



Food and Agriculture
Organization of the
United Nations

**LAND
TENURE
JOURNAL**

REVUE DES
**QUESTIONS
FONCIÈRES**

REVISTA SOBRE
TENENCIA DE
LA **TIERRA**



INNOVATIVE SOLUTIONS TO PROTECT WOMEN'S
CUSTOMARY LAND RIGHTS IN SIERRA LEONE

Required citation:

S. B. Mabikke, R. A. Ahene, M. P. Rizzo, F. Romano. 2020. *Innovative Solutions to Protect Women's Customary Land Rights in Sierra Leone*. Land Tenure Journal no. 1-20. Rome. FAO.

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ISSN 2079-715X

ISSN 2079-7168

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**INNOVATIVE SOLUTIONS
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IN SIERRA LEONE**

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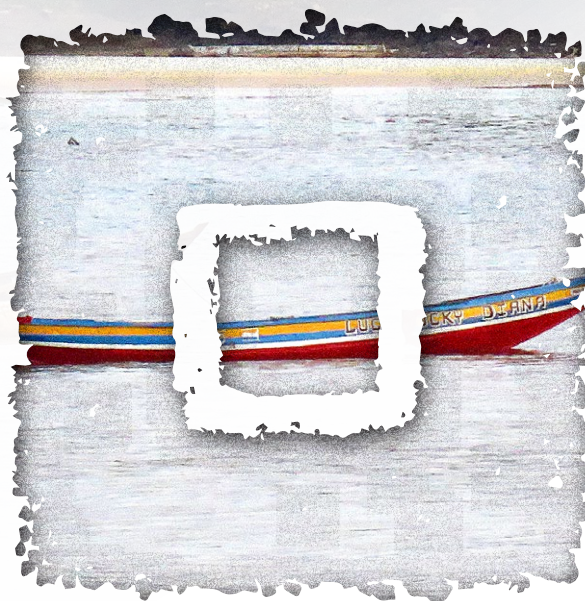
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PREFACE

Since the end of the conflict in 2002¹, Sierra Leone has made significant progress in consolidating peace and security gains and in rebuilding its economy. However, these gains have not sufficiently translated into equal distribution of development dividends for the population, and particularly women. It has been repeatedly argued that tension over land, alongside the highly unequal distribution of other natural resources, was a key driver of the Sierra Leone civil war (Sturgess & Flower, 2013). While 58 percent of all households and 86 percent of rural households in Sierra Leone are estimated to engage in agriculture, 70 percent of the agricultural workforce are women.

The 2015 National Land Policy (NLP) acknowledges that women in Sierra Leone typically experience restricted access to land, have unclear ownership and property rights and are more vulnerable to land loss and seizure. As the government considers feasible National Land Policy implementation strategies, priorities have been set to ensure rural women and men in the provinces are able to negotiate women's rights and access in order to overcome the deeply rooted discriminatory social and cultural practices.

Within the framework of implementing the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and

¹ Sierra Leone was ravaged by a civil war that lasted from 1991 to 2002, and resulted in some 70 000 casualties and 2.6 million displaced people.

PRÉFACE

Depuis la fin du conflit en 2002¹, la Sierra Leone a accompli d'importants progrès dans la consolidation des acquis de paix et de sécurité et la reconstruction de son économie. Toutefois, ces gains ne se sont pas suffisamment traduits en répartition équitable des dividendes du développement à l'ensemble de la population, et en particulier aux femmes. Il a été avancé à maintes reprises que les tensions autour des terres, ainsi que la distribution très inégale des autres ressources naturelles, avaient été le moteur principal de la guerre civile en Sierra Leone (Sturgess et Flower, 2013). On estime que 58 pour cent des ménages et 86 pour cent des ménages ruraux pratiquent l'agriculture, les femmes représentant 70 pour cent de la main d'œuvre agricole. La politique foncière nationale de 2015 reconnaît que les femmes de Sierra Leone ont généralement un accès limité aux terres, que leurs droits à la propriété sont mal définis et qu'elles sont plus vulnérables à la saisie et à la confiscation des terres. Les pouvoirs publics considèrent que les stratégies de mise en œuvre de la politique foncière nationale sont réalisables et des priorités ont été définies pour veiller à ce que, au niveau des provinces, les ruraux – femmes et hommes – soient en mesure de négocier les droits fonciers des femmes et leur accès aux terres, afin de venir à bout de pratiques sociales et culturelles discriminatoires profondément ancrées.

Dans le cadre de la mise en œuvre des Directives volontaires pour une gouvernance responsable des régimes fonciers applicables aux terres, aux pêches et

¹ De 1991 à 2002, la Sierra Leone a été dévastée par une guerre civile qui a fait 70 000 victimes et occasionné le déplacement de 2,6 millions de personnes.

PREFACIO

Desde que finalizó el conflicto en 2002¹, Sierra Leona ha avanzado de forma notable en la consolidación de la paz y el aumento de la seguridad y en la reconstrucción de su economía. Pese a ello, estos progresos no se han traducido adecuadamente en una distribución igualitaria entre la población, en especial entre las mujeres, de los dividendos del desarrollo. En repetidas ocasiones, se ha argumentado que las tensiones por la tierra, junto con la distribución sumamente desigual de otros recursos naturales, fueron un factor decisivo de la guerra civil en Sierra Leona (Sturgess y Flower, 2013). Se calcula que el 58 por ciento del total de hogares y el 86 por ciento de los hogares rurales del país se dedican a la agricultura, mientras que el 70 por ciento de la mano de obra agrícola son mujeres. La política agraria nacional de 2015 reconoce que las mujeres de Sierra Leona, por lo general, tienen acceso restringido a la tierra, no disfrutan de derechos de propiedad claros y son más vulnerables a la pérdida y confiscación de las tierras. Dado que el Gobierno considera que las estrategias de aplicación de la política agraria nacional son viables, se han definido prioridades para garantizar que las mujeres y los hombres rurales de las provincias puedan negociar los derechos y el acceso de las mujeres a fin de superar las prácticas sociales y culturales discriminatorias, profundamente arraigadas.

En el marco de la aplicación de las Directrices voluntarias sobre la gobernanza responsable de la tenencia de la tierra, la pesca y los bosques en el contexto de la seguridad alimentaria nacional, en el presente

¹ Sierra Leona fue asolada por una guerra civil que se desarrolló entre 1991 y 2002 y que provocó unos 70 000 fallecimientos y el desplazamiento de 2,6 millones de personas.



Forests in the Context of National Food Security (VGGT), this paper summarizes the empirical findings from three sequentially related phases of the Food and Agriculture Organization's (FAO) VGGT programme, implemented as a pilot project in 2018. The methodology used relied first on context analysis of the critical aspects influencing and hindering women's land rights. Four ethnically diverse customary tenure communities of predominantly Temne, Limba and Mende were selected and surveyed to understand the current customary land tenure practices in four districts – Bombali in the North, Bo in the South, Kenema in the East and Port Loko in the North West. The context analysis results were used in the second phase to design and build the capacity and confidence of women leaders and land rights advocates in the selected rural pilot communities. The goal was to bolster understanding of women's fundamental human rights and how to advocate gender equal land access rights. In the third (pilot implementation) phase of the programme SOLA Open Tenure² was customized and applied to help women in the selected rural communities acquire the necessary technical competence to effectively participate in ascertaining, demarcating and protecting their customary land rights using SOLA Open Tenure.

The results from the 12 villages in the four pilot districts selected affirmed existing barriers

² "Solutions for Open Land Administration" (SOLA) is an open source software suite for Land Administration, developed by FAO; Open Tenure is the field data capturing tool of SOLA.

aux forêts dans le contexte de la sécurité alimentaire nationale, le présent document résume les conclusions empiriques tirées des trois phases du programme de la FAO menées à titre pilote en 2018. La méthode utilisée reposait initialement sur une analyse contextuelle des éléments critiques qui exercent une influence sur les droits fonciers des femmes et qui les entravent. Quatre communautés appartenant à différentes ethnies, principalement Temne, Limba et Mende, et appliquant des droits fonciers coutumiers, ont été sélectionnées et étudiées afin de mieux comprendre les pratiques actuelles relatives aux droits fonciers coutumiers dans quatre districts – Bombali au nord du pays, Bo au sud, Kenema à l'est et Port Loko au nord-ouest. Les résultats de l'analyse ont été utilisés au cours de la deuxième phase afin d'établir et de renforcer les capacités et la confiance des femmes dirigeantes et des défenseurs des droits fonciers au sein des communautés rurales sélectionnées à titre pilote. L'objectif était de faire mieux comprendre les droits humains fondamentaux des femmes et de plaider en faveur de l'égalité des droits d'accès aux terres. Au cours de la troisième phase du programme (mise en œuvre à titre pilote), l'outil Open Tenure du logiciel SOLA² a été adapté et utilisé pour aider les femmes des communautés rurales sélectionnées à acquérir les compétences techniques nécessaires leur permettant de participer de manière efficace à l'évaluation, la définition et la protection de leurs droits fonciers coutumiers.

Les résultats obtenus dans 12 villages situés dans les quatre districts pilotes sélectionnés ont confirmé

² "SOLA (Solutions for Open Land Administration: «solutions pour une administration foncière ouverte»), est un logiciel d'exploitation libre conçu par la FAO à des fins d'administration foncière. Open Tenure est l'outil de saisie de données de terrain du logiciel SOLA.

informe se resumen las conclusiones empíricas de tres fases secuenciales del programa de la Organización de las Naciones Unidas para la Alimentación y la Agricultura (FAO) relativo a las Directrices voluntarias, que se ejecutó de forma experimental en 2018. La metodología empleada se basó ante todo en el análisis contextual de los aspectos esenciales que influyen en los derechos de las mujeres sobre la tierra y los restringen. Se seleccionaron y estudiaron cuatro comunidades con sistemas tradicionales de tenencia y de diferentes etnias, predominantemente Temne, Limba y Mende, para entender las prácticas consuetudinarias de tenencia de la tierra vigentes en cuatro distritos, a saber, Bombali en el norte, Bo en el sur, Kenema en el este y Port Loko en el noroeste. Los resultados del análisis contextual se utilizaron durante la segunda fase para proyectar y crear capacidad y confianza entre las mujeres dirigentes y los defensores del derecho de tierras en las comunidades rurales piloto seleccionadas. El objetivo era mejorar el conocimiento sobre los derechos humanos fundamentales de las mujeres y sobre la manera de promover la igualdad de derechos de acceso a la tierra para hombres y mujeres. En la tercera fase (ejecución piloto) del programa, se personalizaron y aplicaron SOLA² y Open Tenure a fin de ayudar a las mujeres de las comunidades rurales seleccionadas a adquirir la competencia técnica necesaria para participar con eficacia en las actividades de definición, delimitación y protección de sus derechos consuetudinarios sobre las tierras por medio de SOLA y Open Tenure.

Los resultados en las 12 aldeas de los cuatro distritos

² Soluciones para la administración de tierras libres (SOLA, por sus siglas en inglés) es una familia de programas informáticos de código abierto para la administración de tierras desarrollada por la FAO; Open Tenure es la herramienta de recogida de datos de campo de SOLA.



to be both systemic and systematic, with institutional, legal and traditional obstacles that reinforce exclusively male leadership, chiefs and big men in traditional communities as well as public decision making. The findings are significant in acknowledging the newly approved National Land Policy, which calls for innovative approaches and solutions for land administration in Sierra Leone. It affirmed two critical steps necessary for securing customary land rights of communities. First, a formal ascertainment of the community's customary land claims provides a unique opportunity for gender inclusive tenure reforms. Second, it provides a more transparent and participatory opportunity to develop community by-laws that clarify and assure gender-equitable rights of all members. The successful application of SOLA and Open Tenure is also timely as different development partners are exploring opportunities and entry points for scaling up customary land administration using fit-for-purpose (FFP) innovative geospatial, information and communication technologies.

Keywords: Solutions for Open Land Administration, Open Tenure, Fit-for-purpose Land Administration, National Land Policy.

le caractère à la fois systémique et systématique des contraintes existantes, ainsi que les obstacles d'ordre institutionnel, juridique et traditionnel qui favorisent la présence de dirigeants exclusivement masculins, de chefs et de grands hommes au sein des communautés traditionnelles et dans les processus de prise de décisions publiques. La politique foncière nationale approuvée récemment a également été largement reconnue et des approches et des solutions novatrices s'imposent en matière d'administration foncière en Sierra Leone. Deux étapes essentielles se sont révélées nécessaires pour garantir les droits fonciers coutumiers des communautés. D'une part, la constatation officielle des revendications de la communauté en matière de droits fonciers coutumiers représente une opportunité unique de procéder à des réformes des régimes fonciers qui appuient l'égalité hommes-femmes. D'autre part, l'opportunité est offerte d'élaborer de manière plus transparente et participative des règlements communautaires qui précisent et garantissent à tous les membres des droits équitables pour les deux sexes. La mise en application réussie du logiciel SOLA et de l'outil Open Tenure vient également au moment opportun. Les différents partenaires de développement étudient actuellement les possibilités et les points d'amorce qui permettent de transposer à plus grande échelle l'administration des droits fonciers coutumiers à l'aide de technologies de l'information et de la communication géospatiales novatrices et adaptées aux objectifs visés.

Mots clés: Solutions pour une administration foncière ouverte (SOLA), Open Tenure, administration foncière adaptée aux objectifs visés, politique foncière nationale.

piloto seleccionados confirmaron que las dificultades existentes son tanto sistémicas como sistemáticas e incluyen obstáculos institucionales, legales y tradicionales que refuerzan el liderazgo exclusivamente masculino y el papel de los jefes y los grandes hombres en las comunidades tradicionales y en la toma de decisiones en la esfera pública. Las conclusiones son importantes en cuanto al reconocimiento de la política agraria nacional recientemente aprobada, que exige planteamientos y soluciones innovadores para la administración de tierras en Sierra Leona. Esta política resaltó dos pasos decisivos para asegurar los derechos consuetudinarios de las comunidades sobre las tierras. En primer lugar, la determinación formal de las reclamaciones territoriales consuetudinarias de la comunidad ofrece una oportunidad única para iniciar reformas de la tenencia de la tierra desde la perspectiva del género. En segundo lugar, ofrece una oportunidad más transparente y participativa para elaborar reglamentos comunitarios que aclaren y garanticen la igualdad de derechos de todos los miembros, tanto hombres como mujeres. La aplicación con éxito de SOLA y Open Tenure también resulta oportuna ya que varios asociados en el desarrollo están estudiando las posibilidades y los puntos de partida para ampliar la escala de la administración de tierras consuetudinaria utilizando tecnologías de la información y la comunicación (TIC) geoespaciales innovadoras y adecuadas a los fines previstos.

Palabras clave: Soluciones para la administración de tierras libres (SOLA), Open Tenure, administración de tierras adecuada a los fines previstos, política agraria nacional.



1. INTRODUCTION

1.1 General Context

Tenure systems increasingly face stress as the world's growing population requires food security, and as environmental degradation and climate change reduce the availability of land, fisheries and forests. Inadequate and insecure tenure rights increase vulnerability, hunger and poverty, and can lead to conflict and environmental degradation when competing users fight for control of these resources. Currently, public dialogue created by the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) implementation process is fostering and promoting important changes in the tenure governance landscape. The VGGT seek to improve governance of tenure of land, fisheries, and forests. They aim for the benefit of all and with an emphasis on vulnerable and marginalized people, the progressive realization of the right to food, poverty eradication, and sustainable livelihoods (FAO • CFS, 2012). Equally important is social stability, housing security, rural development, environmental protection, sustainable social and economic development and resilience. The VGGT provide non-discriminatory frameworks promoting social equity and gender equality that can be used when developing strategies, policies, laws, programmes and activities at community, district, national and international level. They allow governments, civil society, the private sector and citizens to judge whether their proposed actions and the actions of others constitute acceptable practices. However, it is difficult to make the responsible governance of tenure happen if the VGGT are not mainstreamed and widely disseminated for use by communities and governments in countries like Sierra Leone where such instruments are of paramount importance (FAO, 2015).

While Sierra Leone still faces significant challenges in improving its tenure governance systems, the progress made since 2009 is remarkable. Sustaining the VGGT implementation framework and momentum for

implementing the National Land Policy³ (NLP) remains a key priority for the Government of Sierra Leone (GoSL). Continuing land governance reforms will play an important role in redefining power relations and who has access to, and control over customary land in the country's future. In principle, customary land rights should promote gender equity and women's land rights to the extent that communal ownership guarantees access to land to all members of the community. Unfortunately, the rules through which customary land is distributed – allocated to families and households and to men and women within the family unit – and who participates in determining these rules is governed by traditional norms, customs and practices which often discriminate against women. These barriers are, in the dominant ethnicities in Sierra Leone, manifested systematically through a traditional paternalistic leadership, institutions and governance arrangements resulting in decision making being regarded as exclusively male, with women relegated to silent observers in both the public and domestic spheres. At the same time, there is mounting evidence that what was traditionally considered family usufruct within customary tenure communities is often being alienated as individual private property of chiefs and household heads.

1.2 Land tenure systems in Sierra Leone

Sierra Leone is a sovereign republic, covering a total land area of 72 325 square kilometres (GoSL, 1991). The country's land area is one of West Africa's most revered natural resources, rich in minerals and good for cultivation. It operates a dual land tenure system which includes the freehold and leasehold tenure system and the customary land tenure systems. The freehold (known as statutory land tenure) system largely

³ The formulation of the National Land Policy benefited from the capacity building and inclusive dialogue made possible by the VGGT multi-stakeholder platform and was approved in November 2015 and launched in 2017.



operates in the Western Area. The customary tenure systems are associated with the traditional practices of the people residing in the provincial areas, or what was previously known as the Protectorate of Sierra Leone (FAO, 2015).

Lands that make up the Western Area of Sierra Leone are subject to 'general law' and are adjudicated by 'English-type' courts (Renner-Thomas, 2010). This statutory 'general law' system introduced freehold and leasehold land tenure systems in the Western Area (Freetown) as an alternative to the customary systems of governance that had prevailed prior to colonization. By contrast, in the Provinces, land matters (with the exception of statutory leases) are governed by customary law and adjudicated by traditional authorities. Customary law as it relates to land is a system of rules developed over time to regulate the access and control of lands. Customary law is somewhat similar in concept to the English common law; like common law, customary law is not codified, and has developed iteratively over time, lending the system flexibility to adapt to changing societal norms. As such, customary law is not uniform across the Provinces, and customary rules that apply to one ethnic group or community, may differ from customary rules of other distinct ethnic groups or communities. There are however, overarching similarities between the customary laws practiced by different ethnic groups.

The Provinces formed the Protectorate, and having never been a colony, maintained the customary institutions of governance. Although land in the Provinces remained almost exclusively governed by customary law, the Provinces Land Act (Cap 122), a creature of statutory law, profoundly modified the management of land in the Provinces. Cap 122 stated, for the first time in 1927, that "all land in the Provinces is vested in the Chiefdom Council who hold such land for and on behalf of the native communities concerned" (Renner-Thomas, 2010, p.22). This law, which remains in place today (and is reinforced by the Local Government Act 2004), is significant because it grants the Chiefdom Council power to manage land in the Provinces as trustee, on behalf of the customary rights holders.⁴

The Constitution of Sierra Leone 1991 defines customary law as the "rules of law by which customs are applicable to particular communities in Sierra Leone" (Renner-Thomas, 2010, p.44). Article 27 of the Constitution of Sierra Leone states that "no law shall make provision which is discriminatory either of itself or in its effect" on the basis of sex. However, this provision exempts any law that governs the devolution of property on death or customary law that applies to particular ethnicities in Sierra Leone, and as a result provides no protection for the customary land and property rights of women in Sierra Leone. Similarly, Article 1(3) of the Devolution of Estates Act recognizes the right of all women to own and inherit property, but it exempts chieftaincy property and community property held under customary law. These constitutional and statutory provisions that seem to indicate women's customary rights are not protected is only partially mitigated by Article 18 of the Registration of Customary Marriage and Divorce Act that provides that women in customary marriages are entitled to acquire and dispose of property in their own right.

Taken together, the current state of the customary land tenure systems in Sierra Leone leads to the political and economic marginalization of women. Most ethnicities in Sierra Leone are patrilineal, patrilocal, and polygamous (Renner-Thomas, 2010, p.148). In such a system, power is related to privilege to which women are generally not entitled, except in a few cases. The Mende in Moyamba District, for example, allow women to ascend to power positions where they can make land allocation decisions. The Limba and Temne in the North and Northwest are predominantly Muslim with customary land rights and inheritance traditions that show traces of Islamic law with its associated gender rights implications. These potential sources of tension between the legitimate land rights of women in the context of family patrimony in Sierra Leone has not been carefully examined to articulate the nature and quantum of land rights women

⁴Some scholars argue that Cap 122 was intended to only apply to the alienation of lands to non-natives, and thus notwithstanding the vesting of title of all land in the provinces in the Chiefdom Council in Cap 122, title to family lands remain vested in the family (See Renner -Thomas Ade, "Land Tenure in Sierra Leone," (2010), p. 148). Others read Cap 122 as vesting title to family lands in the Chiefdom Council in all circumstances.



have in Limba, Temne and Mende areas. Their evolution and opportunities for reform need to be understood to provide a stronger framework for addressing women's land rights.

The National Land Policy (GoSL, 2015) acknowledges that women in Sierra Leone typically experience restricted access to land, have unclear ownership and property rights and are more vulnerable to land loss and seizure. However, the unique characteristics of discriminatory land use and restrictive governance practices affecting women's land access rights are also not clearly documented in their specific localized context. Since women's customary land access inequality is in large part situated in the practice and traditions of daily life, for land policy reforms to be gender neutral, the rights of women and customs that define family patrimony and traditions that operate in practice to limit women's land rights, social and economic empowerment have to be carefully explored and understood.

1.3 Objectives

To understand why women have been unable to achieve equitable access and the right to own customary land in Sierra Leone, this Food and Agriculture Organization (FAO) pilot project undertook to examine the barriers impeding their progress and how to provide feasible strategies to overcome the deeply rooted discriminatory social and cultural practices. The overall objective of the pilot project was to strengthen the capacity of rural women to understand their fundamental human rights and to self-advocate for the protection of their customary land rights and the elimination of discriminatory barriers through improved land rights administration reforms. The project was part of FAO's VGGT implementation programme in 2018, to consider strategies to ensure rural women and men in the provinces are empowered to access land rights⁵. The timing was also significant as the GoSL was considering feasible NLP implementation

strategies to ensure rural women and men in the provinces are able to negotiate women's rights and access in order to overcome the deeply rooted discriminatory social and cultural practices. The project aimed to identify the barriers impeding progress and to understand why women have been unable to achieve equitable access and the right to own customary land in Sierra Leone.

1.4 Methodology

The methodology was designed to achieve three interdependent objectives by implementing three sequentially related components of FAO's VGGT implementation programme. First, a diagnostic analysis of the social context of localized traditions, power relations, and the realities of community land allocation decisions that constrain land access and enforce inequality between men and women in contemporary Sierra Leone was conducted. Context analysis of the critical aspects influencing and hindering women's land rights was conducted in three ethnically diverse customary tenure communities of predominantly Temne, Limba and Mende rural communities in four districts: Bombali in the North, Port Loko in the Northwest, Bo in the South, and Kenema in the East. This was accomplished to understand customary law and practices, followed by a detailed household survey of the socio-economic impacts of current customary land tenure and land governance practices on rural women.

The diagnostic analysis results were used in the second component to design and train women leaders and land rights advocates in rural pilot communities with three primary objectives; (i) to help women understand their property rights and how to communicate gender equal land access rights, (ii) to strengthen the capacity and confidence of rural women to

⁵The Government of Ireland through IRISH AID supported the Government of Sierra Leone to implement the project, "Protecting Women's Customary Land Rights in Sierra Leone (GCP/SIL/049/IRE). Overall support for FAO's VGGT Implementation Programme in Sierra Leone was funded by the German Government (GER-FAO-2013-1 (Germany) and GCP/GLO/347/GER).



advocate and to sustain pressure to eliminate discriminatory cultural practices that are incompatible with fundamental human rights, equity, and social justice in their communities. The process began with the selection and training of 50 women land rights leaders and advocates as Training of Trainers (ToT) on gender and land rights. Using purposive sampling techniques, the ToT participants were selected from each of the four chiefdoms where the systematic demarcation and mapping exercise was to take place. The ToT required participants to have basic education and ability to comprehend the key gender and land rights terms, as well as the ability to influence positive change in their local communities.

An important element of the third and pilot implementation component of the program was to empower women with the necessary technical competence to effectively participate in the use of Open Tenure (OT) to ascertain, demarcate and protect their customary land rights. Within the framework of implementing the VGGT, FAO developed the OT and Solutions for Open Land Administration (SOLA)⁶ as fit-for-purpose geospatial tools for recording and mapping of land rights. In the case of Sierra Leone, OT was customized for mapping customary land rights in the selected pilot districts to ensure that rural women and men in the provinces are better able to participate in all aspects of the customary land delimitation process. Prior to the start of the pilot phase of the project, SOLA Registry was established at the Ministry of Lands, Housing and Environment (MLHE), responsible for mapping in Sierra Leone. The overall objective of the pilot project was to strengthen the capacity of rural women to understand their land rights and to self-advocate for the protection of their customary land rights and to provide evidence to support the elimination of discriminatory barriers to gender-equitable land rights administration reforms.

In order to ensure adherence to national land administration standards, the mapping process is headed by seven surveyors from the MLHE with oversight supervision of FAO technical staff. Field data was collected using Global Positioning System (GPS) android tablets, which had OT software installed. To avoid data loss during the field process, all data collected on the tablets were automatically posted to a community server, where it

could later be accessed, processed and analysed by the MLHE technical staff with FAO support. Furthermore, for purposes of mentorship and sustainability, each MLHE surveyor was attached to ten 'para-surveyors' who were youth selected from the landholding families. Piloting systematic demarcation and recording of customary land rights using OT geospatial tool were undertaken in 12 villages in four chiefdoms: Paki-Massabong in Bombali district, Selenga in Bo district, Kandu Lekpiama in Kenema district and Burey in Port Loko district. From each chiefdom, three villages were selected and mapped through a participatory mapping and community land protection process. Key stakeholders included paramount chiefs, chiefdom council members, GoSL MLHE representatives, local council authorities and Civil Society Organizations (CSO) partners.

⁶ Solutions for Open Land Administration (SOLA) is an open source software that supports cadastre and land registration, land valuation and public lands management functions.



2. SELECTION OF PILOT DISTRICTS AND METHODS

2.1 Selection of Pilot Districts

The rationale for selecting the districts included in the pilot project was based on research findings (under component 1: Context Analysis) and the ethnic diversity of customary land tenure norms, traditions and practices among the three dominant tribes of Sierra Leone, namely: Temne, Limba and Mende. The selected districts were jointly identified with GoSL, chiefdom authorities, FAO technical staff and key CSO implementing partners. One of the key criteria was to provide geographical representation of Northern, Southern, Eastern and North West Provinces (see Figure 1).

The other reason was based on existing information provided by the GoSL, which stipulated the dominant ethnicities, their geographic distribution and distinct differences in the customary land administration traditions and practices that need to be understood in order to develop appropriate women's land rights reform interventions. This approach allowed the project team to fully assess (a) the effectiveness of public awareness raising programmes conducted before, during and after community engagement as well as (b) the women and community leaders land rights training and capacity building effectiveness and sustainability of mapping operations, should the government choose to adopt the methodology for scaling up in the future.

FIGURE 1
Map of Sierra Leone locating Pilot Districts



Map Legend

Pilot Districts

SOURCE Adapted from:
*Statistics Sierra Leone. 2015.
Population and Housing Census (PHC):
Summary of Final Results. Planning for a Better Future.*

List of Pilot Areas

Chiefdom	District	Province	Area Mapped (Acres)
Manage Bureh	Port Loko	North West	6 093.26
Paki Massabong	Bombali	Northern	1 925.69
Kandu Lekppiamma	Kenema	Eastern	1 720.10
Selenga	Bo	Southern	2 056.90



From each district, one chiefdom was purposively selected based on the key land tenure issues and three villages were selected for mapping in each of the chiefdoms (see Table 1) following close consultations with the paramount chiefs and the chiefdom council authorities. In order to achieve the project's desired goals, districts that had extremely violent land conflicts were not selected as it would have required a lot of time to first solve the escalated conflicts before implementing the project interventions.

TABLE 1
Selection of project
areas for mapping

DISTRICT	CHIEFDOM	VILLAGE	PROVINCE
Bombali	Paki Massabong	1. Mafina 2. Masima "Mashema" 3. Rosint	Northern
Bo	Selenga	4. Sembehun 5. Mobonday 6. Njaluahun	Southern
Kenema	Kandu Lekppiama	7. Missila 8. Topuwuma 9. Mathru	Eastern
Port Loko	Bureh	10. Rosint 11. Rokupr Wose 12. Matatie	North West

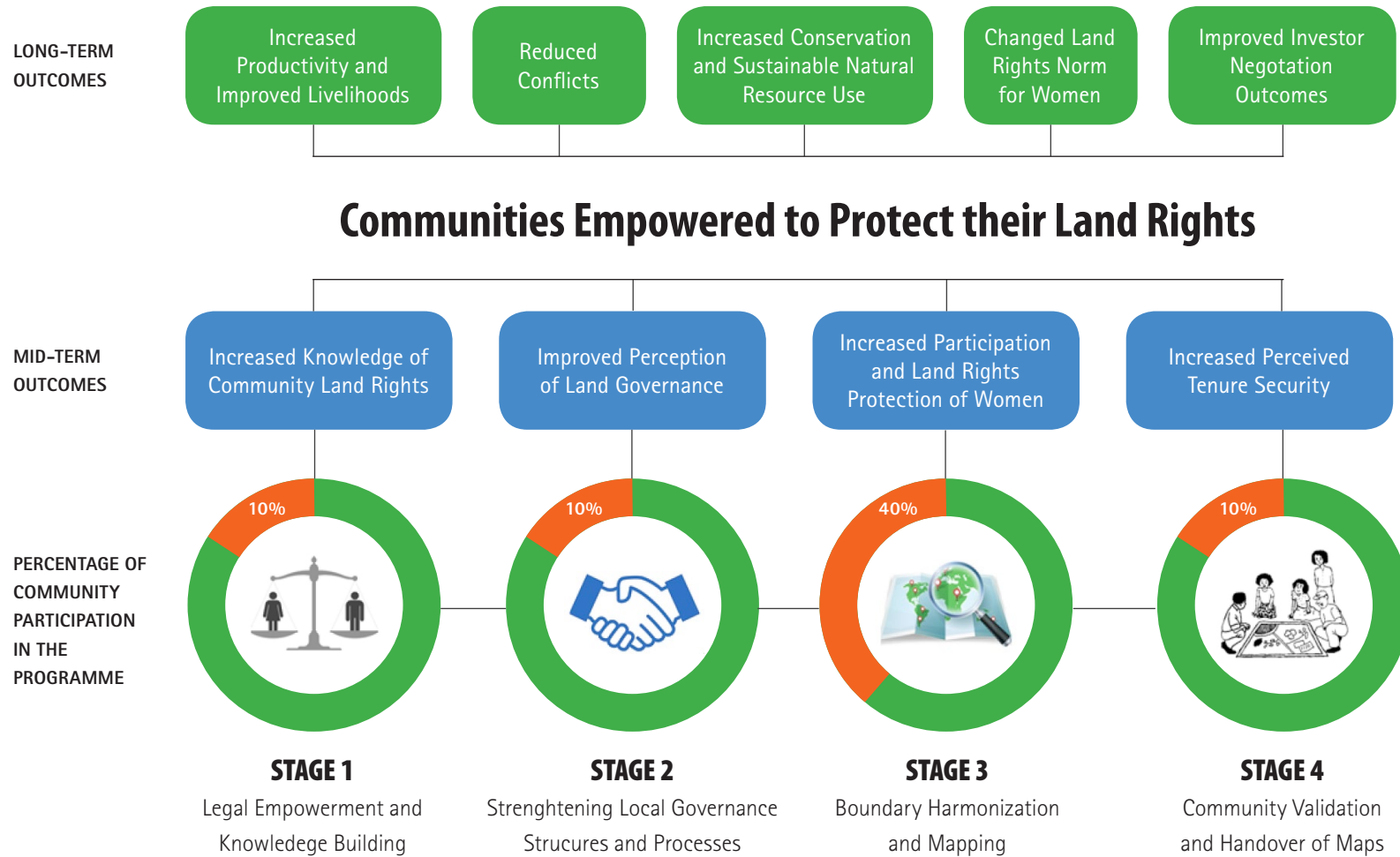
2.2 The Community Land Protection Approach

Community Land Protection (CLP) approach was used to implement the pilot project. The CLP is an integrated approach that combines both legal and technical empowerment in mapping and documentation of land rights, and strengthening of local governance structures and processes to spearhead harmonization of family land boundaries. The approach relies on Alternative Dispute Resolution (ADR) mechanisms for addressing land disputes.

The CLP process ensures inter and intra-community equity by strengthening mechanisms for transparency and accountability through participatory land and natural resources management. CLP is a step-by-step methodology that supports communities to: build unity and internal capacity for community land protection, proactively document and map their land claims, strengthen local governance, and seek formal government recognition of their land rights (Knight. R, *et al.* 2016). The Conceptual Framework below (Figure 2) illustrates the CLP approach used in Sierra Leone.



FIGURE 2
Conceptual framework for Community Land Protection: a Multistage Approach in Sierra Leone



SOURCE
 Adapted from USAID (2018)



Participatory mapping and community land protection methodologies were used in the field to ascertain community land rights in the selected communities. As previously documented, the selection of the communities was based on a detailed household survey that involved over 2022 respondents from the districts of Bombali, Port Loko, Bo and Kenema. The approach empowered rural communities to localize the national land laws and policies to protect their community customary land and natural resources. CLP has been widely used by Namati⁷ to improve local land governance in many countries like Liberia, Uganda, Sierra Leone, Nepal, among others. From 2014 to 2016, the Community Self Reliance Centre piloted an adaptation of Namati’s legal empowerment approach to community land protection in 54 wards in Nepal.⁸ The Community Land Protection process included the following stages:

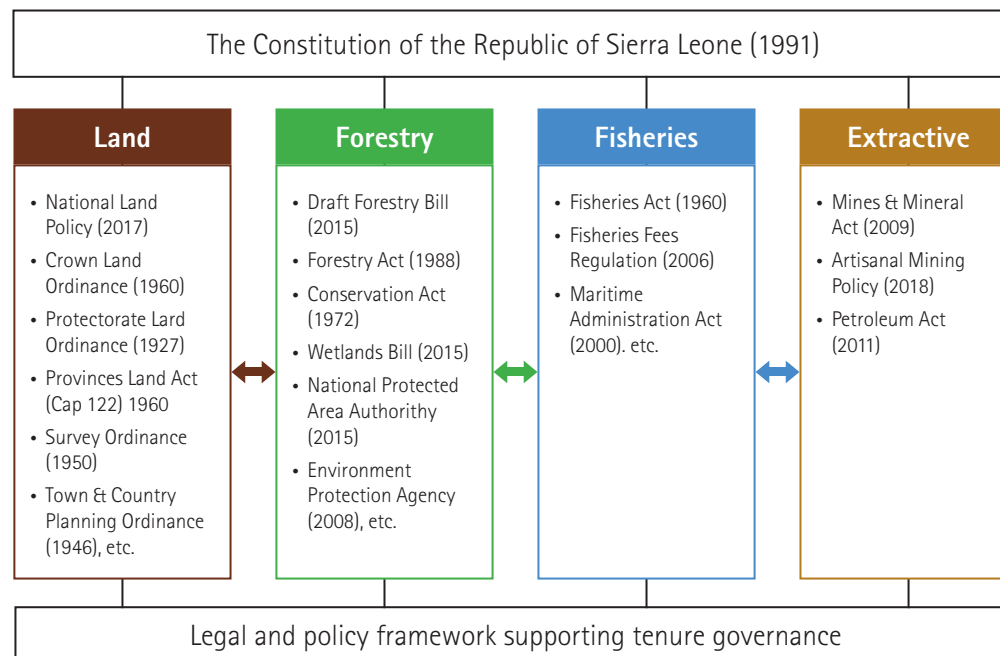
Stage 1: Legal Empowerment and Knowledge Building

This stage is comprised of the following activities: establishing terms of engagement, visioning and valuation, community legal education, and selection and training of community mobilizers. Establishing the terms of engagement sets the rules of the game and at the same time empowers communities to see themselves as central drivers of the process. It is one of the very early parts of the process that clarifies the roles, sets clear the expectations of everyone, encourages attendance at meetings and ensures effective community confidence and participation. The terms of engagement set the ground rules of the process, time for meetings, the dos and don’ts in the meetings, who does what in meetings, among other guiding principles. Basically, this stage sets the ground and creates structures to ensure inclusive community participation throughout the land protection process.

Once the community endorses the terms of engagement, the CLP facilitators guide the community into a Visioning and Valuation process. Community members analyse the past and present conditions of their community’s natural resources, then begin to plan for a thriving, prosperous future (Knight, R. *et al.* 2016). The community is guided to reflect on the status

of their land and natural resources – status, the rate of degradation and visioning what would happen if the degradation continues. The community is assisted in visioning for the future they all want to live and aim to achieve as a community. This session changes the mind-set of the local community, and empowers them to become more judicious in the use of their land and natural resources. Concepts of sustainable natural resource management are explained using local languages best understood by the community. Finally, Community Legal Education is conducted on the existing legal and policy frameworks governing land and natural resources, e.g., the National Land Policy, the Three Gender Acts⁹ of Sierra Leone, the Provinces Land Act, Cap. 122 among others. Figure 3 below illustrates some of the legal and policy frameworks that were communicated to the communities.

FIGURE 3
Laws and Policies referenced in the Community Land Protection Process in Sierra Leone



SOURCE
Authors

⁷ Namati is one of the FAO implementing partners spearheading legal empowerment of rural communities to protect their land and natural resources rights.

⁸ <https://namati.org/ourwork/communityland/>



Stage 2: Strengthening local governance structures and processes

This stage comprises of development of Community by-laws and creation of Land and Natural Resources governing body. According to Knight, R, *et al.* (2016) the by-laws drafting process tends to go most smoothly when facilitators support communities to organize their rules into categories. Namati lawyers and para-legals guided the communities to organize their rules into three main categories:

- I) rules about governance of land and natural resources;
- II) rules about use and management of land and natural resources; and
- III) cultural and social rules (to support community peace and prosperity).

By-laws address a number of issues such as women's access to land, inheritance, land administration, conservation and management of shared/common pool resources among others. The local communities agree on the means of implementation and enforcement of the community by-laws, which may include fines and penalties, sentencing to community labour, among others. This stage finally includes the formation of Village Area Land Committee (VALC) as stipulated under the 2015 National Land Policy. The VALC are established through a consultative and consensus-building process. Criteria for VALC membership include: a person must be a permanent resident of the community; should understand the land issues at hand; and be respectful, honest, and of sound mind. At least 40 percent of the VALC membership must be women. The VALC are fully endorsed by the chiefdom councils who according to the Laws of Sierra Leone are the custodian of most community land and natural resources. A Paramount Chief heads the Chiefdom Council.

Stage 3: Participatory mapping and documentation of land rights and claims

This third stage of CLP includes identification and opening up the boundaries, starting with demarcation of the community's outer boundaries followed by the internal boundaries for each land-owning family. In Sierra Leone, customary land is held by land owning families. According to Bruce J. (1998),

a family's land is administered by its head of household, who allocates it to other family members. When the family head dies, the responsibility is typically passed to the eldest male, either brother or son of the deceased, who inherits the land and the position as head of household. Customary inheritance law, as practiced in the rural provinces, is determined largely according to ethnic origin in the dominant Mende, Temne and Limba ethnic groups who occupy much of the land in the rural areas (provinces).

Step 3 involved landowning families/elders, chiefdom authorities, CSO representatives, government surveyors, and FAO technical staff to walk along ("ambulate") family land boundaries while using Global Positioning System (GPS) Android Tablets with Open Tenure mapping software installed. External/perimeter boundaries of each village were mapped followed by internal boundaries of the land-owning families. Mapping of individual and household land parcels was not done since according to the Provinces Land Act, Cap. 122: enacted in 1927, customary land belongs to land owning families. During the mapping stage, youth selected from each land-owning family were trained as para-surveyors. This is important because the youth are envisaged as the future elders/heads of land-owning families. This process includes boundary harmonization in which communities meet with their neighbours to confirm shared village and family land boundaries. Where disputes arise, the process is temporarily suspended until the dispute over the boundary is resolved through ADR mechanisms. Facilitators train trusted community members to resolve land conflicts peacefully, supported by respected local leaders able to mediate disputes that communities cannot resolve on their own.

Stage 4: Community Validation and Handover of Land parcel Maps

The final stage is the validation of maps. This stage brings together the entire community and neighbouring villages to verify and validate the land boundaries. It is during this stage that the community will point any missing information like important land marks, names of streams, secret bushes among others that might have not been captured on the map. This process further builds confidence in the community as they are able to

⁹The Three Gender Acts of Sierra Leone include: the Domestic Violence Act, the Devolution of Estates Act and the Registration of Customary Marriage and Divorce Act.



visualize all their community and family land parcels on one map with ease. Corrections are made during the validation and final maps are printed and handed over to all the beneficiaries by government in the presence of all implementing partners.

All stages were implemented sequentially. Participatory mapping and community land protection methodologies were used in the field to ascertain community land rights particularly for women in customary tenure communities dominated by the Temne, Limba and Mende tribes. The selection of these communities was based on a detailed household survey that involved over 2 022 respondents from three districts of Bombali, Port Loko, Bo and Kenema. The results from each component were subjected to multiple stakeholder validation, and the lessons learned used to refine activities and the results expected from the other components.

The results affirmed existing barriers to be both systemic and systematic, with institutional, legal and traditional obstacles that reinforce exclusively male leadership, chiefs and big men in traditional communities as well as public decision making. The findings are significant in influencing implementation of the newly approved National Land Policy which calls for innovative approaches and solutions for land administration in Sierra Leone. The findings are also timely as different development partners are exploring opportunities and entry points for scaling up customary land administration using fit-for-purpose innovative geospatial technologies.

2.3 Beneficiaries

The primary beneficiaries of the project were the individuals directly affected by gender-based discrimination. These included specifically rural women and girls in the four districts of Bombali (Northern Province), Bo (Southern Province), Kenema (Eastern Province) and Port Loko (North West Province). Other beneficiaries included government technical staff from MLHE and Civil Society Organizations.

3. FINDINGS AND DISCUSSION

This section presents and discusses the key findings in line with the three project components discussed above.

3.1 Findings from diagnostic household surveys conducted in the four ethnically diverse customary tenure communities

The diagnostic socio-economic study examined customary land governance, gender perceptions from several perspectives, and found that most rural residents in Sierra Leone continue to rely on customary land institutions for land administration services. Customary land institutions maintain their traditional power and social responsibility to allocate the rights to use land, resolve conflicts, and carry out overall management of customary land rights (GoSL, 2015). While customary land institutions still remain the entry point for land allocation in the provinces, the NLP calls for reforming of these institutions. Specifically, the NLP calls for a clear definition of the role of customary land institutions and a desire to establish measures of transparency, efficiency and effectiveness of customary land delivery processes. As customary land becomes more commoditized, the incidence of land grabbing, tenure insecurity, conflict management ineffectiveness, pervasive gender inequity, and absence of any form of accountability is undermining the integrity of the system as a whole. Customary land governance reforms that guarantee equity in distribution and allocation of land rights, accountability of stewardship, and gender-inclusive participation of community members in land management activities and decision-making are also a policy priority (GoSL, 2015, p. 56).

The study's careful documentation of contemporary practices yielded results that could inform recommendations and institutional reforms to improve customary gender-equitable land governance. The findings from the communities selected for both the context analysis and pilot mapping provided several context specific understandings of the current customary



land tenure practices. The following are some of the more conservative perceptions mitigating responsible transformation of customary land tenure systems to a more gender-equitable governance regime:

- The study found no instances where women were allowed to serve as head of family or custodian of a family's land holdings in Paki Massabong and Seborá chiefdoms (located in Bombali district in the Northern Province). Instead, there are more instances of childless widows and divorced women being asked to leave their husband's land. Opinions expressed during the Focus Group Discussions (FGD) revealed that 70 percent of childless women were dispossessed of their lands when their husbands died or in the event of a divorce.
- Without exceptions in any of the chiefdoms included in the study, land allocated or granted as a gift or loaned to women and non-members of the community by family relations are often repossessed by other members of the landowning family (particularly men), even when evidence of the grant exists.
- Tradition continues to forbid the selling of family land in Paki Massabong Chiefdom, but allows the granting of land to strangers¹⁰ and short-term tenancies for farming. Land allocations to strangers, even when the traditional "bora" (a customary land allocation fee) is paid for the land, may preclude the planting of permanent tree crops and often restricts the grantee's interest to surface rights only. Such land gifts and tenancies can be reclaimed by land owning families at any time.

3.2 Towards a more gender equal urban society

Contrary to the conservative adherence to customary prohibitions against female land ownership observed in rural parts of Bombali districts, in the urban towns of Makeni and Makambo in Bombali district, the percentage of women owning land is almost equal to the men.

The findings show that 95 percent (n=182) of the male respondents reported owning land, while 93 percent (n=178) of the female respondents also reported owning land. Similarly, in the urbanizing villages of Mabolé and Masouri, about five percent of women owned more land than men. The findings demonstrate that urban areas seem to provide a more gender-equitable access and distribution of land than in rural areas where customary rules tend to favour men (see Table 2).

Bombali Seborá Chiefdom

Town	Male owner (%)	Female owner (%)	Male interviewed	Female interviewed
Makeni	96 (n=43)	98 (n=44)	45	45
Makambo	92 (n=23)	96 (n=24)	25	25
M Bana 1	100 (n=26)	92 (n=24)	26	26
M Bana 2	96 (n=25)	92 (n=24)	26	26
Royanka	96 (n=27)	79 (n=22)	28	28
Mabolé	90 (n=18)	95 (n=19)	20	20
Masouri	95 (n=20)	100 (n=21)	21	21
Average (Total)	95 (n=182)	93.1 (n=178)	191	191

TABLE 2
Land ownership
in Bombali Seborá
Chiefdom

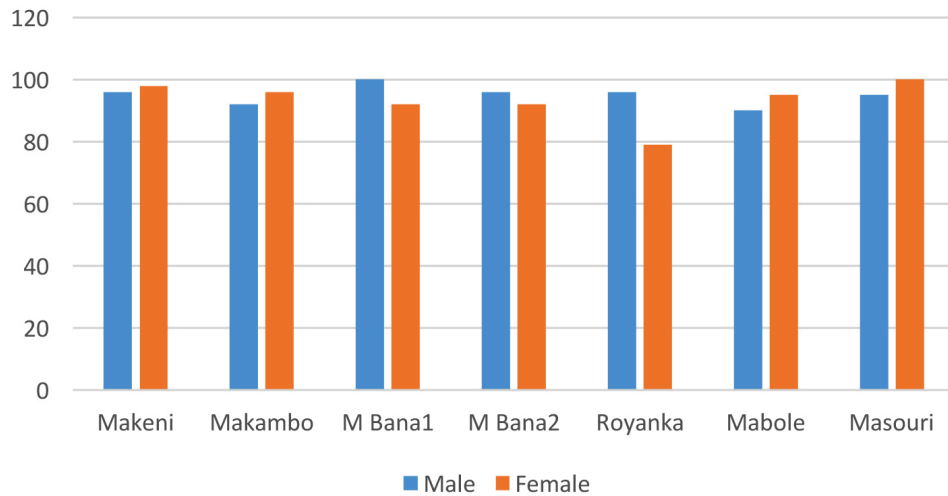
The general tendency of people in urban and semi-urban areas is to be less influenced by gender-biased customary practices. Urban dwellers tend to be more influenced by statutory rules – in addition to having more access to goods and services (i.e. mortgage brokerage), all of which tend to render a more gender equal society. The non-discriminatory nature of people living in towns could also be attributed to access to education and exposure to other areas like the Western Area/Freetown which practices statutory law.

¹⁰ Strangers/non-citizens are people who may migrate to a village of which they are not indigenes.



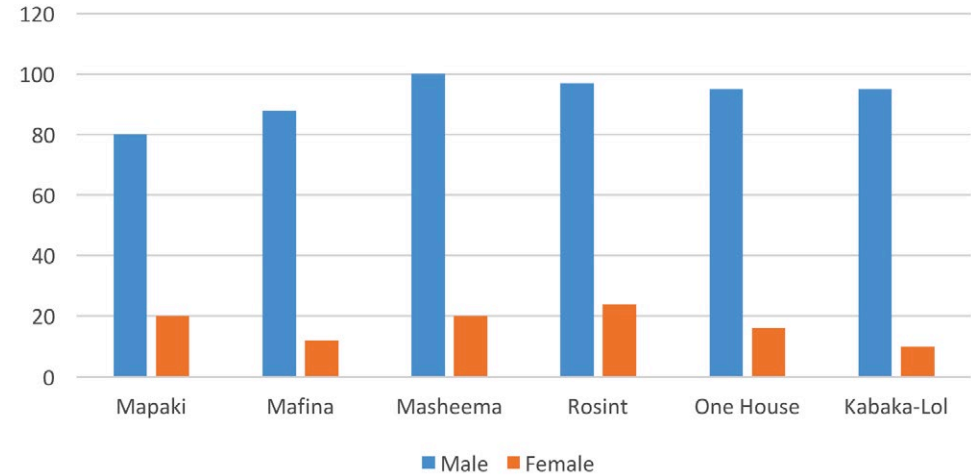
A closer analysis revealed women entrepreneurs, small business owners, and traders form the majority of women landowners in Makeni, the capital of Bombali District. Most are empowered by their financial independence to take advantage of mortgage brokerage services provided by the Bombali District Traders Union (BDTU). Responses from key informant interviews also confirmed that customary restrictions on women’s right to own land have been weakened by decisions of the Circuit Court No. 1 in Bombali, Sebora Chiefdom which consistently issues judgments in customary land disputes that override restrictive customary traditions and are deemed fair and consistent with the principles of gender equality in land ownership rights (see Figure 4 and 5).

FIGURE 4
Land Ownership disaggregated by Gender in Urban Township of Sebora Chiefdom of Bombali District



SOURCE
Field Data

FIGURE 5
Land Ownership disaggregated by Gender in Rural Paki Massabong Chiefdom of Bombali District



SOURCE
Field Data

3.3 Need for customary land governance reforms

One of the key concerns raised by landowning families in all the four districts covered by the study is the management of communal land tenure by the Chiefdom Councils on behalf of the community. The study examined the powers of the Chiefdom Councils in the administration of land, including community lands managed in collaboration with the Local Government Administration. Some chiefs and members of Chiefdom Councils have been incriminated in activities associated with bribery and corruption. Others were found to be unresponsive to the plight of women land users. However, most landowning families found the lack of direct involvement in management decisions affecting community lands, including the alienation of property for investment and/or development most problematic.



For example, families in Masouri expressed concerns over the large-scale land acquisition agreement with a biofuel manufacturing company formerly called Addax Bioenergy, now Sun Bird.¹¹ Representatives of landowning families expressed their dissatisfaction over the entire arrangement for the lease of 15 000 hectares of their land to Addax, claiming that the agreement was forcefully signed by the chiefs on their behalf. It was further reported that the benefits they obtained from the lease rents under the agreement were far less than the value of food they were used to produce on their lands through farming. A research by Action Aid (2013) also indicated that over 90 percent of people in Addax project areas had experienced hunger and food insecurity due to their inability to farm on their lands leased to Addax for 50 years – but currently idle. The findings also affirm the inability of women in conservative rural communities to self-advocate against any discriminatory cultural norms, or demand enforcement of existing statutory protections.

3.4 Paucity of documentary evidence

Most customary landowners in Kenema district do not have any land documents, making it difficult for landowning families to identify and demarcate land boundaries during land transactions. Increasing demands for land in Kenema District for business, commercial investments, agriculture, and mining, especially in Kandu Leppiama chiefdom, now makes it imperative for family land boundaries, including the boundaries between villages, to be correctly demarcated. Since both the NLP and the VGGT aim to improve tenure governance and security, it is vital that customary institutions promote good governance principles to protect the land rights of citizens, particularly vulnerable groups such as the poor, women and strangers. Lack of transparency in customary land administration leads to abuse of power and corruption. Levels of awareness have been rising because of community education and sensitization by CSO and land rights advocates. For example, in Selenga chiefdom in Bo district, the Paramount Chief Desmond Kagobai and his entire Chiefdom Council now prefer farmlands to be leased only for terms necessary for investors to recoup their investment.

3.5 Findings from the Gender and Land Rights Training and Capacity Development component

This process entailed training and strengthening capacities of women and men as community land rights leaders, advocates and trainers with the appropriate skills and technical competence to participate in land rights clarification decisions. With support from the CSO implementing partners, the certified gender and land rights advocates successfully replicated the training and leadership skills in their local communities. The subsequent community trainings on gender and land rights conducted in the pilot communities as part of the participatory mapping phase of the pilot project resulted in strengthening capacities of over 500 community members (80 percent women) on gender and customary land rights in all the four districts included in the project.



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¹¹ Addax Bioenergy Sierra Leone Limited (ABSL) signed an agreement for the lease of 52 000 hectares of land for bioethanol production in Sierra Leone for export to the European Union and for local energy production and supply of up to 15 Mega-Watt of power to the national grid of Sierra Leone, helping to stabilise the country's electricity supply.

Training of local communities on gender and customary land rights



©FAO / Samuel Mabikke

Training of Trainers
on gender and
customary land
rights

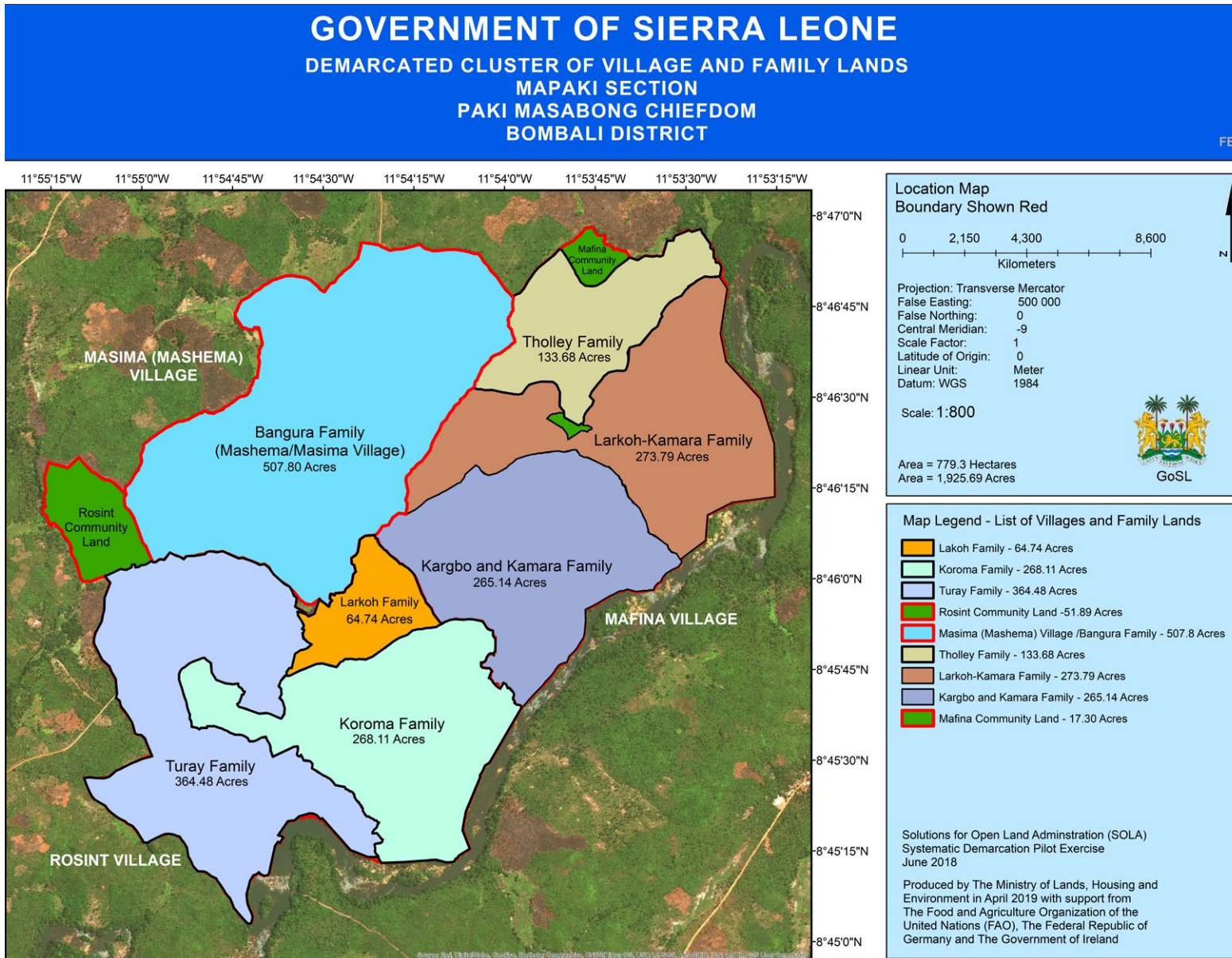
3.5 Findings from the Systematic Demarcation and Mapping of Customary Land Rights

Under this component, systematic demarcation and mapping of customary land rights was conducted using OT and SOLA geospatial tools in 12 villages in the four targeted chiefdoms of Paki-Massabong in Bombali district, Selenga in Bo district, Kandu Leppiama in Kenema district and Burey in Port Loko district. The participatory mapping and community land protection process brought together key stakeholders, including paramount chiefs, chiefdom council members, GoSL representatives from MLHE, local council authorities and CSO partners. Additionally, over 120 youth were trained in basic surveying and mapping techniques as 'para-surveyors' to engage in, and witness mapping of their family lands. The young para-surveyors who undertook the two-three day hands-on training conducted by FAO and MLHE technical staff prior to the mapping exercise are now an indispensable resource for the communities. For the first time, most youth

worked closely with family elders and community leaders to identify and delimit both the community and their family holdings of customary land. Certification as para-surveyors within their communities has provided a new career opportunity and a sense of responsibility as custodians of the community's land assets.

Due to the absence of any previous documentation of the customary land asset claims of the target communities, the mapping exercise was conducted at two levels. The first level focussed on systematic demarcation and mapping of the village perimeter boundaries. This stage enabled harmonization of village boundaries to resolve village boundary disputes. This stage required members of neighbouring villages that share boundaries to physically participate in the boundary demarcation and mapping exercises. As a result of the perimeter mapping exercise, a geo-referenced cluster map of each village now exists for each of the chiefdoms. The maps are validated in a community validation process and corrections made before final maps are printed and handed over to the Chiefdom Councils. The village cluster maps have proven as key instruments for land administration, often referred to by the chiefdom land authorities and chiefdom land committee. A similar procedure is also followed at the second level, conducting intra-family systematic demarcation and mapping, where all neighbouring families with common boundaries within a village engage in the process of systematic demarcation of extended-family land. At this stage, gender issues are closely teased out to ascertain how many women have access to land within a given family.

The project systematically demarcated and harmonized the boundaries of the 12 villages. About 60 customary community land parcels amounting to over 11 745 acres (4 753 hectares) were surveyed and mapped in a period of less than six months. Village and extended-family maps have been developed and validated by communities.



SOURCE
Government of Sierra Leone. Ministry of Lands, Country Planning and the Environment (2019)

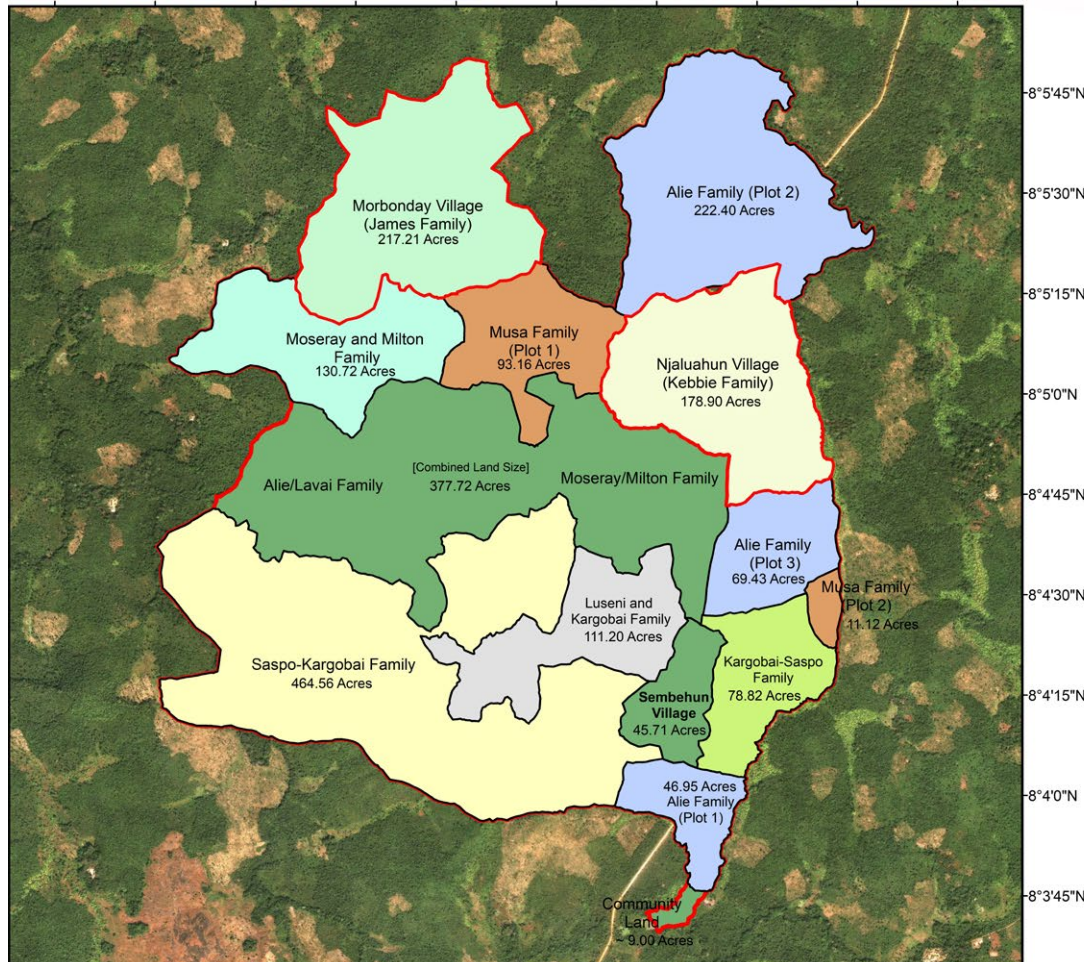


GOVERNMENT OF SIERRA LEONE

CLUSTER OF VILLAGE AND FAMILY LANDS OLD TOWN SECTION SELENGA CHIEFDOM BO DISTRICT

FE

11°44'45"W 11°44'30"W 11°44'15"W 11°44'0"W 11°43'45"W 11°43'30"W 11°43'15"W 11°43'0"W 11°42'45"W 11°42'30"W



Location Map
Boundary Shown Red

Projection: Transverse Mercator
False Easting: 500 000
False Northing: 0
Central Meridian: -9
Scale Factor: 1
Latitude of Origin: 0
Linear Unit: Meter
Datum: WGS 1984

Scale: 1:1,553

Area = 672.1 Hectares
Area = 1660.79 Acres

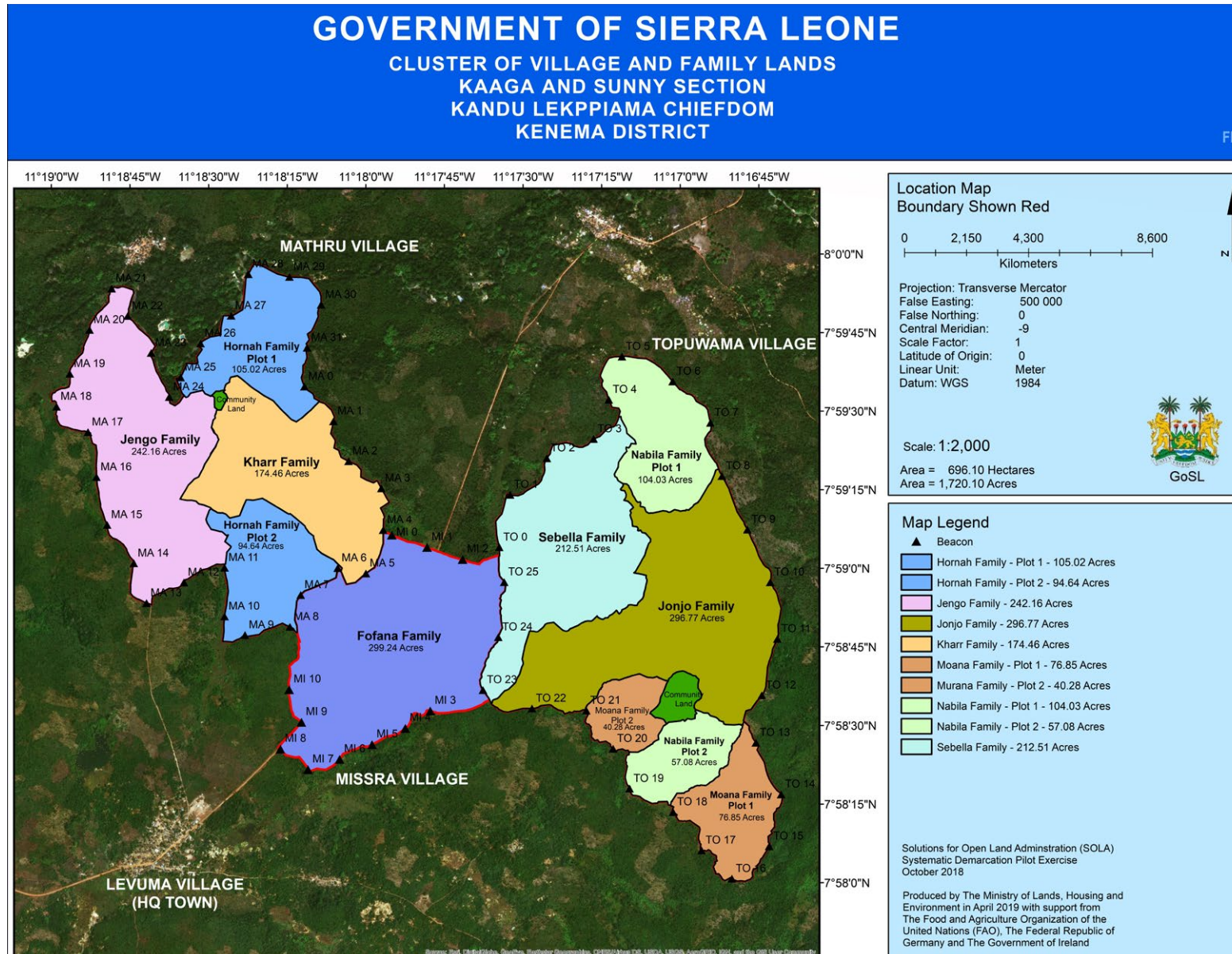
Map Legend

- Morbonday Village (James Family) - 217.21 Acres
- Kebbie Family of Njaluahun - 178.90 Acres
- Alie Family (Plot 1) - 46.95 Acres
- Alie Family (Plot 2) - 222.40 Acres
- Alie Family (Plot 3) - 69.43 Acres
- Kargobai-Saspo Family - 78.82 Acres
- Luseini and Kargobai Family - 111.20 Acres
- Moseray and Milton Family - 130.72 Acres
- Musa Family (Nyamah) (Plot 1) - 93.16 Acres
- Musa Family (Nyamah) (Plot 2) - 11.12 Acres
- Saspo-Kargobai Family - 464.56 Acres

Solutions for Open Land Administration (SOLA)
Systematic Demarcation Pilot Exercise
June 2018

Produced by The Ministry of Lands, Housing and Environment in April 2019 with support from The Food and Agriculture Organization of the United Nations (FAO), The Federal Republic of Germany and The Government of Ireland

SOURCE
Government of Sierra Leone. Ministry of Lands, Country Planning and the Environment (2019)



SOURCE
Government of Sierra Leone. Ministry of Lands, Country Planning and the Environment (2019)

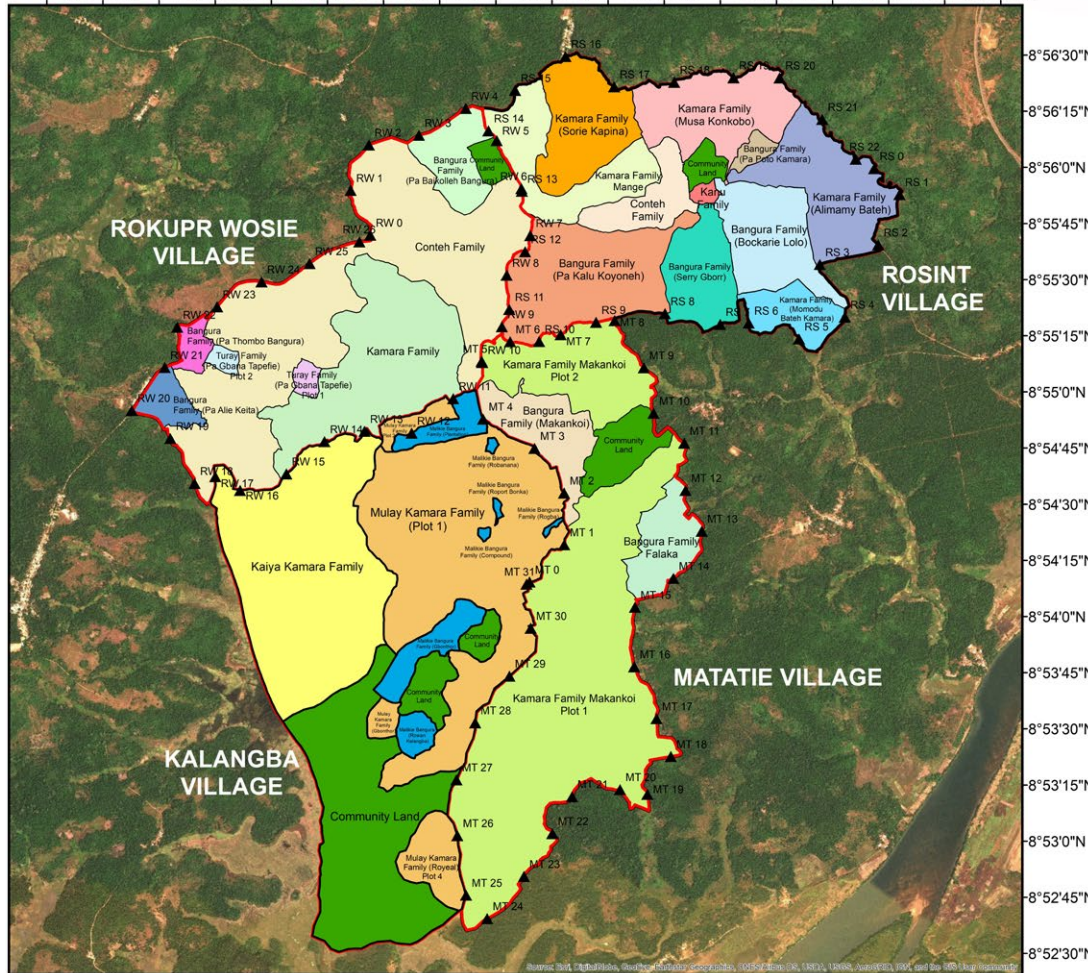


GOVERNMENT OF SIERRA LEONE

CLUSTER OF VILLAGE AND FAMILY LANDS KALANGBA SECTION BUREH CHIEFDOM PORT LOKO DISTRICT

FE

12°55'45"W 12°55'15"W 12°54'45"W 12°54'15"W 12°53'45"W 12°53'15"W 12°52'45"W 12°52'15"W 12°51'45"W



Location Map
Boundary Shown Red

Projection: Transverse Mercator
False Easting: 500 000
False Northing: 0
Central Meridian: -9
Scale Factor: 1
Latitude of Origin: 0
Linear Unit: Meter
Datum: WGS 1984

Scale: 1:1,553

Area = 2,467.67 Hectares
Area = 6,093.00 Acres

Map Legend

- ▲ River
- Makala Bangura Family Compound - Plot 1 - 2.17 Acres
- Makala Bangura Family Compound - Plot 2 - 2.39 Acres
- Makala Bangura Family Compound - Plot 3 - 2.27 Acres
- Makala Bangura Family Compound - Plot 4 - 1.58 Acres
- Makala Bangura Family Compound - Plot 5 - 2.12 Acres
- Makala Bangura Family Compound - Plot 6 - 2.21 Acres
- Makala Bangura Family Compound - Plot 7 - 1.88 Acres
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Solutions for Open Land Administration (SOLA)
Systematic Demarcation Pilot Exercise
November 2018

Produced by The Ministry of Lands, Housing and Environment in April 2019 with support from The Food and Agriculture Organization of the United Nations (FAO), The Federal Republic of Germany and The Government of Ireland

SOURCE
Government of Sierra Leone. Ministry of Lands, Country Planning and the Environment (2019)



4. CONCLUSIONS AND RECOMMENDATIONS

Sierra Leoneans, like citizens everywhere, regard access to land as a fundamental right to be guaranteed by the Constitution. Land should therefore be treated as a constitutional issue. Even though the protection from discrimination on grounds of gender, ethnicity, race and other forms of discrimination is one of the fundamental rights guaranteed by the Constitution, the impact of the relevant provision is severely attenuated by a claw-back clause (GoSL, 2015). As previously noted, Section 27 (4) of the Constitution provides little protection for the legitimate rights of women to customary land. Section 27 (4) does not apply to any law that governs the devolution of property on death or customary law that applies to particular ethnicities in Sierra Leone, and as a result provides little protection for the customary land and property rights of women in Sierra Leone. Similarly, Article 1(3) of the Devolution of Estates Act that recognizes the right of all women to own and inherit property, exempts chieftaincy property and community property held under customary law. These constitutional and statutory provisions that seem to indicate women's customary rights are not protected, are only partially mitigated by Article 18 of the Registration of Customary Marriage and Divorce Act that provides that women in customary marriages are entitled to acquire and dispose of property in their own right.

The context analysis also confirmed there are numerous customary laws in operation in Sierra Leone based on traditions and cultures. Customary laws in the provinces, though often unwritten, are derived from well-established and recognized customs and usages. For example, customary justice may be different among the Mende as compared to the Temne. Even within one group, there are local variations in the practice, levels of flexibility towards the gender-equal land rights and opportunities to reform customary law. There has been no attempt made by the legislature to redress the situation by outlawing discriminatory cultures, customs and practices in land ownership, occupation and use.

For example, women do not enjoy equal treatment in the inheritance of property and the disposition of marital property. Given the prevailing patrilineal inheritance and virilocal/patrilocal residence systems (in which a wife takes up residence in her husband's community), the absence of statutory protections for women significantly compromises single women and wives' right to inherit land from either their natal or marital families (Ahene, 2019). However, the empirical evidence from the socio-economic study, testimony from group interviews and lessons learned in piloting community land delimitation indicates that, although the formal legal system explicitly recognizes equal rights of women and prohibits all forms of prejudice against them, discriminatory application of the customary laws, enforcement challenges, high illiteracy rates, and practical realities in rural communities often preclude women from exercising their rights.

Participatory mapping and boundary harmonization exercise





Finally, it is also clear that at the local level, capacity building for land administration including customized community level sensitization and public awareness about land rights and procedures is a key component for protecting women's land rights to ensure rural women are able to better negotiate their land rights and access and self-advocate against discriminatory customary practices.

1. Capacity-building for land administration in Sierra Leone could benefit from increasing efforts to train and equip mid-level professionals particularly from government for the practical aspects of land administration including policy analysis, customary land law and practices, and land resource management, and with greater emphasis on integration of these skills through pilot programmes that engage communities in their own environments.
2. The pilot systematic demarcation and mapping project provided a useful platform for all stakeholders to appreciate the complementarities necessary for successful delimitation of land rights specific to communities in the country. The project relied on ToT. First, FAO trained survey technicians and cartographers from the MLHE to build capacity of the primary public agency responsible for land and then proceeded to use that team to train local youth in each pilot community as para-surveyors to execute and own the data capturing processes.
3. The training of women community leaders and land rights advocates facilitated local dialogue and open participation of women in land rights discussions leading to the development of the land and natural resources governance by-laws. About 20 percent (n=500) of the trainees were male who were trained and certified as male gender and land rights champions. The gender and land rights trainings emphasized how to communicate the rights of women to enable more effective participation of women during community discussions and in regular family dialogue. The result of empowering women to speak-up in public discussions was effectively demonstrated by the active participation of women during the boundary demarcation and validation process.

4. The establishment of the VALC and the intensive local level sensitization, resource governance training, and dialogue leading to the development and approval of the community land and natural resources governance by-laws encouraged basic codification of core customary land governance principles and introduced rudimentary land rights administration reforms that respect the rights of women and are consistent with the provisions of the NLP.
5. Youth involvement was equally significant. The programme supported acquisition of para-surveying skills and a higher awareness of family and community land rights among the youth. For the majority of the youth in the rural communities, the programme allowed deeper conversations with their parents about customary land laws and practices affecting the rights of women, and a more precise knowledge of family as well as community tenure and property rights.
6. Families have a good sense of the size (in acres) of their lands. A terminal project evaluation revealed that most beneficiaries understood the principles underpinning their land governance by-laws and how to begin to address inequalities in access, distribution and land use management.

The NLP draws attention to the ambiguities of ownership of land by focusing more specifically on clarifying tenure regimes to guide tenure reforms that define the incidence of ownership, and other important dimensions of rights including those pertaining to community land, women and other vulnerable groups. The diagnostic study and community level sensitization activities have provided a better understanding on current customary tenure practices. However, in spite of a greater awareness of the vulnerability of rural women, land governance reforms that would result in greater equality in access and distribution urgently need an appropriate legal framework to enforce compliance of gender-equitable customary land rights when they are violated.



The customary land rights project has demonstrated that protection of customary land tenure starts with systematic delimitation and comprehensive documentation of customary community land rights. However, this has to be supported by an existing legal framework. Currently, the government is drafting a Customary Land Rights bill that gives much emphasis on protection of women's land rights, supports the use of fit-for-purpose approaches such as Open Tenure and SOLA among others. The Sierra Leone pilot project affirmed the fact that most families live in well-organized and regulated extended-family holdings with recognized individual household usufruct and common used land. The mapping revealed land in most communities has been parcelled to households, though most communities maintain both individually and commonly used land. Although the project successfully mapped the extended family holdings in each of the villages, attempts to document individual family or household allocations was vehemently objected, signalling that, although past literature often linked tenure security to the establishment of individual rights, communities prefer mapping and statutory recognition of their collective rights as the key to guaranteeing tenure or social security for all. This perception is protected under the Provinces Land Act, Cap. 122: enacted in 1927, which vests customary land in land owning families. Similarly, the Paramount Chief who is the main custodian of the land is selected among the ruling land-owning families.

Greater sense of tenure security

Community members reported feeling greater tenure security from the harmonization, demarcation and mapping of their boundaries with their neighbours. Thus, although boundary harmonization has the potential to rekindle simmering intra-community conflict, the desire to secure the land rights of the larger community appears to encourage community leaders to resolve boundary disputes with adjoining neighbours peacefully through negotiation and compromise using ADR approaches.

Community land and natural resource governance

Encouraging the development of by-laws provides a good avenue for participatory decision-making, transparency and accountability for customary land administrators and a way to harmonize customary and statutory land governance training and changes in incentives for local and regional land administrators to ensure consistency with NLP and VGGT implementation principles.

The pilot project falls short on two important grounds

(a) Failure to introduce a secure system for registering validated community land claims recorded during the project. There is no functional National Land Information System in Sierra Leone that consists of an accurate, current and reliable land record cadastre and associated legal records. The customary land records generated by the project are currently stored in the community server and SOLA registry installed at the MLHE. While all the project beneficiaries (land owning families) and Paramount Chiefs in the pilot communities received printed cadastral maps during a ceremony witnessed by senior government officials, the land records provide no legal basis under statutory law due to absence of a legal framework supporting customary mapping. The current on-going initiatives by the government to develop a Model Customary Land Rights bill and a National Land Commission bill aim to fill this gap. (b) Absence of a livelihoods perspective in relation to customary land access, gender equity and welfare enhancement for rural communities empowered with secure tenure rights. According to DFID (2000) livelihood comprises the capabilities, assets and activities required for a means of living. A livelihood is sustainable and resilient when it can cope with and recover from stresses and shocks and maintain or enhance its capabilities and assets both now and in the future, while not undermining the natural resource base. Land tenure rights documentation, as demonstrated by the project is a necessary first step, however, it is important to institute systems that allow for and ensure access to technical, agricultural and financial support to help communities leverage land and natural resource rights to improve livelihood opportunities.



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1-20

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