned that customary marriage is only fulfilled if the man pays dowry. While the ERCM Law does not regulate the amount of dowry required, the Rules and Regulations Governing the Hinterland stipulates that “legal dowry for a woman shall in no case exceed forty dollars.”⁵ However for a virgin, dowry is \$48, if all parties agree.

³ *Whisnant vs. Whisnant*, LRSC 43 (2015).

⁴ ERCM Law § 1(a) & (b), respectively.

⁵ See Article 55 of the *Liberian Rules and Regulations Governing the Hinterlands (2001)*.



Land Governance in an Interconnected World

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 19-23, 2018



The CPL also recognizes presumptive marriage in Article 25.3(3): “[p]ersons who live together as husband and wife and hold themselves out as such are presumed to be married.”⁶ The ERCM and the DRL are silent on the implications of presumptive marriage for the couple’s legal rights to property. With regard to presumptive marriages, Jappah et al. (2012)⁷ explain that:

While these relationships may be governed by the legal *presumption of marriage*, this provision is not widely known (even among many women’s rights advocates) and is rarely applied in practice. Moreover, it is not clear what elements must be proved for the presumption to apply, nor is it clear whether the presumption establishes a civil or a customary marriage.

Analysis of marriage laws suggests two main gaps:

- a. There are shortcomings in extending the same rights to both customary and statutory marriages. Specifically, the property rights and protections afforded to women married under custom have, in effect, only applied on privately held land. They do not cover the majority of Liberian women who live on customary land tenure.
- b. Liberian law does not adequately cover women in presumptive marriages and does not cover de facto unions, which comprise the largest and growing number of family unions in Liberia (see ‘Marriage/De facto unions: In Practice’ for statistics).

Box 1: Marriage Demographic Changes

According to the 2007 Liberia Demographic and Health Survey, nearly two-thirds of women from ages 15-49 were married or in marriage-like unions. 42 percent of women were married and 22 percent of women were living with a man.⁸ Significantly, there has been a change in the 2013 Survey in terms of the proportion of married women versus women living with men. The percentage of women who were married dropped from 42 percent to 28 percent, and the percentage of women living with a man increased from 22 percent to 30 percent. In terms of marriage dissolution, in the 2007 Survey, 10 percent of women were divorced, separated, or widowed compared to 5 percent of men. In the 2013 Survey, this trend continued (11 percent for women as compared to 4 percent for men).⁹

The above listed statistics regarding changes in marriage institution affect women’s security of tenure; while women in customary marriages have few rights in practice to land and property upon divorce, separation or abandonment, women in de facto unions have even fewer.

i. Marriage

In the researched areas, marriage and marriage-like unions occur within a socio-cultural context that features 1) patrilineal systems, 2) customs of patrilocal exogamous marriages/de facto unions, and 3) polygynous arrangements. Under patrilineal systems, membership through birth derives from the father’s lineage and land is passed through sons from generation to generation (see the section below on Inheritance for more detail). Patrilineality creates a strong bias for patrilocal marriage. Male lineal descendants preserve family land claims. As such, it is customary to have patrilocal marriage arrangements whereby landholding male lineal descendants bring wives/female partners to the husband’s

⁶ Liberia Revised Civil Procedure Law (1972), § 25.3(3).

⁷ R. Jappah et al., *Land Policy and Institutional Support (LPIS) Project: Women’s Land Rights Study*, at 11

⁸ Liberia Institute of Statistics and Geo-Information Services (LISGIS), et al., *Liberia Demographic and Health Survey 2007* [hereinafter LDH Survey 2007] (Monrovia, Liberia: LISGIS and Macro International Inc. 2008), available <https://dhsprogram.com/pubs/pdf/fr201/fr201.pdf>, at xxi.

⁹ LISGIS, et al., LDH 2007, at 30; LISGIS, et al., LDH Survey 2013, at 58.



Land Governance in an Interconnected World

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 19-23, 2018



community to live with him and his extended family, while daughters are expected to marry out (although the team encountered some cases where women brought husbands/male partners into the community). Furthermore, customary marriage is often polygynous, with the man having more than one wife.

Civil Marriages

Participants spoke of civil marriages as statutory marriages conducted through the church, mosque, or court and formalized by a marriage license. In rural areas, there were almost no instances of civil marriage among research participants.

Customary Marriages

Although customary marriages are more common in rural areas than civil marriages, there were few women in customary marriages in the studied communities. For example, in rural Maryland County, the community mobilizer had searched for formally married women to invite to participate in focus group discussion but found that there were only 6 or 7 in the whole town. According to research participants, customary marriage is understood as a process, rather than an event, involving various arrangements, negotiations, and traditions. The reported traditions for official customary marriage include courting and engagement rituals, dowry fulfillment, and a traditional ceremony. The payment of dowry is a critical component of completing a customary marriage. In the majority of the communities visited the cost of dowry for a woman was reported to be \$40 or \$48 (if the woman is a virgin). However, in rural Nimba County, one town chief said dowry used to be \$40 but that today it is \$140. Where the man cannot afford dowry, he might stay and work (e.g., farm) for the bride's family for a certain amount of time before getting married.

On the one hand, dowry may be advantageous for women because it completes a customary marriage and accords the woman in question some social status and belonging. On the other hand, the payment of dowry was said to give the husband rights over the woman (and children), according to custom or practice. A male respondent in Maryland (with consensus from other participants) mentioned that a husband owns his wife and affirmed his with a gender discriminatory saying that was common among research participants in all three counties: "property cannot own property."

Polygyny

Polygyny is common and widely accepted in the culture of the communities visited. A participant from rural Nimba County said that in older times men might have 10 to 15 wives. Although polygyny is said to be changing, with men in most cases having less than 3 partners, it affects housing and land allocation within the family.¹⁰ In some study areas, participants said that depending on the husband's wealth or the communities' norms, each wife might have her own home. In other areas, participants said that usually the husband does not buy a new house, but provides a room for each wife. In many cases, a wife does not get farmland of her own but shares the husband's land with his existing wives. Noteworthy, in all the research areas women participants broadly supported the legal recognition of customary wives and equal inheritance for all wives.

ii. De Facto Union

De facto unions are relationships in which a couple lives as if married but have not formalized the union under civil or customary law. As discussed earlier, de facto unions are prevalent and more common in the studied areas. In rural Maryland County, the practice is widespread and widely acknowledged. In rural Nimba County, for example, participants reported that around 80% of couples were not considered married because dowry had not been paid.

¹⁰ *Id.*



Land Governance in an Interconnected World

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 19-23, 2018



While some cohabit with an intention of legalizing their marriage at a later time, the participants across the studied counties mentioned that this is in fact rare. Participants gave numerous reasons to explain the trend toward increased de facto unions, citing a breakdown in societal and parental morals and values, increased promiscuity, economic insecurity (coupled with the high costs of customary marriage), interest by men to test the reproductive capacity of their partners, and efforts by women to escape family pressure and to avoid stigma and poverty. According to participants, these unions are not just among young people but also between long-standing couples.

Conclusion

The law of Liberia provides for civil, customary, and presumed marriage. Each type of marriage has different implications for land. There are various inconsistencies in the marriage laws and their application. Key ones include the failure to view the ERCM Law as applying to customary land and the lack of a clear property regime associated with presumptive marriage, particularly in customary settings. There are also various issues related to marriage evidence in practice in the studied areas: civil marriages are rare, customary marriages are on the decline, and marriage informality is a rising trend, implying that women and their children have increasingly less secure rights to land.

B. INHERITANCE

Basic Legal Framework

Liberia’s plural legal system generally complicates understanding and pursuance of women’s land rights, and this is especially true regarding inheritance. The plural legal system governing inheritance for widows and children is comprised of constitutional provisions, the DRL, the ERCM Law, the DEL, the CPL, the Children’s Law, and common law.

The Constitution endows the Legislature with the authority to “enact laws to govern the devolution of estates and establish rights of inheritance and descent for spouses of both statutory and customary marriages so as to give adequate protection to surviving spouses and children of such marriages.”¹¹ Furthermore, the Constitution, in Article 2, prohibits laws, customs, and regulations contradictory to its principles, and Article 65 mandates that the “courts shall apply both statutory and customary laws in accordance with the standards enacted by the Legislature.”¹²

While the Constitution guarantees gender equality of ownership of property (arts. 11 & 23), it does not define discrimination nor explicitly provide remedies to address gender-based discrimination and inequalities. The majority of the laws which govern women’s rights to land and property, especially DRL, ERCM, and DEL, seem to violate the Constitution by formalizing gender discriminatory customs.

Despite these issues, both the statutory and common law frameworks contain positive laws that, if used, can protect women’s inheritance rights. For instance, the Supreme Court states that a customary widow, “like a statutory widow is also entitled during her life to one-third of her husband’s

Box 2: Legal inequities in Liberia’s inheritance laws

These laws are ambiguous and inconsistent; they do not “treat[] all ‘wives’ equally, do not treat men and women equally or equitably, do not cover all categories of land, and do not cover all relationships where property rights matters arise.”

Jappah et al., (2012: 10)

¹¹ Const. art. 23(b).

¹² *Id.* at arts. 2(b) & 65, respectively.



Land Governance in an Interconnected World

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 19-23, 2018



estate upon his death.”¹³ Further, the (procedure for) right of election of the dower right applies not only to statutory widows but also to customary widows. Differing from a statutory widow, a customary widow “would most likely be sharing her dower rights of one-third with other widows of the decedent,” and also “relinquishes her right in the one-third upon her remarrying.”¹⁴

The Supreme Court has affirmed and protected the equal right of daughters to inherit, including vis-à-vis their brothers, and regardless of various statuses. The Supreme Court, in *Cole vs. His Hon. Wah et al.*, held that male and female siblings born out of wedlock have equal rights to inherit as well as equal legal capacity to serve as co-administrators of the estate.¹⁵

For presumptive marriage, it is not clear which inheritance regime applies. In this grey area of the law, women do not enjoy inheritance rights. While it might be difficult to apply the presumption of marriage clause to the widow’s inheritance due to the ambiguity of this law, an argument can be made for children born into a socially recognized de facto union to inherit their father’s property just as children born under customary or civil marriage.

Liberia’s civil law on inheritance allows the widow to inherit her husband’s land and property. However, the ERCM Law has only effectively applied to private land. As such, widows are not inheriting their husbands’ share of family or community property and, often, the widow (sometimes with her children, especially daughters) returns to her natal family or community. As Jappah et al. argue “it is assumed that the ERCM Law applies to all women in customary marriages on any category of land. However, in practice, the ERCM [Law] is not being applied to land which is managed under customary tenure, and the law is little known in the interior.”¹⁶

A gender analysis of the DRL, ERCM, CPL, and DEL shows that these laws have varying implications for a wife’s/partner’s inheritance rights to land and property as an individual and as a mother. The implications also differ by whether the property owned is private or customary land and whether the children are born in or out of wedlock, as shown below:

- In civil law, the surviving spouse is entitled to one-half of her deceased husband’s property for her lifetime, while a surviving spouse in a customary marriage is entitled to only one-third of her deceased husband’s property and only until she remarries—a restriction not applicable to civil marriage.
- The ERCM Law also appears to fail the woman’s heirs beyond her children, such as her parents or siblings. The husband and wife’s property should devolve equally to both sides of the couple’s family heirs.
- The law regulating children born out of wedlock is gender neutral. However, legitimizing girl children and their inheritance may be more challenging than for boy children due to male-child preference in Liberian patriarchal societies. Daughters are often perceived as strangers who are in transit to their marital family where they are also seen as strangers and are often ineligible for inheritance under customary law.
- Failure to recognize a widow’s inheritance rights on customary land under the ERCM Law doubly victimizes a widow with children born out of wedlock. She may bear sole custody in the context of being dispossessed from the land and property she shared with the deceased. In

¹³ See *supra* Note 3

¹⁴ *Id.*

¹⁵ [Cole vs. His Hon. Wah et al. LRSC 9](#) (2014).

¹⁶ *Id.*



Land Governance in an Interconnected World

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 19-23, 2018



customary land tenure, the surviving spouse of a de facto union or customary marriage should inherit and continue to enjoy family, clan, and even community land and property rights that the deceased enjoyed.

In the interior, custom, rather than law, regulates inheritance. Land inheritance is patrilineal and the decisions are made by men. The marital status of the woman determines her and her children’s chances of inheriting and/or staying on the deceased’s land. A woman’s right to inheritance is largely dependent on her being “inherited” by her in-laws, her relationship with her in-laws, and on whether she has (male) children with the deceased. Wife inheritance, whereby a widow is expected to marry her deceased husband’s brother or other male relative in order to stay on the family land, is still frequent in the interior, and plays a key role in denying women and their children the right under formal law to their own land inheritance. The general practice in the three counties studied shows that women have inheritance rights from neither their natal nor their marital families. Cumbersome processes of accessing justice, coupled with the fear of witchcraft, render these challenges even greater for the women.

Inheritance in Practice

The Organization for Economic Co-Operation and Development (OECD) found that in Liberia, married women are “treated as property, and neither they nor their daughters can inherit, nor can wives return to their home of origin upon the death of their husband.”¹⁷

Similarly, the 2016 LGSA women’s land inheritance rights field report found that customary norms and practices significantly inhibit women’s inheritance rights. Interviews from 7 Counties are summarized in the table below.

Box 3: LGSA Women’s inheritance rights study interview findings Report (2016)

Community in Maryland County: In customary marriage settings, unless a widow re-marries a member from her husband’s family, she loses all her rights and profits from the land she once owned with her husband. If the marriage has produced children, the males are entitled to the land and property owned by the father, and at their discretion have the option to share any profits with their female siblings.

Duazon Community in Margibi County: Women are not entitled to their husband’s land and property (whether or not they have children) and upon his death, are expected to re-marry within her husband’s family to stay on the land.

Community in Grand Kru County: Women are entitled to their husband’s farmland and property if they have children. However, if a widow re-marries, her late husband’s family may ask her to return the property. If the deceased leaves a will, it is respected. In most cases, land and property is distributed equally among male and female children.

Zorzor District in Lofa County: Women are considered property and cannot inherit land on their own. In a marriage, if the husband dies, the wife is expected to re-marry a member from his family and to transfer any property to him. If a woman is in a marriage with a stranger (member from a different lineage) and has children, her children are regarded as strangers. The community will do anything to prevent her and her children from inheriting any property.

Source: I. Nagbe, *Field Report on Interactive Discussion with Rural Women on Women’s Land Rights* (Unpublished field research manuscript: USAID LGSA 2016).

¹⁷ Gender Equality in Liberia, Social Institutions & Gender Index (SIGI), OECD Development Center, http://www.genderindex.org/country/liberia/#_ftn4 (accessed Aug. 29, 2017).



Land Governance in an Interconnected World

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 19-23, 2018



In their study, *Research on Women's Land Rights* (2016:9), conducted in six customary communities located in Lofa, Bomi, Grand Cape Mount and Gbarpolu counties, Rights and Rice Foundation found that:

“Women incur significant social cost for going against cultural norms. These costs include social ridicule and the possible loss of social benefits such as being denied opportunities to represent [the] community during training programs and being treated as an outcast.”¹⁸

The patrilineal inheritance and the patrilocal marriage customary arrangements in the interiors affects land rights for women and men, and girls and boys differently. While a son is seen as belonging to the natal family and will continue the family descent, a daughter is perceived as being in transition because she will eventually get married after which she belongs to her husband. In the studied areas, research participants reported that, generally, rural women were not inheriting in customary areas. There was also evidence that social norms hindered some rural women from enjoying land inheritance rights on private land. In Monrovia, especially within elite families where land is held privately, anecdotal evidence suggests that women are inheriting land.

Inheritance by Daughters

As mentioned above, inheritance of land and other valuable family property, such as life trees, is patrilineal. Sons inherit their father's land rights for life while daughters get access to land through their male relatives, which can become difficult or impossible to exercise or which can be lost when they marry outside their natal communities. Additionally, if the deceased is survived only by daughters, the general practice across the studied counties is that land is taken over by the deceased's male relatives, such as his brothers, parents, or paternal uncles. In this case, if the mother of the daughter/s in question refuses to be inherited by her in-laws, she is more likely to be evicted from the land. In Zolowee in Nimba County, for example, authors were told that daughters do not share in the inheritance within their natal communities because they will “marry out,” while sons usually stay in their communities upon marriage, and keep family land.

While the Constitution provides equality in relation to property (art. 23), and outlaws customary norms that contravene its principles (art. 2), Liberian women and girls are discriminated against by their natal and biological families, and local authorities and judicial officials in different ways. The first male child is generally endowed with the power to manage land and other family property on behalf of all family members, including widows. The team encountered one interesting exception to the patrilineal practice of land inheritance: in River Gee, a female participant stated that in her family boys and girls could inherit family land but only if they are present/living on that land. The team did not find further evidence of this practice. However, some respondents did mention that women have started to challenge discriminatory practices by demanding land inheritance from their brothers.

Inheritance by Widows and Widow Inheritance

Participants in the three counties believed that inheritance of land is customarily the reserve of men. As a result, the men control and make all decisions concerning family property, particularly inheritance of land use.

In Nimba, however, the women reported that while a legally married woman can claim deeded land and family property inheritance, in various cases in rural communities, women were denied inheritance rights on privately owned land, just as in customary land. In such cases the women were discouraged by the

¹⁸ Rights and Rice Foundation, *Research on Women's Land Rights*, (USAID LGSA 2016).



Land Governance in an Interconnected World

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 19-23, 2018



cumbersome process of justice and sometimes judicial personnel encouraged them to give up on their land rights in fear of physical violence and/or witch-craft from the offender.

Customarily, widows have no power to determine allocation of family land and property upon the death of her husband or male partner. The respondents mentioned that where the sons were too young to succeed their father's land and property, the family heads decided among themselves who would inherit the widow together with the children and the property. A widow who objects to their decision will be scorned and evicted from the property and her in-laws would determine whether she stays on the property or not.

In some places, upon the death of a husband, the property is not taken away from the widow but remains with her to support her young children. Where a widow does not have children, and is not an original resident of that community, a portion of the land is given to her to continue farming.

Of all studied areas, only two to three participants from Grand Bassa mentioned the practice of a widow being given a choice to select a husband from the men that were presented to her. The woman picked a young boy to become the head of her family. However, this was detrimental to the young boy's rights because he was considered to be married and he left school at a very early age. This practice also violates marriage and children's laws in regard to the abolition of widow inheritance against her will and children's marriage age.

Inheritance in De Facto Unions

Inheritance in de facto unions seemed very similar to inheritance in customary marriage. However, the widows and the children from an informal marriage union experience greater land and property inheritance insecurity compared to widows from a customary marriage. After a male partner in a de facto union dies, the widow has no legal rights to land and property, irrespective of her contributions to the property and land in question. A widow in Nimba, described how, just after her husband died, his relatives immediately asked her to hand over any property documentation that she possessed. The team found norms regarding widow's inheritance of land and property in de facto unions were more uniform than in other marriage types.

Property Division during Inheritance

Division of property between heirs (wife/s and children) is carried out after the burial ceremony, and in some cases this includes an inventory of property to be inherited. In Grand Bassa, women in the focus group mentioned that male relatives of the deceased conduct a property inventory and the oldest son or the deceased's male relatives manages such property.

In polygamous arrangements, the participants mentioned that it is not clear who inherits common property and usually this causes conflicts between (male) children and the wives. A daughter from a legal marriage in Maryland was being denied a portion of her late father's property by her half-brother who was born out of wedlock. She noted that when the concession company came and took the land, she was also denied a share from the amount paid as compensation.

Conclusion

The GoL is committed to equality between women and men and girls and boys through the Constitution, and other laws such as DEL and DRL, and through ratification of regional and international human rights instruments. However, to achieve gender equity for all categories of women through law and law enforcement, the laws should not only provide for gender equality but should also provide for equality of outcomes by repealing all discriminatory and ambiguous laws, synchronize all laws relating to land rights, and ensure that a plan to reinforce laws is adopted and implemented.



C. LAND GOVERNANCE

Basic Legal Framework

Articles 7 and 23 (b) of the Constitution mandates the government to ensure that Liberian citizens of all categories participate equally in the management of natural resources. The LRP calls for gender-responsive land governance institutions and decision-making processes, for example, it states, aligned with decentralization, that “Customary Land management, use, and allocation decisions [should] be made by communities within a framework of shared responsibility with the Government” (para 6.4). In its recognition of the link between secure customary land rights and improved local governance (para 6.0), a key recommendation is “establishing the community as a legal entity” (para 6.6.1.) and, as such, “Customary Land rights of groups, families, and individuals within the community will be decided by the community in a way that is fully representative and accountable to all community members, including women, youth, and minorities” (para 6.3.3).

Liberia has taken modest steps to mandate the participation of women in governance broadly and in land governance specifically. The Election Law calls for political parties or coalitions to strive to ensure that lists of candidates comprise no less than 30% of candidates of each gender.¹⁹ National-level advocacy efforts are pushing for legislation to include affirmative action quotas for women in political bodies. Examples include the Gender Equity in Politics Bill, 2010, and the Equitable Participation and Representation Bill, 2016—although they have not yet gained traction.²⁰ In an important recent development, the Liberian Land Authority (LLA) has included a gender unit in its organizational restructure, aimed at leading efforts to mainstream gender throughout its work.

However, more could be done to ensure gender-responsive land governance called for in the LRP and the broader constitutional mandate under Article 5 which requires the Legislature to pass laws “promoting . . . the encouragement of all citizens to participate in government.” This could include adopting the Equitable Participation and Representation Bill. Such measures could bolster gender-responsive land governance and increase women’s participation in governance at the national and sub-national levels.

Land Governance in Practice

Several studies highlight gender disparities as related to Liberian governance structures. These gender-based disparities are present in land governance bodies such as the Department of Lands, Surveys and Cartography and the Land Bank and Land Services office, which has a staff of 217, only 14% are women.²¹ The USAID-LGSA gender assessment of grass-root land governance organs also found that County Land Commissioners had limited knowledge of the laws and policies that promote women’s land rights, and did not have copies of the laws.²²

This study finds women’s participation in land governance to be low, and in certain cases absent, in both statutory and customary governance systems. Men predominately occupy positions that endow them with higher-level decision-making powers within customary communities. Women face challenges in accessing these authorities and participating in land-related discussions. Formal land governance authorities also under-deliver as regards addressing gender inequalities in land governance and the protection of women’s land and inheritance rights.

¹⁹ An Act to Amend Certain Provisions of the 1986 Election Law (2014), § 4.5.

²⁰ Land Rights Bill (dated September 27, 2016), arts. 35(1)(c) & 36(5), respectively.

²¹ USAID, *Institutional Audit of the Key Liberian Land Governance Institutions: Land Governance Support Activity* (2016) at 13.

²² I. Nagbe, USAID LGSA Field Report on Gender Assessment of Land Entities, at 5-6.



Land Governance in an Interconnected World

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 19-23, 2018



Women's Low Numeric Participation

In statutory governance systems, there are disproportionately fewer women leaders than men. For example, in Nimba County, one government official reported that only two out of 19 District Commissioners were women. Rural women in Nimba County also observed that women do not participate in the land-related decision-making process. In customary land governance systems, women are also underrepresented in the areas visited. Women largely do not serve as Chiefs. One Chairlady stated explicitly that women were not allowed the opportunity to be a Chief.²³ However, they serve as elders and Chairladies, a position below that of a Town Chief. They also serve as members of secret societies, such as the Sande, and according to one expert, women there may be represented at the highest level. However, women are generally excluded from the male secret societies that make behind-the-scene decisions on land allocations and governance within communities.

Women's Limited Access to Land Governance Authorities

The low numbers of women participating in formal land governance positions, particularly at the higher levels, limits understanding of women's land rights issues and perpetuates gender stereotypes regarding access, use and land ownership. For example, rural women in the areas studied are required to be accompanied by men for any claims on land. Customary leaders interviewed in the Focus Group Discussions stressed that male relatives must access customary governance authorities on behalf of women. Contrastingly, men—even those not from the community, can request and receive land after negotiating directly with the community Chiefs and elders.

Various research participants said that administrative land bodies and chiefs do not consult women in the communities—yet authorities consult men on various matters such as land allocation and formalization. One government official in Maryland County explained that women do not have a voice; all the decisions are already made by chiefs and elders. Interviews analysis suggests that much land governance within customary settings takes place within male-dominated associations deemed “secret societies”, rather than through other more transparent governance channels. As one customary authority noted in FGD in Nimba: “Land decisions? These are always made in the bush, never in town.” This customary practice hinders women from playing an active role in land governance and impedes them from accessing land related information.

Where women participate in land governance bodies, respondents stressed that their voices are not heard. Some women are prevented by the traditional gender biased norms that hinder women from speaking in the presence of men, the perspectives of those who do dare to speak are not taken seriously; hindering their substantive participation in land-related decision-making processes. One woman shared that people do not listen to women; they only listen if the woman is connected to a high status man.

Conclusion

In summary, more could be done to ensure gender-responsive land governance in law (as called for by the constitution and the LRP), in key governance institutions, and in practice. Meaningful gender equality in land governance is needed to for gender-responsive land governance, especially in customary land tenure systems.

²³ According to her personal story, after the death of the Paramount Chief, she was asked to serve as Paramount Chief. After the papers were prepared, the chiefs and elders decided that a woman could not lead them, and the documents were changed overnight, making a man Paramount Chief.



Land Governance in an Interconnected World

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 19-23, 2018



D. ACCESS TO JUSTICE AND DISPUTE RESOLUTION

Basic Legal Framework

Liberia's legal framework regulates the resolution of disputes through formal and tribal systems. It consists of constitutional provisions, statutes, regulations, common law, and customs (including religious norms). The Constitution establishes the powers of the Judiciary and regulates this branch of government.²⁴ Formal courts are further regulated under the Judiciary Law (1972). The law vests the judicial power in a unified judicial system consisting of the Supreme Court and its subordinate courts,²⁵ but not the Tribal Courts, "whose organization and exclusive jurisdiction over tribal persons in tribal matters" are provided for in the Local Government Laws.²⁶ Under the Judiciary Law, several courts have jurisdiction over property-related matters. The Criminal Court of the Circuit Courts, for example, has jurisdiction over offenses against property.²⁷

The legal framework regulating the population governed by custom is complex. Julian Graef notes that Liberian common law precedent and statutory law enabled "jurisdictional segregation," placing individuals in the interior under the Ministry of Internal Affairs instead of the Judiciary.²⁸ Graef quotes Counselor Jallah A. Barbu who stated that an early Supreme Court precedent sanctioning this segregation "allowed the [C]onstitution [specifically its separation of powers clause] to be negated because of its holding that the [Minister of Internal Affairs] could exercise judicial power over the natives."²⁹ Barbu further explained that the customary legal system exists apart from the formal legal system; however, customary cases can move into the formal legal system.

Constitutional guarantees, personal/ family laws regulating marital property and inheritance, and land and tenure reform laws (which as of yet do not adequately recognize rights in customary land) lack explicit guidance on substantive rights of women and their enforcement and adjudication of all categories, on all types of land, through all stages of their life course (including as daughters, upon marriage, divorce, death, or abandonment), particularly as applied in customary governance and tenure systems. For example, the ERCM Law § 2.1 and DRL § 1.1 contain contradictions which can be confusing to the judiciary if the two laws are not read together. Jappah et al. noted that "[t]hose charged with applying the law are left to their own discretion to fill the gaps not adequately addressed by the law, often relying on customary norms about property rights."³⁰

The ambiguity and complexity of the laws and the amount of discretion permitted in their enforcement create barriers that adversely impact women. It makes it harder for dispute resolution actors, especially women, to understand whether and when these rights apply, when they have been violated, and how to proceed with redress. Women are disadvantaged by adjudicators' implementation of discriminatory provisions in law and in their discriminatory use of discretion, especially due gender biased norms.

²⁴ Const. art. 65; also the Supreme Court, in *Jitco Inc. vs. Sesay*, 36 LLR 695 (1990), re-enforced separation of powers when it held that "[t]he determination of property rights lies within the province of the court."

²⁵ See the Judiciary Law, 1972 (§§ 7.3 & 7.4).

²⁶ *Id.*, at § 1.1.

²⁷ *Id.*, at § 3.2.

²⁸ J. Graef, *Practicing Post-Liberal Peacebuilding: Legal Empowerment and Emergent Hybridity in Liberia*, (Palgrave Macmillan UK 2015), internal citation omitted.

²⁹ *Id.*, quoting Counsellor Jallah A. Barbu.

³⁰ R. Jappah et al., LPIS WLR Study, at 1.



Land Governance in an Interconnected World

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 19-23, 2018



Women mentioned navigating multiple bodies charged with adjudicating disputes on land-related issues within both the formal and customary structures. They have to figure out which body to turn to for their case, which varies depending on the land issue, the land type, and their marital status. In bringing a case within these bodies, women may encounter laws or customs that overtly discriminate against them. While there is an opportunity for women to seek redress, including all the way up to the Supreme Court, the cases taken up predominately serve those women whose rights are better articulated in the laws, such as women who have clear, documented rights to private land, and women whose financial circumstances allow access to the formal court system.

Access to Justice and Dispute Resolution in Practice

The USAID LPIS's 11 Clan Study noted that land disputes are growing and that the trend will continue.³¹ The study described the process community members go through with land disputes regarding access to land and natural resources (including competing statutory and customary claims), in the areas of inheritance, encroachment, and boundaries. Parties take their cases to clan-level statutory and customary authorities. These include the Quarter or Town Chief, as the first point of access, before going to the Zonal/General Town Chief (depending on whether such authorities existed in the clan), and subsequently to the Clan Chief. In addition to elders, other entities that provide alternative dispute resolution (ADR) to disputing parties include Chairmen and Chairladies, youth leaders, and cultural and religious authorities, such as the Poro and Sande, pastors, and imams.³² Similarly, in the three counties included in the LGSA WLR Study (2017), people access justice through customary/traditional means, ADR, and the formal court system.

The 2016 LGSA report assessing how pilot ADR committees addressed gender perspectives found that women made up less than 25 percent of trained practitioners in most of the counties (e.g., in Bong County, out of 102 trained practitioners, only 15 were women); with an exception of Margibi County which is reported to have a 50-50 gender representation.³³ The report mentioned that participants believed most females do not meet the selection criteria for an ADR practitioner: applicants must be a community leader or influential person within their community, and must have knowledge about land dispute resolution. Furthermore, settling land disputes is a time-consuming process; most rural women have neither the time nor the financial means to serve as an ADR practitioner.³⁴

From the three counties studied, four major forms of land disputes were reported: siblings (mostly male and female) fighting over who inherits the land left by their late parents; wives in dispute with in-laws over late husband's land/property; wives in dispute with their husbands over property upon separation from marriage; and disputes over compensations/benefits from land taken by concessions.

Barriers to Justice for Women

Though women use existing ADR processes more often than formal court channels, across all the researched communities, it was stressed that women face constraints accessing justice regardless of the channels used. Some of the mentioned barriers include limited or no awareness of the laws and court processes, inaccessibility of courts, high costs of court process, and lack of legal aid. Further, the courts' justices are dominated by men, increasing the likelihood that treatment, advice, or judgements may contain gender bias against women. Sometimes women are discouraged from seeking redress on land and property matters by court practitioners. For example, a participant from Gland Bassa said she was

³¹ E. Namubiru-Mwaura et al., *USAID Land Policy and Institutional Support (LPIS) Project: Customary Land Tenure in Liberia: Findings and Implications drawn from 11 Case Studies* (USAID 2012), at xix.

³² *Id.* at 89-90.

³³ I. Nagbe, *USAID LGSA Field Report on Gender Assessment of Land Entities*, (2016: 3).

³⁴ *Id.*



Land Governance in an Interconnected World

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 19-23, 2018



discouraged from pursuing a land dispute by a male judge, who cautioned her that the potential offender would bewitch her.

Traditional norms appear to hinder justice for women in the areas studied, as women are not allowed to own property in most studied communities. As land is passed on through the male lineage in all researched communities, decisions on land disputes are usually influenced by preference for patrilineal inheritance. Many women are afraid of the repercussions of defying cultural norms (such as ostracism or violence), thus they do not contest the gender biased decisions of the elders. Repeatedly, women expressed the urgent need for having more women in the judiciary and other decision-making positions.

Conclusion

Given the above-mentioned challenges and barriers that women faced in enforcing their rights to land within the areas of research, ensuring women's full rights under the LRB will require a well-designed strategy to address existing gaps, including gaps relating to gender equitable participation in land governance and other associated posts. Additionally, there is a need to raise general awareness about the laws. Unless the law is known, gender discriminatory customs and laws will continue to apply in the interior justice systems.

E. GENDER, WOMEN, AND CONCESSIONS

Gender Analysis of the Legal Framework

The Constitution protects private property but authorizes expropriation “for the security of the nation in the event of armed conflict or where the public health and safety are endangered or for any other public purposes”—provided that the reasons are given and there is prompt and just compensation (among other provisos).³⁵ Additionally, two key investment statutes that regulate concessions include the Public Procurement and Concessions Act (PPCA) (2005, approved 2010) and the Investment Act (IA) (2010). The PPCA provides the definition for “concession” and its objectives.³⁶ Further, Section 90(1) instructs the concession entity to conduct public consultations before the bid is concluded. The IA broadly covers investment procedures between the government and business enterprise as regards establishing and regulating the enterprise and ensuring its legal security. As discussed earlier, land that is not private is considered government land. Consequently, most of the land under concessions in the researched communities falls under government land and “central government officials have negotiated concessions without consulting the affected communities, and often without the knowledge of which communities in fact live on the land in question.”³⁷

The PPCA and IA are inadequate in terms of gender-responsive, socially responsible investment in land. Where a few men (customary authorities) were consulted, the concessionaires did not consult any women. Failure to include affected women leads to gender biased decisions and practices. In “A Strategy for Further Reform of Liberia’s Law on Land,” Bruce (2016: 49) elaborates on the PPCA’s shortcomings, stating that:

³⁵ Const. art. 24.

³⁶ Public Procurement and Concessions Act (PPCA) (2005, approved 2010), arts. 73 & 74, respectively.

³⁷ A. K. Lowenstein International Human Rights Clinic, *Governance of Agricultural Concessions in Liberia: Analysis and Discussion of Possible Reforms* (2017), at 4 (internal citations omitted).



Land Governance in an Interconnected World

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 19-23, 2018



Section 90(1) provides for public consultations to be carried out by the Concession Entity (not the Concession Committee) prior to finalization of bid documents, but there is no indication of how, when or where such consultations should occur, and no suggestion that this should concern those who may have been using the land. Land is similarly not mentioned in the article that lists issues to be considered in negotiations (S. 119). . . . Section 125 provides a right to review but only in those cases where in the granting of the concession this law or its regulations have been violated. The right to review does not appear to be available to those whose use or ownership in the land is adversely affected by the concession, because the law places no responsibility upon the concession entity to ensure that this does not occur.³⁸

Despite mentioning that direct investments and concessions are undertaken for sustainable development, the PPCA does not have the provisions necessary for gender equitable and socially responsive investment in land. A key problem regarding the IA is that the investment contracts it regulates concern only the government and the investor. It pays no regard to land users' participation, land rights security, or compensation. Bruce goes on to argue that the only provision of the law that is relevant to land rights is section 7, which "essentially repeats the constitutional standards for expropriation and compensation, presumably to reassure investors. The Law does not however provide any indication of how investors can proceed to access land for investment purposes, or contain any provisions regarding their holding and use of such land."³⁹

In other words, the IA fails to provide for the consultation, protection, and compensation of the land users' land rights within the process of making and implementing a concession agreement. Furthermore, the IA does not provide for gender-responsive investment in land.

Whilst there are gaps in Liberia's domestic laws relating to large-scale land-based investment (LSLBI), Liberia is a signatory to regional and international laws that protect the land rights of women and men. Both the African Union and the United Nation guidelines for LSLBI have provisions that protect land users generally and in particular women and vulnerable groups. Some key principles are discussed below.

The African Charter on Human and People's Rights obligates State Parties to respect human rights in business.⁴⁰ In particular, Article 18(3) mandates State Parties to eliminate all discrimination against women. This includes state and customary practices in Liberia that discriminate against women in terms of access to and control of property both in the family and the community.⁴¹

³⁸ J. Bruce, *A Strategy for Further Reform of Liberia's Law on Land, Liberia Land Governance Support Activity* (2016).

³⁹ *Id.* at 60-61.

⁴⁰ Organization of African Unity, *African Charter on Human and Peoples' Rights* ("Banjul Charter") (1982), arts. 14, 17(3), 18(3), & 21.

⁴¹ See, e.g., Green Advocates International, *Gender-differentiated Impacts of Large-scale Land Acquisitions in Liberia: A case study based on the publication of the report titled: "Women: The Least Secure Tenure,"* (2017).



Land Governance in an Interconnected World

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 19-23, 2018



Under the UN Guiding Principles on Business and Human Rights, State Parties and business enterprises should take all necessary measures to promote and to protect human rights in all their dealings.⁴² While corporations are under obligation to employ due diligence and respect for women and other vulnerable groups in business (generally and in LSLBI specifically), governments have the prime responsibility to ensure that they protect and promote land rights through policy, law, and implementation processes of any business taking place in their territories..⁴³

Additionally, under the Voluntary Guidelines on the Responsible Governance for Land, Forestry and Fisheries (VGGT), adopted by the UN General Assembly in 2012, governments should recognize, clearly define, and publicize legitimate land tenure rights within customary systems.⁴⁴

The VGGT also contain several important sections on gender equality and tenure security. In particular, they provide that “[S]tates should ensure that women and girls have equal tenure rights and access to land, fisheries and forests independent of their civil and marital status.”⁴⁵ They further provide that “[a]ll forms of tenure should provide all persons with a degree of tenure security which guarantees legal protection against forced evictions that are inconsistent with States’ existing obligations under national and international law.”⁴⁶

Concessions and WLR in practice

Largely based on the fact that community members depended on agriculture for their livelihoods and economic activity, their livelihoods and wellbeing have been drastically affected by the concessions. In Maryland, the respondents mentioned that the concessionaires took all of the farmland.

Concessions in Liberia have had a particularly negative impact on women. A study by Green Advocates International found that women “have been displaced and involuntarily resettled. Where compensation has been paid for land rights, such compensation has been channeled through their husbands, sons, brothers or fathers” (unless they had deeds).⁴⁷ In addition:

The destruction of farm lands, food crops, cash crops and the pollution of drinking water makes it impossible for women to sustain their lives. Some women workers employed by concessions are being dismissed for questioning maltreatment at said concessions. This has resulted into serious conflicts.⁴⁸

The dominant concessions mentioned by the interviewees in the three counties studied included mining, agriculture, and forestry. Interview analysis suggests that these concessions were large scale direct foreign

⁴² UN Office of the High Commissioner for Human Rights, Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (2011), http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

⁴³ *Id.* (specifically, Principles I.A; I.B (3), (8) & (9); II.A (11), (13) & (15); II.B 17, 18 & 19(a)).

⁴⁴ UN FAO, *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the context of National Food Security* (2012), at para. 8.2, <http://www.fao.org/docrep/016/i2801e/i2801e.pdf>.

⁴⁵ *Id.* at para. 3B.4.

⁴⁶ *Id.* at para. 4.4.

⁴⁷ *Supra* note 41 at 10.

⁴⁸ *Id.* at 16.



Land Governance in an Interconnected World

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 19-23, 2018



investments in land and had caused large displacements of land users. Interviewees reported that in all three counties the concessions were assigned by the government to international corporations without involvement of community members. The government did not consider whether the land was customarily or privately owned by individuals or by communities. Common issues include the following:

- community members were not meaningfully consulted at any stage of the business negotiations;
- they were evicted from (their traditional) land without a relocation plan; and
- they were denied rights to access common natural resources (such as water ways and forests), roads and community paths, and cultural sites (such as shrines).

Women in the three counties described how concessions have made their lives worse. They stated that the concessions took away their livelihoods and broadly affected their wellbeing by increasing their daily workload related to family responsibilities, ruining their water supply, and endangering their physical housing structures and their daily work areas. The key issues affecting women include:

Increased Scarcity of Food and Medicinal Herbs

Women in concession-affected communities in all three counties visited mentioned that they were faced with scarcity of food and could not gather herbs to treat ill family members.

Limited Access to Common and Public Goods

Respondents mentioned that the concessions took over water sources, roads to their farms, and firewood sources, making it hard or impossible for the women to access these crucial life necessities. Women in Nimba County mentioned that the few water streams that were still accessible were contaminated by waste from the concessionaire.

Destruction of Women's Economic Activities

Women mentioned that they were no longer able to engage in normal economic activity, including small-scale palm-oil production and selling crops in the local markets. This was because of land loss, demolition of local markets, and inaccessible market distances. Consequently, distortion of sources of women's livelihood and welfare increased poverty within the household, and has reinforced gendered inequalities within families.

Inadequate compensation for women's crops

Due to customary restrictions on land use, women plant more short-term, less valuable crops compared to their male relatives. In situations where the investor compensated farmers' crops, women's crops were given a lower value. While the majority of the women mentioned that they were still waiting for compensation, those who were compensated stated that the compensation was not sufficient to start a new life. Some women with male partners mentioned that the compensation was handed to their partners, thus never reaching women.

Lost Land-Based Socio-Cultural Benefits

In many rural settings, women depend on their social networks and on social events and religious festivals rooted in land for leisure and social support. The women lamented that the forest sites for women's secret



society rituals were destroyed. Furthermore, the concessions in the three counties appeared not to compensate for the cultural, socio-economic long-term land use value.

Slow Breakdown of Communities and Family Institutions

Respondents believe that loss of land to concessions contributes to family breakdown and amplifies women's and girl's vulnerability. It was mentioned that more men abandoned their wives and children in concessions-affected communities, leaving women to be the sole providers for the family in an economically deprived community.

Increased Workload for Women

The participants mentioned that, as men leave their communities in search of work, women assume both traditional male and female roles. In addition to domestic roles, such as care and subsistence farming, the women have to find ways to provide money for food, clothing, education, shelter, and children's fees.

Limited Access to Health Services

Women noted that environmental hazards (such as water contamination) are affecting their health, and yet the concession clinics often offer basic health services only to the families whom they employ. When women face work-related injuries, they are sometimes dismissed from work without fair compensation. Also, female respondents who work within the concession (predominantly as porters and traditional farmers) mentioned that they have no maternity leave, which was likely to affect both the woman's and her baby's health.

Researchers found that CSO involvement is slowly influencing government decisions in a positive direction. In Grand Bassa, for example, after resistance to a palm oil company's concession extension, with the help of Sustainable Development Institute, community members managed to push the government and the investor to promise that future contract extensions would involve the community. The doctrine of Free, Prior and Informed Consent (FPIC) is a vehicle for community involvement and a step in the right direction. While FPIC is a promise for future negotiations, families are currently breaking up and living standards are deteriorating day-by-day. Despite some small positive signs, the gravity of the extortions experienced by the concession-affected community members in the three counties will have long lasting effects, especially for women and children.

Conclusion

It is important that the government consults affected land users and applies gender equitable just and fair compensation before dispossessing them from the land. For women, it is even more crucial that the relocation site, compensation, and alternative livelihoods are established before destroying existing ones. While existing domestic law appears to be inadequate, Liberia is a signatory to regional and international conventions that protect and promotes land users, including women.

The task for gender equitable and socially responsible LSLBI (as indicated by the laws, standards, and guidelines described above) requires transparency, involvement of various female and male stakeholders, and informed participation of the communities affected. Although UN guidelines on business and human rights call on both States and corporations to uphold human rights, the GoL has the primary duty to safeguard land users' rights during the allocation and implementation of concessions.



CONCLUSION AND RECOMMENDATIONS

Overall Conclusion

Women's land rights in Liberia are protected to some extent within the constitutional and legal framework. The laws, as reinforced by the Supreme Court, are by no means ideal from a gender perspective, and attention could be paid to strengthening women's rights to land in legal and regulatory frameworks, particularly in the context of the pending LRB and future implementation.

The most striking gap appears to be that between rights recognized in law and those realized by women at the community level. Additionally, while gender-responsive law and policy is fundamental to the protection of women's land rights, there is urgent need for a cultural shift to redress gender inequalities in the area of LSLBI and in the land rights field in particular. This can only take place if the government displays political commitment to protecting the land rights of all rural female and male farmers.

Key Recommendation

Based on the significant role that secure women's land rights play in economic development, environmental protection, human dignity, and wellbeing, it is important that the GoL, in collaboration with other stakeholders—predominantly donors, land-based enterprises, R/INGOs, and local CSOs—, should ensure that women as well as other vulnerable groups have equitable access to, use, and ownership of land just as men and privileged elite members of Liberian society do.

Legal recommendations

- Amend gender discriminatory laws and adopt laws that redress gender inequality in access, use, and control of land.
- Harmonize the discrepancies between customary law and statutory laws in regard to women's land rights and ensure that ambiguous laws are reviewed and made clearer for easier application.
- Ensure that regional and international laws and conventions guaranteeing land and natural resources tenure rights of women of all categories are domesticated and implemented.
- Ensure that any formalization of TC does not entrench unequal gender relations and male land ownership.

WLR Awareness-Raising and Capacity Development

- Initiate nation-wide women's legal rights awareness and capacity development, focusing on the link between land rights and other domestic relations laws for:
 - Statutory authorities, particularly Superintendents, and LRP/LRB implementations who serve as key entry points and agents for change;
 - Customary leaders, especially Chiefs and Elders, to become champions in promotion and protection of women land rights;
 - Community members (women, men, and female and male youth farmers) and empower them to know, assert, and pursue their legal rights to land
 - CSOs working in the land and/or women rights sector should target women groups.
- Pending amendment of the law of presumption of marriage, women in informal unions should be trained to understand the legal consequences of informal unions, meaning of existing marital regimes, and to consider registering and/or keep evidence of their personal property so that they can claim them if the relationship fails or if the male partner dies.



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ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 19-23, 2018



Areas for Further Research

- Conduct nationwide action research on disparities between the land rights of women, men, girls, and boys to adopt effective gender responsive social-economic policies and laws, and strategies to implement them.
- Conduct anthropological research analyzing the role increased informal unions have on the community systems, particularly those related to land tenure and marriage.
- Conduct additional anthropological research analyzing how superstitions and beliefs influence and shape traditional understandings and practices relating to women's land rights
- Conduct a thorough study exploring how concessionaries impact on women's land rights in order to make recommendations based on evidence and establish gender responsive and socially responsible LSLBI global guidelines targeting different stakeholders involved in land-based investments.

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Land Governance in an Interconnected World

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
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