



Supplementary Information Concerning Women’s Land Rights in Liberia Submitted to the 122nd Session (12 March - 6 April 2018) of the Human Rights Committee

Submitted by Landesa

February 2018

Recognizing impressive strides for the promotion of women’s land rights in Liberia, this submission seeks to supplement the State Party report by highlighting implementation gaps in rights for rural women under the Convention on Civil and Political Rights (“this Convention”). This submission proposes questions and recommendations for the Government of Liberia, tailored to concerns in the Committee’s List of Issues related to women’s equal rights to access, use, own, and inherit land: 1) the legal status of “customary lands,” occupied and used by communities in accordance with traditional land uses, including the effects of development projects [herein “concessions”] on these communities; and the protection of women and other vulnerable groups in the use and ownership of customary lands; 2) the proportion of women in decision-making positions in the public and private sectors [herein in relation to land governance], and 3) the status of women within marriage (with a focus on informal and polygamous unions).¹ This submission is based on recent research² conducted in Liberia by Landesa in conjunction with local and international partners.³ Landesa⁴ is a leading international land tenure organization dedicated to securing gender-responsive⁵ land rights for rural people living in poverty, with experience in over 50 countries. This submission also references the Committee’s recommendations and those of other human rights bodies and mechanisms, and primary and secondary sources on Liberian law and social practice.

I. Women’s Land Rights are Key to Gender Equality

All over the world, women live on and depend on land for their livelihoods; ensuring women’s rights to land constitutes a foundational aspect of gender equality as envisioned under this Convention (Art. 2, 3, 25, 26). Secure rights to land are often a precondition, allowing women to realize myriad human rights enshrined in the ICCPR and other international human rights treaties; land rights, especially for women, are increasingly being recognized within and linked to human rights.⁶ Land rights for women contribute to sustainable development, economic livelihood, equality, adequate living conditions, housing, education, health, freedom from violence, and participation in decision-making.⁷

This Committee has stated: “[the] right of everyone under Article 16 [of this Covenant] to be recognized everywhere as a person before the law is particularly pertinent for women, who often see it curtailed by reason of sex or marital status. This right implies that the capacity of women to own property...may not be restricted on the basis of marital status or any other discriminatory ground. It also implies that women may not be treated as objects to be given, together with the property of the deceased husband, to his family. States must provide information on laws or practices that prevent women from being treated or from functioning as full legal persons and the measures taken to eradicate laws or practices that allow such treatment.”⁸



The Committee has further affirmed the equal spousal rights to ownership and management of assets, and equal responsibility and authority within the household.⁹ It has called on States Parties to review legislation to ensure that women have equal rights to own and administer property;¹⁰ and to ensure equality for women and men upon divorce, and equality in inheritance.¹¹ The Committee has also emphasized States' duties to protect the rights of minorities, especially regarding customary land use; and stated that affirmative legal measures may be required to ensure customary land users' general enjoyment of rights, and to ensure their participation in decision-making processes that affect them.¹²

Strong statements from other treaty-monitoring bodies to which Liberia is also accountable echo and reinforce States Parties' duties related to women's rights to land under this Covenant. The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) instructs states to facilitate equal participation in and "benefit from rural development" and in particular, women's right to "equal treatment in land and agrarian reform;"¹³ mandates equal rights to women "to administer property;"¹⁴ and extends equal rights to "both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property," interpreted to include land.¹⁵ Where states have adopted progressive laws, CEDAW still requires states to "modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary . . . practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women,"¹⁶ including practices that would prevent women from equal rights to land. The CEDAW Committee's General Recommendation No. 34 on the rights of rural women instructs States Parties to uphold rural women's land rights, highlights vast disparities and systemic discrimination suffered by rural women,¹⁷ and declares rural women's rights to land and natural resources "fundamental human rights."¹⁸

Rights to land and property include rights to own, use, access, control, transfer, exclude, inherit, and otherwise make decisions about and benefit from land-related resources. Women's land rights are generally considered secure if they are: 1) clearly defined and of an appropriate duration, 2) socially and legally legitimate and recognized, 3) unaffected by changes in women's social status (e.g., divorce or death of a spouse), (5) enforced and appropriately transferable, and (6) exercisable without additional layers of approval applicable only to women.¹⁹ The United Nations Working Group on Discrimination Against Women recently released a statement on women's rights to land, emphasizing these aspects of secure legal land tenure for women, and calling for women's participation in land governance.²⁰

II. Existing legal standards for women's land rights are undercut by gaps in access and implementation

Liberian law already includes protections for women's land rights in the context of acquisitions, customary law, and marriage. The 2013 Land Rights Policy requires equal treatment and inclusion of women in land matters generally, in acquisition of community land, when marital or familial circumstances change, and regarding customary law, practice, and administration of land.²¹ The Constitution, Domestic Relations Law, and Decedent Estates Law (which includes the Equal Rights for Customary Marriages Law), all provide land rights for women.²² The draft Land Rights Bill provides greater protection for users of customary land in the context of concessions, including women.²³ The Liberia Land Authority, with other government agencies, Liberian civil society, and development partners, has formed a Women's Land Rights Task Force, to be coordinated through the forthcoming gender unit at the Land Authority.²⁴



But significant gaps remain, limiting women's full exercise of land rights under current policy, law, and implementation. Statutory law applies to customary marriage, but not to customary land and practice;²⁵ laws contain unclear definitions of marital property;²⁶ and women in *de facto* unions, along with their children, have no legal rights to land or property.²⁷ In rural areas covered by Landesa's recent study, limits on women's participation in land-related matters stem from social norms that land is men's purview, and that women have inferior social status.²⁸ In many communities, women are not permitted to hold property.²⁹ In urban areas, women are able to purchase, sell, and lease land in law and practice, although women were likely to encounter obstacles as a result of social norms; for example, in some areas it is still held that women should be accompanied by male relatives when purchasing property.³⁰

Concessions violate customary land rights; women are disproportionately impacted.

Large-scale concessions have historically and recently caused displacement, loss of livelihood, and conflict in Liberia.³¹ Customary land is considered public land, allowing the government to grant companies long-term leases,³² frequently without adequate consultation with local communities.³³ Communities have often lost land, and not been offered new land or granted employment as a result of investments.³⁴ Women are especially disadvantaged; they experience increased food scarcity, limited access to traditional forest products and medicines, loss of access to commons—including firewood, roads, and water resources—increasing their workload, and social disintegration of communities due to displacement and loss of livelihood.³⁵ Women are not likely to be included in consultations if they do occur, or offered employment in out-grower schemes.³⁶ When provided, compensation often goes to male household heads, and often does not account fairly for land value or women's crops.³⁷ In study areas, respondents considered the draft Land Rights Bill inadequate to protect or restore their rights under concessions; the government has already granted companies long-term rights to their land.³⁸

Women's land governance participation and access to justice is limited by formal and customary governance institutions, as well as household decision-making practices.

Men predominately occupy decision-making positions, giving them control over land in both statutory and customary governance systems.³⁹ Women have little decision-making power regarding land and natural resources, especially in customary settings,⁴⁰ and have low levels of representation in formal land governance structures.⁴¹ Few women hold positions of authority in formal decision-making institutions at the municipal and county levels.⁴² Women's access to justice and dispute resolution is limited; they are generally excluded from groups that make decisions about land or resolve disputes at the community level.⁴³ Many rural women have trouble accessing formal justice systems because of barriers related to cost, literacy, travel and customary norms that discourage engaging in conflict, which is seen as acrimonious behavior from women.⁴⁴ Land governance authorities also appear to deprioritize women's land rights, due to a lack of familiarity with the laws, limited capacity, and limited political will.⁴⁵ In most areas studied, men make all decisions about land within households; while wives may have some say about crop choices, they typically cannot plant cash crops.⁴⁶

Women lack equality under customary marriage and inheritance practices, and their rights to property are limited.

Customary marriage involves negotiations largely conducted by the male relatives of both families, with females being informed that arrangements are being made for the marriage of a daughter or female relative. This includes the payment of dowry, which is determined by social status (including the woman's virginity). The payment of bridal price or dowry gives the husband customary rights over the



woman and their children; it is a common conception that a husband owns his wife. No instances were reported of customary marriage occurring without dowry.⁴⁷

The Equal Rights of Customary Marriage Law includes provisions on equal inheritance by customary wives, and prohibitions on the return of dowry.⁴⁸ But in the study areas, there appeared to be little or no implementation or awareness of the law generally, or these provisions specifically. Under customary marriage, if a husband seeks divorce, the woman must leave the marital land and house. Upon a husband's death, women often face either marrying her husband's male relative or being forced to leave her marital land and property. Women are expected to repay dowry if they seek divorce.⁴⁹ Inheritance of land and other family property is patrilineal. Sons inherit land, and girls are awarded land use rights, which they lose upon marriage. Women's rights to land are seen as conditional, dependent on male relatives, and limited.⁵⁰ This is evidenced in a practice allowing daughters to plant only short time plants, predominantly vegetables, whereas sons may plant "life trees."⁵¹

Polygamy contributes to male dominated ownership and management of assets.

Polygamy is central to the culture of the communities visited and is still widely practiced in rural areas.⁵² Participants across study areas said men commonly have up to four wives. Polygamy is also present in informal unions. Polygamy affects housing and land within the family. In many cases, a wife does not get farm land of her own but shares the husband's land with his existing wives. These practices have led to conflicts between legally married wives and husbands, and wives and female cohabitants.⁵³

Women in de facto unions lack legal protections.

In researched areas, marriage and marriage-like relationships occur within customary systems that are patrilineal; polygamous and *de facto* unions are common.⁵⁴ In rural areas, there were almost no instances of formalized marriage (either civil or customary) among research participants. Informal marriages are common and comprise a growing percent of relationships in the three studied areas.⁵⁵ Customary marriages still exist in rural areas, but are declining. Women are more likely than men to prefer customary formalization, as rural women's land rights are insecure in *de facto* unions. These women and their children risk abandonment; children of these unions depend on their mother's relationship with their father to access land; and if the man dies, the woman is at risk of being sent away by his family.⁵⁶ This trend may also reflect a perceived or actual lack of access to land and property apart from marriage for women. Men perceive that women view marriage as a means of gaining access to a man's property, and may avoid formalizing marriage as a result. Some respondents indicated that men are not formalizing unions because they are taking advantage of women, or are unable to feed their wives and children.⁵⁷ These stereotypes and the resulting disadvantages for women are reinforced and perpetuated by gaps in statutory laws and women's limited access to land under customary practices.

III. Proposed Questions for the Government

Given that rural women still face discrimination regarding 1) access to, use and ownership of customary land in particular, 2) meaningful participation in land governance and consultations for development projects, and 3) marital status, the Committee might consider these requests for the government:

1. Identify current efforts for swift adoption of the Land Rights Bill; additional legislative reform to make land and family laws comply with the Covenant; and strengthening implementation of laws favorable to women, including access to administrative services and justice mechanisms.



2. Outline measures taken to increase legal literacy, especially for women, about all laws pertaining to land and inheritance, including family laws with application to land and property rights (e.g., the Equal Rights of Customary Marriages Law); and measures taken to ensure local authorities and judicial officers know and fairly implement provisions related to women's rights to property, land and inheritance; include any monitoring and evaluation reports that discuss effective approaches, and any corrective actions taken to adjust ineffective approaches.
3. Provide specific information on all documentation of land to individuals and couples, disaggregated by sex and marital status (including de-facto unions and polygamous unions), geographic region and tenure type, including documentation of communal land and rights of communities under concessions. This will help the State Party address LOI paras. 9 and 26.

IV. Proposed Recommendations

The following proposed recommendations to the government aim to align state actions toward greater compliance with gender equality under the ICCPR in the context of women's land rights:

1. Ensure equal land and property rights to women and men in the forthcoming Land Rights Bill,⁵⁸ and eliminate all existing barriers restricting rural women's access, use, ownership, inheritance, benefit, and control of land in law, including in concession areas; this requires a comprehensive review of legislation, and subsequent legislative reform,⁵⁹ as well as effective implementation of existing laws;⁶⁰ these reforms should harmonize customary and formal law, eliminate inheritance practices that violate women's rights (including widow inheritance), and ensure that women and the children of customary or de facto unions are guaranteed equitable rights.
2. Eliminate all barriers to realizing the full bundle of rural women's rights to access, use, and own land in practice; provide legal literacy trainings and information⁶¹ to civil society and local authorities, including Town Chiefs, communities as a whole, and women in accessible venues; carry out additional and targeted media dissemination campaigns on such rights, outreach to communities and programs to equip women to safely and effectively raise and claim rights; and incorporate women's land rights in civic education programs; ensure women partake in community land governance processes and decision-making, including regarding concessions.
3. Take affirmative measures to ensure gender-equitable participation in the recognition and governance of community land,⁶² and gender-responsive protections for communities and individuals in the context of concessions.⁶³
4. Collect gender-disaggregated evidence of actual and perceived tenure security nationwide to implement the UN 2030 Agenda's Sustainable Development Goal (SDG) 1 on ending poverty, indicator 1.4.2; and evidence to inform SDG 5 on gender equality, indicators 5.a.1 and 5.a.2.

¹ Committee's List of Issues, CCPR/C/LBR/Q/1.

² Land Governance Support Activity | Women's Land Rights Field Research: Trip Report (2017), on file with Landesa and pending publication, hereinafter "LGSA." Recent research covered six thematic topics related to women's land rights and participation in land governance in three areas in Liberia (Maryland, Nimba, and Grand Bassa): 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. The team explored four major types of tenure arrangements in the areas visited: customary land rights, hybrid land rights as represented by Tribal Certificates, private land rights and public land rights held in concession agreements. Within each of these arrangements, women's access and rights to land differ from (and are less secure than) those of men.

³ Land Governance Support Activity (LGSA), Liberia; Women's NGO Secretariat of Liberia (WONGOSOL), Liberia; and the Association of Female Lawyers of Liberia (AFELL), Liberia

⁴ **Landesa** is an international nonprofit organization dedicated to securing gender-responsive land rights for rural people living in poverty. Landesa has worked in over 50 countries and has contributed to over 110 million families gaining legal land rights, using a combination of robust research, collaborative law and policy design, dedicated advocacy, and tailored evidence-based interventions, www.landesa.org

⁵ “Gender-responsive” means that rather than only identify gender issues or work under the “do no harm” principle, a process will substantially help to overcome historical gender biases, to “do better,” in order for women to truly engage and benefit from these actions. See UN Women, How to Manage Gender-Responsive Evaluation, available at: <http://genderevaluation.unwomen.org/-/media/files/un%20women/gender%20evaluation/handbook/evaluationhandbook-web-final-30apr2015.pdf>

⁶ This Committee has produced an overview of international bodies’ statements establishing the links between land rights and human rights in the ICCPR, ICESCR, and CEDAW and other instruments, see HR/Pub/13/04 at 5-8 and HR/PUB/15/5/Add.1 at 11-14, and E/2014/86 at http://www.ohchr.org/Documents/Publications/Land_HR-StandardsApplications.pdf. See also, CESCR Committee, General Comment No. 4 on the right to adequate housing (art.11(1)), at para.8(e) recognizes “access to land as an entitlement.” General Comment No. 16 on the equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3 of the covenant), at II(C)(28) “requires that women have a right to own, use or otherwise control housing, land and property on an equal basis with men, and to access necessary resources to do so.” For an overview of the CESCR Committee’s recognition of land as a human right, see Minority Rights Group International, Moving towards a right to Land: The Committee on Economic, Social and Cultural Rights’ Treatment of Land Rights as Human Rights. (2015), at 3-4, available at: http://minorityrights.org/wp-content/uploads/2015/10/MRG_Rep_LandRights_Oct15.pdf

See also CEDAW Committee, General Recommendation No. 21 (13th sess., 1994) Equality in marriage and family relations, para. 26 – calling for the equal ownership of property as crucial for women’s equality and livelihoods, and para. 27 – calling on states to ensure that land allocation and reform programs redistribute land to women on an equal basis with men, regardless of marital status.

⁷ Landesa, Women’s Land Rights, at: <https://www.landesa.org/resources/womens-land-rights-and-the-sustainable-development-goals/>

⁸ General Comment No. 28 (68th sess., 2000), Article 3 (The equality of rights between men and women), para. 19.

⁹ Id. at para. 25.

¹⁰ Id. at para. 20.

¹¹ Id. at para. 19.

¹² General Comment No. 23 (1994), General Comment Adopted by the Human Rights Committee under Article 40, paragraph 4, of the International Covenant on Civil and Political Rights, CCPR/C/21/Rev.1/Add.5, at para. 7.

¹³ Convention on the Elimination of All Forms of Discrimination against Women, December 18, 1979, A/RES/34/180, at Art. 14(2).

¹⁴ CEDAW, Art. 15(2).

¹⁵ CEDAW Art. 16(1)(h).

¹⁶ CEDAW Art. 5(a). See also, General recommendation No. 28 (47th sess., 2010), The Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, para. 31 (“States parties have an obligation to take steps to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.”).

¹⁷ CEDAW Committee, General Recommendation No. 34 on the rights of rural women (2016), UN Doc. CEDAW/C/GC/34. “Globally, and with few exceptions, on every gender and development indicator for which data are available, rural women fare worse than rural men and urban women and rural women disproportionately experience poverty and exclusion. They face systemic discrimination in accessing land and natural resources. They carry most of the unpaid work burden due to stereotyped gender roles, intra-household inequality, and lack of infrastructure and services, including with respect to food production and care work.” Id. at para. 5.

¹⁸ Id. at para. 56.

¹⁹ Landesa, “Women’s Land Tenure Framework for Analysis: Land Rights” (2013), available at:

<http://www.landesa.org/resources/womens-land-tenure-framework-for-analysis/>. Note also that land rights perceived as secure afford some of these guarantees, even in the absence of formal rights recognition. For example, if a family has lived in a rural area for years without formal documentation, yet they have no threat of being asked to leave, they are said to have perceived tenure security.

²⁰ UN Working Group on the Issue of Discrimination Against Women in Law and in Practice, (2017), Position Paper: Insecure land rights for women threaten progress on gender equality and sustainable development, available at: <http://www.ohchr.org/Documents/Issues/Women/WRGS/Womenslandright.docx>.

²¹ Government of Liberia, (2013), Land Rights Policy, at §§2.5, 6.1.3, 6.1.4, 6.1.5, 6.2.4, 6.4, 7.4.2, 7.4.3, available at: http://www.theperspective.org/2017/Land-Rights-Policy_-_Draft_4.14.13_Version-for-Pres-Cabinet-May-17_0.pdf

²² Domestic Relations Law at §3.4; Devolution of Estates Act, §§2.1, 2.6.

²³ LGSA, *supra* note 3, at 31.

²⁴ Landesa, What We Do, available at: <https://www.landesa.org/what-we-do/sub-saharan-africa/landesa-in-liberia/>

²⁵ E. Scalise and L. Hannay, (2013), Brief: Women’s Land Rights in Liberia, available at: <http://www.focusonland.com/foia/en/countries/brief-womens-land-rights-in-liberia/>

²⁶ See, e.g., Domestic Relations Law at §1.1.

²⁷ Scalise and Hannay, *supra* note 17.

²⁸ LGSA at 19.

²⁹ LGSA at 21.

³⁰ LGSA at 17.

³¹ *Security Council Report*, Thirty-second Progress Report of the Secretary- General on the United Nations Mission in Liberia, 12 August 2016, www.securitycouncilreport.org/atf/cf/%7b65bFCF9b-6D27-4e9C-8CD3-CF6e4FF96FF9%7D/s_2016_706.pdf. See also *The Munden Project* (2014), *Communities as Counterparties: Preliminary Review of Concessions and Conflict in Emerging and Frontier Market Concessions*, at 45 et. seq., available at: http://rightsandresources.org/wp-content/uploads/Communities-as-Counterparties-FINAL_Oct-21.pdf

³² Lowenstein, (2017), *Governance of Agricultural Concessions in Liberia: Analysis and Discussion of Possible Reforms*, at 4, available at: https://law.yale.edu/system/files/area/center/schell/document/liberia_final_2017.pdf

³³ USAID, (2014), *Final Evaluation of the Land Conflict Resolution Project in Liberia*, at 2, available at: http://pdf.usaid.gov/pdf_docs/PA00K5C4.pdf

³⁴ Lowenstein at 8.

³⁵ LGSA at 23-25.

³⁶ Lowenstein at 38.

³⁷ LGSA at 24.

³⁸ LGSA at 8, 24.

³⁹ LGSA at 21.

⁴⁰ M. Stickler, H. Huntington, (2015), *Perceptions of Tenure Security: An Exploratory Analysis of Pre-treatment Data in Rural Communities Across Ethiopia, Guinea, Liberia, and Zambia*, at 25, available at: https://usaidlandtenure.net/wp-content/uploads/2016/09/Perceptions_of_Tenure_Security-Ethiopia_Guinea_Liberia_Zambia.pdf

⁴¹ LGSA at v.

⁴² LGSA at *iv*, 17.

⁴³ LGSA at v. See also USAID, *supra* note 27, at 12.

⁴⁴ LGSA at *iv*.

⁴⁵ LGSA at 16.

⁴⁶ LGSA at 11.

⁴⁷ LGSA at 10.

⁴⁸ An Act to Govern the Devolution of Estates and Establish Rights of Inheritance for Spouses of Both Statutory and Customary Marriages, at §2.2: “The recovery of dowry (token) from the wife or her parents by the husband is hereby prohibited...” and §3.4(a): “No family member of the deceased husband shall compel the widow or widows to remain within the family, or marry a kin of her/their late husband...”

⁴⁹ LGSA at 11-12.

⁵⁰ USAID at 27.

⁵¹ LGSA at 13.

⁵² World Health Organization, (2017), *Culture and Mental Health in Liberia: A Primer*, at 16, available at: <http://apps.who.int/iris/bitstream/10665/255302/1/WHO-MSD-MER-17.3-eng.pdf>

⁵³ LGSA at 11.

⁵⁴ LGSA at 8-11.

⁵⁵ LGSA at 12. In rural Nimba, one participant reported that around 80% were not considered married because dowry had not been paid. In Ganta, one participant guessed that 60% to 80% of couples were cohabitating. In Grand Bassa, with closer proximity to Monrovia and more legal awareness, a participant estimated that 70% of women were cohabitating and the remainder were married.

⁵⁶ LGSA at 9.

⁵⁷ LGSA at 10.

⁵⁸ Ensure that Article 2 of the forthcoming Land Rights Bill’s definition of the term “Resident,” creates an exception to the 15-year residency requirement for spouses, and ensure that the definition of “Marriage” includes civil marriage, customary marriage, and presumptive marriage.

⁵⁹ E.g., Consider amending Section 25.3 of the Civil Procedure Law of 1973 to provide guidance to better define presumption of marriage; provide factors for what constitutes a husband and wife relationship, including duration. As an alternative, state that presumptive marriages are governed under Domestic Relations Law, the Decedents Estates Law, and the Equal Rights of Customary Marriages Law, as applicable.

⁶⁰ E.g., Article 22 of the Constitution of Liberia gives every citizen the right to acquire land; and customary wives and children have the right to inherit land under §3.2 of An Act to Govern the Devolution of Estates and Establish Rights of Inheritance for Spouses of Both Statutory and Customary Marriages.

⁶¹ E.g., provide information about §25.3 of the Civil Procedure Law of 1973 that recognizes informal unions as marriages; provide information about international human rights norms and standards to which the Government of Liberia is accountable, including those above.

⁶² LGSA at 34-35.

⁶³ Id at 31-32.