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How Poor Policy Formulation
and Implementation is
Disempowering Women
in Liberia

Foundation for Community Initiatives
Monrovia, Liberia

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About the Foundation for Community Initiatives

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

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



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Executive summary

There is a struggle to create space for broader citizen participation. The notion that the special situation of women may either benefit from this struggle or get pushed aside is unwarranted; both struggles can actually go hand-in-hand and thereby mutually reinforce each other.

The government has enacted laws and adopted policies intended to advance the equality of women to men in terms of acquisition of property including land. These include the Domestic Relations and Inheritance Act of 1998 that specifically highlights equal rights in marriage and inheritance under Customary and Statutory Laws, the 2003 Act to Govern the Devolution of estates and establish Rights of Inheritance for spouses of Statutory and



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Customary Marriages. Other policies include the Liberian National Gender Policy (LNGP), the National Gender-Based Violence Plan of Action (NGBVPA) and the National Action Plan to implement UN Security Council Resolution 1325. The forest policy, laws and regulations are however poor in their consideration and treatment of gender or women's rights. This perpetuates male dominance in forest governance processes at all levels even though the involvement of women is mandatory.

In spite of the progressive legal provisions that allows for women to own land and participate in the socio-economic life of the society, the limitations of the forestry law, policies and regulations notwithstanding, women are still far from fully realising these rights the benefits of the changes in law. For example, unequal access to and ownership of land and other resources have contributed significantly to economic and political inequities between different segments of the population, but more so between men and women.

This shows that changes in law are not enough to ensure gender equality or address inequality between women and men. Therefore mandatory equal representation of men and women on decision-making bodies may not totally address the problem of women marginalization. At worst, it may allow for some women the scale the barriers hindering the progress of women and thereby create a false sense of progress; nevertheless is a better interim measure. The following measures are necessary to fully realize gender equity and women rights:

- Initiate national dialogue to brainstorm and agreed ways forward. This requires collective and well-coordinated action; disjointed and project-based interventions will not be enough even though they are useful as interim measures.
- Build the capacity of NGOs working on gender and women issues including strengthening the capacity of women's non-governmental organizations to develop and implement advocacy interventions to mainstream gender in policies linked to the forest sector.
- Build the capacity of community-based organizations or CBOs concurrently with capacity building support to women's groups at the community level.
- Democratize local decision-making to address the exclusion of women from decision-making, and facilitate change in the power dynamics between men and women.
- Build alliances and networks to tackle the issues of women's exclusion and marginalization – these are relational and structural. As such, responding to them requires a strategic approach that is marred by alliance building and networking with other actors.
- Expand the livelihood options available to women and enable them to have greater control over their lives thereby increasing the potential for them to assert themselves in demanding improved participation in community decision-making.

Introduction



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Forest in Liberia. © MShep2/istock

Liberia has a population of 3.5¹ million people and of this figure, half is made of women yet gender inequalities and disparities are pervasive at all levels of society including access to land. Access to and ownership and utilization of land is inextricably linked to the ownership of forest because of the financial benefits that are associated with the control of the forest. The 1986 Liberia Constitution gives mandate to the state to manage the national economy and the natural resources in such manner as shall ensure the maximum feasible participation of Liberian citizens under the conditions of equality as to advance the general welfare of the Liberian people and the economic development of Liberia (Article 7). This mandate, as a result of poor and arguably deliberate misinterpretation, has led to years of state control over forest resources and invariably control over land. This centralised control has been marked by exclusionary practices of rural communities, notably women, and contravenes the maximum feasible participation clause stipulated in article 7.

There is a sustained effort on the part of Liberian civil society to make the marginalization and exclusions that have characterise Liberian policy making, history. In the past, advocacy for broad citizen participation focused on ‘political or civic’ participation and were designed to benefit primarily the elites outside of government or an emerging class of intellectual that were fighting to secure space for themselves at the national decision making table. The excuse was, and is, that there is a bigger struggle to create space for broader citizen participation; the special situation of women may either benefit from this struggle or get pushed further on the margins for another day. But in this report we argue that advocacy for increased public participation need not be at odds with call for gender mainstreaming; they can go **hand-in-hand**.

The concept of gender equality is relatively new in Liberian development discourse. For many people inequality based on gender, the implications of policies and laws that do not take into account the special needs, interests and situations of different social groups – especially men and women, are ‘**none-issues**’. Some regard gender as one of the western concepts designed to impose western values on Africa or Liberia. However, the facts say differently. The irrefutable fact is that for many years, government policies and laws have been developed using a top-down approach.² In many instances designers do not conduct gender analysis to inform the formulation of these policies; Liberia’s forest policy and laws are good examples. The country has taken steps to reform the forest sector with the formulation of a new policy, laws and regulations with the intent to improve the governance and management of forests.

This report assesses the existing laws and policies of government as they relate to women owning land; forest governance; and community based forest management. The outcome of the desk study that informed the writing of this report was used to gather information on the views and perception of key stakeholders in the sector as well as women in several counties on the gaps and challenges and what they think can be done to respond to the identified gaps in the laws and policies. The report uses the forest policy, laws, and regulations and how they treat gender to highlight the challenges women face in today’s Liberia. It specifically focuses on men and women as the two largest conglomerations of social groups; that is each group includes the young and the old. It then shows how the lack of gender analysis and the poor treatment of gender in the policy and laws reinforced by poor implementation, continues to push women on the margins in spite of the gains that are proclaimed by some. It then concludes with series of recommendations aimed at stimulating some immediate action and further debate on the issue.

footnotes

- 1 Government of Liberia, National Population and Housing Census, 2008.
- 2 Government of Liberia (2008) Poverty Reduction Strategy.



Gender, Gender: Why Now

The 1986 Liberian Constitution includes a number of provisions related to real property rights. Article 22 (a) provides that “every person shall have the right to own property alone as well as in association with others.” But despite the provision in Article 22, women in rural parts of the country are still the victims of discriminatory practices in terms of access and ownership of land even though the government has signed and ratified Convention on the elimination of all forms of violence against women or CEDAW.

Article 24 indicates that the state guarantees the inviolability of property rights but then authorizes expropriation of property during armed conflicts and for the public good and safety. It provides for prompt payment of just compensation when this happens. The article, however, does not provide clear procedures on how to proceed to get prompt and just payment. The Constitution (Article 65) also provides the basis for the application in court of both customary and statutory laws in accordance with the standards enacted by the Legislature. This sets the legal framework for the application in the courts of customary land issues that affect most rural people including women.

In spite of these legal provisions that allows for women to own land and participate in the socio-economic life of the society, women are still far from fully benefiting from these legal provisions. At the same time, the struggle to promote gender equality and equity around access to property particularly land has been globally conceived as a human right issue. The government of Liberia is signatory to several regional and international treaties, conventions and initiatives that strive to protect and promote the rights of women. Some of the instruments include the Millennium Development Goals (MDGs), the Convention on the elimination of all forms of violence against women (CEDAW), the African Union Solemn Declaration on Gender Equality, and the African Charter on Human and People’s Rights on the Rights of Women in Africa. Liberia is also a party to UN Security Council Resolution 1325, UN Security Council Resolution 1820, United Nations Declaration on

Violence Against Women, International Conference on Population and Development and the New partnership for African Development (NEPAD).

At the national level, the government has enacted laws and adopted policies intended to advance the equality of women to men in terms of acquisition of property including land. These include the Domestic Relations and Inheritance Act of 1998 that specifically highlights equal rights in marriage and inheritance under Customary and Statutory Laws, the 2003 Act to Govern the Devolution of estates and establish Rights of Inheritance for spouses of Statutory and Customary Marriages also called the Equal Rights of the Customary Marriage Law of 1998. Other policies include the Liberian National Gender Policy (LNGP), the National Gender-Based Violence Plan of Action (NGBVPA) and the National Action Plan to implement UN Security Council Resolution 1325.

With respect to the ownership, access and utilization of land and forest management, the government has enacted several laws and formulated numerous policies. The Land Commission (LC) has been established to develop policies on land reform laws as well issues around procedures and guideline for the sale and ownership of public land. Through a consultative process, the framework has been established to develop a national land policy. A strategy for developing the policy has been drafted by the (LC) and is now before the Cabinet for approval. The Forestry Development Authority (FDA) charged with the responsibility of leading the forest reform sector has developed the following documents to support the process: FDA Ten Core Regulations, Liberia Community Rights Law, National Forest Reform Law, Liberia Forestry Policy, and the National Forestry Management Strategy.



Women rising. © FCI

These changes in policies and laws are both results of an acknowledgement that society no longer tolerates the types of abuses, marginalisation and exclusion that women have been subject to in the past. For example, the Poverty Reduction Strategy (PRS) of Liberia indicates that with respect to economic growth women are major players in the agriculture and forestry sectors. Agriculture is one of the main pillars of the PRS and with proper investment could contribute greatly to the economy. Women constitute the majority of small-holder producers and the agricultural labour force in general. According to the PRS women produce some 60 percent of agricultural products, carry out 80 percent of trading activities in rural areas, and play a vital role in linking rural and urban markets through their informal networks. Despite their deep involvement in agriculture, they have less access to productive inputs, including land than men. Unequal access to and ownership of land and other resources have contributed significantly to economic and political inequities between different segments of the population, but more so between men and women, throughout Liberia's history.

In spite of these clear acknowledgements of the roles, needs and situations of men and women, the forest policy, laws and regulations are poor in their consideration and treatment of gender. While there are provisions that note the special situation of women and the need for them to be involved in forest governance and management they do not treat the participation of women as a right. To their credit, some provisions make allocation for women inclusion on community decision-making structures, but in all of these instances a right based language and approach is not engendered in the documents. For example, in the regulations, an attempt was made to highlight the involvement and participation of marginalized groups such as women and youth in public meetings concerning the management of the forest. In various provisions they note that "the authority shall use its best efforts to involve women, youths, and other historically excluded groups in each regional public meeting."³⁷ But this is superficial as it falls short of saying specifically what must be done, or what specific mechanism should be employed to increase women's representation and participation in these public meetings.

This is also very similar to the treatment it receives in the Community Rights Law; a law intended to increase the role of forest communities in forest governance and management. The only direct mention of women participation in the Community Rights Law is in section 4.2 (a), which states that "a five member Community Forestry Management Body shall manage the day-to-day activities of community forest resources. At least one member of the body shall be a woman. The body shall have a chief officer, a secretary and a treasurer." As may be expected that's exactly what happened; at least one woman was included in every community body when they were established. This provision is not strong or affirmative enough to ensure the equal representation of women on such an important forest management body charged with the responsibility of managing community forest resources. Additionally, even were equal representation mandated, there are doubts it would have totally addressed the problem of women marginalization – but that would have been a better start than the present requirements.

Additionally, despite the little progress that has been made in law and policies, real benefits from and evidence of these changes are scant.



Women rising. © FCI

footnote

37 FDA Regulation 101-07 on Public Participation (2007).

Scaling the Fence or Breaking Barriers

Traditionally, women tend to access land (property) through a male figure whether as a husband, brother or an uncle and this has contributed to higher insecurity for land tenure for women. Women have fewer rights to land under customary law than statutory law due to cultural practices. Prior to 2003, an indigenous woman had no rights over her husband's property when he died and this caused a lot of economic and social problems for women. The Inheritance Law of 2003 brought an end to this practice. The overriding objective of this law is to give equal property rights to women who are married under customary law as well as to give adequate protection to surviving spouses of such marriage. The children are also protected under this law. Section 2.3 is clear on inheritance of property. It states: "immediately upon marriage, the customary wife shall be entitled to one-third of her husband's property personal or real and vice versa regardless whether or not he/she helped him/her to acquire said property. Real property encompasses land."

It is important to note that the 2003 amendment ends the difference in the enjoyment of property rights for women who are married under statutory and those under customary law. A close reading of the law indicates that widowed women are still not accorded full inheritance rights in Liberia. Upon the husband's death, the widow or multiple widows are entitled to only one-third of their late husband's property, the balance of which shall go to his children if any or to his collateral heirs according to the Decedents Estates Law (Section 3.2). Further, should the widow remarry, she is to vacate the premises and she loses her rights to remain on the property of her late husband and administer his estate. The new marriage entered into automatically reverse said rights and the inherited property is returned to the heirs or children of the late husband (Section 3.3). A re-reading of these provisions suggests that the language of the law is still very weak and does not guarantee full protection for women claiming inheritance rights under customary law. A further revision of the law is still needed to ensure full protection of women's inheritance rights in Liberia. An overview of the law has shown that progress has been made mainly in inheritance legislation, and not land legislation which does not go far in finding remedy to the issues around the rights of men and women in land ownership.

Bridging the disparities between men and women in Liberian society require lot more than the half-hearted changes been made in law and policy. Some would argue that with the enactment of these laws and policies, the government has made some level of progress in developing the required legal and policy framework to address some of the inequalities faced by women in advancing their economic and social wellbeing. However, the challenges women face, their overall situation requires more than the subtle changes that have been made. The underlying issues are much more complicate and require decisive action and targeted interventions to tackle the following situations:

First, the illiteracy rate among women is high and estimated to be 59%⁴. This level of illiteracy makes it difficult for women to have a comprehensive understanding of the issues contained in the laws and policies that are intended to advance their cause. Without an understanding of the issues it is difficult to demand a response from the actors who are supposed to enforce the provisions. Due to the level of illiteracy among women particularly in the rural areas, they may not know the steps to use in seeking redress. This makes it difficult to ascertain the extent to which the law is being enforced. Reality on the grounds shows that customary norms and practices continue to limit women's access to land because the allocation of land and its utilization in communities is still greatly influenced by chiefs and elders, who are mostly men. The traditional practices make men to have more preference for males as compared to their female counterparts in the allocation and ownership of land.

footnote

4 CWIQ 2007.



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Second, women remain under-represented in government and the private sector due largely to their low level of educational attainment and limited access to resources. In the 2005 elections, women accounted for 14% of the 806 candidates nominated for election, although they made up 50% of the registered voters. At the end of the elections, 5 out of 30 Senators elected were women while 9 of out the 64 seats in the House of Representatives were women⁵ making a total of 14 women in the National Legislature out of a total of 94. Some commentators opine that the low level of representation in the Legislature is one of the contributing factors that led to the failure by the Legislature to pass the Gender Equity in Politics Bill of 2010. Within the Judiciary, all the justices on the Supreme Court Bench are men. Also, at the county level, judges, Prosecutors and Public Defenders are mostly men. This means women perspectives within the various branches of government are not adequately represented at the table and therefore not fully taken into account.

Third, traditional customary practices are still very much active in most parts of rural Liberia and these practices are underpinned with values that influence social relationships, attitudes and behaviours, which in turn undermine the implementation of government's laws and policies. The fact that women in various instances promote some of these customary practices complicates the situation and makes intervention difficult.

Lastly, government agencies and administrative structures are still largely centralized and this creates disconnect between the governed and the government thereby creating huge challenges for the enforcement of laws and policies. Additionally justice for women in these matters is severely undermined by the inadequate institutional and logistical capacity of the judiciary to adjudicate matters in a timely manner. For example, limited human and financial resources to fast track cases create challenges for the judiciary. The Circuit Courts run for four terms a year. Each term last for three months and operates 42 days per term. There is a need to revisit the number of days if cases are to be handled in a timely manner. Furthermore, there is an acute shortage of qualified lawyers who are willing to take up assignments in the rural parts of the country.

This is the socio-cultural and legal environment in which reforms are taking place concerning land reform and the utilization and management of the forest. It is therefore difficult to assert that barriers to gender equity or promoting women rights have been breached. It may be rather be more accurate to point out that some women have successfully overcome most of the challenges that keep women down in Liberia, while these barriers continue to hold the majority of women down.

footnote

5 Liberian National Gender Policy, 2009.

Unwarranted Expectations

In this section we focus on the forest sector to showcase perhaps the best case scenario for how women situation are changing in practice. We use the forest sector because unlike other laws and policy changes regarding women, there is sustained action by some within the forest sector to ensure that the limited provisions in the policies and laws are enforced. Is this then reason for hope? We are not so sure.

In addition to the issues outlined above, there are also challenges related to the capacity and understanding of different actors. With limited understanding of these issues, the actors that are expected to champion implementation of the laws and policies mentioned above are more like “broken sticks” in Liberian parlance⁶. For example, there is little evidence that the FDA and many of the NGOs working in the forestry sector have given thoughtful consideration to the need to mainstream gender into their programs, projects, and on a higher level in the policy, laws and regulations governing the sector.

Contrary to expectations, representation, participation and access to information are discussed to illustrate how implementation of the forestry law and regulations are reinforcing the inequalities between men and women in terms of forest governance and management.

Representation sets the framework for the participation of marginalized citizens in development and governance processes. In the forest sector, women are grossly under-represented on the major structures such as the CFDC, which is responsible to ensure that the interest of communities when it comes to the forest sector is protected. On each of the 17 established CFDCs, the maximum number of women represented on the CFDCs is two out of the ten persons that make up the CFDCs. This limited, ineffective, unequal (nominal), inequitable (not the same opportunities in practice) and non-strategic (women occupying secondary roles) representation makes it difficult for women to influence the decision-making processes in a culture wherein men have traditionally been in charge of leading and making decisions on behalf of the community.

Also, on all of the CFDCs, the representation of women is limited to nominal positions such as treasurers and chaplains. Even with the limited role of being a treasurer, women do not handle finances the men keep them. The representation of women on the community structures is supply driven to fulfil the requirements contained in the reform laws such as the inclusion of women on the CFDCs. Because the need for women’s participation on the CFDCs was not demand driven, i.e. coming from the communities, implementation and compliance have been half-hearted.

The effective participation of women on the CFDCs has been limited due to their under-representation but also because of culture and socialization of males and females. It is counter cultural for women to openly disagree with their male counterpart be it a husband, uncle or elder. The mixing of men and women in a particular forum does not create an enabling environment to enhance women’s participation because the presence of men serves as an intimidating factor. This was exemplified in Buchanan in January 2010 during a meeting concerning the sector where women outnumbered the men and yet the men dominated the discussion.

Apart from the cultural factors mentioned above, the lack of access to information greatly hinders the capacity for citizens to effectively participate in decision-making processes. Easy access to the reform policies is difficult and even when they are available many women cannot access it due to illiteracy problem. The few men who have access to the documents use them to control and manipulate the discussion. Furthermore, many of the meetings involving the CFDCs are held in English and this also impact negatively on the quality of women’s participation.

footnote

⁶ They are unreliable and one cannot lean on them.

Conclusions and recommendations

The lack of gender analysis during the formulation of the forest policy, laws and regulations means there was limited understanding of gender issues in the forest sector. This limited understanding means efforts to address the need for the effective, equal, and equitable participation and representation of women in forest governance was ill-informed and limited; even though it was well intentioned.



Women rising. © FCI

Also community members notably men have not been mobilized and prepared to open spaces for and support the participation of women. There is also little understanding and appreciation for the unique roles that men and women play in community life. The role of men are seen and treated as more important while those of women are not. The special needs, interests and situation of both groups were not properly analysed to inform the development of the policy, laws and regulations governing the forest sector. As a result, men have not seen women as partners with unique and different needs where matters regarding forest are concerned. To initiate a debate and some further thinking on these issues, some recommendations are proffered below.

- **Initiate national dialogue to brainstorm and agreed ways forward:** the FDA and other stakeholders need to organize and facilitate a national dialogue to define ways in which this situation can be addressed. This requires collective and well coordinated action; disjointed and project-based interventions will not be enough even though they are useful as interim measures.
- **Build the capacity of NGOs working on gender and women issues:** there is a need for capacity building support to strengthen the capacity of women's non-governmental organizations to develop and implement an advocacy intervention to mainstream gender in policies linked to the forest sector.
- **Build the capacity of CBOs:** the capacity strengthening of women's civil society organizations needs to be done concurrently with capacity building support to women's groups at the community level. This will provide them with the skills and institutional capacity to demand greater women's representation and participation in the management of forest resources at the local level.
- **Democratize local decision-making:** The exclusion of women from decision-making is greatly influenced primarily by men. Facilitating change in the power dynamics to enable increased participation of women requires sustained engagement of men to recognize the values that women bring to bear in community decision-making processes.
- **Build alliances and networks:** The issues of women's exclusion and marginalization are both relational and structural. As such, responding to them requires a strategic approach that is marred by alliance building and networking with other actors working in the sector.
- **Expand Women's Livelihood Options:** Women's lack of access to resources contributes greatly to gender inequality. Taking women to a second level of engagement requires support to them in terms of increasing their livelihood options. This will enable them to have greater control over their lives thereby increasing the potential for them to assert themselves in demanding improved participation in community decision-making.



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